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CRS Report for Congress

Conservation Security Program: Implementation and Current Issues

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Summary

The Conservation Security Program (CSP), authorized in the 2002 farm bill (P.L. 107-171), is a voluntary program providing financial and technical assistance for conservation and improvement of natural resources on tribal and private working lands within selected watersheds. CSP is administered by USDA's Natural Resource Conservation Service (NRCS) and funded through the Commodity Credit Corporation. Financial assistance is based on three tiers of participation, with each tier representing a higher degree of resource management standards. Contracts extend from 5 to 10 years. The House and Senate farm bills (H.R. 2419) would alter CSP by authorizing, respectively, a New Conservation Security Program (Section 2103) and a new Conservation Stewardship Program (Section 2341).

The first enrollment for CSP was in July 2004 covering 18 watersheds in 22 states. A second enrollment in November 2005 was implemented in 220 watersheds nationwide. These two enrollments resulted in 15,000 contracts with landowners on 12.1 million acres of working agricultural lands. A third enrollment period was announced in February 2006 for 60 watersheds, including ones in Guam and the Caribbean. In that year, 4,323 contracts were accepted, adding more than 3.6 million acres. No new contracts were signed in FY2007. A fourth sign-up period is underway April 18-May 17, 2008, for eligible farms and ranches in 51 new watersheds. This report will be updated periodically.

Background

CSP in the 2002 Farm Bill. The Conservation Security Program (CSP) is an agricultural conservation program authorized by the 2002 farm bill (P.L. 107-171, §2001). CSP is administered by the U.S. Department of Agriculture's Natural Resource Conservation Service (NRCS). It provides incentives for farmers to pursue conservation and helps pay for conservation practices. Unlike some other agricultural conservation programs, CSP provides payments for conservation on land that remains in production and makes eligible a wide range of farmland: cropland, pastureland, rangeland, grassland, prairie land, tribal lands, and forested lands incidental to an agricultural operation. By statute, CSP payments to farmers are based on three levels or tiers of participation, with each successive tier obligating the producer to meet higher standards of environmental management:

- For Tier I, the producer must have addressed soil quality and water quality to the described minimum level of treatment for eligible land uses on part of the agricultural operation prior to acceptance. Contracts for Tier I last for five years and are capped at $20,000 annually.

- For Tier II, the producer must have addressed soil quality and water quality to the described minimum level of treatment on all eligible land uses on the entire agricultural operation prior to acceptance and must agree to address one additional resource by the end of the contract period. Contracts for Tier II last for 5-10 years and are capped at $35,000 annually.

- For Tier III, the producer must have addressed all applicable resource concerns to a resource management system level that meets the NRCS Field Office Technical Guide standards on all eligible land uses on the entire agricultural operation before acceptance into the program and have riparian zones adequately treated. Contracts for Tier III last for 5-10 years and are capped at $45,000 annually.

The 2002 farm bill placed no acreage or funding limits on the CSP, and stated that "in entering into conservation security contracts ...[NRCS] shall not use competitive bidding or any similar procedure." At the time of enactment, the Congressional Budget Office (CBO) estimated that CSP would cost $2.0 billion over ten years. Later projections increased the cost (see below). CSP is funded by mandatory spending through the borrowing authority of the Commodity Credit Corporation.[1]

CSP in the 2008 House and Senate Farm Bills. The House-passed farm bill would authorize a New Conservation Security Program (H.R. 2419, Section 2103) through FY2017. Similar provisions as authorized in the 2002 farm bill would continue in the New CSP program, although there are changes as well. Contracts under the New CSP may include on-farm conservation and demonstration activities and pilot testing of new conservation practices. Contracts would be for five years with the possibility of renewal for another five years. In evaluating CSP applications, cost-benefit criteria would be applied to support program effectiveness, and states would be able to identify priority resources for conservation management. New indicators to measure program effectiveness would also be developed by USDA. "Stewardship enhancement payments" would be made to CSP contract holders for ongoing maintenance of conservation practices and improvement to conservation practices. No new contracts would be permitted under the CSP authorized by the 2002 farm bill. Contracts signed prior to

[1] The CCC, a wholly owned government corporation, is essentially the financing institution for the USDA's farm price and income support programs and, more recently, conservation programs. It derives its funding through a $30 billion line of credit with the U.S. Treasury, and receives an annual appropriation of such sums as necessary to cover its operating losses and to repay its debt.

enacting the 2008 farm bill, however, would continue to receive payments under terms of the 2002 CSP.

The Senate-passed farm bill reauthorizes the existing program and provides $2.32 billion to administer contracts entered into prior to enacting the 2008 farm bill. Similar to the House-passed bill, the Senate measure also prohibits any new contracts under the terms of the 2002 CSP. The Senate-passed bill (H.R. 2419, Section 2341) would create a new Comprehensive Stewardship Incentives Program consisting of two programs: (1) a Conservation Stewardship Program with many similar provisions of the existing CSP and (2) the Environmental Quality Incentives Program. The Senate measure would make the program available on a continuous enrollment basis rather than periodic sign-ups, provide assistance to producers, maintain contract and payment information to support program monitoring and evaluation, and enable specialty crop producers to participate. The bill also provides for enrollment of up to 79.6 million acres, provides for small farm participation, and allocates to each state each year the lesser of 20,000 acres or 2.2% of the eligible land.

CSP Appropriations, FY2002-FY2008. During the 2002 farm bill debate, some raised concerns about the potential costs of CSP and the wisdom of devoting unlimited funding to a new, unproven program, but pressures to complete action on the farm bill overcame those concerns. CSP received no funding in FY2002. In 2003, CBO revised its estimate of CSP costs to $6.8 billion over ten years, and the FY2003 Consolidated Appropriations Resolution limited spending for CSP to $3.7 billion through FY2013 to offset the cost of farm disaster assistance.[2] The FY2004 Consolidated Appropriations Act eliminated this 10-year cap but established an FY2004 CSP one-year funding limit of $41.4 million.[3]

In March 2004, CBO revised its estimate of CSP costs to $8.9 billion over 10 years (2005-2014). CBO's January 2007 baseline budget estimated CSP would cost $7.6 billion over the next ten years (FY2007-FY2016).[4] In October 2004, Congress limited CSP to $6.037 billion for the 10-year period of 2005-2014.[5] This allowed appropriators to direct the resulting $2.9 billion in budget savings to offset the cost of agricultural disaster assistance. The FY2005 Consolidated Appropriations Act (P.L. 108-447) placed an FY2005 limit on CSP of $202.4 million (Division A, Title VII, § 741). For FY2006, appropriators limited CSP funding to $259 million. P.L. 110-5 also limited FY2007 funding to $259 million and provided no funding for new contracts. For FY2008, approximately $382 million is available to support the existing 19,375 contracts signed in previous years. CBO's March 2008 estimate projects CSP costing $10.4 billion FY2008-2017.

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[2] P.L. 108-7, Division N, Title II, §216.

[3] P.L. 108-199, Division A, Title VII, §752.

[4] For a discussion of the changing cost estimates of the CSP *Conservation Security Program: Despite Cost Controls, Improved USDA Management Is Needed to Ensure Proper Payments and Reduce Duplication with Other Programs*, GAO-06-312, April 28, 2006.

[5] Division B, §101, of the FY2005 Military Construction Appropriations Act (P.L. 108-324).

Implementation of CSP. On January 2, 2004, NRCS published a proposed rule describing how it would prioritize the limited FY2004 funding. It proposed to implement CSP in certain watersheds on a rotating basis; to require producers to meet strict eligibility criteria; to sort producers' applications into enrollment categories; and to reduce certain CSP payments (69 *Federal Register* 194). This proved controversial, since the farm bill included broad eligibility criteria and did not include prioritizing funds. NRCS received over 20,000 specific comments on the proposed rule. On May 4, NRCS published a notice stating it would proceed with its proposed approach for the 2004 CSP signup, and detailed how it would select watersheds (69 *Federal Register* 24560). On June 21, 2004, NRCS published an interim final rule (69 *Federal Register* 34502) finalizing its prioritization process for the 2004 CSP signup. NRCS accepted comments on the interim final rule through October 5, 2004, and published an amended interim final rule on March 25, 2005. A final rule has not been issued and is unlikely to be issued before the 2008 farm bill is enacted. An additional 202 watersheds nationwide were selected for the second CSP enrollment in 2005. For 2006, 60 more watersheds were selected, including ones in the Caribbean and Guam. For the 2008 sign-up, 51 new water sheds were added, bringing the total number of participating watersheds to 331.[6]

Eligibility Criteria for the FY2004-FY2008 Enrollments

The CSP enrollment process is currently guided by the interim final rule issued on March 25, 2005. Enrollment requirements include strict eligibility criteria and prioritize CSP funding by watershed area and by enrollment categories. NRCS calls this approach "rewarding the best and motivating the rest."

Producer Eligibility Requirements. The 2002 farm bill set fairly general guidelines for eligibility in the CSP. Producers must share in the risk of production, contribute to farm operations in a manner commensurate with revenues received, develop an approved Conservation Security Plan that details conservation activities to be implemented, and sign a Conservation Security Contract. The interim rule mandates the following further steps.

Producers Must Inventory Natural Resources. The interim rule (§1469.7(a)) requires producers to complete a self-assessment, including a "Benchmark Condition Inventory," prior to applying to CSP. This details the type of agricultural operation, land uses, existing conservation practices, resource concerns, and the producer's willingness to do additional conservation in the future. NRCS uses this to determine the producer's eligibility, place the producer in an enrollment category (see below), and determine the appropriate CSP tier of participation. Producers must submit two years of documentation to show past stewardship, including fertilizer, pesticide, and nutrient application schedules, and tilling and grazing schedules.

Producers Must Treat Both Soil and Water. While the farm bill required producers to treat at least one resource under CSP, the interim final rule requires producers to treat two resources — soil and water quality — before applying to the

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[6] Maps of these participating watersheds may be found at the following link: [http://www.nrcs.usda.gov/Programs/csp].

program.[7] Additional eligibility criteria were included in the 2005 and 2006 enrollment notices.

CSP Applications Prioritized. The interim final rule established two methods of prioritizing applications, neither of which was mentioned in the farm bill statute. The first includes ranking watersheds nationwide by various criteria and selecting certain of those watersheds to be eligible for CSP. The second involves placing applications into various "enrollment categories" based on the applicant's current conservation efforts and willingness to do additional conservation.

Criteria for Selecting Eligible Watersheds. For the 2004 signup, NRCS ranked over 2,000 watersheds nationwide. Through National Resources Inventory data, NRCS ranked watersheds based on concentrations of eligible land uses; intensity of pesticide, fertilizer, and manure use; and prevalence of historic and recent conservation efforts. Once watersheds were ranked, NRCS prioritized them further by selecting those it considered to be "improving" according to these criteria. NRCS estimated in 2004 that by 2012 CSP could rotate through all 2,264 watersheds.

NRCS Places Applications in Enrollment Categories. For the FY2006 enrollment, there were five categories (A-E) and five groups (1-5) within each tier. Acreage is enrolled based on the ranking of grazing and cropping systems on various soil, water, and wildlife habitat quality indicators and performance/management levels. Categories were funded nationally in priority order (beginning with category "A") until funding was exhausted. The FY2006 notice also specified that if subcategories cannot be fully funded, applicants would be offered the FY2006 CSP contract payment on a prorated basis.[8]

Stewardship or "Base" Payment. This is a payment tied to the number of acres enrolled in CSP. The stewardship component is calculated separately for each land use by multiplying the number of acres times the tier factor (5%-15%) times the stewardship payment rate established for the watershed (based on land rental rates) times the tier reduction factor (25%-75%). This reduction factor was not authorized in the original legislation and reduces this part of the CSP payment.

Payments for New and Existing Practices. The farm bill restricts payments for new and existing practices to not more than 75% of the practice cost (this rises to 90% for beginning farmers and ranchers). For FY2006 contracts, existing practice payments were calculated as a flat rate of 25% of the stewardship payment, and new practice payments were made at not more than 50% cost-share rate. For FY2006, all new practice payments were limited to a $10,000 cumulative total for the contract.

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[7] According to the NRCS, determining soil quality involves evaluating the amount of organic matter in the soil, its fitness as a seedbed, and other factors. Assessing water quality involves evaluating the level of pesticides, nutrients, turbidity or other contaminants in water.

[8] The *Federal Register* announcement for the FY2006 enrollment provides detailed information on the criteria of different enrollment categories. See 71 *Federal Register* 6250-6263, February 7, 2006.

Enhancement Payments. The farm bill lists five activities a participant can carry out that qualify for enhancement payments, including implementing multiple conservation practices; addressing local conservation priorities; participating in on-farm research; participating in a watershed or regional conservation plan; and assessing and evaluating conservation activities. The interim final rule specified only two types of enhancement components as "available" in the FY2004 sign-up. For FY2006, the enhancement payment was calculated at a variable payment rate for activities that were part of the benchmark inventory. The total of all enhancement payments to an individual producer in any one year ranges from $13,750 to $28,125, depending on the tier.

2008 CSP Sign-Up. NRCS announced a new CSP sign-up to run from April 18, 2008, to May 17, 2008, in 51 new watersheds. The *Federal Register* notice stated that NRCS intends to "deliver a technically enhanced, streamlined version of CSP" for the sign-up.[9] The sign-up will pilot several new "eligibility tools" for soil and water, grazing lands, and wildlife habitat. Payments will be made uniformly over the five-year contract period rather than declining over the contract period as they do for current contracts. There will be no contract improvement modification opportunities or payments for new practices as with previous CSP contracts. As was the case with the 2006 sign-up, priority will be given to Tier II and Tier III applications.

Issues for Congress

A continuing issue for Congress may concern whether NRCS's implementation of CSP is consistent with congressional intentions. On one hand, congressional authorizers crafted CSP as an entitlement program with unlimited funding; on the other, congressional appropriators have since limited that funding. Authorizers specified broad eligibility criteria in the farm bill, but due to funding limits NRCS created strict procedures that applicants must follow in order to qualify. NRCS argues that because the farm bill placed a statutory 15% limit on CSP technical assistance, CSP implementation will be constrained. Congressional CSP proponents have disputed this. Several new activities authorized (e.g., the energy conservation component of CSP) as well as measures authorized in the 2008 farm bill may create further demand for the program in an environment of budget constriction.

CSP's potential status as a "green box" program under the World Trade Organization (WTO) structure could become an issue, although the program is comparatively small. In WTO parlance, "green box" programs (which pay producers for environmental services) are not subject to reductions under the WTO. CSP payments through 2005 have been notified to the WTO as "green box." Some CSP spending, however, may not conform to WTO criteria, although the program has not been formally challenged. While CSP's "green box" status is arguably a possible advantage to the program, others have raised the concern that current CSP base (i.e., stewardship payments) and enhancement payments might be considered trade-distorting under WTO guidelines.[10]

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[9] *Federal Register*, Vol.73, No. 60, pp. 16246-16259. March 27, 2008.

[10] See CRS Report RL34010, *WTO Compliance Status of Conservation Security Program and the Conservation Reserve Program*, by Randy Schnepf.