



ORGANIC FARMING RESEARCH FOUNDATION

Fostering the improvement and widespread adoption of organic farming.

January 11, 2020

Matt Lohr
Chief, Natural Resources Conservation Service
U.S. Department of Agriculture
Washington, DC 20250

Re: Conservation Stewardship Program Interim Final Rule, NRCS-2019-0020 (Fed. Reg. Vol. 84, No. 218, Nov. 12, 2019, page 60883ff.)

Dear Chief Lohr:

Thank you for inviting public comment on the Interim Final Rule for implementation of the Conservation Stewardship Program (CSP) under the provisions of the 2018 Farm Bill. The Organic Farming Research Foundation (OFRF) seeks to expand adoption of organic farming and ranching methods through research, education, and policy advocacy. Resource conservation and land stewardship are foundational to organic systems, and OFRF welcomes this opportunity to provide input on the CSP Rule.

I (Mark Schonbeck) have worked as a research associate with OFRF for the past several years, during which we conducted an in-depth review of USDA funded organic agricultural research since 2002, and developed a series of science-based practical guidebooks and webinars on soil-enhancing organic approaches to managing crops, nutrients, water, cover crops, weeds, plant diseases, and climate risks (available at <https://ofrf.org>). During this work, conservation systems and practices for organic farming and ranching operations, and soil health practices for climate resilience, carbon (C) sequestration, and greenhouse gas (GHG) mitigation have emerged as top research and policy priorities. From this perspective, OFRF would like to submit the following comments and recommendations for CSP.

- 1. We thank NRCS for strengthening CSP support for USDA certified organic and transitioning-organic producers, and urge you to add a provision that makes the separate ranking pool for organic and transitioning producers a permanent feature of the CSP.**

We strongly support language in the Rule that defines “organic” (§ 1470.3), establishes a separate funding and ranking pool for organic and transitioning-organic CSP applicants (§ 1470.20(d)(2)), allocates organic CSP funding by state based on numbers of organic and transitioning farmers and certified and transitioning acreage (§ 1470.4), and providing technical assistance including an organic crosswalk to align CSP with NOP requirements. In the Final Rule, we urge NRCS to make the separate ranking pool for organic and transitioning growers a permanent provision of the CSP.



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In determining formulas for allocating organic pool funding for states, note that many organic operations are relatively small in acreage, yet highly diversified with multiple land use types and many opportunities for a range of conservation activities. Therefore, we recommend that NRCS give approximately equal weight to the *number* of certified and transitioning organic farms and the *acreage* of certified and transitioning land, in state allocations for the organic ranking pool.

- 2. We thank NRCS for several other provisions in the Interim Final Rule that have potential to make the CSP truly effective in supporting producers to enhance resource stewardship, help mitigate climate change, and make their operations and surrounding communities more resilient to its impacts. In order to realize this potential, we urge NRCS in the strongest terms to amend formulas for applicant ranking and contract payments to comply with key provisions of the 2018 Farm Bill (see Recommendation 3 below).**

Specifically, we express our appreciation to NRCS for the following elements of the Rule:

- Increased emphasis on soil health and soil health planning, carbon sequestration, and resilience to drought and other impacts of increasing weather volatility, including definitions of “conservation activities” and “advanced grazing management,” and the new requirement that resource conserving crop rotations build soil organic matter.
- Payment for comprehensive conservation planning (§ 1470.24 (c)), which constitutes one of the foundational principles of the CSP, and provides a means for CSP participants to address all priority resource concerns on all land uses throughout their farming or ranching operation. Such whole-system stewardship is an aspirational goal for most organic producers, and comprehensive planning assistance can help them achieve it.
- Support for Advanced Grazing Management with a supplemental payment at 150% of the annual payment rate (§ 1470.24(b)). With their tremendous potential to sequester carbon as well as build soil, forage, and livestock health and resilience, advanced grazing management systems comprise a top research and policy priority for OFRF.
- Delegating to State NRCS offices and State Technical Committees the designation of “resource conserving crops” and suites of activities that comprise an “advanced grazing management system,” as well as resource concerns and ranking pools based on watershed and other geographic considerations. This approach helps ensure site-specific and regionally-appropriate design and implementation of conservation systems.
- Allowing CSP conservation activity bundles to include Conservation Practices as well as CSP Enhancements (§ 1470.7), thereby maximizing capacity and flexibility to address resource concerns at an integrated, whole-farm level.
- Greater flexibility in program administration that allows minor adjustments to contracts (§ 1470.25), inclusion of public lands that are part of the farming or ranching operation in the definition of eligible land, and expanded eligibility to include tenant producers and crop-share landlords (§ 1470.6a).
- A provision allowing CSP participants to take part in environmental service markets when these are compatible with the goals and provisions of the CSP contract (§ 1470.37).



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This provision could become especially important as state and federal policy initiatives to address climate change are developed.

- 3. CSP must reward and support the nation's best land stewards, including the many highly skilled organic farmers and ranchers who diligently follow the spirit as well as the letter of the USDA Organic Standards. Ranking of applications and contract payments must be based equally on (a) benefits from conservation systems and activities already in place at time of application; and (b) expected benefits from additional conservation activities to be implemented over the course of the contract. In addition, contract renewals must provide ongoing support for producers to continually improve their resource stewardship practices over the long term.**

Congress established the CSP with a clear intent to reward the nation's best land stewards and to help farmers and ranchers implement and maintain advanced, whole-farm conservation systems that comprise truly sustainable agriculture. Toward this end, the 2018 Farm Bill mandates a simplified ranking process based on two equally-weighted factors: existing conservation at time of application, and new conservation to be adopted during the contract period. The Farm Bill also requires a payment structure based on environmental benefits, direct costs, and income foregone associated with both maintenance of the farm's existing conservation system and implementation of new conservation activities. Finally, the Farm Bill makes two changes in the CSP contract renewal process that would provide long-term support for advanced conservation systems: making the renewal process competitive, and allowing multiple CSP renewals for producers who continually improve their resource stewardship.

In several key paragraphs, the CSP Interim Final Rule conflicts with the letter and spirit of these Farm Bill provisions. First, Preamble language regarding Subpart B, § 1470.20 Application for Contracts and Selecting Offers From Applicants includes:

“NRCS intends to continue evaluating applications based on the level of expected environmental benefit achieved through adoption of additional conservation activities. Currently, NRCS provides higher ranking points to applicants who agree to adopt more conservation activities in order to meet or exceed the stewardship threshold of a higher number of resource concerns, agree to adopt the additional conservation activities over a greater percentage of their operation, adopt bundles, and adopt conservation activities that target wildlife habitat improvement and soil health.”

This suggests that the ranking process would likely place much less emphasis on environmental benefits that the applicant's existing conservation activities *are already delivering* at the time of application. We concur strongly that soil health, wildlife habitat, and implementation of integrated suites (or bundles) of conservation activities throughout the operation are vital considerations in selection of those applicants most capable of realizing the goals of CSP. However, the approach to applicant ranking suggested here would place those who have already



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done so at a disadvantage – in direct contradiction to the CSP’s original purpose to “reward the best and motivate the rest.” Organic producers in particular are required by the USDA Organic Standards to protect soil, water, wetlands, woodlands, and wildlife, and to conserve biodiversity; many do so to a sufficient degree to meet NRCS stewardship thresholds on multiple resource concerns. We are concerned that the ranking approach outlined above would effectively exclude many of the best organic producers from participation in the CSP

In the Rule itself, language under § 1470.20, paragraph (c) Evaluation of contract application states that ranking will be based on both current and proposed conservation activities. However, there is no provision here to ensure that the ranking process will give equal weight to existing and proposed new conservation.

In order to comply with Farm Bill 2018 provisions and to duly support the nation’s best land stewards, we recommend the following revisions for § 1470.20 in the Preamble and the Rule (deletions in ~~strikethrough~~, new language underlined):

Preamble:

“NRCS intends to ~~continue evaluating~~ evaluate applications based on the level of expected environmental benefit achieved through maintenance of existing conservation activities and adoption of additional conservation activities. ~~Currently, NRCS will~~ provides higher ranking points to applicants ~~who agree to adopt more conservation activities in order to~~ whose current conservation and planned new activities would meet or exceed the stewardship threshold of a higher number of resource concerns, ~~agree to adopt the additional conservation activities over~~ apply to a greater percentage of their operation, ~~adopt bundles, and adopt conservation activities that~~ target wildlife habitat improvement and soil health, and take a systems approach through conservation activity bundles.”

Rule:

(2) In evaluating CSP applications for new enrollment or for renewal, NRCS will rank applications based on the following factors with equal weight applied to (i) and (ii):

- (i) [Benefits of conservation] at the time of submission of the application;*
- (ii) [Benefits of] proposed conservation activities ...*
- (iii) Other consistent criteria as determined by NRCS.*

The following language under § 1470.24 Payments causes us additional concern as it reinforces the above-noted bias:

“(a) ... A split-rate annual payment structure is used to provide separate payments for additional and existing conservation activities in order to place emphasis on implementing additional conservation.

...

“(a) (2) In order to receive an annual payment for a land use, participants must schedule, install, and adopt at least one additional conservation activity on the land use type;



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The first provision is in direct violation of the 2018 Farm Bill which mandates equal weighting of existing and new conservation. The second means that many of our most resource-conserving producers can receive only limited support through the CSP. For example, a USDA certified organic farmer whose cropland management practices fully comply with the spirit as well as the letter of the organic standards might already exceed NRCS stewardship thresholds for all priority resource concerns to a degree that no additional CSP enhancements would be applicable to cropland. Such a producer might enroll in the CSP in order to improve resource management in forest or other land use types in the operation, *and* to be able to continue the high level of cropland stewardship. Under the above provision (§ 1470.24 (a)(2)), this participant would receive *no* CSP contract payment for the ecosystem services provided, and no assistance with the cost and income foregone incurred in maintaining topnotch cropland stewardship. Without such support, one bad year resulting from the impacts of climate change (e.g., a fruit crop loss to untimely frost or lack of chill hours) or market fluctuations (e.g. international tariff wars) could force the grower to cut back on vital cropland conservation activities.

Similarly, CSP must give full support to advanced grazing management systems as either existing or new conservation. Given the tremendous multiple environmental benefits such systems offer, we are disturbed to learn from the USDA's 2017 Census of Agriculture that the number of farms practicing rotational grazing has decreased by 8% since the 2012 census. If producers cannot receive CSP support to help defray the significant labor and infrastructural costs of maintaining an existing advanced grazing system, this decline may continue – at great cost to soil, forage, and livestock health as well as climate mitigation and resilience. Thus, while we are excited to see the 150% supplemental payment for advanced grazing management implemented in 2020, *it is absolutely essential that the CSP provide such robust support for these systems regardless of whether they are in place at the time the producer applies, or are implemented during the course of the contract.*

Based on the above considerations, we strongly urge NRCS to amend these two clauses under § 1470.24 Payments to read as follows in the Final Rule:

“(a) ... A split-rate annual payment structure is used to provide separate and equally weighted payments for additional and existing conservation activities in order to maximize environmental benefits of the conservation system. ~~place emphasis on implementing additional conservation.~~

...

“(a) (2) ~~In order to~~ Participants will receive an annual payment for ~~a~~ each land use type that meets stewardship thresholds for two or more priority resource concerns, provided that they ~~participants must~~ schedule, install, and adopt at least one additional conservation activity on their operations. ~~the land use type;~~

Finally, while section § 1470.24 Contract Renewals of the Interim Final Rule makes contract renewals competitive, it still limits a given operation to just one renewal, capping participation in CSP at 10 years and – once again – disadvantaging the nation's leaders in agricultural



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conservation and land stewardship. For most organic producers, the commitment to environmental protection and resource stewardship does not expire at 10 years, but continue for a lifetime if not multiple generations. Limiting CSP renewals to one time will deter interest on the part of many such farmers in applying to the program.

4. We urge NRCS to delete the provision allowing “joint operations” to receive contracts up to \$400,000, which is double the statutory limit for a 5-year CSP contract.

The Interim Final Rule expands availability of the higher (\$400,000) limit to include “all joint operations” regardless of whether the operation uses an EIN or individual SSNs. We understand that NRCS seeks to strike a compromise between the strict \$200,000 statutory limit and the risk of large operations garnering multiple contracts, as often happens with commodity subsidy programs. However, *no statutory authority exists for any farming operation, regardless of size or business structure, to receive more than \$200,000.* Furthermore, with total funding for CSP cut from \$9 billion over the life of the 2014 Farm Bill to just \$3.975 billion for the 2018 Farm Bill, it is especially important to hold firm with the statutory payment limit for all applicants, in order to maximize the number of farms served by the CSP. Allowing larger joint operations to “double dip” will make it harder for smaller farms like those operated by many diversified, sustainable organic producers to get into the program at all.

Therefore, we urge NRCS to modify paragraph (h) under section § 1470.24 Payments to read as follows:

“(h) Contract limits. Each conservation stewardship contract will be limited to \$200,000 over the term of the contract period, ~~except that conservation stewardship contracts with any joint operation will be limited to \$400,000 over the term of the contract period.~~”

5. We urge NRCS to make available to CSP participants all vegetative and land-management Conservation Practices offered through EQIP.

The 2015 CSP final rule included a provision allowing access to certain EQIP conservation practices in “limited situations” (§ 1470.7(d) in the 2015 Rule). The current Interim Final Rule has removed this provision because the 2017 CSP overhaul specified a list of Practices to be offered through CSP. In 2019, CSP offered 84 conservation practices in addition to Enhancements and Bundles. However, several practices that can play a vital role in soil conservation and soil health in hilly regions, including many parts of California and the Pacific Northwest in which much of the nation’s organic produce is grown, were not included on this list: contour farming (CPS 330), contour orchard and perennial crops (CPS 331), contour buffer strips (CPS 332), hillside ditch (CPS 423), strip cropping (CPS 585), and terrace (CPS 600). Other practices not on the 2019 list that might be highly valuable for an organic farmer’s CSP conservation plan include: multistory cropping (CPS 370) and wildlife habitat planting (CPS 420) for biodiversity; cross-wind trap strips (CPS 589C) and vegetative barrier (CPS 601) where



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wind erosion is a concern; and waterspreading (CPS 640) to make the best use of infrequent intense rainfall events in moisture-limited regions.

Thus, we recommend that NRCS make all vegetative and land management Conservation Practices available to CSP participants. This measure could be implemented under the current Rule through the program handbook and the practice and enhancement offerings.

6. We urge NRCS to clarify that CSP enrollment is limited to those with a direct involvement in production and does not include cash rent landlords.

While we welcome the new provisions extending CSP eligibility to include those “sharing in the risk of producing the crop, sharing in the crop, and participating in the daily management, administration, and performance of the operation” (§ 1470.6 (a)(2), the Final Rule should clarify that *cash rent landlords* are not eligible. This would bring the CSP in alignment with the Farm Services Agency (FSA) which does not allow cash rent landlords to receive commodity subsidy payments under Title I.

7. We urge NRCS to clarify that, while CSP contract payments for new conservation normally apply to activities initiated after the contract has been signed, NRCS will grant a waiver of this provision if waiting for contract finalization would delay implementation of the new activity until the next growing season.

Currently, § 1470.24 Payments (f) Noncompensatory matters, states:

“NRCS will not provide a CSP payment to a participant for ... (4) Conservation activities initiated or implemented prior to contract approval, unless NRCS granted a waiver prior to the participant starting the activity.”

As written, this provision could be interpreted to state that, under the new Interim Final Rule, CSP will no longer pay producers at all for *any* existing conservation activities in place at the time of application. Surely, this is not what NRCS intends! The language must be clarified to indicate that this provision applies only to new conservation activities to be adopted under the contract.

In addition, the waiver language should be expanded to indicate that NRCS will grant waivers for initiating new conservation activities prior to contract finalization in those cases where waiting until the contract is sealed would force the producer to postpone implementation until the following growing season.

For example, timely cover crop planting can be vital for realizing the soil conservation, water quality, nutrient cycling, and other benefits of this activity, especially in the context of tight crop rotations or climate patterns (e.g. Mediterranean climates with dry summer and rainy winter) in which cover crop planting and termination dates can be critical to success implementation. Since



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some delays in the processes of application, conservation planning, and contract finalization can occur for many reasons, an applicant should be rewarded for timely implementation of a newly adopted cover cropping or other conservation activity that could save tons of soil per acre – regardless of whether the activity was initiated before or after contract signature. In addition, a farmer could easily miss a critical time window if s/he must apply for and wait for a NRCS waiver before planting a cover crop or undertaking other critical conservation measures.

Therefore, we urge NRCS to modify § 1470.24 (f) (4) as follows:

“NRCS will not provide a CSP payment to a participant for ... (4) New conservation activities initiated or implemented prior to contract approval, unless NRCS grants ~~granted~~ a waiver at the applicant’s request. prior to the participant starting the activity. Waivers for this provision will normally be granted if waiting until contract signature would result in delaying implementation of the new activity until the following growing season.”

8. We urge NRCS to allocate CSP funding to states based on the ratio of each state’s agricultural land, weighted by land use type, relative to national totals.

Because the 2018 Farm Bill changed CSP from an acreage-based program to a dollars-based program, NRCS will need to modify its approach to allocating CSP funding to states. We appreciate that, in recent years, CSP allocation to states has been fairly based on the agricultural acreage of each state relative to the nation’s total agricultural land. The easiest and fairest way to do so is to simply convert acres by land use (cropland, pasture, range, forest) to dollars for each state, and use those figures to allocate CSP funding to each of the 50 States. Given the severe limitation of CSP funds available through the 2018 Farm Bill, it is especially critical that funds be fairly apportioned using this simple and straightforward formula.

Thank you very much for the opportunity to comment on the CSP Interim Final Rule.

Sincerely,

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