

CRS Report for Congress

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Implementing the Conservation Security Program

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Summary

The Conservation Security Program (CSP) was first authorized in the 2002 farm bill (§2001, P.L. 107-171). Though the farm bill set no funding limits on CSP, appropriators limited FY2004 CSP funding to \$41.4 million (P.L. 108-199). On June 21, 2004, the Natural Resources Conservation Service (NRCS) published a sign-up notice for the first round of CSP (69 FR 34533), opening enrollment from July 6, 2004, through July 30, 2004. Only producers located in certain watersheds are eligible. (See [http://www.nrcs.usda.gov/programs/csp/2004_CSP_WS/watersheds04.html] for a map of eligible areas.) Once NRCS receives applications, it will place them in “enrollment categories” and fund categories in priority order until funding is exhausted. Critics maintain that prioritizing funds using watersheds and enrollment categories is inconsistent with the CSP authorization, which did not mention prioritizing funds. NRCS contends it has been forced to prioritize funds due to the FY2004 funding limit and maintains that its CSP implementation will ensure effective use of available funds.

Also on June 21, NRCS released an interim final rule for CSP (69 FR 34502). The rule adopted many enrollment procedures proposed in a May 4, 2004, notice (69 FR 24560) and a January 2, 2004, proposed rule (69 FR 194). NRCS is seeking comment on its interim final rule through September 20, 2004. House and Senate Agriculture subcommittees held hearings on CSP in spring 2004. This paper will be updated as necessary. (For a full discussion of CSP as enacted, see CRS Report RS21739, *The Conservation Security Program in the 2002 Farm Bill*.)

Background on CSP

CSP in the 2002 Farm Bill. The Conservation Security Program (CSP) is a new agricultural conservation program created in the 2002 farm bill (P.L. 107-171). It provides incentives for farmers to pursue conservation and helps pay for conservation practices. Unlike other NRCS programs, it pays for conservation on land that remains in production and makes eligible a wide range of farm lands (cropland, pastureland, rangeland, grassland, prairie land, tribal lands, and forested lands incidental to an agricultural operation). Under CSP, NRCS may pay farmers to conserve at least one

resource (air, soil, water or others) on a portion of their farms; the greater the farm area covered and the more resources conserved, the higher the potential payments.¹ The statutory provisions in the farm bill place no acreage or funding limits on the CSP, and state that “in entering into conservation security contracts ... [NRCS] shall not use competitive bidding or any similar procedure.”² At the time of enactment, the Congressional Budget Office estimated that CSP would cost \$2.0 billion over ten years. CSP is funded by the Commodity Credit Corporation.³ (For more detailed information on the CSP created under the 2002 farm bill, see CRS Report RS21739.)

Subsequent Congressional and Administrative Actions on CSP. During the 2002 farm bill debate, some raised concerns about 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. 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 FY2013.⁴ The FY2004 Consolidated Appropriations Act eliminated this ten-year cap but established an FY2004 CSP funding limit of \$41.4 million.⁵ NRCS has stated it will fund 3,000 contracts in FY2004.⁶ In March 2004, CBO revised its estimate of CSP costs to \$8.9 billion over ten years (2004-2014). For FY2005, the administration has requested \$209 million, which would also be a funding cap, as CBO estimates an unlimited CSP program would cost \$282 million in FY2005.

On June 21, 2004, NRCS published an interim final rule (69 FR 34502) and a sign-up notice (69 FR 34533). The FY2004 sign-up for CSP will be open from July 6, 2004 to July 30, 2004, for producers in eligible watersheds. NRCS’s interim final rule laid out a framework for prioritizing spending by implementing CSP in certain watersheds on a rotating basis; requiring producers to meet strict eligibility criteria; sorting applications into enrollment categories; and reducing certain CSP payments. (This approach was outlined in a January 2, 2004, proposed rule⁷ and proved controversial, since the farm bill included relatively broad eligibility criteria and did not include prioritizing funds. NRCS received over 20,000 specific comments on the proposal). NRCS is accepting comments on its interim final rule through September 20, 2004. In May 4, NRCS published a notice

¹ CSP includes three levels, or “tiers,” of participation that are capped at \$20,000, \$35,000, and \$45,000 annually. Tier I contracts last for five years; Tier II and Tier III contracts last for five to ten years.

² P.L. 107-171, §2001. In some NRCS programs, producers bid competitively by indicating their willingness to accept a lesser payment, increasing their chances that NRCS will accept their bid for a program contract.

³ 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.

⁴ P.L. 108-7, Division N, Title II, §216.

⁵ P.L. 108-199, Division A, Title VII, §752.

⁶ Natural Resources Conservation Service, “Conservation Security Program Notice,” June 21, 2004, 69 FR 34533. Of those contracts, NRCS states that approximately 45% will be in Tier I, 45% in Tier II, and 10% in Tier III.

⁷ 69 FR 194.

stating it would proceed with its proposed approach for FY2004, and detailed how it would select watersheds.⁸ NRCS also released a map identifying the 18 watersheds across the country in which farmers will be eligible for FY2004 CSP signups. To access the map, see [http://www.nrcs.usda.gov/programs/csp/2004_CSP_WS/watersheds04.html].

Both the Senate and the House have held hearings this year on CSP. During a May 11, 2004, hearing by the Senate Agriculture Committee's Forestry, Conservation, and Rural Revitalization Subcommittee, NRCS defended its proposed CSP implementation as a way to achieve environmental benefits within available funding (citing as program constraints both the FY2004 funding limit and a statutory provision limiting NRCS's "technical assistance" to producers to 15% of CSP annual funds).⁹ Congressional proponents strongly criticized NRCS's argument that the technical assistance limit would pose problems, and stressed that the program is not capped past FY2004. Witnesses from sustainable agriculture, commodity, livestock, and farmers' groups decried NRCS's plan to limit CSP spending by watersheds, though some agreed with NRCS that the FY2004 funding limit complicates CSP implementation. During a June 15, 2004, hearing by the House Agriculture Committee's Subcommittee on Conservation, Credit, Rural Development, and Research, the subcommittee chair noted NRCS's FY2004 funding predicament, and the subcommittee ranking member noted that CSP could cost billions of dollars in the future. Farmers' groups cited CSP's potential as a "green box" program as well. (See "Issues for Congress" at the end of this paper for a discussion of "green box" programs.)

FY2004 Enrollment Process for CSP

The FY2004 enrollment process will include strict eligibility criteria and will prioritize CSP funding by watershed area and by enrollment categories. NRCS calls this approach "rewarding the best and motivating the rest," but critics think the strict requirements may dissuade farmers from participating.¹⁰

Producer Eligibility Requirements. The 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 final rule requires further steps:

Inventory of Resources. The interim rule 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 will use this to determine the producer's eligibility, place the producer in an enrollment category (see below), and determine appropriate CSP tier of participation.

⁸ 69 FR 24560.

⁹ "Technical assistance" refers to conservation planning, design, and implementation assistance that NRCS provides to producers, including assisting producers to enroll in NRCS programs.

¹⁰ Quote from Conservation Security Program Advance Notice of Proposed Rulemaking and Request for Comments, USDA/NRCS, 68 FR 7720.

A producer must also submit documents for 2002 and 2003 to show stewardship completed, including fertilizer, pesticide and nutrient application schedules, tilling and grazing schedules.

Treatment of 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 program.¹¹ Additional eligibility criteria are included in NRCS's June 21, 2004 sign-up notice.

Prioritizing Applicants for Funding. NRCS has designated certain watersheds in which producers are eligible to apply to CSP. On May 19, 2004, NRCS released a map identifying these watersheds.¹² NRCS estimates that it will take eight years for CSP to rotate through all US watersheds.¹³

Ranking Watersheds. For FY2004, NRCS ranked over 2,000 watersheds nationwide, based on concentrations of eligible land uses; intensity of inputs such as pesticide, fertilizer, and manure; and prevalence of historic and recent conservation efforts. Once watersheds were ranked, NRCS prioritized them further by selecting 18 watersheds it considers to be "improving." It is unclear why NRCS chose to prioritize in this fashion, or whether NRCS will prioritize similarly in future years. Critics may argue that this approach will not reward those producers who are practicing the best conservation.

Placing Applicants in Enrollment Categories. The June 21 sign-up notice lays out eight separate enrollment categories ("A" through "H") for each type of eligible land — rangeland, pasture, and cropland (cropland categories also cover orchards, vineyards, horticultural crops, and hay land). Applicants' willingness to perform additional conservation is also a factor; any applicant unwilling to perform additional conservation will be placed in category "H," the lowest priority for funding. While all applications that qualify would be placed in an enrollment category, categories will be funded nationally in priority order (beginning with category "A") until funding is exhausted. The notice also specifies subcategories for funding if all applications in a category cannot be funded.

Conducting Periodic Sign-Ups. The interim final rule opens CSP for sign-ups only at certain times. The farm bill did not specify whether sign-ups were to be continuous or periodic.

¹¹ 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.

¹² See map of watershed under "CSP Watersheds — Watershed Information, 2004" at [<http://www.nrcs.usda.gov/programs/csp/>].

¹³ Notice, "Conservation Security Program," NRCS, 69 FR 24560.

Summary of FY2004 CSP Enrollment and Funding Process

- (1) May 19: NRCS selected watershed areas (based on land use, input intensity and past and current conservation practices) where producers may apply for CSP. Eighteen watershed areas have been selected for FY2004.
 - (2) June 21: NRCS published a sign-up notice with eligibility and contract requirements, enrollment categories, and payment information. A producer meeting eligibility requirements may complete a self-screening questionnaire (including a Benchmark Condition Inventory) and provide stewardship documentation to determine whether he has met minimum conservation standards for CSP. If so, he can apply to CSP.
 - (3) NRCS determines whether applicant qualifies. If applicant qualifies, NRCS determines what level of participation is appropriate for applicant, and places applicant in an enrollment category.
 - (4) Funding will be distributed to each succeeding enrollment category until funding is exhausted.
- Source:** 69 FR 34502.

CSP Contract Payments. The CSP contract payment is by statute composed of three components: stewardship payments,¹⁴ payments for new and existing practices, and payments for enhancement activities that go beyond minimum contract requirements. The farm bill limits total contract payments to \$20,000 for a Tier I contract, \$35,000 for a Tier II contract, and \$45,000 for a Tier III contract. However, NRCS has further limited the total contract payment to a percentage of the stewardship payment. This latter limit was not mentioned in the farm bill.¹⁵

Stewardship Payment. This is a payment tied to the number of acres enrolled in CSP. The farm bill sets the stewardship payment component at 5%-15% of land rental rates, depending on the tier of the contract. The proposed rule would reduce this to 1.25%-11.25%, significantly reducing 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). Under the farm bill, CSP cannot pay for some practices, such as animal waste treatment facilities. The June 21 sign-up notice specifies which practices are eligible. Existing practice payments will be 25% of the stewardship payment, and new practice payments will be cost-shared at not more than 15%.

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 specifies only two types of enhancement components as “available” in this sign-up. It is unclear why NRCS has chosen this approach in the rule.

¹⁴ These are called “base payments” in the farm bill, but NRCS has renamed them “stewardship payments” in response to comments that the term “base” could lead to confusion with “base acres” used in farm programs.

¹⁵ In the interim final rule, NRCS limits the total contract payments to 15%-40% of the unadjusted stewardship payment, depending on the tier of participation.

Issues for Congress

A central issue for Congress is 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 limited that funding in FY2004. (Although there is no limit after FY2004, appropriators retain the option of imposing limits in the future.) Authorizers specified broad eligibility criteria in the farm bill, but NRCS created strict procedures within those criteria that applicants must follow in order to qualify. NRCS argues that the statutory 15% limit on CSP technical assistance will constrain CSP implementation, but congressional CSP proponents have disputed that. The interim final rule also placed further limits on CSP payments that were not envisioned in the farm bill.

Congress may also be interested the basis for NRCS's selected eligible watersheds and enrollment categories. The May 4 notice describes a complex watershed selection procedure in which NRCS ranks watersheds in several ways before prioritizing them. It is not a transparent process, and consequently it is unclear precisely how NRCS selected the 18 watersheds eligible for FY2004.

Another issue for Congress may be CSP's potential status as a "green box" program under the World Trade Organization (WTO) structure. In WTO parlance, "green box" programs (which pay producers for environmental services) are not subject to reductions under the WTO. CSP spending appears likely to be classified as a "green box" program. Given that the United States and other countries have proposed to reduce direct subsidies, some view "green box" programs like CSP as the type of farm support most likely to survive future international negotiations, particularly in light of the June 19 WTO decision (the WTO ruled that U.S. cotton support payments are unfair to Brazilian cotton producers and artificially lower the world price of cotton). Some witnesses for the House Agriculture subcommittee hearing noted CSP's "green box" potential as a possible advantage to the program.

Finally, implementing CSP will involve a change in NRCS culture, which has traditionally focused on engineering individual conservation practices rather than planning and assisting producers with whole-farm conservation. Although NRCS has previously raised the whole-farm planning idea, CSP is the first program to implement it.