



ORGANIC FARMING RESEARCH FOUNDATION

October 28, 2009

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RE: Conservation Stewardship Program – Interim Final Rule with Request for Comments, Docket Number NRCS-IFR-09004

Submitted via: CSP2008@wdc.usda.gov

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Gregory Johnson, Director
Financial Assistance Programs Division
U.S. Department of Agriculture
Natural Resources Conservation Service
1400 Independence Avenue, SW, Room 5237-S
Washington, DC 20250-2890

Dear Mr. Johnson:

The Organic Farming Research Foundation (OFRF) is a grower-directed, charitable organization dedicated to the improvement and widespread adoption of organic farming systems. Pursuant to the USDA's Natural Resources Conservation Service request for public comments on the Conservation Stewardship Program (CSP) Interim Final Rule (IFR) published in the Federal Register on July 29, 2009 (74 FR 37499-37519), and amended September 21, 2009 (74 FR 48005), OFRF submits the following comments for consideration.

The Food, Conservation, and Energy Act of 2008 (PL 110-234), also known as the 2008 Farm Bill, made many important changes to the Conservation Security Program. The law gives NRCS the authority to make the new Conservation Stewardship Program (CSP) into the agency's flagship working lands conservation program that rewards farmers for environmental services and benefits. While the IFR reflects many of these changes, there are several points in the IFR that NRCS should address in order to strengthen CSP and achieve the agency's conservation goals.

In the 2008 Farm Bill, Congress included provisions within CSP specific to organic agriculture and the transition to organic production systems, acknowledging that organic systems are important conservation systems. Through CSP, Congress requires USDA to conduct outreach and provide technical assistance to organic farmers, and to make sure that program specifications account for the special considerations and requirements that organic farmers must adhere to, including specific natural resource management requirements. Additionally, the 2008 Farm Bill contains provisions for NRCS to efficiently and effectively coordinate between CSP program requirements and those of the National Organic Program, and facilitate farmer participation in both program simultaneously. These provisions and those included elsewhere in the 2008 Conservation Title constitute an *unprecedented recognition in national policy for the conservation benefits of organic systems*.

Without the proper implementation of these provisions, NRCS will fall short of meeting its conservation objectives and will miss the opportunity to leverage the multiple conservation benefits of organic agriculture. OFRF provides the following comments on organic-specific and other CSP provisions divided into the following sections:

1. Overarching Comments
2. Specific Preamble Comments
3. Rule-Specific and Accompanying Implementation Comments

Additionally, OFRF is a member of the National Sustainable Agriculture Coalition (NSAC) and fully endorses NSAC's comments on the CSP IFR, Docket Number NRCS-IFR-09004.

Thank you for considering our comments.

Sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is 'Ariane Lotti' and the signature on the right is 'Mark Lipson'. Both are written in a cursive, flowing style.

Ariane Lotti
Policy Associate

Mark Lipson
Senior Policy Analyst

I. OVERARCHING COMMENTS

In order to achieve the full potential of CSP and provide the maximum conservation benefits, OFRF recommends that NRCS implement the law according to its intent by ensuring that the final rule and program activities *fully integrate organic crop and livestock systems into CSP*.

In the 2008 Farm Bill, the Managers made clear that they “expect the Secretary to coordinate this program and the organic certification process to the *maximum extent* practicable.”¹ In the 2009 roll-out, NRCS took important first steps in integrating organic agriculture into CSP by creating several organic-specific enhancements and a chart detailing which enhancements overlap with certain practice standards of the National Organic Program (NOP). Yet, to meet the full intent of Congress, NRCS should:

1. Fully develop and implement, in close coordination with the National Organic Program, the CSP “organic crosswalk.”

Beginning on page 8, we detail our recommendations for how NRCS should construct the crosswalk and create clear mechanisms by which farmers participating in either CSP or NOP can participate in the other program.

2. In the Conservation Measurement Tool (CMT), ensure high ranking of organic-specific and organic-related activities and enhancements.

Organic farming systems accrue and deliver multiple conservation services; CSP should reward farmers for those benefits – both existing and additional.

3. Develop further enhancements that are specific to organic and transitioning farming systems, and ensure that there are appropriate variations relevant to organic systems where the standard practice may not be appropriate.

As NRCS considers adding enhancements to the CMT, NRCS should make sure that it provides a full suite of enhancements relevant to organic systems, and in the cases when it does not, make sure that there are appropriate alternatives for organic farmers.

4. Credit existing Organic System Plans with a specific baseline question and ranking score for existing conservation activities.

Organic farming systems accrue significant conservation benefits, and CSP should recognize existing conservation on organic farms by creating a baseline question and ranking score for farmers with Organic System Plans (the planning required for participation in the National Organic Program).

¹House Conference Report No. 110-627, Food, Conservation, and Energy Act of 2008 (110th Congr., 2d Session) at p. 721. (emphasis added)

5. Ensure that NRCS staff is knowledgeable and trained to be able to provide planning and technical assistance to organic and transitioning farmers.

Planning and technical assistance are at the heart of NRCS' activities, and proper program delivery depends upon staff being knowledgeable about an array of conservation systems. Congress, in the 2008 Farm Bill, recognized the particular need for making such assistance available to organic farmers,² and NRCS should swiftly provide training to its staff on the requirements, characteristics, and conservation activities of organic systems.

6. Maintain the equal balance in CSP payments and program activities between existing conservation activities and additional conservation activities.

We detail this below, but stress here the importance to organic producers of maintaining an equal balance between existing and additional conservation activities within CSP payments and program design, as intended by Congress.

7. For the on-farm research and demonstration enhancements, ensure that:
 - a. Organic and transitioning farmers have equal access to the enhancements;
 - b. Research and demonstrations are conducted that meet the needs of farmers;
 - c. Any research results are made public; and
 - d. There is coordination between NRCS and the research agencies and particular programs – such as the Organic Agriculture Research and Extension Initiative and the Sustainable Agriculture Research and Education program – that are particularly farmer-friendly or fund proposals that examine how different farming practices affect the environment.

II. SPECIFIC PREAMBLE COMMENTS

In this section, OFRF provides recommendations on several of the questions and issues raised in the preamble to the IFR.

- A. **NRCS seeks public comment on the proper distribution of CSP annual payment between payment for additional activities and payment for existing activities (37505).**

Recommendation: Annual payments for CSP should be distributed equally between payment for additional activities and payment for existing activities. Additionally, all program regulations and design should maintain an equal distribution between additional activities and existing activities.

² The Food Security Act of 1985, §1238G(c) as amended by § 2301 of the Food, Conservation, and Energy Act of 2008.

The 2008 Farm Bill clearly gives equal weight and importance to rewarding additional *and* existing conservation activities under CSP.³ NRCS should strictly follow this mandate, which is critical to rewarding good conservation behavior and incentivizing better conservation behavior. Maintaining this balance also distinguishes CSP from NRCS' other working lands program, the Environmental Quality Incentives Program (EQIP), and avoids duplication between program purposes and implementation. Finally, maintaining this equal distribution ensures that CSP rewards farmers and ranchers for environmental outcomes and services provided by the entire conservation system, regardless of the timing of the adoption of various practices.

Organic farmers are particularly sensitive to this issue because their conservation activities tend not to be recognized or rewarded. As the Correlation Chart between NOP and NRCS compiled by the National Center for Appropriate Technology and the University of Minnesota (available at: http://ofrf.org/policy/federal_legislation/080811_NCAT_NRCSNOP_Correlation_Chart.pdf) shows, organic certification inherently involves implementing multiple NRCS conservation practices. Ensuring an equal balance between existing and additional activities rewards innovative farmers who are good land stewards and helps them maintain existing conservation activities.

B. NRCS specifically requests through the comment process information on innovative enhancements NRCS should offer under CSP to improve participant's conservation performance (37505).

Recommendation: NRCS should develop further enhancements that are specific to organic and transitioning farming systems, and ensure that there are appropriate variations relevant to organic systems where the standard practice may not be appropriate.

As NRCS considers adding enhancements to the CMT, NRCS should make sure that it provides a full suite of enhancements relevant to organic systems. In the cases when it does not, NRCS should make sure that there are appropriate alternatives for organic farmers.

C. Public comment is requested on whether or not at least one of the priority resource concerns should be identified specifically to address wildlife habitat issues (37509).

Recommendation: One of the priority resource concerns should be identified specifically to address wildlife habitat issues and another should specifically address biodiversity issues.

The CSP program rule and design significantly address wildlife habitat concerns, yet the relevant conservation activities are listed under the "plants" and "animals" priority resources of concern. The list of priority resources of concern should include both wildlife habitat and biodiversity as distinct items, which would be clearer, more meaningful parallels to the other resource concerns than "plants" and "animals."

³ The Food Security Act of 1985, §1238E(a) as amended by § 2301 of the Food, Conservation, and Energy Act of 2008.

III. RULE-SPECIFIC AND ACCOMPANYING IMPLEMENTATION COMMENTS

Overall, the IFR correctly interprets many of the important changes that Congress made to CSP in the 2008 Farm Bill, including making the program available on a nationwide, continuous basis. OFRF's comments below address specific points in the IFR that NRCS should clarify, adjust, or add in order to ensure a strong CSP that pays farmers and ranchers for conservation outcomes and environmental benefits.

§ 1470.2 Administration.

Recommendation: In the CSP final rule, explicitly state that the full CSP acreage authorized and funded in the 2008 Farm Bill remains available to the program, cumulatively.

The CSP Final Rule should clarify that all acres made available to CSP through the 2008 Farm Bill remain available to the program, despite any yearly fluctuations in meeting the statutory annual target. The 2008 Farm Bill provides authority and funds to USDA to enroll an additional 12,769,000 million acres each fiscal year from 2008 to 2017.⁴ The farm bill provision does not explicitly limit the acreage that can be enrolled in any given year to 12,769,000 acres, but rather makes available those acres. NRCS should ensure that, if the annual allowance is not enrolled, that any unused acres roll-over to the following years.

§ 1470.3 Definitions.

Conservation stewardship plan

Recommendation: In the CSP final rule, add “including the Organic System Plan of the National Organic Program” to the definition of *Conservation stewardship plan* so that the second sentence in the definition reads: “Associated supporting information that identifies and inventories resource concerns and existing conservation activities, *including the Organic System Plan of the National Organic Program,*”

NRCS should clarify that an Organic System Plan required by the National Organic Program for certification counts as supporting information on existing conservation activities because, as mentioned above, these plans overlap with the conservation goals and objectives of NRCS.

Resource-conserving crop rotation

Recommendation: In the CSP final rule, strengthen the definition of *Resource-conserving crop rotation* by doing one of the following two things:

⁴ The Food Security Act of 1985, §1238G(d)(1) as amended by § 2301 of the Food, Conservation, and Energy Act of 2008.

1. Replace the definition in the 2009 IFR with the definition in the 2005 IFR for the Conservation Security Program and delete the 2009 definition of *Resource-conserving crop* so that the definition reads: “Resource-conserving crop rotation means a crop rotation that reduces erosion, maintains or improves soil fertility and tilth, interrupts pest cycles, or conserves soil moisture and water and that includes at least one resource-conserving crop, such as a perennial grass, a legume grown for use as forage, seed for planting, or green manure, a legume-grass mixture, a small grain grown in combination with a grass or legume, whether inter-seeded or planted in rotation”; **or**
2. Replace both the *Resource-conserving crop rotation* and *Resource-conserving crop* definitions with the 2005 IFR for the Conservation Security Program definition by placing everything after “such as” into the definition of a *Resource-conserving crop*, and everything before “such as” into the *Resource-conserving crop rotation* definition.

NRCS should return to the strong definition for resource-conserving crop rotation (RCCR) that it had in the 2005 CSP IFR to ensure that farmers are being paid for significant environmental benefits. In the current definition of the 2009 IFR and in the first 2009 sign-up, NRCS has chosen to allow the simplest of rotations, some of which result in no or close to no conservation benefits and are simply standard, production-related rotations. This clearly fails to meet the intent of the farm bill Managers who “do not intend for the Secretary to pay for no-till or other common practices that have no cost to the producer.”⁵ NRCS should fix this definition so that it clearly rewards complex rotations that deliver significant environmental benefits and so that farmers implementing RCCRs rightly merit the supplemental payments for RCCRs that Congress mandated in the 2008 Farm Bill.⁶

§ 1470.5 Outreach activities.

Recommendation: In ensuring outreach to organic and transitioning farmers, NRCS should provide materials that are farmer-friendly and that account for the specific requirements of organic systems under the National Organic Program rule and how those requirements overlap with CSP (see recommendations in § 1470.8 below). Additionally, NRCS should seek to conduct outreach through avenues that organic and transitioning farmers use and access, which often are different from the information avenues that most conventional farmers use.

Many NRCS outreach materials are tailored to the needs of certain types of farmers, and have not in the past been relevant or applicable to organic and transitioning farmers. In fulfilling the provision of the 2008 Farm Bill concerning outreach to organic producers,⁷ NRCS should

⁵ House Conference Report No. 110-627, Food, Conservation, and Energy Act of 2008 (110th Congr., 2d Session) at p. 722.

⁶ The Food Security Act of 1985, §1238G(f) as amended by § 2301 of the Food, Conservation, and Energy Act of 2008.

⁷ The Food Security Act of 1985, §1238G(c) as amended by § 2301 of the Food, Conservation, and Energy Act of 2008.

provide relevant, appropriate, and accurate materials that are easily accessible by organic and transitioning farmers.

§ 1470.8 Technical and other assistance.

Subsection c

Recommendation: NRCS should fully and quickly implement this subsection.

Planning and technical assistance are at the heart of NRCS' activities, and proper program delivery depends upon staff being knowledgeable about an array of conservation systems. Congress, in the 2008 Farm Bill, recognized the particular need for making such assistance available to organic farmers.⁸ NRCS should swiftly provide training to its staff on the requirements, characteristics, and conservation activities of organic systems.

Subsection d

Recommendation: NRCS should fully and quickly implement this subsection by implementing the recommendations below.

Subsection d could adequately fulfill the provision set forth in the 2008 Farm Bill addressing the coordination of CSP with organic certification⁹ (commonly referred to as the "organic crosswalk"), if NRCS implements it fully and aggressively.

In the recent 2009 CSP roll-out implementation of this provision, NRCS took the important first step of identifying which CSP enhancements are relevant to organic farmers and the standards of the National Organic Program (NOP) that they have to meet (http://www.nrcs.usda.gov/programs/new_csp/special_pdfs/Organic_Crosswalk_091009_dl.pdf)¹⁰

In our understanding of the goal described by Congress, the document that NRCS has posted to its website *does not constitute the organic crosswalk envisioned by Congress* and fails to meet the intent of the law. In the 2008 Farm Bill, the Managers made clear that they "expect the Secretary to coordinate this program and the organic certification process to the *maximum extent practicable*."¹¹ The NRCS document cited above is only the *minimum* first step, and, therefore, does not alone fulfill the goal of full NRCS-NOP coordination. Further actions are required.

⁸ The Food Security Act of 1985, §1238G(c) as amended by § 2301 of the Food, Conservation, and Energy Act of 2008.

⁹ The Food Security Act of 1985, §1238F(h) as amended by § 2301 of the Food, Conservation, and Energy Act of 2008.

¹⁰ Retrieved 10/26/09

¹¹ House Conference Report No. 110-627, Food, Conservation, and Energy Act of 2008 (110th Congr., 2d Session) at p. 721. (emphasis added)

To achieve a greater degree of coordination between CSP and organic certification requirements, we recommend the actions listed below. This is not an exhaustive list but NRCS can take all the actions listed here without additional authority or another agency's action.¹²

1. NRCS should provide support and technical assistance concerning the simultaneous requirements of CSP and organic certification to:
 - a. Farmers participating in a CSP contract who wish to initiate organic certification;
 - b. Existing organic farmers wishing to apply to and participate in CSP; and
 - c. Farmers wishing simultaneously to apply to CSP and initiate organic certification.
2. In order to provide such support and assistance, NRCS should:
 - a. For CSP farmers wishing to transition to organic production:
 - i. Determine what is missing from the conservation stewardship plan in order to meet the requirements of the Conservation/Natural Resources section of the Organic System Plan;
 - ii. Create a model conservation stewardship plan tailored to the needs of a farmer transitioning to organic production under CSP that producers and NRCS offices around the country can use as a template;
 - iii. Detail the steps that a farmer must take to initiate organic production and to complete the organic certification process; and
 - iv. Provide adequate technical assistance to ensure that both NRCS and NOP requirements are met.
 - b. For an existing organic farmer wishing to apply to CSP:
 - i. Credit existing Organic System Plans with a specific baseline question and ranking score for existing conservation;
 - ii. Determine what is missing from an Organic System Plan in order to meet the requirements of a conservation stewardship plan;
 - iii. Create a model conservation stewardship plan for existing organic farmers that uses the Conservation/Natural Resources section of an Organic System Plan as its main content that producers and NRCS offices around the country can use as a template;
 - iv. Create a streamlined application process that does not duplicate the paperwork and record-keeping requirements of the NOP; and
 - v. Provide adequate technical assistance that ensures that both NRCS and NOP requirements are met.
 - c. For a farmer wishing simultaneously to apply to CSP and initiate organic certification:
 - i. Detail the overlap and differences between a conservation stewardship plan and an Organic System Plan;
 - ii. Create several model conservation stewardship plans tailored to the needs of a farmer transitioning to organic production under CSP for a variety of

¹² The maximum extent of coordination for the organic crosswalk will probably require NRCS and the AMS National Organic Program to enter into a formal inter-agency agreement and we urge NRCS to initiate this discussion with the NOP.

- types of operations that producers and NRCS offices around the country can use as templates; and
- iii. Provide adequate technical assistance that ensures that both NRCS and NOP requirements are met.
 3. In providing such support and assistance, NRCS should coordinate with NOP staff, NOP-accredited certifiers, and organic experts to ensure the technical accuracy of the materials.
 4. In all cases, NRCS should ensure that its materials and information are clear, farmer-friendly, and available in web-based and non-web-based versions

§ 1470.24 Payments.

Recommendation: In the CSP final rule, include a minimum annual contract payment of \$1,500 for farmers with farms of 50 or fewer acres.

Providing a minimum contract payment of \$1,500 to farmers who farm 50 or fewer acres will encourage the participation of small acreage farms. Currently, there is not enough incentive for farmers of smaller acreages to enroll in CSP with such low per-acre payments. This is a missed opportunity to make important advances in achieving conservation objectives because the cumulative impacts of thousands of small farms would be significant. Finally, the majority of farmers in the U.S., as documented by the 2007 Census of Agriculture, range in size from 1 to 99 acres. For USDA and conservation programs to both achieve their objectives and be relevant to the majority of farmers, NRCS should provide a minimum contract payment.

CONCLUSION

OFRF is grateful for the opportunity to submit comments on the CSP IFR. As NRCS writes the final rule, OFRF hopes that NRCS will continue to strengthen the program by incorporating the comments and recommendations in this document. OFRF looks forward to working with NRCS specifically on the improvement and implementation of organic-specific provisions in CSP.