

payment helps keep these payments from becoming large relative to land rental rates in areas where local rental rates are low relative to national average rates and reduces the likelihood that payments will, in fact, exceed cost.

General issues for analysis were identified, and a range of methods for limiting the CSP to stay within budgetary constraints or ramp-up options were analyzed. Questions raised in the Advanced Notice of Proposed Rulemaking (ANPR) serve as the basis for identifying important decision points for analysis. The identified alternatives include:

(1) The full CSP program as defined in Title II of the 2002 Farm Bill, with the maximum allowable cost share under the statute of 75%.

(2) The full CSP program as defined in Title II of the 2002 Farm Bill, with minimal cost share of 5%. Three sub-alternatives were then analyzed, where the model restricted participation by each tier level respectively.

(3) The CSP program limited by resource concern with minimal cost share. The resource concerns that would be required to be addressed in each contract would include soil, water, and wildlife. Two sub-alternatives were then analyzed. In the first sub-alternative, the base payment was calculated as 50% of the regional rental rate. In the second sub-alternative, the base payment was further reduced to 10% of the regional rental rate, and the enhancement payment calculation was modified to provide potentially larger enhancement payments.

(4) The CSP program limited by geography with minimal cost share. This alternative essentially implemented CSP as a pilot program, limited to six counties, one from each of the NRCS administrative regions.

CSP participation will require that producers address the treatment of identified resource concerns to a level that meets or exceeds the appropriate non-degradation standard according to the NRCS technical guide. A sensitivity analysis was utilized to identify a reasonable range of the additional costs that would be incurred for a given increase in benefits that may be obtained by improving the condition of the resource beyond the minimally acceptable level.

The results indicate that staying within the budget, while also offering CSP as an entitlement as mandated by the 2002 farm bill, will be difficult at best. Some combination of limitations or constraints is likely to be needed. The analyzed alternatives provide insight into what type of limitations could be used, and how they would affect

government payments, producer participation, and program net benefits. While only one of the scenarios actually achieves government expenditures below the budget limit, the model does show that limiting program payments, and program options can reduce participation and program expenditures.

Although the analysis provides estimates of the social net benefits of each alternative examined, its primary value is to illustrate the relative order of the identified alternatives, rather than provide accurate estimates of the costs and benefits. NRCS based its estimates on a number of assumptions because of substantial data gaps. There is, for example, no available information on the benefits associated with major program elements, such as enhancement activities above and beyond the non-degradation level. Instead, the RIA used estimates generated from experience with EQIP, CRP, and other USDA conservation programs. NRCS also assumes that producers would enroll in CSP if the program provided any positive net benefit to them (*i.e.*, even as small as \$1). This assumption does not take into consideration producers' cash flow constraints, which along with other factors could affect participation. Since the analysis does not have information on the behavioral response of producers to the incentives provided by CSP, the benefits analysis provided in the RIA is largely a hypothetical construct and does not reflect the benefits of the proposed program and the identified alternatives. NRCS intends to refine the analysis for the final rule. NRCS welcomes comments and additional data that may assist in this refinement.

A copy of the analysis is available upon request from Thomas Christensen, Acting Director, Conservation Operations Division, Natural Resources Conservation Service, Room 5241-S, Washington, DC 20250-2890, or electronically at <http://www.nrcs.usda.gov/programs/csp/index.html> under "Additional Information".

The administrative record is available for public inspection in Room 5212 South Building, USDA, 14th and Independence Avenue SW., Washington, DC.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because NRCS is not required by 5 U.S.C. 533, or any other provision of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Analysis

A draft Environmental Assessment (EA) has been prepared to assist in determining whether this proposed rule, if implemented, would have a significant impact on the quality of the human environment. Based on the results of the draft EA, NRCS proposes issuing a Finding Of No Significant Impact (FONSI) before a final rule is published. Copies of the draft EA and draft FONSI may be obtained from Thomas Christensen, Acting Director, Conservation Operations Division, Natural Resources Conservation Service, Room 5241-S, Washington, DC 20250-2890, and electronically at <http://www.nrcs.usda.gov/programs/csp/index.html> under "Program Information." Mail comments on the draft EA and draft FONSI by March 2, 2004, to Thomas Christensen, Conservation Operations Division, Natural Resources Conservation Service, Room 5241, Washington, DC 20250-2890, or submit them via the Internet to farmbillrules@usda.gov.

Paperwork Reduction Act

Section 2702 of the Farm Security and Rural Investment Act of 2002 requires that the implementation of this provision be carried out without regard to the Paperwork Reduction Act, Chapter 35 of title 44, United States Code. Therefore, NRCS is not reporting recordkeeping or estimated paperwork burden associated with this proposed final rule.

Government Paperwork Elimination Act

NRCS is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. To better accommodate public access, NRCS is proposing to develop an online application and information system for public use.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this proposed rule are not retroactive. The provisions of this proposed rule preempt State and local laws to the extent that such laws are inconsistent with this proposed rule. Before an action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded persons at 7 CFR parts 614, 780, and 11 must be exhausted.