



National Association of Conservation Districts

August 28, 2009

Mr. Bob Stephenson
Director, Conservation and Environmental Protection Division
Farm Service Agency
U.S. Department of Agriculture
Room 4714
1400 Independence Ave, SW
Washington, DC 20250

RE: CRP Interim Rule Comments 7 CFR Part 1410, RIN 0560-AH80

Dear Mr. Stephenson:

The National Association of Conservation Districts (NACD) represents the nation's 3,000 conservation districts and 17,000 men and women who serve on their governing boards. Conservation districts are local units of government established under state law to carry out natural resource management programs at the local level. Conservation districts help state and federal partners work with landowners on a variety of conservation programs. We have a long history of working with FSA to deliver the Conservation Reserve Program (CRP) and appreciate the opportunity to comment on the most recent changes to this program.

NACD worked with Congress to expand the definition of technical assistance and it is our expectation that this new definition should allow for improved program delivery, including technical assistance, planning, and technical standards, monitoring and effects analysis. The interim final rule technical assistance definition states "determining the eligibility of land and practices, implementing and certifying practices, ensuring contract performance, and providing annual rental rate surveys". NACD recommends including assistance with maintenance activities, as producers are likely to need assistance or follow-up on the conservation plan requirements during the course of their CRP contract. NACD supports the rental rate survey and understands the importance of regular assessments of area rental rates, but we do not believe that this function is technical in nature. We feel the rental rate survey should be conducted on an annual basis, but should not be considered part of technical assistance.

NACD supports expansion of the farmable wetland program to include constructed wetlands that are to be developed to provide nitrogen removal in row-crop agriculture drainage areas. We recognize that these projects are already underway in several areas and feel it is appropriate to include this type of constructed wetland into the farmable wetland program.

NACD is very supportive of additional requirement to undertake management on the land enrolled in CRP as included in the conservation plan. In many areas conservation districts witness CRP acreage that has not been properly maintained, causing pest problems for neighbors and a refuge for invasive species.

NACD supports the new authority for cost-share payments for thinning of trees. This new program is especially important to those areas such as the southeast that have put many acres into trees and are now in need of management to improve habitat. The cost-share assistance will allow for needed improvements on these contact acres.

The Farm Bill report addresses several issues that NACD supports. NACD supports the provision which directs FSA to remove Continuous CRP and CREP from the 25% cropland enrollment limitation if approved by county government. NACD also supports report language regarding incidental grazing that states, “the Managers intend that short-term access to buffers that are adjacent to fields be allowed post-harvest without a reduction in payment. While grazing of the buffer is not intended in this action, the proximity to the field crop residue makes restricting access difficult. Due to the short term nature of this activity (60 days maximum), it should not result in a reduced payment and should be done in accordance with the contract. These incidental grazing provisions are important to our members across the country, but especially in Kansas where they have been facing problems getting approval for short term incidental grazing of buffers.

NACD has supported CRP from its creation in 1985 to the work that is being done today. We were leaders in the Resource Conservation Act process that brought forward the program recommendations that there was a need to protect soil and water resources and ultimately the creation of CRP. Our members still identify the protection of soil and water resources and the primary natural resource concerns that we need to address. Our members support the general sign-ups of the original CRP program, but we see a move toward more targeting on smaller specific project – farmable wetlands, CREPs, buffers, etc. We support this direction of the program. We believe the partnerships with states through the CREPs have been very beneficial and resulted in increased participation and leveraging state and federal funds.

Regarding the operation of CRP, the goals, purposes and barriers to enrollment, NACD has specific policy that has been adopted by our Board of Directors. Our recommendations include:

- Targeting should continue through the Environmental Benefits Index (EBI) with those lands achieving a high benefit also achieving the highest rental payment. States should have flexibility that will allow them to choose the criteria for the EBI.

- Adding a 20% bonus to soils with an Erodibility Index greater than 15, in addition to the current rate.
- an increase in new and re-enrolled general and continuous sign-up incentives as economic demands change.
- changing continuous CRP rules to require 75 percent of upland areas to be adequately treated for erosion control before waterways will be cost-shared.
- including cost share for mulch, drip irrigation and grass seeding in CCRP windbreaks, shelterbelts, and living snow fences.
- making field borders an eligible practice for continuous CRP enrollment.
- allowing an eligible width of at least 35 feet for field borders connecting contour buffer strips.
- the use of CRP in emergency or planned grazing or haying situations, and reaffirms private property decisions be based on local input. NACD supports local decisions of CRP land use based on property management plans as well as local environmental conditions. These plans are implemented with agreement of the local landowner as well as NRCS technical staff.
- Current continuous CRP rules require that a payment reduction be assessed if a producer grazes land enrolled in practices CP18B (establishment of permanent vegetation to reduce salinity—non-easement) and CP18C (establishment of permanent salt tolerant vegetative cover—non-easement) or the areas would need to be fenced out separately from the fields in which they lie in order to aftermath graze the remainder of the field. Since aftermath grazing is a common practice in many areas and the CRP manual already approves incidental grazing for certain practices, NACD recommends that CP18B and CP18C be added as eligible for incidental grazing. NACD also recommends that all CP18B and CP18C acreages over 15 are not considered incidental acreage. NACD further recommends that all practices listed under incidental grazing provisions currently in the CRP manual, including CP18B and CP18C (under 15 acres) not be assessed a 25 percent payment reduction
- In many areas, current natural progression of riparian area is dominated by undesirable species. Riparian areas dominated by these undesirable species lead to unstable channels, slowing of stream flow, and prevention of dense ground cover. Riparian areas dominated by undesirable species may be better managed by their removal, establishment of desirable vegetation and maintenance by controlled grazing. NACD supports the enrollment of these

riparian acres with approved grazing plans in place into the Continuous Conservation Reserve Program

- The State Acres for Wildlife Enhancement (SAFE) Program prioritizes enrollment of cropland into conservation cover based upon benefits to these sensitive species in a similar way that CRP prioritized cropland for soil erosion. The initial allotment in the country of 500,000 acres in the SAFE program will make a difference but a significant increase in the SAFE acreage in the United States is needed. NACD supports an increase to one million SAFE acres in the United States within the next year.
- NACD does not support providing penalty free early outs during contract period since the contract was mutually acceptable

The program has undertaken various modifications over the last twenty years and it has become apparent across the country that invasive species and non native vegetation on CRP and CREP acres is an environmental concern, particularly in riparian areas. The impact of the spread of these species must be weighed when considered wildlife benefits of the vegetation. Program participants must be able to manage their land in accordance with their contract as determined by local expertise and information. Invasive species while providing some form of habitat may have greater adverse environmental impacts on the landscape.

As we look to the future of environmental programs and environmental benefits and ecosystem services, NACD believes that landowners should retain any potential benefits created on their land, such as carbon sequestration. Producers should be able to participate in CRP and private environmental markets without penalty.

NACD members see certain barriers to participation in CRP. Specifically, our members have identified the following issues:

- Use of biological renovation utilizing grazing animals as one of many management tools has been administratively disallowed on CCRP project areas. Prudent application of biological renovation utilizing grazing animals has a proven track-record in controlling undesirable plants, stimulating growth of new diverse, beneficial plant species and stream bank stabilization, and fire risk reduction, all of which promote rapid restoration of riparian areas. NACD supports the use of biological renovation utilizing grazing animals as an appropriate renovation/conservation practice as may be determined beneficial by the technical agency, in consultation with the landowner.
- A field border connecting contour buffer strips is needed to provide access to the strips. The current 15 foot allowable width on connecting field borders does not provide adequate turning space for today's larger equipment. In order to farm

between the enrolled contour buffer strips, producers must take additional land out of production by seeding it down to allow for turning without recompense under the CRP. It becomes very inefficient to have two adjacent seedings that are not to be treated the same, or that will bring no return to the producer. Because of this, some producers decline to enroll any contour buffer strips. Today's modern farm equipment minimizes the risk of compaction and destruction of buffer strips.

- The Continuous CRP helps farmers to install much needed conservation buffers on their farms to improve water quality and provide wildlife habitat. New provisions allow enrollment of up to 25 percent of a filter strip or riparian buffer contract on cropland to consist of "infeasible to farm" areas that are too small or isolated to be economically farmed, provided that over 50 percent of an individual field is eligible as a filter strip or riparian buffer. Current policy for infeasible to farm areas is too restrictive. Farmers are reluctant to enroll filter strips or riparian buffer strips in smaller fields that are already difficult to farm unless they can get the whole field enrolled. To get the whole field, it becomes necessary to split off the filter strip or riparian buffer, then first offer the balance of the field for general CRP enrollment. If accepted, two contracts are required to enroll just a few acres. This is time consuming and inefficient, especially if two different cover types are required. NACD supports a change in the "infeasible to farm" policy to allow Continuous CRP enrollment of the balance of cropland in fields smaller than 5 acres, if more than 25 percent of the field is eligible as a filter strip or riparian buffer.
- Due to the changing farm economy and farm bill, many expiring CRP contracts will not be renewed and the land will be put back into production. Many of the lands enrolled in CRP did not have adequate conservation practices, such as waterways, sediment basins and terraces before being enrolled in CRP. Permanent vegetation upslope from conservation practices reduces the erosive effects of precipitation. Installing conservation practices before the grasses are removed would reduce the risk of damage to newly constructed and seeded conservation practices. NACD recommends allowing the construction of conservation practices on lands currently enrolled in CRP, if approved by the conservation district board and the corresponding Farm Service Agency County Committee
- The current continuous CRP federal riparian restoration regulations involving eradication of invasive, non-native plants are ambiguous and do not beneficially address the unique restoration needs of the Western riparian areas. The unique characteristics of arid western streams and fragile upland ecological systems require specialized conservation practices and careful stewardship. A riparian vegetative buffer (Zone 3) of twenty feet may be sufficient to filter the sediment

and organics contained in side-flow drainage entering the stream bed. NACD supports addressing these pertinent, critical issues:

- Modify the FSA lease payment limitation imposed by the arbitrary 180-foot width limits for Zones 1, 2 and 3.
- Increase the allowable vegetative buffer width (Zone 3) from the current 20-foot limitation to an area sufficient to meet the demands of the site, and;
- That decision must be solely determined by the professional judgment of the technical agency overseeing the project area.

NACD appreciates the opportunity to comment on this important program. We are looking forward to working with FSA to implement the new provisions of the 2008 Farm Bill.

Sincerely,



Steve Robinson
President