



February 13, 2020

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

Re: Environmental Quality Incentives Program Interim Final Rule, NRCS-2019-0009 (Fed. Reg. Vol. 84, No. 242, Dec. 17, 2019, page 69272ff.)

Dear Chief Lohr:

The Missouri Coalition for the Environment (MCE) appreciates the opportunity to comment on the Environmental Quality Incentives Program (EQIP) interim final rule, NRCS-2019-0009 (Fed. Reg. Vol. 84, No. 242, Dec. 17, 2019, page 69272ff).

MCE is a non-profit, grassroots, citizen action group committed to clean water, clean air, clean energy, and a healthy environment. Our mission is to educate, organize, and advocate in defense of Missouri's people and their environment. MCE's Water Policy Director and Food and Farm Director both participate in the Missouri State Technical Committee, and we enthusiastically support the work of Missouri's NRCS State Office to enhance and protect our natural resources through Farm Bill Conservation Programs like EQIP. We are particularly interested in the working lands programs because we value their importance to helping offset the environmental impacts of commodity production.

EQIP provides financial and technical assistance to farmers, ranchers, and forest landowners to plan and implement conservation practices that improve soil and water quality. As a "fix it" program, EQIP can help farmers address specific issues on their land by implementing conservation practices specifically aligned with that farmer's objectives and goals for balancing production with environmental benefits. EQIP is one of Missouri's most popular programs, and in FY18 EQIP saw increases in funds obligated, payments made, and implementation rates. Missouri is in the top 10 (#6) states receiving EQIP obligations, with \$45.8 million obligated in FY18.

MCE is committed to making sure that EQIP is the best it can be and that it serves the farmers who need it most. To that end, MCE's recommendations include:

1. EQIP can and should help farmers avoid regulation
2. EQIP can and should be used to help organic farmers
3. Make Soil Health and Resilience an EQIP Priority
4. Do Not Double the EQIP Payment Limit to \$900,000 for the Largest Farms
5. Require Progressive Implementation of Nutrient Management Plans for CAFOs
6. Make Composting a Conservation Practice Standard Eligible for EQIP and CSP Funding
7. Irrigation Districts Should Not Take EQIP Funding Away from Farmers
8. Ensure Beginning and Socially Disadvantaged Farmers Receive Their Advance Payments
9. Don't Leave Organizations Serving Historically Underserved Producers Out of the Conservation Innovation Grant Program
10. Focus Wildlife Funds on Wildlife Practices
11. Help EQIP Farmers Graduate to CSP

1. EQIP can and should help farmers avoid regulation

We urge NRCS to amend Section 1466.1(a)(3) to include not just the reference to complying with regulations, but also the other major statutory purpose of EQIP - "Avoiding, to the maximum extent practicable, the need for resource and regulatory programs by assisting producers in protecting soil, water, air, and related natural resources and meeting environmental quality criteria established by Federal, State, tribal, and local agencies." Both of these purposes spelled out by Congress in the farm bill should be referenced here in Section 1466.1 about the program's applicability. We believe avoiding the need for regulation by proactively solving agriculture's natural resource and environmental issues is a very appropriate and compelling application of the Environmental Quality Incentives Program.

2. EQIP can and should be used to help organic farmers

The farm bill specifically names resource concerns related to organic production as a purpose of EQIP, yet the rule at Section 1466.1(2) fails to name that statutory purpose, despite including a long list of other concerns. We urge NRCS to rectify this oversight by adding organic production to this paragraph. Moreover, we urge you to take all necessary steps to ensure the program is truly serving the needs of organic and transitioning to organic producers.

3. Make Soil Health and Resilience an EQIP Priority

The national priorities enumerated in Section 1466.4 leave out soil health and climate resilience. The climate crisis is disrupting farm production and farmers' lives, and while heavily impacted by the crisis, farmers also have a major role to play in climate solutions. We strongly urge NRCS to revise the list of EQIP National Priorities to add two more items to the eight listed, namely (1) protecting and enhancing soil health, soil organic matter and carbon sequestration, and other soil biological functions, and (2) enhancing farm and ranch resilience to the impacts of increased weather variability.

4. Do Not Double the EQIP Payment Limit to \$900,000 for the Largest Farms

MCE urges NRCS to amend the rule by striking Section 1466.21(e)(1)(ii)(A) and the words "or individual member thereof" from Section 1466.6(d)(3)(iii). The \$450,000 payment limit that Congress wrote into the farm bill is more than adequate for the vast majority of farms. NRCS should not create a higher limit for the nation's biggest farms. That defeats the purpose of having payment limits in the first place. For the sake of fairness, NRCS should not create special categories of favored farms that are allowed to double dip. For the sake of our air, water, and climate, NRCS should strictly limit financial assistance for large CAFOs. We urge NRCS to stay focused on family farmers' needs and environmental quality.

5. Require Progressive Implementation of Nutrient Management Plans for CAFOs

We urge NRCS to rewrite Section 1466.7, subsection (d) as follows:

"(d) If an EQIP plan of operations includes an animal waste storage or treatment facility or associated waste transport or transfer device, to manage manure, process wastewater, or other animal waste generated by an AFO, the participant must agree to develop a CNMP and demonstrate progressive improvement by the end of the contract period, and any conservation practices in the EQIP plan of operations must be implemented consistent with a CNMP."

The 2018 Farm Bill amended the CNMP provision to require only progressive implementation rather than full implementation of the CNMP. The IFR, in sharp contrast, requires only the development of a CNMP, but not its implementation. Moreover, the IFR does not require even the mere development of a CNMP until the end of the contract period, after the EQIP money has been allocated and spent. The IFR is not just weak but is contrary to the clear language of the farm bill. We urge you to make the needed corrective changes as proposed above.

We call your attention in particular to the clear statement of congressional intent contained in the Conference Report:

"The Managers intend for the Comprehensive Nutrient Management Plan ("CNMP") to remain a comprehensive and whole farm plan. However, during a particular EQIP contract period, it is not

necessary for an existing facility with a CNMP to achieve every aspect of the CNMP all at once if doing so would be practically or economically infeasible. In such instances, progressive implementation should include an appropriate and realistic timeframe for the remaining implementation factors after the end of the contract period, including, if warranted, with additional EQIP assistance.”

The rule should be rewritten to conform with the statute and the report language.

6. Make Composting a Conservation Practice Standard Eligible for EQIP and CSP Funding

MCE welcomes Section 1466.8(d) providing for the adoption of interim conservation practice standards for management approaches that provide a high potential for optimizing conservation benefits. We urge you to immediately begin working on an interim standard for composting. New research shows the value of composting for reducing GHG resulting from organic “wastes” and the value of the final product, used in conjunction with high biomass cover crops, in improving soil health and carbon sequestration. We urge you to put this at the very top of your list of new conservation practice standards to develop without delay. This can be accomplished either by amending the existing conservation practice standard for composting facilities or by creating a new, separate standard for composting itself.

7. Irrigation Districts Should Not Take EQIP Funding Away from Farmers

MCE fully supports Congress’s decision that irrigation district eligibility for EQIP funds may not be used to increase the EQIP allocation of funds for any State. We urge NRCS to adhere strictly to that directive in allocating EQIP dollars.

We commend NRCS for the inclusion of a \$900,000 payment limit for irrigation districts or other water management entities in Section 1466.6(d)(3)(iii). We urge NRCS to retain that provision in the final rule, but remove the words “or individual member thereof” which would extend the \$900,000 to individual farmers and landowners and violate the intent of Congress.

MCE also commends you for the provision in 1466.21(f) allowing USDA to deny an irrigation district application if they think it works better as an RCPP project. We support this provision, and, indeed, believe that RCPP is a far more appropriate program for irrigation district projects than EQIP.

8. Ensure Beginning and Socially Disadvantaged Farmers Receive Their Advance Payments

MCE commends NRCS for stating clearly that from now on, NRCS will inform all beginning and socially disadvantaged farmers and ranchers of their advance payment option and will document their decision. However, we are concerned about any confusion that may result given the use of the discretionary word “may” in Section 1466.24(d)(1). MCE therefore urges you to restate this sentence to say NRCS “will” issue the advance payment “unless” it is waived by the producer.

In addition, we urge NRCS to strictly follow the intent of Congress with respect to the 90 day period to expend advance payments. The Statement of the Managers in the Conference Report states: “Advance payments should be timed so that the 90 day period to expend all funds commences at the time practice installation begins.” We therefore urge you to take steps to ensure that receipt of funds coincides with the reasonable time that practice installation begins so that the clock does not run out before the farmer could reasonably be expected to install the practice.

9. Don’t Leave Organizations Serving Historically Underserved Producers Out of the Conservation Innovation Grant Program

MCE commends NRCS for setting aside up to 10 percent of CIG funding for historically underserved producers or community-based organizations serving them. MCE endorses that provision and urges you to retain it.

However, the objective of serving all kinds of farmers through CIGs is compromised by the one-for-one match requirement. These producers and CBOs do not generally have access to the kind of funding that might be more easily obtained by agencies or large national NGOs. The one-for-one match requirement, however, is a creation of the rule, not the farm bill. The farm bill only requires CIGs to leverage funding from agencies and private sources. We therefore urge you to add a new provision in Section 1466.32 providing NRCS with the authority to lower the match requirement to help ensure that no less than 10 percent of CIG funding is awarded to the producers and organizations designated in Section 1466.32(d). Without this change, we fear the program will continue to fail to address the needs of historically underserved farmers.

10. Focus Wildlife Funds on Wildlife Practices

MCE strongly supports Congress’ decision to increase the minimum allocation of EQIP funds for fish and wildlife practices to ten percent. In implementing this set-aside, we urge you to promote practices adopted primarily to benefit fish and wildlife. We appreciate that many conservation practices may have secondary benefits for wildlife, but we do not believe those should be counted toward the set-aside. Rather, practices that directly benefit fish and wildlife, such as the USDA Partners for Wildlife initiative, should be the practices that count toward the set-aside.

11. Help EQIP Farmers Graduate to CSP

In Subpart D dealing with the new Incentive Contracts, MCE urges NRCS to amend Section 1466.41(a) as follows: “(a) NRCS will give priority to applications that address eligible resource concerns identified under Section 1466.40 and that are aimed at making the participant eligible for the Conservation Stewardship Program at the end of the contract period.”

The new EQIP Incentive Contracts bear some similarity with CSP, though there are many differences as well. One of those differences is key here. Incentive Contract participants must address at least one priority resource concern by the end of the contract period. CSP participants, by contrast, must have already addressed two priority resource concerns to even be eligible for the program. Incentive Contracts, therefore, could be an important means for NRCS to help farmers graduate from EQIP to the more advanced CSP, provided they are used to help participants address no less than two priority resource concerns. We urge you to foster this objective not only by including this proposed language in the final rule but also by implementing the program in the meantime with the graduation goal in mind. To promote graduation we urge you to give priority to Incentive Contract applications that address two priority resource concerns.

Thank you for the opportunity to present these comments on the EQIP interim rule. If you have any questions about the information presented above or if you would like to discuss MCE's comments further, please do not hesitate to reach out at the contact information below.

Sincerely,



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