



National Association of Conservation Districts

April 17, 2009

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

RE: Docket Number NRCS-IFR-08005, RIN 0578-AA45

To Whom It May Concern:

The National Association of Conservation Districts (NACD) appreciates the opportunity to comment on the USDA request for comments on the Environmental Quality Incentives Program (EQIP). NACD represents the nation's 3,000 conservation districts and their governing boards. Established under state law, conservation districts are local units of state government charged with carrying out programs for the protection and management of natural resources at the local level. Conservation districts work with federal, state, and other local agencies to provide programs and technical assistance to landowners and other partners to address natural resource issues.

EQIP had been a successful conservation program for many years and the changes in the 2008 Farm Bill can strengthen the program and increase access. NACD is pleased with the new provisions that expand practices to include conservation planning and increase the potential participation by non industrial private forest landowners

NACD provided comments to NRCS on August 8, 2008 regarding EQIP, eligibility and the use of local work groups. Many of the comments in that correspondence also apply to this interim final regulation. NACD considers the local work group (LWG) as an important element of delivering EQIP. Local input and prioritization of resource needs, identification of eligible conservation practices and establishing payment rates are necessary to meeting the needs of local program participants. Although the five national resource areas of concern may well serve the needs in most sections of the country most of the time, we believe that increased flexibility would be created if a sixth priority were allowed to be determined, as needed, by each state's Technical Committee. NACD looks forward to commenting specifically on the latest State Technical Committee and Local Work Group standard operating procedures released on April 7, 2009.

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NACD member districts provide a great deal of technical assistance and other assets for the delivery of Farm Bill Conservation programs. The technical services that are provided through EQIP aid in conservation practice understanding, design and adoption. Reaching out to producers and cooperators, increasing awareness about the benefits of these programs and providing essential technical assistance concerning the program requirement and options is an important part of program delivery. This information, education and training of producers to both undertake and maintain their conservation practice are necessary to ensure the long-term environmental benefits of the practice.

The new Technical Service Provider provisions (Section 1242(g)(2)) have the potential to greatly expand the reach of Farm Bill programs through a new technical service contract. We know first hand that the limiting factor for some in the adoption of conservation practices on their operation is the technical knowledge and assistance in finding best management solutions. Providing EQIP participants with the option of a traditional financial assistance contract or a technical service contract is important to servicing a conservation program customer's needs and utilizing financial resources wisely.

NACD looks forward to working with NRCS on the comprehensive planning activities that are now eligible for EQIP assistance. We believe that forest management plans, irrigation and drainage management plans, nutrient management plans, conservation plans, integrated pest management plans and grazing management plans should be included in these activities. However, we believe that there are critical differences in these planning exercises which must be recognized and allowed for. One example would be forest management plans. The language of the interim final rule suggests that the forestry plan must be implemented during the life of the EQIP contract. Planning and implementation cycles in forestland management differ greatly from other types of land use, and it is essential that good stewardship plans can be developed and implemented over a longer time frame than the maximum EQIP contract length.

NACD asks NRCS to clarify the intention of 1466.9 (e) which states "If an EQIP plan of operations addresses forestland, the participant must develop and implement a forest management plan". We are concerned that this would be interpreted as an expectation that the entire forest management plan be implemented during the life of the EQIP contract. NACD believes there should be flexibility to implement a forestry management plan over a longer time frame if appropriate.

NACD members across the country work with a wide variety of customers. Many conservation districts conduct outreach efforts to socially disadvantaged farmers, including beginning farmers and ranchers, limited resource farmers or ranchers, Indian tribes and geographically disadvantaged farmers or ranchers. Local districts are often the best medium for communicating with these groups and should be given the resources necessary to fulfill this aspect of their mission.

NACD members in the Pacific Region are especially interested in utilizing the provisions in EQIP regarding outreach to socially disadvantaged farmer or ranchers to work with members of their communities on conservation practice adoption. In Guam, the Northern Marianas, Palau, American Samoa and the Federated States of Micronesia, the local crops and farming methods often do not fit the models of agriculture in the mainland of the U.S. Thus it is often difficult to plan and establish conservation measures. Because of the location, there are also a host of different environmental considerations that come into play. Unique invasive species, specialized crops and extreme weather conditions are but a few of the distinctive challenges for these nations and territories. Then there is the issue of available supplies of the proper equipment, plant materials and seed necessary for installing conservation systems. Shipping of appropriate materials is also often quite expensive. Energy costs in relatively isolated and distant locations also play a large part in the cost of performing conservation practices and producing crops and ecosystem services. These provisions are also important to potential customers outside the U.S. mainland that may face geographic barriers or language barriers impacting participation in USDA conservation programs.

NRCS should fully implement the provisions of the conservation programs dealing with socially disadvantaged farmers and ranchers. The provisions of the EQIP that allow for higher cost share rates are important to address the unique agricultural production and increased costs associated with the remote location (relative to the lower 48 states). NACD supports the provisions of the regulation that allocate five percent of funding for beginning farmers and ranchers and for socially disadvantaged farmers and ranchers. This allocation is important for reaching this customer base and providing the increased cost share and incentive assistance provided in the law.

In our previous communication to NRCS regarding EQIP (8/8/08) we indicated that NRCS should expand producer eligibility beyond the \$1000 in sales. We feel that this limitation restricts small producers or agricultural landowners that might not meet the \$1000 level. Some examples include: landowners who produce pasture as rental income for horse grazing systems, small acreage producers who grow food for direct consumption by their community (outside of the Alaska exception), and operations that manage forested or marsh areas and produce harvested "crops" such as ornamental forest products (cones, wreath materials), just to name a few. Although these may be thought of as unique situations, these applicants are in fact producers and should not be marginalized by production agriculture focused definitions. Many of them may be interested in getting a resource plan by utilizing the technical service only contracts and receiving a zero percent cost share. NACD requests that NRCS adjust their software and internal policy prior to the 2009 sign-up and allow the ranking systems and local work group/state technical committee process to determine the outcome rather than the arbitrary current policy.

We encourage NRCS to look into utilizing the standards of the Agricultural Census that allocates points for crop production, livestock, etc., where 1000 points equates to the \$1000 sales threshold. Attached is a copy of the point assessment that was utilized in the 2007 Agricultural Census.

NACD supports the provision of the regulation that allows NRCS to adjust payment for conservation practices scheduled after the year of contract obligation. Many times our members have seen delays in implementation of conservation practices due to weather or backlog of technical assistance and staff availability, and as a result project costs increase. This is an important provision needed to compensate program participants due to inflation related increased costs associated with implementing the practice.

NACD supports the provision of the regulation regarding environmental credits for conservation improvements. It is important the conservation program participants be able to participate in future ecosystem services markets regardless of whether they have or have not participated in federal conservation programs. EQIP and other conservation programs generally only cover a portion of the conservation practice and the producer/landowner must incur costs associated with the adoption and maintenance of the practice. Therefore it is only reasonable that producers/landowner be able to participate in both a federal program and a potential private ecosystem service trading market.

NACD is concerned about the water conservation provisions included in 1466.9 *EQIP plan of operations*. Under this provision (f) states a participant “may receive assistance to implement an EQIP plan of operations for water conservation only if the assistance will facilitate a reduction in ground and surface water use on the agricultural operation, unless the producer is participating in a watershed-wide project, as approved by the State Conservationist, which will effectively conserve water in accordance with 1466.20”. The 2008 Farm Bill has a different standard for water conservation and irrigation efficiency practices under EQIP. The specific farm bill provisions identify a “priority” on applications that, “the producer agrees not to use an associated water saving practice to bring new land, other than incidental land needed for efficient operation, under irrigated production, unless the producer is participating in a watershed wide project that will effectively conserve water”. NACD believe that the provisions of the interim final rule are too restrictive based on the wording of the law and we ask NRCS to make adjustments to this provision. We recommend removing references to a reduction in ground and surface water use and instead reference an agreement to not use water savings to bring new land into production.

NACD is concerned about the eligibility of a producer to enroll public lands in EQIP. The interim-final rule states, 1466.8(c)(2) “Eligible land includes . . . [p]ublicly owned land where: (iii) . . . The conservation practices to be implemented on the public land are necessary and will contribute to an improvement in the identified resource concern that is on private land;” As written, this language will foreclose the possibility of enrolling

public land in EQIP that is currently enrolled in the program. Agriculture production and conservation in the West will be harmed as a result. This is especially true in the case of federally leased land allotments which are separated from the properties of those holding the leases. Availability of the EQIP program in its fullest application should be just as available to the producer/cooperator, regardless of the actual ownership of those lands.

NACD recommends a relatively simple fix exists for this problem that respects NRCS' interest in maintaining the private land focus of the EQIP program. Instead of the current language which requires the resource concern to be on private land, the following language could be used: The conservation practices to be implemented on the public land are necessary to improve the condition of resources on the public land and will benefit the private land and the overall operation of the cooperating landowners.

NACD is concerned about two additional provisions and would like clarification of the intent of the wording. First, in 1466.32 *Access to operating unit*, the interim final regulation indicates that an NRCS representative will make an effort to contact a landowner prior to accessing the operating unit. We are concerned that there should be a substantial effort to make contact, perhaps providing 24 hour notice. We understand that in some cases making direct contact may be difficult, but for routine visits we recommend making an effort to provide advance notice of a field visit. Second, in 1466.26 *Contract violations and termination*, the interim final regulation references termination of a contract on the determination that it is "in the public interest". NACD would like clarification of what NRCS would consider to be the basis for termination on these grounds.

Thank you for the opportunity to comment on this important conservation program. NACD looks forward to working with NRCS on the implementation of EQIP.

Sincerely,



Steve Robinson
President