



February 10, 2015

Regulatory and Agency Policy Team – Strategic Planning and Accountability
USDA Natural Resources Conservation Service
5601 Sunnyside Avenue, Building 1-1112D
Beltsville, MD 20705

**RE: Comments on the Environmental Quality Incentives Program Interim Rule
Docket No. NRCS-2014-0007; Submitted online via regulations.gov**

The National Sustainable Agriculture Coalition (NSAC) welcomes the opportunity to provide comments on the Environmental Quality Incentives Program (EQIP) Interim Final Rule (IFR). NSAC's represented members¹ include family farm, rural, and conservation organizations across the country that share a commitment to federal policy that promotes sustainable agriculture production systems, family-based farms and ranches, and healthy, vibrant rural communities.

Many of our member organizations work directly with farmers and Natural Resources Conservation Service (NRCS) field staff to promote NRCS conservation programs at the state and county level; participate on State Technical Committees and in Local Working Groups; and, as individuals, hold or have had EQIP contracts. Additionally, NSAC and ten of our member organizations were the recipients of a Conservation Innovation Grant (CIG) – *Integrating Sustainable and Organic Agriculture into NRCS Programs* – to provide advice and assistance to NRCS on how to serve sustainable and certified organic farmers more effectively through technical assistance and working lands conservation programs. Many of our recommendations were specific to EQIP. For example, we provided recommendations on conservation practice standards, practice standard payment schedules for advanced land management systems, and the organic crosswalk. We also have been working with NRCS to develop an organic guidebook for field staff. A summary of our CIG project recommendations is attached as an appendix and incorporated throughout this comment letter.

A summary of our recommendations is as follows: we recommend NRCS take a pragmatic approach to manure management; clearly and realistically assess EQIP's climate benefits; build upon existing support for historically underserved producers, including Tribal producers; set a strong goal for wildlife benefits; and aggressively promote on-farm R&D. Below, we provide more detail on each of these recommendations.

¹ Agriculture and Land Based Training Association, Alternative Energy Resources Organization, California Certified Organic Farmers, California FarmLink, C.A.S.A. del Llano (Communities Assuring a Sustainable Agriculture), Catholic Rural Life, Center for Rural Affairs, Clagett Farm/Chesapeake Bay Foundation, Community Alliance with Family Farmers, Dakota Rural Action, Delta Land and Community, Ecological Farming Association, Farmer-Veteran Coalition, Fay-Penn Economic Development Council, Flats Mentor Farm, Florida Organic Growers, Grassworks, Hmong National Development, Illinois Stewardship Alliance, Institute for Agriculture and Trade Policy, Iowa Natural Heritage Foundation, Izaak Walton League of America, Kansas Rural Center, Kerr Center for Sustainable Agriculture, Land Stewardship Project, Michael Fields Agricultural Institute, Michigan Integrated Farm and Food Systems, Michigan Organic Food and Farm Alliance, Midwest Organic and Sustainable Education Service, National Center for Appropriate Technology, Nebraska Sustainable Agriculture Society, Northeast Organic Dairy Producers Alliance, Northern Plains Sustainable Agriculture Society, Northwest Center for Alternatives to Pesticides, Ohio Ecological Food and Farm Association, Organic Farming Research Foundation, Rural Advancement Foundation International – USA, Union of Concerned Scientists Food and Environment Program, Virginia Association for Biological Farming, Wild Farm Alliance.

I. TAKE A PRAGMATIC APPROACH TO MANURE MANAGEMENT

A. Retain regional decision making authority

In the IFR, NRCS has eliminated the requirement in 1466.20(b)(5) that EQIP applications of \$150,000 or greater require the review and approval of the Regional Conservationists.² NRCS notes that this requirement is non-statutory, but was included in the original regulations at the agency's discretion. That is true, but the requirement was added for an important and still valid reason, namely to ensure that large expenditures are focused on environmental benefits and not production goals. We do not support this change, because it removes an important check on local decisions to ensure a consistent approach and a comprehensive, long-term view of program spending, environmental benefits, and the cumulative impacts of projects with potentially adverse environmental impacts.

In addition to projects geared toward increasing irrigation or changing irrigation technology, the projects most likely to receive these large payments support concentrated animal feeding operations (CAFOs) through funding for waste lagoons, waste transfer, and waste treatment, including methane digesters. These practices have dubious environmental benefits, and – if considered comprehensively – would very likely result in a net loss of conservation benefits. Most relevant to this provision, however, is that considering these contracts in isolation ignores their cumulative impacts on a state or region's resource concerns. Below, we argue that EQIP funds generally should not be used as a production incentive for CAFOs. However, at the most basic level, NRCS should not remove regional authority to approve or deny these types of projects. By requiring approval of the Regional Conservationist for projects of this scale and nature, the agency takes a longer-term view of the cumulative impacts of such projects and puts an important second set of eyes on large projects and their associated impacts.

Recommendation: Retain 1466.20(b)(5) in the final rule, so that applications of \$150,000 or greater continue to be reviewed and approved by the Regional Conservationist.

B. Restrict EQIP Assistance for New and Expanding CAFOs

We contend that using valuable EQIP dollars to support CAFO expansion is a dubious exercise in conservation, and recommend that NRCS stop providing EQIP assistance for new and expanding CAFOs. EQIP was not intended to be a livestock production subsidy program or an incentive to concentrate production, yet that is what it has in part become. Animal waste storage and treatment facilities have become the second largest single user of EQIP funds (behind only irrigation equipment), reducing funds available to small and mid-sized family farms and to sustainable grazing systems.

Astoundingly, the rule as currently written allows CAFOs to obtain contracts for waste storage and treatment facilities as long as the participant agrees to develop and implement a comprehensive nutrient management plan (CNMP) by the end of the contract period.³ CNMPs are mandatory for regulated AFOs, and the agency should not be providing funding to construct waste storage and

² 79 Fed. Reg. 73954, 73960 (Dec. 12, 2014).

³ 79 Fed. Reg. 73971; 1466.7(d).

treatment facilities *before* the operator has a CNMP in place. We strongly urge the agency to require participating AFO operators complete the CNMP as a prerequisite to receiving any funds for animal waste storage or treatment facilities, not as an afterthought.

Recommendation: Do not provide EQIP assistance for new and expanding CAFOs. Where a CAFO is applying for EQIP funds to build a waste storage or treatment facility, require the applicant to complete a CNMP as a prerequisite to receiving any funds.

We further recommend NRCS undertake an environmental review of the total net environmental impacts of CAFOs. NRCS to date has done no rigorous environmental assessment of the net impact of billions of dollars of funding to expand CAFOs. Despite a growing body of research and increasing numbers of lawsuits and legal orders directed at CAFOs around the nation, NRCS continues to underwrite the expansion of these industrialized operations even in regions where CAFOs significantly contribute to water and air quality impairments. Until the full environmental impacts of CAFOs are known, NRCS should cease devoting such significant funding to these production models.

We are also distressed by the continuing NRCS practice in several key livestock states of setting aside substantial funding for a CAFO-only ranking pool. This ongoing practice has ensured virtually no competition among CAFO proposals and has put all other applicants at a major competitive disadvantage. It has also diminished the environmental outcomes of the program, reducing its overall cost-effectiveness.

Recommendation: Undertake a full environmental review of the impact of EQIP CAFO funding. In the meantime, NRCS should end the practice of CAFO-only ranking and funding pools.

The Farm Bill directs USDA to reserve sixty percent of all EQIP funds for livestock-related practices. However, the Farm Bill does not place any additional stipulations on the use of these funds. We urge NRCS to prioritize sustainable livestock management – including rotational grazing, forage management, and infrastructure to protect streams and lakes from livestock impacts (fencing, watering facilities, etc.) – for disbursement of these funds.

Recommendation: Prioritize applications for livestock practices that enhance or help transition producers toward sustainable livestock management systems. To help achieve that goal, we also recommend that appropriate ranking points be added for managed rotational grazing in the national EQIP ranking tool under plant and animal communities, a category that currently includes only plant ranking points. In addition, NRCS should consult on a regular and ongoing basis with State Technical Committees to set goals for sustainable livestock priorities, practices, ranking points, and payments.

II. CLEARLY AND REALISTICALLY ASSESS EQIP'S CLIMATE BENEFITS

In many parts of the country, farmers are experiencing the effects of drought, unusually high temperatures, and intense rain events. Climate change threatens to exacerbate such extremes and deepen our vulnerabilities to their impacts on agriculture.⁴ The EQIP rulemaking process provides

⁴ See, e.g. <http://www.c2es.org/science-impacts/extreme-weather/drought>

the agency with the opportunity to make significant changes – both regulatory and administrative – to enhance the program’s ability to support the President’s climate agenda, and our nation’s farmers and ranchers. EQIP provides the opportunity both to enhance support for those practices and systems with the greatest adaptation and mitigation potential, and to encourage the transition away from those with negative climate effects and less ability to cope with the pressure imposed by increasingly extreme and unpredictable weather events.

We can better address drought and other extreme events by making our farms and ranches more resilient. This includes both encouraging the adoption of practices with clear climate benefits, and providing the resources necessary to shift farmers and ranchers away from those production practices and systems that increase their vulnerability to weather extremes. EQIP can do more to support the low input and biologically diverse agricultural systems, including certified organic agriculture, that play an important role in addressing climate change. In addition to their ability to reduce GHG emissions and sequester carbon, these complex systems produce numerous co-benefits that will help farmers build resilient and viable systems of production.

Recommendation: As a new initiative, consistent with the President’s agenda, direct each state office to work closely with their State Technical Committee to develop EQIP priorities, practices, ranking points, and payments that advance the adoption of conservation activities that reduce GHG emissions, sequester carbon, and improve resiliency.

In the Interim Rule, NRCS makes several bold assertions about the supposed climate benefits of certain manure management practices:

[C]ontinued implementation of practices which treat and manage animal waste through EQIP will directly contribute to improvements in water quality and associated improvements in air quality, for example from reduction in emissions such as methane. These and other practices include secondary benefits that help sequester carbon and capture greenhouse gases which contribute to climate change.⁵

We appreciate the agency’s intention to highlight EQIP’s climate potential, but we take issue with the notion that helping a CAFO operator install a methane digester results in net climate benefits. The agency has refused to consider the life cycle impacts of such production systems, and until such an assessment is completed, we advise the agency to check any assumptions about the climate benefits of manure lagoons and methane digesters.

We would note that low input, complex agricultural systems, like integrated crop-livestock systems with well-managed rotational grazing, are likely to have net positive climate benefits. These types of practices and systems should be promoted throughout EQIP for their climate resilience through carbon sequestration, reduced emissions throughout the input chain and production system, and adaptive capacity.

We have submitted comments like this to agency before, including citations to scientific studies, in a set of climate recommendations for conservation program implementation generally, and also to the Climate Change Program Office regarding methods for determining GHG emissions on farms. We

⁵ 79 Fed. Reg. 73957.

have attached those recommendations to this comment letter, and encourage you to consider them again in this context.

Recommendation: Clarify in the final rule that the net climate benefits of practices that support animal waste storage and treatment are yet unknown, and include a discussion of the known mitigation and adaptation benefits of sustainable livestock practices and certified organic systems.

III. BUILD UPON EXISTING SUPPORT FOR BEGINNING, SOCIALLY DISADVANTAGED, AND TRIBAL PRODUCERS

The 2008 Farm Bill directed NRCS to set aside five percent of funds for socially disadvantaged producers and another five percent of funds for beginning farmers and ranchers. The 2014 Farm Bill maintains that set-aside. The 2014 Farm Bill also directs the agency to include veterans as a priority within these set-asides. We support the agency's quick implementation of the set-asides, and the new veteran priority.

We also support the agency's efforts over the years to reach out to and enroll these historically underserved populations at levels that surpass the statutory set-aside. In FY 14, for example, 20 percent of EQIP funds went to beginning farmers and 10 percent to socially disadvantaged producers. The 2014 Farm Bill increased the advance payment option for historically underserved producers from 30 to 50 percent, which will no doubt play a role in increasing EQIP's accessibility for these producers; we appreciate the agency's quick implementation of this new provision.

We encourage NRCS to continue its efforts to engage with these producers, and the organizations that work with them, to ensure these numbers continue to grow. Section 1466.5 provides that NRCS will establish program outreach activities for historically underserved producers, and we urge the agency to do so in collaboration with farmer and community-based organizations that work with and represent these producers.

Recommendation: Maintain and expand participation by historically underserved producers above the set-aside levels in the 2014 Farm Bill. Continue to engage in outreach in collaboration with community- and farmer-based organizations that work with or represent these constituencies.

We also support the agency's actions to ensure that previously irrigated tribal land remains eligible for EQIP irrigation funding. In general, we have serious concerns about the significant amount of EQIP funds that go toward irrigation practices like pipelines and pivots, particularly with respect to protections against water savings being used to expand irrigated crop production. Accordingly, we support the irrigation history requirement, and in general urge the agency to undertake rigorous enforcement of this requirement. However, we do believe that rectifying past discrimination to historically underserved producers is an important goal and should not be undermined. Therefore, we support a full, not limited, waiver from the irrigation history requirement for previously irrigated tribal land.

Recommendation: Modify the waiver provision to provide a full waiver from the irrigation history requirement for previously irrigated tribal land. The irrigation history requirement for non-tribal land should be rigorously enforced.

IV. SET A STRONG GOAL FOR WILDLIFE BENEFITS

The 2014 Farm Bill consolidated the Wildlife Habitat Incentives Program (WHIP) into EQIP, and set a requirement that at least five percent of program funds go toward practices for wildlife habitat conservation. NRCS assumes that, based on historical expenditures of wildlife-related practices in both WHIP and EQIP, that the actual funding will exceed the five percent floor.⁶ We agree with the agency that this may be true. Therefore, we encourage the agency to set a strong programmatic goal that no less than 10 percent of funds will go toward wildlife habitat creation and improvement.

Recommendation: Set an agency goal to target no less than 10 percent of EQIP funds toward wildlife habitat creation and improvement. Include this goal in the final rule, with a process for reassessing and revising the goal each year based on prior years' spending and habitat concerns. In addition, ensure ongoing, regular consultation with State Technical Committees to set state-specific goals for wildlife habitat priorities, practices, ranking points, and payments.

V. AGGRESSIVELY PROMOTE ON-FARM RESEARCH & DEVELOPMENT

On-farm research and development (R&D) plays a hugely important role in expanding and ground-truthing innovative conservation systems and approaches. In recognition of the need to invest in these types of projects, Congress has authorized funding for on-farm conservation R&D under each Farm Bill since 2002. Under the 2002 and 2008 Farm Bills, this provision was treated as an enhancement under the Conservation Stewardship Program. The 2014 Farm Bill moved this authority to EQIP, through the Conservation Innovation Grant (CIG) program, and specifically authorizes funding for projects that facilitate on-farm conservation research and demonstration activities.⁷ This relocation of the on-farm conservation R&D authority presents the agency with a new opportunity to promote this option.

Farmers, by their very profession, are innovators. They have to be able to think outside the box to deal with whatever nature throws their way. Every farming operation is unique, and farmers have much to learn from and share with each other. The on-farm R&D option provides an unparalleled opportunity to support farmers that are looking for new ways to solve resource concerns on their farms through innovative conservation solutions, and to facilitate information sharing among farmers. Accordingly, we encourage NRCS to strongly promote the on-farm R&D option through CIGs. This would not only attract a wide range of project ideas, but also increase the opportunities for farmers to exchange information and knowledge. This can be done by including specific requests for on-farm R&D proposals in the CIG APF, and by setting aside a significant portion of CIG funding for such projects.

Recommendation: Aggressively promote the on-farm R&D option, including a special focus on projects of this nature in each year's CIG APF, and by setting aside significant CIG funding annually for such projects.

⁶ 79 Fed. Reg. 73956.

⁷ 79 FR 73975; 1466.27(b)(5).

VI. INCREASE OPPORTUNITIES FOR ORGANIC PRODUCERS

Since the inception of the EQIP organic practices provision in the 2008 Farm Bill, NRCS has done much to improve offerings and outreach to organic and transition-to-organic producers through the EQIP Organic Initiative (OI). We appreciate the agency's dedication in this area, and encourage the agency to maintain and build internal capacity to address the needs of organic producers nationwide.

One way that NRCS can better serve the organic community is to determine the number of organic producers that are utilizing EQIP. As both NSAC and NRCS have noted, the Farm Bill does not restrict organic producers from participating in general EQIP or in other EQIP initiatives, and we appreciate that NRCS makes both funding pools available to organic producers. Based on reports from NSAC member groups working farmers at the state level, we know certified organic producers are enrolling in general EQIP. However, to date, we are unclear as to the extent of organic producer enrollment in the general program or its other initiatives beyond the OI. We have recommended in the past that NRCS track certified organic producers within general EQIP and other EQIP special initiatives. We continue to urge the agency to move forward on this recommendation.

Although certified organic producers have the choice to either enroll in the OI or in the general EQIP pool, those who enroll in OI are held to a lower payment limit than those that enroll through general EQIP. NRCS has historically suggested that allowing producers to self-identify as organic while enrolled in general EQIP would require the agency to impose the OI's lower payment limitation. The statutory language establishing EQIP does not support this assertion. Rather, it further reinforces organic producers' eligibility for both the OI and general EQIP and each program's respective payment limit.

While 16 U.S.C. § 3839aa-2(i)(3) does establish a separate payment limit for conservation practices related to organic production, nothing in this statute requires organic producers to apply for funding specifically under this subsection. This subsection authorizes payments exclusively for organic and transitioning producers, but if organic producers are competitive in general EQIP, there is no statutory language that would subject them to the lower payment limit. Moreover, there is specific statutory language at 16 U.S.C. § 3839aa(4) stating the a purpose of the general program is to assist producers to make beneficial, cost effective changes to production systems including conservation practices related to organic production. For organic producers enrolling in the general program under this authority it is clear that the general program payment limitation applies.

It would be relatively simple solution to include a voluntary, yes-or-no question in ProTracts to track certified organic producers in the general program. This is valuable information to understand the program's current performance as well as informing the program's future.

Recommendation: Track participation of certified organic producers in general EQIP, while also explicitly stating in the EQIP Final Rule that organic producers that elect to apply for funding through general EQIP (rather than the OI funding pool) are not subject to the OI payment limitation.

VII. CONSERVATION INNOVATION GRANT PROJECT RECOMMENDATIONS

As discussed above, NSAC and ten of our member organizations were the recipients of a CIG to explore how to better integrate sustainable and organic agriculture into NRCS conservation programs. A summary of those recommendations is attached, and we urge you to consider these recommendations as you use the rulemaking process as an opportunity to make programmatic improvements.

As one example, in the CIG we undertook an in-depth review of payment schedules and practice scenarios. While these scenarios and payments schedules are generally determined at the regional and state levels, there are some irregularities that we believe could benefit from national attention. These include:

- Ensuring that practice scenario and payment schedule information be readily and uniformly available on state eFOTG or state NRCS web sites across all states and regions;
- Ensuring that all regions and states truly offer PAMS (prevention, avoidance monitoring, and suppression) scenarios of CSP 595 as well as the “pesticide mitigation” scenarios;
- Ensuring that all regions and states clarify that no-till termination of cover crops is NOT required for participation in CPS 340 Cover Crop;
- Ensuring that no region creates a “catch 22” whereby farmers cannot immediately enroll in CPS 590 Nutrient Management or CPS 595 IPM without first completing a CAP in nutrient or pest management in a separate contract; and
- Ensuring that all regions offer reasonable payment for the challenging practice of CPS 329 No Till, and not just a token payment for the cost of running a no till drill over the field (as the current CPS 329 payment schedules do).

We appreciate your consideration of all of these recommendations, and we look forward to continued engagement with the agency to successfully implement the 2014 Farm Bill statutory changes and enhance EQIP program enrollment, delivery, and outcomes.

Sincerely,



Ferd Hoefner
Policy Director



Sophia Kruszewski
Policy Specialist