

PART 1405—LOANS, PURCHASES, AND OTHER OPERATIONS

■ 1. The authority citation for Part 1405 is revised to read as follows:

Authority: 7 U.S.C. 1508; 15 U.S.C. 714b and 714c.

■ 2. Amend § 1405.6(a) by revising the first sentence of the introductory text to read as follows:

§ 1405.6 Crop insurance requirement.

(a) To be eligible for any benefits or payments under 7 CFR part 1410 the producer must obtain at least the catastrophic level of insurance for each crop of economic significance in which the producer has an interest or provide a written waiver to the Secretary that waives any eligibility for emergency crop loss assistance in connection with the crop, if insurance is available in the county for the crop. * * *

Signed at Washington, DC on May 20, 2003.

James R. Little,

Executive Vice-President, Commodity Credit Corporation.

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DEPARTMENT OF AGRICULTURE**Natural Resources Conservation Service****7 CFR Part 1466****Environmental Quality Incentives Program**

AGENCY: Natural Resources Conservation Service and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Natural Resources Conservation Service (NRCS) is issuing a final rule for the Environmental Quality Incentives Program (EQIP). NRCS published a proposed rule for EQIP in the **Federal Register** on February 10, 2003, (68 FR 6655) and solicited comments from the public. This final rule establishes the process by which NRCS will administer EQIP, responds to comments received from the public during the 30-day comment period, and incorporates clarifications to improve implementation of the program.

EFFECTIVE DATE: May 30, 2003.

ADDRESSES: This final rule may be accessed via Internet. Users can access the Natural Resources Conservation Service (NRCS) homepage at <http://www.nrcs.usda.gov/programs/eqip/>. Select the EQIP rule from the menu.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**Executive Order 12866**

Pursuant to Executive Order 12866, Regulatory Planning and Review, the Natural Resources Conservation Service has conducted a benefit cost analysis of the Environmental Quality Incentives Program (EQIP) as formulated for the final rule. The Department of Agriculture Reorganization Act of 1994 and the Unfunded Mandates Reform Act of 1995 also require analysis of costs, benefits and risks associated with major regulation. These requirements provide decision-makers with the opportunity to develop and implement a program that is beneficial, cost effective and that minimizes negative impacts to health, human safety and the environment.

The analysis finds EQIP will have a beneficial impact on the adoption of conservation practices and, when installed or applied according to technical standards, will achieve economic and environmental gains. In addition, benefits would accrue to society for long-term productivity maintenance of the resource base, reductions in non-point source pollution damage, and wildlife enhancements. As a voluntary program, EQIP will not impose any obligation or burden upon agricultural producers that choose not to participate. In the Farm Security and Rural Investment Act of 2002 (FSRIA), EQIP funding was authorized at \$6.16 billion over the six-year period of FY 2002 through FY 2007, with annual amounts for the base program and the ground and surface water conservation provisions increasing to \$1.36 billion in FY 2007 after the initial authorization in FY 2002 of \$425 million. In addition, the 2002 Act authorizes a total of \$50 million for the Klamath Basin in California and Oregon.

In considering alternatives for implementing the program, NRCS followed the legislative intent to optimize environmental benefits, address natural resource problems and concerns, establish an open participatory process, and provide flexible assistance to producers who apply appropriate conservation measures while complying with Federal, State, and tribal environmental laws. The analysis recognizes that several other Federal conservation programs will be implemented which

will generate environmental benefits as well.

The analysis initially compared the 2002 NOFA (with certain changes required by the 2002 Farm Bill) to the original EQIP program as established in 1996. Then, benefits and costs for all alternatives for the rule were compared to the NOFA, which was used as the analytical baseline. Lastly, the new EQIP program as formulated for the final rule, is compared to the NOFA together with a display of how benefits compared with the original 1996 program.

Confined Animal Feeding Operations (CAFOs) may participate in the new program and it is estimated that \$563 million (12.5 percent of the total) of EQIP funds will be allocated for that purpose. CAFOs are generally defined as those operations with greater than 1,000 animal units, subject to some exceptions. However, since the Environmental Protection Agency published its final rule for "National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines and Standards for Concentrated Animal Feeding Operations" (EPA CAFO) on December 15, 2002, benefits from treatment of those CAFOs are attributed to that rule rather than to EQIP, regardless of the extent to which EQIP funds may be used to assist the CAFO managers with rule compliance. The economic analysis shows estimates from two perspective alternatives: (1) with CAFO benefits and costs included, and (2) with CAFO benefits and costs excluded.

The Final Rule—Its Major Features and Effects

Decisions leading to the final rule were made after consideration of all comments on the proposed rule and a review of their effects on program benefits and costs. Program benefits and costs under alternative scenarios in the main body of this report were available to guide decision-makers. Decision-makers reviewed these alternatives as the final rule was defined.

The final rule allows for adoption of a combination of the alternatives to the NOFA that are described in the report. The following scenarios are recommended as a result of the benefit-cost analysis in order to achieve benefits described. In particular, the final rule incorporates a scenario with the following features:

(1) Twenty five percent of livestock funds are allocated to each AFO/CAFO size class;

(2) A \$450,000 payment ceiling to any contract and to any program participant over a six year period;