

analytical models were used in its development.

Natural Resources Conservation Service decision-makers reviewed the findings of the analysis and chose a combination of the elements described in the report as they are formulated for the final rule. For example, the significant benefits achievable by focusing on reducing water erosion and sedimentation from otherwise excessive levels on agricultural land resulted in it becoming a National priority. In addition, a definition of cost effectiveness was introduced in the final rule and will be used selecting conservation practices and emphasizing their adoption.

The complete analysis addressed several issues critical to the implementation of the final EQIP rule. These included the impacts of selected alternatives concerning: (1) Fund allocations among different sized livestock facilities; (2) payment ceiling limits; (3) cost share rates; (4) National priority targeting; (5) variable cost-share rates to address higher priority problems; and (6) a spatial evaluation process to improve benefits.

A copy of this analysis is available upon request from Anthony J. Esser, Conservation Operations Division, Natural Resources Conservation Service, PO Box 2890, Washington, DC 20013–2890 or on the Internet at <http://www.nrcs.usda.gov/programs/eqip>.

#### **Regulatory Flexibility Act**

The Regulatory Flexibility Act is not applicable to this rule because NRCS is not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### **Environmental Analysis**

NRCS has determined through an amendment to the “Environmental Assessment for the Environmental Quality Incentives Program, April 2003” that the issuance of this final rule will not have a significant effect on the human environment. Copies of the Environmental Assessment, the amendment, and the finding of no significant impact may be obtained from Anthony J. Esser, Conservation Operations Division, Natural Resources Conservation Service, PO Box 2890, Washington, DC 20013–2890 or on the Internet at <http://www.nrcs.usda.gov/programs/eqip>.

#### **Paperwork Reduction Act**

Section 2702(b)(1)(a) of the 2002 Act provides that the promulgation of regulations and the administration of Title II of the Act shall be made without

regard to chapter 35 of Title 44 of the United State Code, the Paperwork Reduction Act. Accordingly, these regulations and the forms, and other information collection activities needed to administer the program authorized by these regulations, are not subject to provisions of the Paperwork Reduction Act, including review by the Office of Management and Budget.

NRCS is committed to compliance with the Government Paperwork Elimination Act (GPEA) and with the Freedom to E-File Act, which require Government agencies in general and NRCS in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required for participation in the program proposed under this rule are not yet fully developed for the public to conduct business with NRCS electronically. However, the application form will be available electronically through the USDA eForms Web site at <http://www.sc.egov.usda.gov> for downloading. Applications may be submitted at the local USDA Service Centers, by mail, or by facsimile. Currently, electronic submission is not available because signatures from multiple producers with shares in agricultural operations are required.

#### **Executive Order 12998**

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this proposed rule are not retroactive. The provisions of this proposed rule preempt State and local laws to the extent such laws are inconsistent with this proposed rule. Before an action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded persons at 7 CFR parts 614, 780, and 11 must be exhausted.

#### **Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994**

Pursuant to Section 304 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354), USDA classified this proposed rule as major and NRCS conducted a risk analysis. The risk analysis establishes that the EQIP proposed rule will produce benefits and reduce risks to human health, human safety, and the environment in a cost-effective manner. A copy of the risk analysis is available upon request from Anthony J. Esser, Conservation Operations Division, Natural Resources Conservation Service, PO Box 2890,

Washington, DC 20013–2890, and electronically at <http://www.nrcs.usda.gov/programs/eqip>.

#### **Unfunded Mandates Reform Act of 1995**

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), NRCS assessed the effects of this rulemaking action on State, local, and Tribal government, and the public. This action does not compel the expenditure of \$100 million or more by any State, local, or Tribal governments, or anyone in the private sector; therefore, a statement under Section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

Pursuant to 5 U.S.C. Section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, it has been determined by NRCS that it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this rule. Making this final rule effective immediately will permit NRCS to offer the public timely, reliable information about funding for conservation practices as early before the start of the spring 2003 planting season as possible. Information about the availability of the program for establishing conservation practices influence planting decisions and should, therefore, be disseminated to producers before planting decisions are made. Failure to provide this information in a timely manner may mean that the realization of important conservation benefits available under EQIP may be delayed for another year before the start of another planting season. Accordingly, this rule is effective upon publication in the **Federal Register**.

#### **Discussion of Program**

The Farm Security and Rural Investment Act of 2002 (the 2002 Act) (Pub. L. 107–171, May 13, 2002) re-authorized and amended the Environmental Quality Incentives Program, which had been added to the Food Security Act of 1985 (the 1985 Act) (16 U.S.C. 3801 *et seq.*) by the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) (Pub. L. 104–127). The 2002 Act also amended the Environmental Conservation Acreage Reserve Program by changing the section name to the Comprehensive Conservation Enhancement Program and removing the authority for the Secretary of Agriculture to designate areas as conservation priority areas.