

As provided by section 1241 of the 1985 Act (16 U.S.C. 3841), as amended by the 2002 Act, the funds, facilities, and authorities of the Commodity Credit Corporation (CCC) are available to NRCS for carrying out EQIP. (The Chief of the NRCS is a vice-president of the CCC.) Accordingly, where NRCS is mentioned in this rule, it also refers to the CCC's funds, facilities, and authorities where applicable.

Through EQIP, NRCS provides assistance to farmers and ranchers who face threats to soil, water, air, and related natural resources on their land. These include grazing lands, wetlands, private non-industrial forest land, and wildlife habitat. Participation in the program is voluntary. Under EQIP, NRCS will provide assistance in a manner that will promote agricultural production and environmental quality as compatible goals, optimize environmental benefits, and help farmers and ranchers meet Federal, State, and local environmental requirements. NRCS will offer the program throughout the Nation using the services of NRCS and Technical Service Providers. NRCS will implement a consolidated and simplified process to reduce any administrative burdens that would otherwise be placed on producers.

In this rule, NRCS proposes to incorporate changes in the EQIP regulations, 7 CFR 1466, resulting from the passage of the 2002 Act. Several important changes were made in the 2002 Act that require changes to the regulation. These include:

(1) Changing the maximum payment limitation from \$50,000 per person per contract to \$450,000 per individual or entity for all contracts entered into in fiscal years 2002 through 2007;

(2) Revising the purpose from "maximize environmental benefits per dollar expended" to "optimize environmental benefits";

(3) Eliminating the competitive bidding by applicants;

(4) Allowing payments to be made in the first year of the contract;

(5) Removing language authorizing targeting of funds to Conservation Priority Areas;

(6) Removing the provision prohibiting a producer from receiving cost-shares for an animal waste facility on an animal operation with more than 1,000 animal units;

(7) Allowing cost-share rates of up to 90 percent for limited resource farmers or ranchers and beginning farmers or ranchers;

(8) Reducing the minimum length of a contract from five years to one year after installation of the last practice;

(9) Increasing funding from \$200 million per year to \$400 million in FY 2002 and increasing to \$1.3 billion per year in FY 2007; and,

(10) Imposing an average adjusted gross income (AGI) limitation.

In an effort to make the program more effective and efficient, the Department has initiated several streamlining changes, including:

(1) Eliminating the program's dual administration by changing Farm Service Agency (FSA) participation from concurrence to consultation;

(2) Reducing the planning requirements needed to develop the contract; and

(3) Allowing producers to have more than one contract per tract at any given time.

The fundamental philosophy of the program, assisting agricultural producers install conservation practices to provide environmental benefits, has not changed. The statutory and Departmental changes respond to limitations and restrictions identified by agency staff and participants. Agricultural producers who are interested in participating in the program will apply as they have in the past and should experience a quicker turn-around on their application. Producers also have some expanded financial opportunities with higher contract limits and the ability to receive payments earlier in the contract period.

On February 10, 2003, NRCS published a proposed rule with request for comments. The proposed rule described the program requirements, administrative processes, and eligibility criteria that NRCS would use in implementation of EQIP. The proposed rule also described how NRCS would manage the program to optimize environmental benefits and what information would be considered in designating program funds for natural resource concerns to states and to contracts. Over 1,250 separate responses containing about 4,900 specific comments were received during the 30-day comment period: 608 responses from farmers, ranchers, and other individuals, 175 from agricultural and rural community organizations, 54 from environmental organizations, 268 from conservation districts and related groups, 37 from business entities, 118 from State and local agencies, 24 from tribes and tribal organizations, and nine from congressional representatives.

Additional responses were received from Federal agencies and employees; their comments are not included in the following analysis of public comments. These responses were treated as inter and intra-agency comments and

considered along with the public comments where appropriate.

All comments received are available for review in Room 5229 South Building, 14th and Independence Ave., SW., Washington, DC, during regular business hours (8 a.m. to 5 p.m.) Monday through Friday.

Analysis of Public Comment

Overall, almost all respondents expressed appreciation for the opportunity to comment on the EQIP proposed rule. Many offered valuable suggestions for improving or clarifying specific sections of the proposed rule. Some of these suggestions were group efforts, where individual responses used similar or identical language to identify and describe their interests, concerns, and recommended modifications to the proposed rule.

The majority of comments centered on six major issues in the proposed rule: (1) Funding, payments and cost-share rates; (2) setting priorities, ranking of applications and contract approval; (3) use of EQIP assistance for CAFO/AFO; (4) locally-led conservation; (5) limited resource producer/ranchers and beginning farmer or rancher; and (6) use of conservation planning in the EQIP program. These comments were considered as part of the rulemaking record to the extent that they were relevant to the provisions of the rulemaking. Numerous minor editorial and other language clarification changes were suggested; these comments are not included in the following analysis but all were considered and many of the minor technical changes were included in the final rule.

To implement the final rule, NRCS will be responsible for establishing and documenting in program guidance the overall policies, priorities, procedures, and guidelines for EQIP. NRCS will seek the review and input by other Federal agencies, as appropriate, when developing the guidance documentation.

General Comments on 7 CFR Part 1466

Under the proposed rule, NRCS would set out EQIP regulations in 7 CFR part 1466. The following summarizes general comments received on the proposed rule and NRCS's response to them.

1. The 1996 Act

Support for both the legislative and Departmental changes to EQIP was expressed in two-thirds of the comments received. One-third of the comments expressed concern that proposed rule removed the conservation planning requirement from EQIP,