

Environmental Quality Incentives Program: U.S. Department of Agriculture Interim Rule Amendments



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We wrote in early December that the U.S. Department of Agriculture (“USDA”) issued an “interim rule” to revise the terms and conditions of the Conservation Reserve Program and implement certain program amendments required by the Agricultural Improvement Act of 2018, Pub. L. 115-334 (i.e., the 2018 Farm Bill).

USDA’s implementation of the 2018 Farm Bill revisions to the keystone conservation programs continues.

On December 17, 2019, USDA’s Commodity Credit Corporation (“CCC”) and Natural Resources Conservation Service (“NRCS”) published in the Federal Register an interim rule to make conforming changes to the regulations implementing the Environmental Quality Incentives Program. See 84 Federal Register 69272 (December 17, 2019).

The interim final rule was effective as of December 17, 2019. However the CCC and NRCS will consider written comments submitted on or before February 17, 2020.

The Environmental Quality Incentives Program (or “EQIP”) helps agricultural producers “conserve and enhance soil, water, air, plants, animals (including wildlife), energy and related natural resources on their land.” 84 Fed. Reg. 69272. Lands eligible for EQIP funds include “cropland, grassland, rangeland, pasture, wetlands, nonindustrial private forest land, and other agricultural land on which agricultural or forest-related products or livestock are produced and natural resource concerns may be addressed.” Id.

EQIP was first authorized in 1996 with an initial allocation of \$130 million. Through the end of the 2018 fiscal year, however, NRCS had entered into hundreds of thousands of contracts and provided more than \$15 billion in financial assistance to facilitate conservation practices on agricultural lands. The program, which is entirely voluntary, provides both technical and financial assistance to producers to implement conservation practices such as:

- Change tillage practices to enhance soil resources;
- Replace or improve the management of irrigation systems;
- Manage grazing to sustain plant diversity, protect rare species, and ensure adequate forage;
- Apply energy efficient practices to reduce energy consumption;
- Implement carbon sequestration practices; and
- Etc.

The regulatory updates and revisions to EQIP required by the 2018 Farm include, but are not limited to the following:

- Expanding the EQIP purpose to include new or expected resource concerns, adapting to, and mitigating against, increasing weather volatility, and addressing drought resiliency measures;
- Changing advance payments from “not more than” to “at least 50 percent” of all costs related to purchasing materials or contracting with a requirement for producers to be notified at the time of enrollment of the advance payment option with respect to each practice that has such costs, and that the producer’s decision be documented;
- Adding a new provision for increased payments for high-priority practices, which provides the State Conservationist the option to designate up to 10 practices to be eligible for increased payments, not to exceed 90 percent of the costs associated with planning, design, materials, equipment, installation, labor management, maintenance, or training;
- Increasing and decreasing certain funding minimums;
- Establishing a maximum contract term of 10 years for contracts entered into solely for the establishment of wildlife management practices;
- Authorizing certain entities including a State, irrigation district, groundwater management district, acequia, land-grant mercedes, or similar entity which are not producers to be eligible to enter into an EQIP contract for implementation of water conservation or irrigation efficiency practices;
- Introducing new EQIP contracts, which can address up to three priority resource concerns for each of the relevant land uses within State-identified watersheds or other areas of high priority; and
- Etc.

See 84 Fed. Reg. 69273.

USDA’s interim rule incorporates the 2018 Farm Bill changes to the EQIP program and adjusts the regulations to correspond to the new statutory text.

A copy of the interim rule can be found [HERE](#).