

# Environmental Quality Incentives Program: USDA Natural Resources Conservation Service Issues Final Rule Updating Requirements



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

10/29/2020

Co-Author: Jordan Wimpy

The United States Department of Agriculture (“USDA”) Natural Resources Conservation Service (“NCRS”) promulgated a final rule on October 26th in the Federal Register making revisions to the Environmental Quality Incentives Program (“EQIP”). See 85 Fed. Reg. 67637.

The rule was jointly issued by USDA’s Commodity Credit Corporation. NCRS had issued an interim rule on December 17, 2019. See 84 Fed. Reg. (December 19, 2019). (See previous post [here](#).)

NCRS characterizes the final rule as adopting the interim rule with minor changes. Both the interim and final rule are stated to be undertaken in order to be consistent with the Agricultural Improvement Act of 2018 (i.e., 2018 Farm Bill).

The EQIP assists agricultural producers in conserving and enhancing soil, water, air, plants, animals (including wildlife), energy and related natural resources on their land. See 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.”

The EQIP was enacted in 1996. It received an initial allocation of \$130 million. However, through the end of the 2018 fiscal year, NCRS had entered into hundreds of thousands of contracts and provided more than \$15 billion in financial assurance to facilitate conservation practices on agricultural lands.

The program is entirely voluntary. It provides both technical and financial assistance to producers to implement conservation practices such as:

- Changing tillage practices to enhance soil resources;
- Replacement or improvement of the management of irrigation systems;
- Managing grazing to sustain plant diversity, protect rare species, and ensure adequate forage;
- Applying energy efficient practices to reduce energy consumption;
- Implementation of carbon sequestration practices

NCRS states that it received nearly 600 comments on the interim rule. The updates to EQIP include:

- Revise its purpose statement to expressly include addressing resource concerns for organic producers, avoiding the need for more regulatory programs, and helping producers transition from the Conservation Reserve Program (CRP).
- Revise ranking protocols to expressly include consideration of an applicant’s status under CRP.
- Adjust the definition for a “comprehensive nutrient management plan” to ensure only applicable natural resources need to be considered.
- Modify the requirements for an EQIP plan of operations that includes the progressive implementation of a comprehensive nutrient management plan.
- Modify language in the national priorities to specifically include soil health and weather and drought resilience in the national priorities.
- Modify the purpose and scope of Conservation Innovation Grants to expressly include field research.
- Authorize reduced matching requirements for Conservation Innovation Grant projects aimed at helping historically underserved producers.

Additional updates to the EQIP responding to comments include:

- Creating incentive contracts and payments for incentive practices to better support locally led conservation needs.
- Requiring NRCS to offer an advance payment option for historically underserved producers.
- Raising the payment cap for producers participating in the Organic Initiative to \$140,000 for contracts entered into for fiscal years 2019 through 2023.
- Expanding the Conservation Innovation Grant program, which is funded through EQIP, to include opportunities for On-Farm Conservation Innovation Trials and Soil Health Demonstration Trials.

Several of the changes reflect recommendations submitted by groups such as the National Sustainable Agricultural Coalition.

A copy of the Federal Register preamble can be downloaded [here](#).