



National Association of Conservation Districts

February 18, 2020

Chief Matthew Lohr
Natural Resources Conservation Service
1400 Independence Ave. SW
Washington, DC 20250

Submitted electronically via regulations.gov
Docket No. NRCS-2019-0009

Dear Chief Lohr,

The National Association of Conservation Districts (NACD) represents America's 3,000 locally-led conservation districts, working with millions of landowners and operators to help them manage and protect land and water resources on private and public lands. Established under state law, conservation districts share a single mission: to work cooperatively with federal, state and other local resource management agencies and private sector interest groups to provide technical, financial and other assistance to help landowners and operators apply conservation to the landscape.

Conservation districts across the country want to commend you and your agency for the work you have done thus far to implement the 2018 Farm Bill. Landowners across the country are benefiting from your agency's assistance, and conservation districts stand ready to continue working side-by-side with NRCS staff to ensure that the programs within the 2018 Farm Bill continue to serve producers.

The Environmental Quality Incentives Program (EQIP) is the foundation of voluntary conservation incentives for agriculture and forest producers on private lands conservation. Local soil and water conservation districts are poised to remain key partners of NRCS to efficiently and effectively enroll and help implement EQIP practices on the landscape.

Below are comments where NACD believes changes to the rule will improve the accessibility, flexibility and overall efficiency of the EQIP program. These areas are:

- High Priority Practices
- Water Management Entities
- Incentive Contracts
- Comprehensive Nutrient Management Plans
- Soil Testing and Remediation

High Priority Practices

Section 2304 of the 2018 Farm Bill allowed states to select up to 10 practices that can receive higher payments rates of up to 90 percent of the cost of the practice. Identifying practices that provide the greatest value can be beneficial; however, we must ensure that the local priority setting process



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continues to be prioritized. NACD has heard from some conservation districts that Local Working Groups and State Technical Committees have received instructions from NRCS headquarters on how to determine which practices are designated as high priority practices, and we appreciate NRCS relying on this local priority setting process. Pairing increased payment rates with those practices that are of highest importance can help leverage limited funds toward addressing those resource concerns which are of highest priority. Additionally, Local Working Groups and State Technical Committees should have the opportunity to reassess which and how many practices should receive this increased payment rate should they determine that the extra incentive should be refocused based upon local priorities.

Water Management Entities

NACD was supportive of Section 2304(e) in the 2018 Farm Bill that extended eligibility within EQIP to acequias. Acequias are centuries-old irrigation systems managed by local units of government. In many cases they serve small acreage, low income, minority and other underserved farmers. The 2014 Farm Bill allowed acequias to participate in the Regional Conservation Partnership Program (RCPP) and since then, acequia projects have improved surface water conservation and water quality on agricultural lands and have provided for riparian habitats benefiting wildlife and plant species. Expanding acequias' eligibility to the full EQIP program ensures these unique and historic irrigation systems can continue to provide conservation benefits and economic stability to low income, minority and underserved farmers.

Payment Limits

Individual projects for acequias under RCPP have not exceeded the proposed \$900,000 aggregate payment limit. NACD understands that this new provision includes entities other than acequias, and we agree with NRCS that there is some concern that those other entities' given eligibility alongside acequias under the "water management entity" definition may propose projects that would require much larger allocations of funds. Therefore, in order to ensure that individual producers aren't crowded out of a state's EQIP allocation, NACD believes that it is appropriate for NRCS to establish a \$900,000 payment limit.

A further step that NRCS could take to ensure that these projects don't crowd out individual producers within state EQIP allocations is to establish a separate national allocation pool for these projects. NRCS would continue to enforce the \$900,000 payment limit but could allow individual state allocations to continue funding projects without having to balance the needs of these new water management entities and potentially limiting access to EQIP for individual producers.

NACD also agrees that there may be certain instances that a waiver of this payment limit could be appropriate and appreciates NRCS giving the Chief the authority to waive this limit under certain instances. However, NACD suggests that an additional criterion be added to the regulation for consideration by the Chief. Congress has clearly prioritized socially disadvantaged farmers by designating 5 percent of total EQIP funds toward this subset of producers, and many of the farmers associated with acequias fall into this category. Therefore, a fifth criterion that would give the Chief the authority to consider the extent to which historically underserved or disadvantaged producers are



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assisted would be appropriate when determining whether a waiver of the \$900,000 payment is warranted.

Land Eligibility

The 2018 Farm Bill is quite prescriptive on what land practices subject to the project may be implemented. Section 2304(e)(B) states that the project must be implemented on either the eligible land of a producer or land that is under the control of the entity and adjacent to the eligible land as determined by the Secretary. NACD believes additional parameters are needed to clarify where a practice may be implemented. Acequias operate by directing flowing water through a diversion point from a river or stream into a ditch that may travel several miles before reaching an individual producer's land. Some of the greatest improvements to the water efficiency of an acequia can be made at an acequia's diversion point upstream of what would be considered eligible land. While the diversion point is not directly abutting the eligible land of the producer, a direct connection is made between this point and the eligible land itself. NRCS needs to utilize the discretion given to the Secretary as authorized by Congress to ensure that all structural portions of an acequia that have a direct and adjoining connection to the eligible land are eligible for implementation of EQIP practices, not just the land that is abutting the eligible land. Acequias directly benefit agriculture producers, and although NACD is supportive of NRCS taking every measure to ensure that producers are the ones ultimately benefiting from EQIP practices, NRCS must not be so overly prescriptive in the regulation that the resource needs of acequias cannot in reality be met.

NRCS should also be flexible in its interpretation of eligible land. Under the RCPP program, acequias have been required to provide Tax ID numbers for the producers benefiting from the project. This was done according to existing entity policy requiring identification of all members because many of the producers are historically disadvantaged and do not have prior relationships with USDA, and therefore, do not have Farm Numbers/tract numbers through Farm Service Agency (FSA) offices. Some acequias have over 100 individual producers that directly benefit from the acequia and would therefore directly benefit from the improvements made by these projects. However, requiring Farm Numbers from each individual producer would be cumbersome to the point of not being possible for some potential projects.

NACD supports eligibility requirements allowing NRCS to continue utilizing Tax ID numbers, which acequias already have, to show eligibility and to follow the rules in place for Tribal entities where the number of producers and acres served are provided if requested. Because of the unique structure of acequias, NRCS State Conservationists who already have a working knowledge of acequias should also be granted additional authority to make further determinations on eligibility if needed.

Incentive Contracts

NACD believes that the new Incentive Contracts have the potential to become an important part of NRCS's conservation toolbox. We appreciate NRCS's attempt to keep these contracts functionally different than the Conservation Stewardship Program. These contracts could be an entry point for producers who are not willing to put their whole farm into a practice. The ability to "dip their toe" into



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the conservation pool may allow more producers to become aware of all that NRCS and districts have to offer. The ability to offer longer-term contracts for these incentive contracts could be just the right incentive for landowners to make production system changes to their operations. It will be vitally important for NRCS to work with Local Work Groups to identify the priority areas and incentive practices within those priority areas. For this to work, it is paramount for there to be local input.

Comprehensive Nutrient Management Plan

NACD was supportive of Section 2305 of the 2018 Farm Bill, which removed the requirement that EQIP contract holders completely implement a Comprehensive Nutrient Management Plan (CNMP) before the end of the contract. While offering technical assistance to Animal Feeding Operations (AFOs) allows those operations to know what else they could do to be better stewards of their natural resources, requiring full implementation can be an unnecessary time constraint and financial burden on producers who may not be able to afford to fully implement their CNMP within the EQIP contract period.

Soil Testing and Remediation

NRCS and conservation districts serve a wide range of producers, including urban farmers. Although they are eligible for the same conservation programs as their rural counterparts, urban farmers face some different resource concerns, such as soil contamination. NACD was glad to see the 2018 Farm Bill and the Interim Rule recognize soil testing and soil remediation as conservation practices. We look forward to seeing these new practices further grow NRCS's reach within urban communities.

Thank you for the opportunity to comment on the proposed changes to EQIP and for your commitment to voluntary, locally-led conservation.

Sincerely,

A handwritten signature in cursive script that reads "Tim Palmer".

Tim Palmer

President

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