

Finding of No Significant Impact for the Programmatic Environmental Assessment (EA) on the Interim Final Rule for the Environmental Quality Incentives Program (EQIP)

I. AGENCY ROLE AND RESPONSIBILITY - United States Department of Agriculture (USDA) – Natural Resources Conservation Service (NRCS)

In accordance with NRCS regulations (36 Code of Federal Regulations 650) implementing the National Environmental Policy Act (NEPA), NRCS has completed an environmental review of the following proposed action:

The proposed action is promulgation of the Interim Final Rule for EQIP as required by the Food, Conservation, and Energy Act of 2008.

II. NRCS DECISION TO BE MADE

The Chief of NRCS must make the following decision:

1. Develop rules to implement EQIP.

The Chief must also determine if the preferred alternative (Alternative 3) will or will not be a major Federal action significantly affecting the quality of the human environment. The Programmatic Environmental Assessment accompanying this statement has provided the analysis needed to assess the significance of the selected alternative. The Chief's decision on which alternative is to be implemented and the significance of that alternative is under Part VII of this finding.

III. PURPOSE AND NEED FOR ACTION

The underlying need for action is to conserve and improve agricultural and forested lands through technical and financial assistance provided by NRCS in applying conservation practices.

NRCS' need for action is also tied to Congress passage of the amended EQIP provisions in the 2008 Act which requires EQIP to be implemented in a manner that achieves the stated purposes. The purpose or objective of the underlying need for action is to promote agricultural production, forest management, and environmental quality as compatible national goals and to optimize environmental benefits by:

- (1) assisting producers in complying with local, State and national regulatory requirements
- (2) addressing the following resource concerns on agricultural and forest lands
 - (A) soil, water, and air quality;
 - (B) wildlife habitat;
 - (C) surface and ground water conservation;
 - (D)energy;

- (3) assisting producers, including limited resource farmers, beginning farmers and ranchers, and socially disadvantaged farmers and ranchers, make beneficial cost effective changes to production systems. Those systems include conservation practices related to organic production, grazing management, fuel management, forest management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural and forested land; and
- (4) consolidating and streamlining conservation planning and regulatory compliance processes to reduce administrative burdens on producers and the cost of achieving environmental goals.

V. ALTERNATIVES CONSIDERED IN THE PROGRAMMATIC EA

Three alternatives were analyzed in the Programmatic EA and are characterized as follows:

Alternative 1 (No Action) -

EQIP is not implemented.

Alternative 2 (No Action-2002 Requirements) -

The current management requirements under the 2002 Act continue to be utilized.

Alternative 3 (Other Action Alternative) -

EQIP is implemented with the new 2008 Act requirements. One of the primary actions for NRCS is increasing the payment rate for socially disadvantaged farmers and ranchers, and establishing national target set-aside amounts for beginning and socially disadvantaged farmers and ranchers.

VI. NRCS DECISION AND FACTORS CONSIDERED IN THE DECISIONS

Based on the evaluation in the Programmatic EA, NRCS has chosen to select Alternative 3 as the Agency's preferred alternative. NRCS has taken into consideration all of the potential impacts of the proposed action incorporated by reference from the Programmatic EA and balanced those impacts with considerations of the Agency's purpose and need for action.

In accordance with CEQ's "40 Most Asked Questions," guidance on NEPA at Question 37 (a), NRCS has considered "which factors weighed most heavily in the determination" on choosing the Agency Preferred Alternative (Alternative 3) to implement. Specifically, NRCS acknowledged that based on the Programmatic EA analysis, impacts to soil, water, air, fish and wildlife were heavily considered in the decision. The Agency's Preferred Alternative (Alternative 3) would result in an overall net beneficial impact to the human environment based on all factors considered.

VII. FINDING OF NO SIGNIFICANT IMPACT

To determine the significance of the action analyzed in this Programmatic EA, NRCS is required by NEPA, 40 CFR 1508.27, and NRCS 36 CFR Part 650 to consider the context and intensity of the proposed action. Based on the Programmatic EA, review of the NEPA criteria for significant effects, and based on the analysis in the Programmatic EA, NRCS has determined that the action to be selected, Alternative 3 (Agency Preferred Alternative) expansion of payment and set aside amounts for historically underserved producers, would not have a significant effect upon the quality of the human environment. Therefore, preparation of an Environmental Impact Statement (EIS) on the final action is not required under Section 102(2)(c) of the NEPA, its' implementing regulations (40 CFR Part 1500-1508, 1508.13), or NRCS environmental review procedures (36 CFR Part 650). This Finding is based on the following factors from CEQ's implementing regulations at 1508.27 and from NRCS 36 CFR Part 650:

- 1) The Programmatic EA evaluated both beneficial and adverse impacts of the proposed action (i.e., expansion of the payment and total EQIP funding set aside amounts). Specifically, it is recognized that the expanded payment rates and total EQIP funding set aside amounts for historically underserved producers is not anticipated to significantly increase participation rates in comparison to the overall program participation rates. As a result of the analysis (discussed in detail in Section 3 and incorporated by reference), Alternative 3 does not result in significant impacts to the human environment, particularly when focusing on the significant adverse impacts which NEPA is intended to help decision makers avoid, minimize, or mitigate. Therefore, there are no adverse effects associated with Alternative 3 either directly from this rulemaking action, indirectly, or cumulatively from implementation of conservation practices applied under EQIP.
- 2) Alternative 3 does not significantly affect public health or safety as discussed in Section 3.0 to 3.10. The indirect effects associated with the application of conservation practices are anticipated to provide long term beneficial impacts to improve natural ecosystem functions. Specifically, soil, water, air, fish and wildlife, plants, cultural, and environmental justice issues will be improved through selection of Alternative 3.
- 3) As analyzed in Sections 3.2 to 3.7, there are no anticipated significant adverse effects to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas from selection of Alternative 3. NRCS regulations (7CFR § 650) and policy (GM 420 Part 401), require that NRCS identify, assess, and avoid effects to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. In accordance with these requirements it is not anticipated that implementing EQIP would have adverse effects on these resources.

- 4) The effects on the human environment are not considered controversial for Alternative 3. Public comments from 52 Farm Bill forums were reviewed in Section 3.1.4, and as a result, there were no issues raised by the public considered to be controversial.
- 5) Alternative 3 is not considered highly uncertain and does not involve unique or unknown risks. NRCS has implemented EQIP for the previous 11 years. The effects of the conservation practices to be applied are analyzed from a broad scale in the Programmatic EA and have been detailed in the practice Network Effects Diagrams incorporated by reference in the Programmatic EA. The conservation practices are also vetted through NRCS practice standards development system. Practice standards are developed based on field application and periodic monitoring, review and revision as new technologies emerge to ensure they perform as anticipated.
- 6) Alternative 3 will not establish a precedent for future actions with significant effects, nor does it represent a decision in principle about future considerations. The proposed action will be carried out through fiscal year 2012, at which time, the Farm Bill will be revised to address the issues relevant at that time.
- 7) Alternative 3 will not result in individually or cumulatively significant impacts on the environment as discussed in Section 3.10. Alternative 3 does not result in significant adverse cumulative impacts to the human environment from the long term beneficial impacts of the conservation practices, particularly when focusing on the significant adverse impacts which NEPA is intended to help decision makers avoid, minimize, or mitigate.
- 8) The proposed action will not cause loss or destruction of significant scientific, cultural, or historical resources as addressed in Section 3.7 of the Programmatic EA. NRCS follows the procedures developed in accordance with a nationwide programmatic agreement between NRCS, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers, (NCSHPO) which called for NRCS to develop consultation agreements with State Historic Preservation Officers (SHPOs) and federally recognized Tribes (or their designated Tribal Historic Preservation Officers (THPOs)). These consultation agreements focus historic preservation reviews on resources and locations that are of special regional concern to these parties.
- 9) The proposed action will not adversely affect endangered or threatened species, marine mammals or critical habitat as discussed in Section 3.6. National priorities for EQIP include the protection, restoration, development, or enhancement of State and federally listed endangered and threatened species. NRCS regularly consults with the United States Fish and Wildlife Service and/or National Marine Fisheries Service to ensure these species are not jeopardized and that there are no adverse modifications to designated critical habitat. Alternative 3 would indirectly, through the application of conservation practices, lead to many EQIP projects to protect, enhance, conserve, and restore endangered and threatened species and their critical habitat as noted in section 3.6.

- 10) The proposed action does not violate Federal, State or local law requirements imposed for protection of the environment as noted throughout Section 3.0. The major laws identified with the selection of Alternative 3 include the Clean Water Act, Clean Air Act, Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act, National Historic Preservation Act, the Marine Mammal Protection Act, the Executive Order on Environmental Justice, and the Migratory Bird Treaty Act. Alternative 3 is consistent with the requirements of these laws.

Based on the information presented in the attached EQIP Programmatic EA, I find in accordance with CFR Part 1508.13 that the selection of the Preferred Alternative (Alternative 3) is not a major federal action significantly affecting the quality of the human environment that would require preparation of an EIS.



Chief

1/8/2009
Date