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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1466

RIN 0578-AA45

#### Environmental Quality Incentives Program; Amendment

**AGENCY:** Natural Resources Conservation Service and Commodity Credit Corporation, United States Department of Agriculture.

**ACTION:** Interim final rule; amendment; extension of comment period.

**SUMMARY:** The Commodity Credit Corporation (CCC) published in the *Federal Register* of January 15, 2009, an interim final rule with request for comment amending the program regulations for the Environmental Quality Incentives Program (EQIP) to incorporate programmatic changes authorized by the Food, Conservation, and Energy Act of 2008 (2008 Act). On March 12, 2009, CCC corrected language in the interim final rule regarding the erroneous application of the payment limitation provisions to joint operations, and extended the comment period to April 17, 2009. This document amends the interim final rule by expanding the ability of CCC to include an expansion of the exception regarding conservation practices on public land. CCC is also using the opportunity presented by this rulemaking to extend the comment period. However, the extended comment period is limited to the provisions in this amendment.

**DATES:** This amendment is effective on May 29, 2009. Submit comments on or before June 29, 2009.

**ADDRESSES:** You may send comments (identified by Docket Number NRCS-IFR-08005), which will be available to the public in their entirety, using any of the following methods:

- *Government-wide rulemaking Web site:* Go to <http://regulations.gov> and follow the instructions for sending comments electronically.

- *Mail:* Financial Assistance Programs Division, U.S. Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 5237 South Building, Washington, DC 20250-2890.

- *Fax:* (202) 720-4265.

- *Hand Delivery:* USDA South Office Building, 1400 Independence Avenue, SW., Room 5237, Washington, DC 20250, between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

- This interim final rule may be accessed via Internet. Users can access the NRCS homepage at <http://www.nrcs.usda.gov/>; select the Farm Bill link from the menu; and select the Interim final link from beneath the Final and Interim Final Rules Index title. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA TARGET Center at: (202) 720-2600 (voice and TDD).

To view public comments, please ask the guard at the entrance to the South Office Building to call (202) 720-4527 in order to be escorted into the building.

**FOR FURTHER INFORMATION CONTACT:** Gregory Johnson, Director, Financial Assistance Programs Division, U.S. Department of Agriculture, Natural Resources Conservation Service, Room 5237 South Building, P.O. Box 2890, Washington, DC 20013-2890; Phone: (202) 720-1845; Fax: (202) 720-4265.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Certifications

###### *Executive Order 12866*

Pursuant to Executive Order 12866 (FR Doc. 93-24523, September 30, 1993), the interim final rule published on January 15, 2009, is an economically significant regulatory action, and NRCS conducted an economic analysis of the potential impacts associated with this program. The administrative record is available for public inspection in Room 5831 South Building, USDA, 1400 and Independence Avenue, SW., Washington, DC NRCS reviewed the economic analysis prepared for the January 15, 2009, interim final rule and determined that the provisions of this

interim final rule do not alter the assessment and the findings that were originally prepared. A copy of the analysis is available upon request from the Director, Financial Assistance Programs Division, Natural Resources Conservation Service, Room 5237 South Building, Washington, DC 20250-2890 or electronically at: <http://www.nrcs.usda.gov/programs/eqip/> under the EQIP Rules and Notices with Supporting Documents title.

##### *Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)*

Section 2904(c) of the 2008 Act requires that the Secretary use the authority in section 808(2) of title 5, United States Code, which allows an agency to forego SBREFA's usual 60-day congressional review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. NRCS hereby determines that it has good cause to do so in order to meet the congressional intent to have the conservation programs, authorized or amended by Title II, in effect as soon as possible. Accordingly, this rule is effective upon filing for public inspection by the Office of the Federal Register.

##### *Executive Order 13175*

This interim final rule has been reviewed in accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. NRCS has assessed the impact of this interim final rule on Indian Tribal Governments and has concluded that this rule will not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act is not applicable to this interim final rule because neither the CCC nor the Natural Resources Conservation Service (NRCS) is required by 5 U.S.C. 553, or by any other provision of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

##### **Environmental Analysis**

Availability of the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI). A

programmatic environmental assessment has been prepared in association with the January 15, 2009, interim final rule. The provisions of this interim final rule do not alter the assessment and the findings that were originally prepared. The analysis had determined that there would not be a significant impact to the human environment and as a result an Environmental Impact Statement was not required to be prepared (40 CFR 1508.13). The EA and FONSI are available for review and comment for an additional 30 days from the date of publication of this amendment to the interim final rule in the **Federal Register**. A copy of the EA and FONSI may be obtained from the following Web site: [http://www.nrcs.usda.gov/programs/Env\\_Assess/](http://www.nrcs.usda.gov/programs/Env_Assess/). A hard copy may also be requested from the following contact and address: National Environmental Coordinator, Natural Resources Conservation Service, Ecological Sciences Division, 1400 Independence Ave., SW., Washington, DC 20250. Comments from the public should be specific and reference that comments provided are on the EA and FONSI. Public comment may be submitted by any of the following means: (1) E-mail comments to [NEPA2008@wdc.usda.gov](mailto:NEPA2008@wdc.usda.gov), (2) e-mail to [egov](mailto:egov) Web site—<http://www.regulations.gov>, or (3) written comments to: National Environmental Coordinator, Natural Resources Conservation Service, Ecological Sciences Division, 1400 Independence Ave., SW., Washington, DC 20250.

#### Civil Rights Impact Analysis

NRCS determined through a Civil Rights Impact Analysis that the January 15, 2009, interim final rule disclosed no disproportionately adverse impacts for minorities, women, or persons with disabilities. The provisions of this interim final rule do not alter the assessment and the findings that were originally prepared.

#### Paperwork Reduction Act

Section 2904 of the 2008 Act provides that the promulgation of regulations and the administration of Title II of this Act shall be made without regard to chapter 35 of Title 44 of the United States Code, also known as the Paperwork Reduction Act. Therefore, NRCS is not reporting recordkeeping or estimated paperwork burden associated with this amendment or the January 15, 2009, interim final rule.

#### Government Paperwork Elimination Act

NRCS is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. To better accommodate public access, NRCS has developed an online application and information system for public use.

#### Executive Order 12988

This interim final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this interim final rule are not retroactive. The provisions of this interim final rule preempt State and local laws to the extent that such laws are inconsistent with this interim final rule. Before an action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded persons at parts 614, 780, and 11 of this title must be exhausted.

#### Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994

The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Title III, section 304, requires that for each proposed major regulation with a primary purpose to regulate issues of human health, human safety, or the environment, USDA is to publish an analysis of the risks addressed by the regulation and the costs and benefits of the regulation. NRCS has determined that such a risk assessment does not apply to this interim final rule. NRCS recognizes that although such assessments can be quite helpful, the Act pertains only to a rule that has been designated as a “proposed major regulation.” NRCS does not consider “interim final” or “final” rules as falling into the category of proposed major regulations.

#### Unfunded Mandates Reform Act of 1995

NRCS assessed the effects of the January 15, 2009, rulemaking action on State, local, and Tribal Governments, and the public. NRCS determined that such action did not compel the expenditure of \$100 million or more in any one year (adjusted for inflation) by any State, local, Tribal Governments, or anyone in the private sector. Additionally, the provisions of this interim final rule do not alter this determination. Therefore, a statement under section 202 of the Unfunded

Mandates Reform Act of 1995 is not required.

#### Background

The CCC published an interim final rule in the **Federal Register** of January 15, 2009, (74 FR 2293) amending the program regulations for EQIP found at 7 CFR part 1466. NRCS published a correction to the interim final rule in the **Federal Register** on March 12, 2009, to address the incorrect application of the \$300,000 payment limitation to joint operations.

Under the January 15, 2009, interim final rule (IFR), NRCS, on behalf of CCC, can make an EQIP payment for implementation of a conservation practice on public land provided that the public land is a working component of the participant’s agricultural and forestry operation, the participant has control of the land for the term of the contract, and the conservation practice on public land would contribute to an improvement in the identified resource concern that is on private land. NRCS includes in this Amendment to the IFR an expansion of this exception regarding conservation practices on public land. In particular, NRCS is removing the requirement that the benefit of the conservation practice on public land address an identified resource concern that is on private land. NRCS has determined that the EQIP statute should not be interpreted so narrowly to preclude the ability of private landowners to enroll part of their overall agricultural or forestry operation simply because the resource concerns exist on land, though held by a public agency, that is managed as part of the private landowner’s operation pursuant to a long-term lease from a public agency.

Therefore, NRCS is amending the January 15, 2009, IFR to authorize an EQIP contract to include conservation practices that address an identified resource concern on public land where a participant manages such lands as a working component of their agricultural or forestry operation, and the participant has control of the land for the term of the EQIP contract.

■ For the reasons stated in the preamble, the CCC amends part 1466 of Title 7 of the Code of Federal Regulations as set forth below:

#### PART 1466—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

■ 1. The authority citation for part 1466 continues to read as follows:

**Authority:** 15 U.S.C. 714b and 714c; 16 U.S.C. 3839aa–3839aa–8.

■ 2. Amend § 1466.8 by revising paragraph (c)(2)(iii) to read as follows:

**§ 1466.8 Program requirements.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iii) The conservation practices to be implemented on the public land are necessary and will contribute to an improvement in the identified resource concern; or

\* \* \* \* \*

Signed this 22 day of May 2009, in Washington, DC.

**Leonard Jordan,**

*Acting Vice President, Commodity Credit Corporation and Acting Chief, Natural Resources Conservation Service.*

[FR Doc. E9-12562 Filed 5-28-09; 8:45 am]

BILLING CODE 3410-16-P

**DEPARTMENT OF AGRICULTURE**

**Rural Utilities Service**

**7 CFR Part 1779**

**Rural Housing Service**

**7 CFR Part 3575**

**Rural Business—Cooperative Service**

**Rural Utilities Service**

**7 CFR Parts 4279 and 4280**

**Rural Business—Cooperative Service**

**Rural Housing Service**

**Rural Utilities Service**

**7 CFR Part 5001**

[FR Doc. E9-4839]

RIN 0570-AA65

**Rural Development Guaranteed Loans**

**AGENCIES:** Rural Business—Cooperative Service, Rural Housing Service, Rural Utilities Service, USDA.

**ACTION:** Interim rule; delay of the effective date.

**SUMMARY:** Rural Development is delaying the effective date of the interim rule for Rural Development Guaranteed Loans, which was published on December 17, 2008, to October 1, 2009. The interim rule establishes a unified guaranteed loan platform for the enhanced delivery of four existing Rural Development guaranteed loan programs: Community Facilities; Water and Waste Disposal; Business and Industry; and

Rural Energy for America Program, formerly known as Renewable Energy Systems and Energy Efficiency Improvement Program.

**DATES:** The effective date of the interim rule, which published on December 17, 2008 [73 FR 76698], delayed until February 17, 2009, [74 FR 2823], delayed until March 9, 2009 [74 FR 7179], delayed until June 1, 2009 [74 FR 9759], is further delayed until October 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Bonnet, Rural Development, Business and Cooperative Programs, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 3201, Washington, DC 20250-3201; e-mail: *Rick.Bonnet@wdc.usda.gov*; telephone (202) 720-1804.

**SUPPLEMENTARY INFORMATION:** On January 16, 2009 [74 FR 2823], Rural Development delayed the original effective date of the interim rule from January 16, 2009, to February 17, 2009, because there was insufficient time to correct a technical error in the interim rule before the interim rule became effective on January 16, 2009.

Subsequently, Rural Development again delayed the effective date from February 17, 2009, to March 9, 2009 [74 FR 7179, February 13, 2009] soliciting public comments to delay the effective date to June 1, 2009. The effective date was further delayed from March 9, 2009 to June 1, 2009 [74 FR 9759, March 6, 2009]. As stated in the February 13, 2009, **Federal Register**, Rural Development had identified several administrative actions, including providing the best guidance to its field staff to ensure the successful implementation of the interim rule.

As noted in the February 13, 2009, **Federal Register**, Rural Development changed the effective date, as is provided for under the Administrative Procedures Act (5 U.S.C. 553(b)(3)(B)), because:

1. Implementing the interim rule on February 17, 2009, would have created substantial legal and operational risks to the affected programs because the rule contains certain flaws that must be corrected and would not have provided the Agency sufficient time to properly train field staff and make changes to information technology systems critical to the implementation of these programs. These actions could not have been completed by February 17, 2009.

2. The two week extension would allow the public a reasonable opportunity to comment on this proposed extension of the effective date to June 1, 2009, and the Agency to

consider such comments before making the decision to make such extension.

3. Extending the effective date to June 1, 2009, allowed the Agency to finish the 60-day review described in the January 20, 2009, memo from the Assistant to the President and Chief of Staff, entitled “Regulatory Review.”

As noted in the March 6, 2009, **Federal Register**, the Agency received three comments on the extension of the effective date of the interim rule to June 1, 2009. None of the commenters suggested that the interim rule become effective prior to June 1, 2009, with one of the commenters suggesting that “the regulation be delayed as long as possible,” noting that “implementation during the processing of the President’s stimulus package will impose burdens on both lenders and USDA staff.” The Agency, in a separate action, is implementing new provisions for the business and industry guaranteed loan program as a result of the American Recovery and Reinvestment Act of 2009. Extending the effective date to October 1, 2009, would coincide with the beginning of a new Federal Fiscal Year, thereby providing program continuity. Further, consideration of the comments the Agency received on the implementation of the interim rule has taken longer than anticipated. Finally, the Agency became aware during a January 2009 meeting with Agency field staff, which was followed by a meeting with several lenders, that additional time is required to both familiarize Agency staff with the new rule and to provide additional training to both Agency staff and lenders. For these reasons, the Agency is extending the effective date until October 1, 2009.

Dated: May 22, 2009.

**William F. Hagy III,**

*Acting Under Secretary, Rural Development.*

[FR Doc. E9-12560 Filed 5-28-09; 8:45 am]

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