

STAPPA / ALAPCO

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS

ASSOCIATION OF
LOCAL AIR POLLUTION
CONTROL OFFICIALS

S. WILLIAM BECKER
EXECUTIVE DIRECTOR

March 12, 2003

Mark W. Berkland
Director
Conservation Operations Division
U.S. Department of Agriculture
U.S. Natural Resources Conservation Service
1400 Independence Ave., SW
Room 5241
Washington, DC 20250-2890
Submitted electronically to FarmBillRules@usda.gov

Dear Mr. Berkland:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) Agriculture Committee, I am pleased to submit the following comments on the Natural Resources Conservation Service's (NRCS's) notice of proposed rulemaking to implement provisions of Title II of the Farm Security and Rural Investment Act of 2002 (the 2002 Farm Act) relating to the Environmental Quality Incentives Program (EQIP). Through EQIP, NRCS provides assistance to farmers and ranchers who face threats to soil, water, air and related natural resources on their land.

Summary of Major Comments

The STAPPA/ALAPCO Agriculture Committee welcomes the inclusion of reduction of emissions of air pollutants as one of the national priorities for funding under EQIP. However, we recommend redefining this priority to include (1) reducing emissions that contribute to local and state air quality problems (for example, violations of state and local air quality standards or nuisance regulations) and (2) ammonia, hydrogen sulfide and methane as emissions to target for reductions. The Committee also suggests that, given this priority on air emissions, the State Technical Committee (which advises NRCS on the program – including developing a ranking process for prioritizing applications for funding) include representatives of state air agencies.

Comments

Preamble

- *NRCS seeks comments on how best to evaluate the performance of the EQIP program* (p.6659). Comment: For projects with an air emission reduction component, reduction in air emissions should be a performance metric. This means that air monitoring should be a required component of these projects.

Text of regulations

§1466.3 Definitions

- The definition of “conservation practice” does not appear to include technological changes or improvements, such as replacing diesel irrigation pumps with less-polluting alternatives. We suggest the following modification:
 - “*Conservation practice* means a specified treatment, such as a structural or land management practice, that is planned and applied according to NRCS standards and specifications, or the use of a technology that results in an environmental benefit.” [additional text underlined]
- The definition of “State Technical Committee” should be modified to include representation of state air agencies on the Committee. We suggest the following modification:
 - “*EQIP State Technical Committee*” means a committee established by the Secretary of State pursuant to 16 U.S.C. 3861 that includes representatives of the state air agency, in addition to the representatives listed in 16 U.S.C. 3861(c). [additional text underlined]

§1466.4 National Priorities

- §1466.4(a)(2) - we support recognition as a national priority of reduction of emissions into the air of pollutants such as particulate matter, nitrogen oxides (NO_x), volatile organic compounds, and ozone precursors and depleters, into the air. However, priority should be given not *only* to emissions of these pollutants that contribute to air quality impairment violations of the NAAQS, but also to emissions that contribute to local air quality problems (violations of state and local laws, regulations or ordinances). In addition, ammonia, hydrogen sulfide and methane should be recognized as emissions of concern. Accordingly, we suggest the following modification:
 - “(a) The following National priorities will be used in the implementation of EQIP:

(2) Reduction of emissions, such as particulate matter, NO_x, volatile organic compounds, ozone precursors and depleters, ammonia, hydrogen sulfide, and methane that contribute to federal, state or local air quality violations. [modified text underlined]

- The text should also be changed in the preamble (p. 6656) to follow the changes made here

§1466.8 Program requirements

- §1466.8(b) – The eligibility requirements do not appear to exclude either (1) producers that are involved in litigation with federal, state or local environmental agencies, or (2) projects required by a consent decree or settlement agreement. We do not think such producers or projects should be eligible for EQIP funding. We recommend that this section be modified accordingly. (Section1466.20(b)(5), which states that one of the factors used in ranking applications is compliance with federal, state, or local regulatory requirements concerning soil, water and air quality, et. al., does not fully address this concern.)

§1466.10 Conservation practices


- §1466.10(a) – in determining which practices are eligible for funding, the NRCS should consult with the EQIP State Technical Committee. We suggest the following modification:
 - “In consultation with the EQIP State Technical Committee, NRCS will determine which conservation practices are eligible for program payments.” [modified text underlined]

§1466.26 Contract violations and terminations

- It is not clear that NRCS has the right to (1) suspend payments under a contract if a producer is charged with violations of federal, state or local environmental laws, (2) terminate a contract with a producer if the producer is found guilty, or (3) modify the contract in light of a settlement agreement or consent decree to exclude use of EQIP funds to fund, in part or in whole, projects required under such an agreement or consent decree. We recommend that this section be modified accordingly.

If you have questions or comments regarding this letter, please contact me or Amy Royden of STAPPA and ALAPCO at aroyden@4cleanair.org or 202-624-7864.

Sincerely,


Shelley Kaderly
STAPPA Chair
Agriculture Committee