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**Comments of the Izaak Walton League of America on  
Environmental Quality Incentives Program Interim Rule**  
Federal Register, 16 December 2019, RIN 0578-AA68

Dear NRCS Associate Chief Norton and CCC Executive Vice President Stephenson,

The following are the comments of the Izaak Walton League of America on the Environmental Quality Incentives Program Interim Rule.

**Izaak Walton League of America**

The Izaak Walton League of America is one of our nation's oldest national conservation organizations, and has been working to defend our soil, air, woods, waters, and wildlife since 1922. Our 40,000 members hunt, fish, hike, camp, canoe, conserve, and greatly appreciate and enjoy the great outdoors. Our work on agricultural policy dates back at least to the 1930's, when the League argued for better soil conservation in the very first Farm Bill in 1933. In that decade the League also proposed a national program to protect fragile fields and streams in high mountain valleys by converting cropland back to grassland. In the 1950's, the League's Walton Soil Plan presaged the federal Soil Bank program of the 1950's and 1960's. Over the decades, the League has supported better farm and ranch stewardship through voluntary conservation programs and common sense provisions like Sodbuster, Swampbuster, and SodSaver that require that farmers accepting federal government assistance follow basic soil conservation and wetland protection practices.

**Soil Health**

Soil health strategies can contribute to almost every statutory purpose of EQIP. Soil health strategies improve soil quality. Healthier soils benefit water quality because they absorb more precipitation, acting like a sponge to soak in rainfall and snowmelt which reduces runoff polluted by sediment, nutrients, and manure. Healthier soils are less prone to wind erosion, protecting air quality. Soil health practices like cover crops provide wildlife habitat on otherwise barren soils over the winter, and integrated pest management reduces the impact of pesticides on wildlife. Healthier soils require smaller applications of nutrients, and since healthier soils absorb precipitation better they reduce runoff of nutrient-laden waters into nearby streams. Soil health practices like integrated pest management and conservation crop rotations reduce the need for pesticides, and healthier soils help plants better resist pest and disease pressure.

Healthier soils have greater water-holding capacity, which can reduce the need for irrigation water and allow water to slowly percolate and recharge aquifers rather than running off. Healthy soil practices like no till require less fuel, and by reducing the need for chemical nutrient applications healthy soils can reduce fossil fuel use and related emissions of greenhouse gases as well as reduce N<sub>2</sub>O emissions from the use of nitrogen fertilizers on the soil.

In short, because of the positive impacts on so many natural resources and the resulting benefits for farmers, soil health should be a fundamental strategy woven throughout USDA's EQIP implementation. Providing the technical assistance and financial assistance to help farmers and ranchers adopt soil health strategies and suites of soil health practices should be USDA's highest priority for EQIP funds.

We think an increasing focus on soil health is especially important given Congressional decisions to add to the purposes of EQIP drought resiliency measures and adapting to and mitigating against increasing weather volatility. Soil health strategies are vital to both of these purposes. Rebuilding healthy soils results in living soils with higher levels of organic matter, and together those provide increased resiliency to drought and flooding. Soil health strategies boost soil organic matter, which helps plants take carbon out of the air (through photosynthesis) and store it in the ground, helping mitigate climate change that is driving weather volatility. Healthier soils provide added resilience to combat new pest and disease pressures related to changes in the climate.

Soil health strategies also help farmers and ranchers adapt to our changing weather patterns because healthier soils can hold more of the heavier but less frequent precipitation being experienced in many parts of the country. For example, typical central Illinois soils degraded to just 1% to 2% soil organic matter might hold just 0.6" to 1.2" of precipitation before the surface is saturated and additional rainfall runs off into local streams, carrying sediment, nutrients, and often manure with it. When restored to 5% soil organic matter through soil health practices, that same soil could hold nearly 3" of rain before becoming saturated. Restored to well-managed grassland with 8% organic matter, that soil could hold a 5.5" rain. For drought resilience, reducing downstream flooding, water quality, and other resources, soil health can be a game-changer.

In fact, there is probably no resource strategy that would do more than soil health to help farmers and ranchers increase resiliency to drought, mitigate against a changing climate, and adapt to the ongoing changes in the climate.

**\* Soil Health is a National Priority.** Congress recognized the importance of soil health when it added soil health planning, weather variability, and drought resilience to EQIP statutory language in the 2018 Farm Bill. Unfortunately, the Interim Rule's list of national EQIP priorities in Section 1466.4 does not include soil health or climate resilience, and it should. The water quality, wildlife, soil erosion, and air quality national priorities listed in 1466.4 are important, but the absence of soil health and climate resilience as national priorities is not acceptable and must be corrected. USDA should add soil health and climate resilience to the list of national EQIP priorities, and should make soil health a priority in implementing EQIP through the following measures.

**\* Soil health planning.** NRCS has a number of planning protocols for natural resources, (including, for example, comprehensive nutrient management, integrated pest management, and grazing management plans), but it does not yet have a soil health planning protocol for farmers or ranchers who want to craft a

plan to boost the biological health of their soils. NRCS should complete its work to develop soil health planning protocols for cropland, grazing land, and other agricultural lands, and make them widely available to farmers and ranchers including through technical assistance and financial assistance included in EQIP contracts.

**\* Soil health bundles.** NRCS has identified a number of practices that will restore and maintain soil health, and over the years has provided financial assistance through EQIP to put in place practices like cover crops, reduced tillage, conservation crop rotations, integrated pest management, and management-intensive rotational grazing systems on millions of acres of farm and ranch land. A growing body of science and on-farm experience is showing us that efforts to restore soil health work best and fastest when multiple practices are layered using combinations of these practices on the same land. USDA should encourage the use of suites or bundles of soil health practices through its outreach efforts, and by providing additional ranking points and/or higher rates of cost-share for those suites or bundles of soil health practices under EQIP.

**\* Soil health testing.** NRCS has been working to identify appropriate protocols for measuring and testing soil health. NRCS should complete this work, provide farmers and ranchers with readily understandable information on the appropriate soil health measurement and testing protocol for their purposes through EQIP technical assistance, and provide financial support through CSP, EQIP, and RCPP contracts for farmers to purchase appropriate soil health tests to assess, measure, and track changes in soil health.

NRCS should also make annual soil health testing an automatic part of every contract it writes related to soil health and related practices, so farmers and ranchers (and NRCS, see below) can track the outcomes of these practices and suites of practices on the health of their soils.

In the Rule (Sec. 1466.3), NRCS provides a definition for “soil testing”:

*“Soil testing means the evaluation of soil health, including testing for the—*

- (1) Optimal level of constituents in the soil, such as organic matter, nutrients, and the potential presence of soil contaminants (including heavy metals, volatile organic compounds, polycyclic aromatic hydrocarbons, or other contaminants), as determined by NRCS; and*
- (2) Biological and physical characteristics indicative of proper soil functioning.”*

The language of the rule tracks the language of the statute, and we support it as far as it goes. There are, however, a number of different soil tests available, some of which have little or no bearing on soil health, and we think identifying appropriate soil *health* testing protocols is a key to helping farmers, NRCS employees, and other technical service providers understand and measure soil health.

**\* Assessing soil health systems.** In providing financial assistance for soil health planning, practices, systems, and testing, NRCS should start building into its contracts reporting on outcomes to NRCS. For example, as noted above NRCS should require soil health testing with every EQIP contract that includes a soil health practice (cover crops, conservation tillage, integrated pest management, diverse crop rotations, management intensive rotational grazing, etc.), and NRCS should require that it receive a copy of those annual soil health tests along with information on practices or enhancements it helps fund for farmers through EQIP (or CSP, or RCPP) contracts, along with basic yield and practice data. That information could be kept confidential at a producer level pursuant to Farm Bill privacy laws, but could be used in the aggregate to measure the effectiveness of different practices and systems of practices in restoring healthy

soils, understand variations by soil type and climate, and estimate any accompanying impact on yield or other important outputs.

## **Conservation Innovation Grants**

Sec. 2307(c) of the 2018 Farm Bill provides for \$25 million per year for on-farm Conservation Innovation Trials to test innovative conservation approaches, including (under Sec. 2307(c)(7)) a soil health demonstration trial that will measure gains in soil health that result from the practices implemented. Those provisions are covered in the Interim Rule in Sections 1466.37 and 1466.38. As we noted above, we believe every EQIP contract that includes soil health practices or suites of practices should include a requirement and financial payments for regular soil health testing, and that is certainly important under the Conservation Innovation Trials (1466.37) and the Soil Health Demonstration Trial (1466.38). The Interim Rule's language in Section 1466.38 provides for measuring carbon levels in the soil, which is one component but not the only component of soil health. Section 1466.37 provides for "adequate data collection and analysis" to report the natural resource and agricultural production benefits of the approach, but does not specifically mention soil health testing and it should.

**We urge USDA to include language in Sections 1466.37 and 1466.38 of the Interim Rule that requires soil health testing be a part of every soil health demonstration trial agreement, and that it be required on every on-farm conservation innovation trial agreement to allow NRCS to assess the impacts, if any, on soil health of the practices and approaches tested.**

We think there are likely other creative ways for NRCS to better leverage the EQIP to enhance soil health, but we offer these at a minimum as a starting place. We think NRCS should include discussion of these kinds of soil health initiatives, along with commitments to take needed action, in the final Environmental Assessment and the Final Rule.

In short, the Izaak Walton League believes the EQIP Interim Rule should make soil health a priority in program delivery through activities including soil health testing and reporting, soil health planning, soil health practice assessment, and added ranking points for suites of practices that restore and protect soil health.

## **Wildlife 10% Allocation**

The 2018 Farm Bill doubled the minimum percentage of EQIP funds going to fish and wildlife practices from at least 5% to at least 10% of the total program funds, a change we supported. Although not mentioned in the Interim Rule, NRCS officials have said they will be allocating the wildlife percentage per state, ensuring that every state will individually target 10% of its annual EQIP allocation to wildlife practices. In the past the prioritization of wildlife habitat practices has varied dramatically by state, so we support this change. Targeting the wildlife percentage by state will help to better focus EQIP wildlife funding on the species and habitats that will benefit the most in each state.

**We urge NRCS to ensure that all states meet the 10 percent minimum for wildlife and to include this directive in the final rule.**

As NRCS makes decisions about how to best target and utilize the wildlife habitat funds for each state, we urge the agency to work with states to focus EQIP wildlife funds on species and habitats that are identified in existing state, regional, and national wildlife plans such as the State Wildlife Action Plans and the North American Waterfowl Management Plan. We also encourage NRCS to use this funding to expand the successful Working Lands for Wildlife model to include new projects and to provide dedicated funding from EQIP as well as from other programs. We ask NRCS to track the wildlife habitat expenditures not through a pre-determined list of 16 practices, but through more targeted state-by-state identification of the most relevant wildlife practices, including through Working Lands for Wildlife-specific contracts. Practices that count towards the wildlife allocation should be those practices that directly benefit a state's priority fish and wildlife species – not just conservation practices that may have secondary benefits for wildlife. Finally, we encourage NRCS to report annually to the public on how this wildlife funding is being expended by state.

**Through these measures, we urge NRCS to ensure that the EQIP set-aside for fish and wildlife deliver the highest level of benefits for fish and wildlife in each state.**

### **Priority Practices**

The 2018 Farm Bill includes a new authorization for NRCS state offices to designate up to 10 high-priority practices to be eligible for increased payments under EQIP, including practices that address nutrient pollution, water conservation, and “other environmental priorities or other priority resource concerns identified in habitat or other area restoration plans.” NRCS should focus this provision on high-benefit practices that address multiple resource concerns but that experience low demand because of their expense or lack of offsetting financial benefits, not simply the most popular practices – and in fact NRCS should avoid using this provision to increase payment rates for practices that are already high in demand. USDA should also use the provision to encourage practices that address goals in State Wildlife Action Plans, the North American Waterfowl Management Plan, and other similar plans.

The 2018 Farm Bill directs USDA to spend 10% of all NRCS Conservation Program funding on source water protection. The Interim Rule allows for increased payment rates for source water protection practices. It is not yet clear from the Rule what NRCS will be counting as source water protection practices. We encourage NRCS to consider wetland practices, including restoration and buffers around wetlands as source water protection practices. The final rule should specifically mention the role of State Technical Committees in designating source water protection areas and eligible source water protection conservation practices.

### **Pollinator-Friendly Seed Mixes**

USDA has an opportunity to provide benefits for the many species of pollinators that are in jeopardy or in decline through the conservation practices put in place across the suite of USDA conservation programs. NRCS can ensure that EQIP contracts that include planted vegetation, such as cover crops, wildlife or other cover, buffer strips and filter strips, provide some benefits for pollinators. NRCS can do this by requiring that EQIP seed mixes include at least one forb that provides benefits for pollinators (such as the genus *asclepias* which benefit monarch and other butterflies as well as bees). By ensuring pollinator-friendly plants in every EQIP cover crop or conservation cover planting, NRCS could provide widespread benefits for pollinators on millions of acres of land. Where appropriate, high-diversity pollinator seed

mixes are still a good choice and should be encouraged as a wildlife practice, but NRCS should also ensure that every EQIP acre planted with some conservation cover provide some minimum benefit for pollinators by including at least one pollinator-friendly plant species.

**We urge USDA to require that EQIP seed mixes for cover crops or conservation cover include at least one forb that provides benefits for pollinators. At a minimum, USDA should better prioritize the inclusion of pollinator-friendly seeds in such plantings through EQIP scoring and the Field Office Technical Guide.**

## **Native Vegetation**

Native plants provide equal or better benefits for soil conservation, water quality, carbon sequestration, ecosystem function, and livestock forage than introduced species, while also providing excellent habitat for wildlife and pollinators. Native plants are well adapted to the local climate and often easier to establish. Congressional agriculture committee leaders recognized the importance of native plants while writing the 2018 Farm Bill, and included strong language in the 2018 Farm Bill Conference Report directing USDA to encourage the adoption of native vegetation seed blends:

*“The Managers recognize the benefits of native vegetation to improve water and air quality and enhance soil health. By encouraging the adoption of native vegetation seed blends, USDA programs are supporting habitat restoration for the northern bobwhite, lesser prairie-chicken, greater sage-grouse, other upland game birds, songbirds, monarch butterflies and pollinators. The Managers encourage the use of native vegetation where practicable.”*

**We urge USDA to prioritize the use of native vegetation whenever ecologically appropriate for all new EQIP contracts, making native seeds, trees, and shrubs the default choice except in cases where NRCS determines that non-native species provide habitat or other ecological advantages. At a minimum, USDA should better prioritize the use of native vegetation through EQIP application scoring and the Field Office Technical Guide.**

## **Payment Limits**

In the Interim Rule Section 1466.21 NRCS proposes a very broad waiver provision which could effectively double the already high statutory EQIP payment limit of \$450,000 over the years 2019-2023 to \$900,000, for a joint operation (including large general partnerships), a group project, or a water management entity. Section 1466.6 provides additional language with respect to a \$900,000 limit on water management entities. We do not believe this broad waiver has a basis in statute. In the 2018 Farm Bill, EQIP payments are limited to \$450,000 per operation over a five-year period.

Historically the largest use of EQIP dollars has been for irrigation equipment and for confined animal feeding operations (CAFOs). Those two uses of EQIP dollars also represent the biggest share of EQIP contracts that reach the \$450,000 payment limit. Overall EQIP contracts in contrast average far less than \$100,000. In our experience center pivot and similar irrigation systems provide big financial benefits to farmers, but typically marginal gains in water savings that actually end up in rivers or lakes. CAFO infrastructure also provides big benefits for CAFO operators, allowing them to meet state and federal regulatory requirements, but marginal gains in water quality and few or no benefits for other natural resources. Because USDA currently uses an inadequate standard in CAFO design – using a 25-year, 24-

hour precipitation standard that by design yields an expectation that 4% of facilities will fail *each year* – NRCS funding of CAFO facilities actually generates considerable ongoing and future environmental risks for the release of large quantities of livestock waste from large confinement facilities.

EQIP dollars are urgently needed to help family farms be part of the solution to pressing soil health, water quality, and climate issues. It makes no sense to spend even more EQIP money on building or expanding more CAFOs, subsidizing the installation of multiple irrigation systems for large farms, or otherwise rewarding the largest farms. To the extent NRCS decides to waive the statutory payment limit for irrigation entities under the new authority, NRCS should at a minimum ensure that no single farmer receives more benefit than the \$450,000 statutory cap. NRCS should also place in the Interim Rule clear and specific criteria for when NRCS would issue a waiver.

**We urge NRCS to amend the rule to bring it into compliance with the statute, which does not provide a broad waiver authority for the \$450,000 payment limit. If NRCS chooses instead to employ a waiver, it should limit the provision only to irrigation entities that deliver benefits to multiple farm operations, eliminating the waiver for joint operations and similar entities, including CAFOs. It should also put in place clear criteria for issuing a waiver that includes projects that deliver clear benefits for multiple natural resources, and that the water savings that accrue provide clear natural resource benefits such as benefits to in-stream flows.**

## **Water Conservation and Irrigation Efficiency**

As noted above, in our experience center pivot and similar irrigation systems provide big financial benefits to farmers, but typically marginal gains in water savings and few or none that actually end up in rivers or lakes. That is due in part to state water laws and the difficulties of protecting water flows in over-appropriated basins, all of which are generally outside of the control of USDA and producers. Yet USDA continues to fund expensive irrigation systems instead of on-farm practices like diverse water-conserving crop rotations, soil health practices, and grassland restoration. In assessing the environmental value of such EQIP applications, USDA should focus on the net benefit to stream flows, not simply the reduction in water pumped.

**We urge NRCS in scoring EQIP applications to focus on the net benefit to stream flows, and to ensure that any water saved through irrigation efficiencies is not used to bring additional land into irrigated production, or to convert land to more intensive uses.**

## **Access to USDA Rulemaking**

We note that USDA has provided only one pathway in the Interim Rule notice to provide comments, which is through the Regulations.gov online portal. Many farmers, and many rural areas, have no easy access to the internet or have poor internet service which might preclude them from providing comments through Regulations.gov. We urge USDA in the Final Rule and in future rulemaking proceedings to also provide a physical address where all Americans can participate by mailing or delivering comments, not just those with computers and good internet access.

## **Insufficiency of Environmental Assessment**

As we noted in our comments on the Draft Programmatic Environmental Assessment of the Environmental Quality Incentives Program, dated January 15, 2020, we believe the USDA's environmental assessment falls short of the requirements of the National Environmental Policy Act, fails to provide transparency and an adequate opportunity for public comment, and fails to identify and assess a range of alternatives to implement the changes made to the Environmental Quality Incentives Program in the 2018 Farm Bill. We believe therefore that the Finding of No Significant Impact based on that flawed assessment is invalid and unwarranted.

Thank you for the opportunity to provide comments on the Interim Rule, and we would be glad to respond to questions about these comments.

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