



# ORGANIC FARMING RESEARCH FOUNDATION

**April 17, 2009**

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**RE: 7 CFR Part 1466 RIN 0578-AA45; Docket # NRCS-IFR-08005**

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The Organic Farming Research Foundation (OFRF) is a grower-directed, charitable organization dedicated to the improvement and widespread adoption of organic farming systems. Pursuant to the USDA's Natural Resources Conservation Service and Commodity Credit Corporation request for public comments on the Environmental Quality Incentives Program (EQIP) Interim Final Rule (IFR) published in the Federal Register on January 15, 2009 (74 FR 2293) and amended March 12, 2009 (74 FR 10675), OFRF submits the following comments for consideration.

**INTRODUCTION**

OFRF appreciates the efforts made by NRCS agency personnel to promulgate a timely and comprehensible rule. We also acknowledge the complex conditions and time restraints under which the rule had to be produced. In the Food, Conservation and Energy Act of 2008 (FCEA), Congress made many important changes to EQIP. These changes include a number of explicit provisions regarding organic agriculture and transition to organic production. Taken as a whole, these inclusive references in FCEA constitute an *unprecedented recognition in national policy for the conservation benefits of organic agricultural systems*.

While FCEA has numerous new provisions related to organic agriculture, the 110<sup>th</sup> Congress specifically assigned to the EQIP program the responsibility of facilitating the conversion of new U.S. organic production acreage. In fulfilling this responsibility, the program is also required to make broad programmatic changes encouraging organic production generally. These directives implicitly acknowledge a basic conclusion that wider adoption of organic systems is a highly cost-effective (but yet largely unused) strategy for achieving the Nation's conservation purposes.

The scope of these changes is understandably a significant institutional challenge for an EQIP and NRCS. The agency still has relatively little experience with, data about, or program language for organic producers and organic production systems. However, these limitations must be rapidly overcome. We respectfully hope that our comments will be taken constructively towards that end.

### **OVERVIEW OF OFRF COMMENTS**

While the EQIP IFR does faithfully implement some of the 2008 statutory changes, many others are not adequately implemented. **In a number of specific instances and in overall effect, the IFR is severely deficient with respect to the integration and recognition of organic production as a conservation system. The Final Rule for EQIP must be substantially rewritten to address these deficiencies.** Since the Final Rule is not likely to be effective for the 2009 crop year, the Chief of the NRCS should immediately issue a series of Directives to the State Conservationists correcting the deficiencies, as we indicate below.

The major deficiencies fall into three categories:

- Incorrect structure of benefit payments for organic production systems;
- Insufficient national implementation of policies encouraging organic production systems;
- Absence of provisions to develop Technical Assistance capacities in organic production and conversion.

In our comments we have tried to identify all of the various individual regulatory provisions related to these underlying problems. However, the overall imperative is that each of these major flaws must be addressed. If the agency fails to redress all of these issues together, it will not achieve the Nation's conservation goals.

In addition to specific comments on the EQIP regulatory provisions, we are providing comments as requested on how EQIP can further the Nation's efforts with respect to energy conservation, climate change mitigation, adaptation to climate change, and carbon sequestration. We also respond to the request for comments on Comprehensive Planning Activities and Watershed-Wide Projects.

*NOTE ON TERMINOLOGY: Concerning the establishment of certified organic production, the terms "conversion" and "transition" are used interchangeably in the IFR, the FCEA statute and Manager's Report, and also in common usage. The phrases, "transition to organic production," and "organic conversion" are likewise interchangeable. Consequently, "Organic Conversion Support" may be read as "assistance for transition to organic production" and vice-versa.*

### **SUMMARY OF MAJOR DEFICIENCIES IN THE IFR**

As further detailed (with recommended changes) below, we believe the 2009 EQIP IFR is deficient in the following areas. The IFR:

- ◆ Fails to include in the Benefit-Cost Analysis any data on organic production systems or their effects on resources of concern;
- ◆ Does not explicitly recognize organic production or transition to organic production as "conservation practices" §1466.3;

- ◆ Fails to ensure availability of payments and functional capacity for technical assistance concerning conservation improvements in organic systems and transition to organic production §1466.3, §1466.11(c), §1466.24 (c);
- ◆ Does not provide for the agency to establish cooperative agreements with qualified organic experts who can deliver technical assistance to organic producers and producers transitioning to organic production §1466.3, §1466.11(a) and (b);
- ◆ Does not define or provide for a “Transition to Organic Production Plan” as a logical equivalent of an Organic System Plan §1466.3, §1466.24(d)(7);
- ◆ Does not allow for an Organic System Plan (or an equivalent Transition to Organic Production Plan) to be recognized as equivalent to a plan of operations for purposes of an EQIP contract §1466.8(b), §1466.21(b);
- ◆ Fails to acknowledge organic production as a new National Priority for EQIP §1466.4(a);
- ◆ Fails to establish a goal for the percentage of funds in each state to support transition to organic production §1466.6(c)(6), §1466.8(e);
- ◆ Does not call for outreach to organic producers as a group that has been historically underserved by the EQIP program §1466.7;
- ◆ Does not ensure that applications for transition to organic production are ranked and processed as separate sub-category in each state and territory §1466.20;
- ◆ Does not allow for prioritization of transition to organic production in determining payments for forgone income §1466.23(c)(1)(iv);
- ◆ Does not ensure the development or identification of conservation practice standards specifically appropriate to organic production systems or transition to organic production §1466.23(a);
- ◆ Does not provide that payments for practices related to organic production or transition to organic production be made available to all producers, in all states and territories §1466.23(c)(4);
- ◆ Appears to incorrectly cap payments for (non-conversion) practices on existing organic operations at \$20,000 per year and \$80,000 over six years §1466.24(c);
- ◆ Does not provide for utilizing the expertise of USDA-accredited organic certifying agents in assessing compliance of EQIP beneficiaries with the organic certification requirements §1466.26(f); and
- ◆ Fails to direct State Conservationists to develop expertise on organic systems within the state office, or provide training of NRCS personnel on organic production systems and certification requirements<sup>1</sup>.

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<sup>1</sup> See OFRF comments on NRCS-IFR-08011 (Technical Service Provider Assistance), March 17, 2009.

### **PREVIOUS STAKEHOLDER INPUT (INCLUDED FOR THE RECORD)**

The Organic Farming Research Foundation, the National Center for Appropriate Technology, and a number of other organizations submitted a joint letter to NRCS on August 11, 2008. This letter provided detailed recommendations regarding implementation of the 2008 FCEA Conservation Title provisions as they relate to organic agriculture. Included were a number of recommendations related to the Environmental Quality Incentives Program along with original supporting materials. That entire package is hereby resubmitted by reference for the record and should continue to be taken into consideration as USDA moves forward with EQIP rulemaking and implementation. See:

1. "Considerations and Recommendations for Conservation Program Rulemaking and Implementation as it Relates to Organic Agriculture, August 11, 2008"  
([http://ofrf.org/policy/federal\\_legislation/080811\\_farm\\_bill\\_nrcs\\_implementation\\_comments.pdf](http://ofrf.org/policy/federal_legislation/080811_farm_bill_nrcs_implementation_comments.pdf));
2. "Correlation of NRCS Conservation Practices and NOP Requirements"  
([http://ofrf.org/policy/federal\\_legislation/080811\\_NCAT\\_NRCS-NOP\\_Correlation\\_Chart.pdf](http://ofrf.org/policy/federal_legislation/080811_NCAT_NRCS-NOP_Correlation_Chart.pdf));
3. "Citations for Organic Agriculture Environmental Impacts"  
([http://ofrf.org/policy/federal\\_legislation/080811\\_Organic\\_bibliography.pdf](http://ofrf.org/policy/federal_legislation/080811_Organic_bibliography.pdf));
4. "Organizations with Organic Technical Assistance Expertise"  
([http://ofrf.org/policy/federal\\_legislation/080811\\_Organic%20TA%20Provider%20list.pdf](http://ofrf.org/policy/federal_legislation/080811_Organic%20TA%20Provider%20list.pdf)).

### **SPECIFIC COMMENTS AND RECOMMENDATIONS**

#### **Economic Benefit-Cost Analysis (BCA)**

The summary at the beginning of FR 74 2294-2296 of the BCA for the EQIP Interim Final Rule acknowledges that the benefits of organic practices were not included in the analysis, and attributes this to a lack of time, resources, and data. While these are not trivial obstacles, this exclusion from the analysis is severely detrimental to the program purposes. For example, the program's analysis should consider the beneficial economic effects of greatly enhanced pollinator conservation resulting from payments for conversion to organic production. Such potential economic benefits are, in our view, extremely significant. Some quantitative data concerning the impacts of organic systems on pollinators, water quality, carbon sequestration, and other benefit categories are available and are growing steadily.<sup>2</sup>

The ability to measure the conservation benefits of organic systems is critical to NRCS' delivery of conservation technical and financial assistance related to organic production. For example, the criteria that State Conservationists may consider in ranking applications are largely dependent upon data concerning the conservation benefits that a practice can be expected to provide.<sup>3</sup> The same is true for the funding formulas that are used to allocate program payments among program segments.<sup>4</sup> Without a proper understanding of the conservation benefits that organic systems can provide, EQIP contracts related to organic production will have a hard time being funded. NRCS has been mandated to provide financial and technical assistance for conservation practices related to organic production, and it must

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<sup>2</sup> See for examples, "Organic Bibliography with Annotations." Compiled by Rex Dufour, National Center for Appropriate Technology, and Jane Sooby, Organic Farming Research Foundation. Appendix I of NRCS Organic Implementation Letter transmitted to NRCS, August 11, 2008.

<sup>3</sup> §1466.20(b)(1)

<sup>4</sup> §1466.5

find ways within its current means to ensure that contracts related to organic production are recognized for the conservation benefits they can provide and are funded at proper rates.

**Recommendation:** *NRCS should produce an EQIP Final Rule with a full benefit-cost analysis of significantly increased assistance for organic production systems and transition to organic production.*

In pursuing this recommendation, NRCS can draw on several specific opportunities. NRCS can and should use its existing relationship with the Agricultural Research Service (ARS) and the Conservation Effects Assessment Program (CEAP) to specifically address quantifying the conservation benefits of organic systems. Additional resources for developing such data may be found in the FCEA provisions regarding the Organic Agricultural Research and Extension Initiative (OREI). Mirroring the importance that Congress attached to organic systems in the Conservation Title, the Research Title of FCEA greatly increased mandatory funding for OREI and added the new purpose of “examining optimal conservation and environmental outcomes relating to organically produced agricultural products.”<sup>5</sup>

**Recommendation:** *NRCS should initiate a Memorandum of Understanding with the National Institute of Food and Agriculture to cooperate on research priorities for determining the conservation benefits and costs of organic production systems.*

### **§1466.3 Definitions.**

The overall deficiency of the EQIP IFR with respect to organic production systems and transition to organic production points to the need for better integration within the regulatory definitions of the program. We propose the following changes to remedy key oversights. These changes, in turn, will enable clarity with respect to needed changes in other sections of the IFR.

**Recommendation:** *Amend the definition of “Conservation Practice” to insert “organic system plans” and “transition to organic production plans” to read:*

*“Conservation practice” means one or more conservation improvements and activities, including structural practices, land management practices, vegetative practices, forest management practices, and other improvements that achieve the program purposes, including such items as CNMPs, agricultural energy management plans, dryland transition plans, organic system plans, transition to organic production plans, forest management plans, integrated pest management, and other plans determined acceptable by the Chief.*

**Recommendation:** *Amend the definition of “Technical Assistance” to insert the terms “organic system planning” and “transition to organic production planning” to read:*

*“Technical assistance” means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:*

*(1) Technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, organic system planning, transition to organic production planning, technical consultation, and assistance with design and implementation of conservation practices; and...*

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<sup>5</sup> Food, Conservation and Energy Act of 2008, §7206.

**Recommendation:** Amend the definition of “Technical Service Provider” to insert the phrase “or operating under a cooperative agreement with NRCS” to read:

*“Technical Service Provider” (TSP) means an individual, private-sector entity, or public agency certified by NRCS or operating under a cooperative agreement with NRCS to provide technical services to program participants, in lieu of or on behalf of NRCS.*

**Recommendation:** Add a new definition for “Transition to Organic Production Plan” to read:

*“Transition to Organic Production Plan” means a plan for establishing an organic production system, according to the requirements of the National Organic Program. A Transition to Organic Production Plan is similar to an Organic Systems Plan (OSP) and contains the same elements as an OSP, but is used prior to application for organic certification and does not require the approval of an accredited certifying agent.*

#### **§1466.4 National Priorities.**

“Conservation practices related to organic production” was one of only three new purposes added to EQIP in the FCEA, but the IFR fails to include organic farming systems in the National Priorities in §1466.4(a). The Managers recognized the “significance of the changes made to the program to reflect new needs and concerns” and NRCS should do the same by including organic farming systems as a National Priority in the Final Rule.<sup>6</sup>

Beyond the Congressional imperative, the case for prioritizing organic production systems is demonstrated by the breadth of inherent environmental benefits they bring. The “Correlation Chart of NRCS Practice Standards and National Organic Program Rules”<sup>7</sup> illustrates this clearly. Full compliance with the National Organic Standards requires implementation of nearly 30 NRCS practice standards.

**Recommendation:** Amend §1466.4 to add new subsection: “(6) Organic production systems and transition to organic production.” To read:

*§1466.4 National priorities.*

*(a) The following national priorities, consistent with statutory resource concerns that include soil, water, wildlife, air quality, and related resource concerns, will be used in EQIP implementation:*

- (1) Reductions of nonpoint source pollution, such as nutrients, sediment, pesticides, or excess salinity in impaired watersheds consistent with total maximum daily loads (TMDLs) where available; the reduction of surface and groundwater contamination; and the reduction of contamination from agricultural point sources, such as concentrated animal feeding operations;*
- (2) Conservation of ground and surface water resources;*
- (3) Reduction of emissions, such as particulate matter, nitrogen oxides, volatile organic compounds, and ozone precursors and depleters that contribute to air quality impairment violations of National Ambient Air Quality Standards;*
- (4) Reduction in soil erosion and sedimentation from unacceptable levels on agricultural land;*
- (5) Promotion of at-risk species habitat conservation; and*
- (6) Organic production systems and transition to organic production.*

<sup>6</sup> Joint Statement of the Managers, Page 48.

<sup>7</sup> See link in “Previous Stakeholder Comment” above.

### **§1466.7 Outreach Activities.**

Participation by organic farmers and ranchers in NRCS programs has historically been low. With the clear directive to encourage conservation practices related to organic production, State Conservationists should undertake education and outreach efforts to promote assistance for organic production systems. The IFR's current provisions for special outreach (to limited resource, socially disadvantaged, small-scale, beginning farmers and ranchers, and others) should specifically promote organic production assistance to the targeted groups. Effective outreach and education efforts may require cooperative agreements with organizations in communication with underserved groups of producers.

**Recommendation:** *Amend §1466.7 to insert, “certified organic producers,”; and add a new sentence, “Special outreach activities will include information concerning EQIP program assistance for organic production systems.” To read:*

*§1466.7 Outreach Activities.*

*NRCS will establish outreach activities at the national, State and local levels...Special outreach will be made to eligible producers with historically low participation rates, including but not limited to, limited resource, socially disadvantaged, small-scale, or beginning farmers or ranchers, certified organic producers, Indian Tribes, Alaska Natives, and Pacific Islanders. Special outreach activities will include information concerning EQIP program assistance for organic production and conversion to organic production systems.*

### **§1466.8 Program requirements.**

Recognition of organic production systems should be explicitly built in to the basic framework of the EQIP program requirements. A minimal approach to this objective would recognize an Organic System Plan or Transition to Organic Production Plan<sup>8</sup> as equivalent to an “EQIP plan of operation.” In order to fulfill Congress’ special assignment to EQIP of assisting transition to organic production, the program should establish and support ambitious goals for utilization of the organic transition assistance payments. We do not make a recommendation on a specific national numerical goal or administrative method. We expect that the overall effect of our recommendations, if taken, will produce the intended result of assisting numerous organic conversions in all states.

**Recommendation:** *Amend §1466.8(b)(4) to insert, “an Organic System Plan, a Transition to Organic Production Plan,” to read:*

*§1466.8 Program requirements.*

*(b) To be eligible to participate in EQIP, an applicant must:*

*(4) Submit an EQIP plan of operations, an Organic System Plan, a Transition to Organic Production Plan, or a plan developed for the purposes of acquiring an air or water quality permit, provided these plans contain elements equivalent to those elements required by an EQIP plan of operations and are acceptable to the State Conservationist as being consistent with the purposes of the program;*

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<sup>8</sup> See above, proposed definition at comments regarding §1466.3.

**§1466.11 Technical services provided by qualified personnel not affiliated with USDA.**

NRCS has a significant need to develop new technical assistance capacities for organic production systems and the transition to organic production. Presently these capacities are severely underdeveloped. NRCS must pursue a strategy that utilizes the expertise of non-governmental, university-based, and private entities with a track record of assisting organic and transitional producers. FCEA provides for cooperative agreements with such groups.<sup>9</sup> The IFR should be amended to clearly establish the validity of such cooperative agreements. The IFR should also be amended to specify organic system planning (including transition to organic production) as a standard category of technical service provided by non-USDA personnel.

**Recommendation:** Amend §1466.11(a) and (b) to insert “or operating under a cooperative agreement with NRCS” to read:

§1466.11 Technical services provided by qualified personnel not affiliated with USDA

(a) NRCS may use the services of qualified TSPs or operating under a cooperative agreement with NRCS in performing its responsibilities for technical assistance.

(b) Participants may use technical services from qualified personnel of other Federal, State, and local agencies, Indian Tribes, or individuals who are certified as TSPs by NRCS or operating under a cooperative agreement with NRCS.

**Recommendation:** Amend §1466.11(c) to insert “organic production system planning;” to read:

§1466.11 Technical services provided by qualified personnel not affiliated with USDA.

(c) Technical services provided by qualified personnel not affiliated with USDA may include, but are not limited to: conservation planning; organic production system planning; conservation practice survey, layout, design, installation, and certification; and information; education; and training for producers.

**§1466.20 Applications for contracts and selecting applications.**

State Conservationists are encouraged and authorized to group similar applications together and establish separate ranking pools under §1466.20. Given NRCS’ current lack of expertise in assisting and lack of information on how to assist producers transitioning to organic production, NRCS should establish a separate ranking pool at the state level for these applications. This will help to ensure that these applications are not ranked with other applications for systems and practices for which NRCS has more expertise (and might be more inclined to fund) and to avoid discrimination against producers historically underserved by NRCS. This is particularly important in states where NRCS has had little activity with respect to organic production systems.

**Recommendation:** Amend §1466.20(a)(2) to add the sentence: “The State Conservationist shall group together applications for assistance in transition to organic production for evaluation purposes.” To read:

§1466.20 Application for contracts and selecting applications.

(a)(2) The State Conservationist, to the greatest extent practicable, will group applications of similar crop, forestry, and livestock operations for evaluation purposes. The State Conservationist

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<sup>9</sup> Food Security Act of 1985, §1242(i)(2)(B)(i) as amended by Food, Conservation, and Energy Act of 2008, §2706.

shall group together applications for assistance in transition to organic production for evaluation purposes.

### **§1466.21 Contract requirements.**

EQIP contract requirements should ensure consistency between implementation of EQIP's organic provisions and the requirements of the National Organic Program rules.

**Recommendation:** Amend §1466.21(b)(3) to add new subsection (vi), “(vi) Implement an Organic System Plan or a Transition to Organic Plan when the EQIP plan of operations addresses organic production or transition to organic production;”, and renumber existing (vi) and (vii) as (vii) and (viii), respectively. To read:

§1466.21(b)[An EQIP contract will...](3) Incorporate all provisions as required by law or statute, including requirements that the participant will:

(v) Implement a forest management plan when the EQIP plan of operations addresses nonindustrial private forest land;

(vi) Implement an Organic System Plan or a Transition to Organic Plan when the EQIP plan of operations addresses organic production or transition to organic production;

~~(vi)~~ (vii) Supply information as may be...

~~(vii)~~ (viii) Specify the participants responsibilities...

### **§1466.23(a) Payment Rates. [Eligible Practices]**

NRCS was mandated in the FCEA to “fully incorporate...organic crop production...into the conservation practice standards and provide for the appropriate range of conservation practices and resource mitigation measures available to producers involved with organic...agriculture.”<sup>10</sup> The IFR does not fulfill Congress’ expectation and specifically does not direct State Conservationists to consider organic production systems in determining which practices are eligible for payment under §1466.23(a).

NRCS should initiate efforts to explore the idea of new practice standards for organic production and organic transition. A set of practice standards specific to various types of organic systems should emphasize the agroecological and biological fundamentals of organic system design. Such practice standards could also help to develop new measurements of performance for delivery of environmental services. In the meantime, EQIP assistance for organic conservation systems and transition to organic production will be mediated in different states through different mixes of existing, modified, and interim NRCS practice standards. Codification of these arrangements will help to ensure program utilization, effectively structure the allocation of program resources, and shape the conservation outcomes. Some State Conservationists and their Technical Advisories Committees have begun this process in recent years and more will do so to implement this IFR. However, some states may not make a determination of appropriate practice standards and so fail to properly implement the program.

The IFR should be amended to prompt State Conservationists to address the selection of practice standards pertinent to existing and transitional organic production systems. NRCS should then undertake to catalogue and assess the efficacy of various state determinations on appropriate practice standards. This oversight of states’ approaches should then be integrated into the exploration of national practice standards for organic systems.

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<sup>10</sup> SEC. 1242(i) (as added by SEC. 2706)

**Recommendation:** Amend §1466.23(a) to insert a new subsection (5), “(5) Appropriateness for organic production or transition to organic production,”, and renumber existing subsections (5) and (6) as (6) and (7), respectively. To read:

§1466.23(a) The State Conservationist or designated conservationist will develop a list of conservation practices, eligible for payment under the program, which considers:  
(5) Appropriateness for organic production or transition to organic production,  
~~(5)~~ (6) The Conservation practice’s ability to assist producers in meeting regulatory requirements, and  
~~(6)~~ (7) Other pertinent local considerations.

**§1466.23(c) Payment rates. [Foregone Income]**

Financial assistance to mitigate foregone income is an essential aspect of successful support for transition to organic production. In many cases, it is the most important factor in a producer’s decision-making process about organic transition. The IFR fails to recognize the particular importance of this issue and makes no specific provision for addressing it.

Forgone income during transition to organic production can include the cost of new equipment and other inputs, temporary decline in yields, temporary increases in management and/or labor costs, and investments required to access new market chains. At the same time, producers transitioning to organic production are instituting a host of conservation practices that will lead to real public benefits. When calculating “estimated income foregone” for organic conversion, a fair and attractive payment rate must be established and the State Conservationist should be given the ability when determining payment rates to give conservation practices related to organic production higher priority under 1466.23(c)(1)(iv).

**Recommendation:** Amend §1466.23(c)(1)(iv) to insert new subsection (F), “Transition to organic production;”, and renumber existing subsections (F) and (G) as (G) and (H), respectively. To read:

§1466.23(c)(1)(iv) When determining payments for income foregone, the State Conservationist may give higher priority to the following conservation practices:  
(A) Residue management;  
(B) Nutrient management;  
(C) Air quality management;  
(D) Invasive species management;  
(E) Pollinator habitat development or improvement;  
(F) Transition to Organic Production;  
~~(F)~~ (G) Animal carcass management technology; or  
~~(G)~~ (H) Pest management.

**1466.23(c)(4) Payment Rates. [Organic Production and Transition]**

The IFR correctly specifies that, “The State Conservationist shall provide payments for conservation practices on some or all of the operations of a producer related to organic production and the transition to

organic production” (emphasis added).<sup>11</sup> No longer should organic farmers anywhere be told that EQIP does not pertain to them, or that their state or county does not have a relevant conservation practice standard or activity for organic production. While suggesting that all states will offer these payments, the IFR should go further to ensure that these payments are accessible to all growers, in all states. The subsection should be amended to clarify that payments shall be available to applicants in every county of each state. Guidance to this effect should be issued immediately, so as to be effective for the 2009 crop year.

In §1466.23(c)(4), the IFR also states that EQIP payments “may not be made to cover the costs associated with organic certification...under the National Organic Program (7 U.S.C. 6523).” This is correct in that Congress has made other provisions for organic producers to share a portion of actual certification costs with USDA, and in the FCEA Congress intentionally excluded these from coverage by EQIP payments.<sup>12</sup> However, the IFR further includes a confusing and unnecessary statement also prohibiting EQIP payments for, “...practices that are eligible for cost-share payments...” Only direct certification costs are eligible for cost-sharing under the NOP, and the reference to otherwise “eligible practices” is illogical and confusing. The relevant section of FCEA makes no reference to “practices.” This clause should be deleted from the IFR.

**Recommendation:** Amend §1466.23(c)(4) to insert: “*Payments must be made available in every county in the state.*” Delete “*or for practices that are eligible for cost-share payments*” to read:

*1466.23(c)(4) The State Conservationist shall provide payments for conservation practices on some or all of the operations of a producer related to organic production and the transition to organic production. Payments must be made available in every county in the state. Payments may not be made to cover the costs associated with organic certification ~~or for practices that are eligible for cost share payments~~ under the National Organic Program (7 U.S.C. 6523).”*

#### **§1466.24(c) EQIP Payments. [Organic Production]**

Organic farmers wanting to improve their existing organic systems through EQIP are currently subject to the general EQIP payment limit of \$300,000 over 6 years, and this should continue to be the case. The \$20,000 a year or \$80,000 over any 6-year period payment limit was instituted specifically for **transition** to organic production contracts, with the intent of attracting more small and medium-sized farms, without distorting the overall supply of organically produced goods. This payment limit was not intended to apply to applicants who are improving the conservation performance of their certified organic land and not transitioning additional land.

The language in §1466.24(c) and the description on page 2304 of the Federal Register Vol. 74 mistakenly seems to include all types of EQIP contracts on certified organic land under the \$20,000/one year or \$80,000/6-year payment limit. A system does need to be set up to be able to report all types of organic contracts, but lumping together organic conversion contracts and contracts for conservation improvements to pre-existing organic systems, simply for ease of record-keeping, is neither equitable nor conducive to the program’s goals. Only organic conversion contracts should fall under the \$20,000/\$80,000 payment limit, and the IFR should be amended to clarify this. In addition, guidance to this effect should be immediately issued to states.

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<sup>11</sup> “The Managers expect EQIP to be available to organic producers for conservation activities related to organic transition and production.” FCEA Managers’ Report, Page 726 of the Bill.

<sup>12</sup> §1240B(i)(4) of the Food Security Act of 1985, as amended by §2503 of FCEA.

§1466.24(c) correctly states, “Payments received for technical assistance shall be excluded from this limitation.” In order to fulfill Congress’ expectation that NRCS will, “provide levels of technical and education assistance for organic conversion commensurate to the need,”<sup>13</sup> the rule should explicitly state such a commitment.

**Recommendation:** Amend §1466.24(c) to delete “related”, insert “assist transition to”, and insert “and will be provided at levels commensurate to the need.” To read:

*§1466.24(c) Payments for conservation practices ~~related to~~ assist transition to organic production to a person or legal entity, directly or indirectly, may not exceed in aggregate \$20,000 per year or \$80,000 during any 6-year period. Payments received for technical assistance shall be excluded from this limitation and will be provided commensurate to the need.*

#### **§1466.24(d)(7) EQIP Payments. [Organic System Plans]**

The IFR correctly requires the use of an Organic System Plan (OSP) in order to be eligible for payments related to organic production. For applicants beginning the transition to organic production, an official OSP is not necessarily appropriate or cost-effective. However, an equivalent plan for conducting the transition process should be required for eligibility for payments assisting transition to organic production. The rule should include and reference the definition of “Transition to Organic Production Plan” proposed above in these comments (see comments on §1466.3).

**Recommendation:** Amend §1466.24(d)(7) to insert “or a Transition to Organic Production Plan” to read:

*§1466.24(d)(7) To be eligible for payments related to organic production or the transition to organic production, a participant will develop and implement an Organic System Plan or a Transition to Organic Production Plan as defined in §1466.3.*

#### **§1466.26 Contract violations and terminations.**

The IFR correctly recognizes the need for a mechanism to terminate contracts related to organic production when the participant is no longer compliant with the National Organic Program. The provision for this mechanism as described in §1466.26(f) is not consistent with terminology in the National Organic Program Final Rule, 7 CFR Part 205. The language in this section should be amended to be consistent with NOP provisions.

**Recommendation:** Amend §1466.26(f) to delete, “or has been decertified” and substitute, “or if the organic certificate has been surrendered by the operation or suspended or revoked by the certifying agent.” To read:

*§1466.26(f) The State Conservationist, in consultation with the State Technical Committee, may terminate a contract whereby a producer is receiving payments for conservation practices related to organic production, if the designated conservationist determines that the producer is not pursuing organic certification, or ~~has been decertified~~ if the organic certificate has been*

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<sup>13</sup> Joint Explanatory Statement of the Committee of Conference, pg. 49.

surrendered by the operation or suspended or revoked by the certifying agent.

## **CLIMATE CHANGE SUPPLEMENT**

The updated Federal Register notice (FR 74 10674) includes a request for public input on “how EQIP can achieve its program purposes and further the Nation’s efforts with renewable energy production, energy conservation, mitigating the effects of climate change, facilitating climate change adaptation, or reducing net carbon emissions.”

While below OFRF addresses each of these subcategories, OFRF stresses that supporting individual practices to address climate change without working on systems-approach solutions to climate change will miss the opportunity to make agriculture a net reducer of carbon and other greenhouse gases (GHG).

Organic agriculture systems provide a comprehensive strategy for mitigating the effects of climate change, facilitating the adaptation to climate change, and reducing the use of non-renewable sources of energy such as fossil fuels. Expanded upon below, all of OFRF’s recommendations specifically achieve the EQIP program purposes of “assisting producers to make beneficial, cost effective changes to production systems (including conservation practices related to organic production)” and of “enhancing soil, water, and related natural resources.”<sup>14</sup>

### *Energy Conservation*

Energy conservation is a low-cost and immediate step that can be taken to address climate change. A way to improve energy conservation on farms is to reduce or eliminate the use of inputs, such as synthetic fertilizers and pesticides, made from energy-intensive processes that use fossil fuels. Advanced organic agriculture drastically minimizes the use of these inputs and relies on other soil management techniques and biological controls to provide fertility and pest control. This translates into significant reductions in fossil fuel use; long-term comparisons at the Rodale Institute found a 33% reduction in fossil fuel use for organic corn/soybean farming systems that use cover crops or compost instead of chemical fertilizer.<sup>15</sup>

By supporting the transition to organic agriculture and conservation projects on organic farms through cost-share, technical assistance, and program funds, EQIP can support practices that conserve energy.

### *Mitigating the Effects of Climate Change*

Organic agriculture can mitigate the effects of climate change by sequestering more carbon than conventional agriculture through enhanced soil management. Soils with higher biological activity store carbon, and while uncultivated lands store more carbon than cultivated ones, grain production systems managed organically over time increase soil carbon by 15 to 28%.<sup>16</sup> Conventional grain production

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<sup>14</sup> Sec. 2501(a)(4) and Sec. 2501(a)(3)(A) of FCEA 2008.

<sup>15</sup> LaSalle, Tim J. and Paul Hepperly. 2008. Regenerative Organic Farming: A Solution to Global Warming. Rodale Institute. Available at: [http://www.rodaleinstitute.org/files/Rodale\\_Research\\_Paper-07\\_30\\_08.pdf](http://www.rodaleinstitute.org/files/Rodale_Research_Paper-07_30_08.pdf).

<sup>16</sup> Hepperly, Paul. 2003. Organic Farming Sequesters Atmospheric Carbon and Nutrients in Soils. The Rodale Institute, White Paper. Available at: [http://newfarm.rodaleinstitute.org/depts/NFfield\\_trials/1003/carbonwhitepaper.shtml](http://newfarm.rodaleinstitute.org/depts/NFfield_trials/1003/carbonwhitepaper.shtml).

typically results in soil carbon levels in the range of 1-3%.<sup>17</sup> There is a growing body of scientific literature that shows increased storage capacity of organic soils.<sup>18,19</sup>

This research demonstrates the large, untapped potential of organic farming systems to mitigate climate change by increasing soil carbon storage. The Rodale Institute estimates that organic agriculture, if practiced on the planet's 3.5 billion tillable acres, could sequester nearly 40% of current carbon dioxide emissions.<sup>20</sup> Current estimates are that 70 to 220 million metric tons of carbon could be added to U.S. agricultural soils over two to three decades.<sup>21</sup> This represents the reduction of between 3.7 and 12% of all U.S. GHG emissions in 2006. Even the low end of these estimates justifies significant investment in supporting conversion to organic farming systems.

By supporting the transition to organic agriculture and conservation projects on organic farms through cost-share, technical assistance, and program funds, EQIP can take significant steps to mitigate the effects of climate change.

#### *Facilitating Climate Change Adaptation*

Organic agricultural methods significantly facilitate farmers' adaptation to climate change. Organic management of soils makes the organic systems more resilient and able to withstand and recover from sharp variations in climate and weather. As mentioned above, well-managed organic soils sequester and store more carbon as a function of improved biological activity and increased soil organic matter. The biological cycling of soil organic matter results in higher fertility, increased water retention capacity, and more resistance to wind erosion. These characteristics lead to more consistent and better yields for organic crops when compared to conventional crops during both drought and wet years.<sup>22,23,24</sup>

By supporting the transition to organic agriculture and conservation projects on organic farms through cost-share, technical assistance, and program funds, EQIP can facilitate farmers' adaptation to climate change.

#### *Reducing Net Carbon Emissions*

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<sup>17</sup> Ibid.

<sup>18</sup> Horwath, W.R., O.C. Devêvre, T.A. Doane, A.W. Kramer, and C. van Kessel. 2002. Soil C Sequestration Management Efforts on N Cycling and Availability. In *Agricultural Practices and Policies for Carbon Sequestration in Soil*, ed. By Kimble, J.M., R. Lal, and R.F. Follett, 155-164. Lewis Publishers, an imprint of CRC Press.

<sup>19</sup> Hepperly, Paul. 2003. Organic Farming Sequesters Atmospheric Carbon and Nutrients in Soils. The Rodale Institute, White Paper. Available at:

[http://newfarm.rodaleinstitute.org/depts/NFfield\\_trials/1003/carbonwhitepaper.shtml](http://newfarm.rodaleinstitute.org/depts/NFfield_trials/1003/carbonwhitepaper.shtml)

<sup>20</sup> LaSalle, Tim J. and Paul Hepperly. 2008. Regenerative Organic Farming: A Solution to Global Warming. Rodale Institute. Available at: [http://www.rodaleinstitute.org/files/Rodale\\_Research\\_Paper-07\\_30\\_08.pdf](http://www.rodaleinstitute.org/files/Rodale_Research_Paper-07_30_08.pdf).

<sup>21</sup> Paustian, K., J.M. Antle, J. Sheehan, and E.A. Paul. 2006. Agriculture's Role in Greenhouse Gas Mitigation, Pew Center on Global Climate Change. Available at:

<http://www.pewclimate.org/docUploads/Agriculture%27s%20Role%20in%20GHG%20Mitigation.pdf>.

<sup>22</sup> Lotter, D.W., R. Seidel, and W. Liebhardt. 2003. The Performance of Organic and Conventional Cropping Systems in an Extreme Climate Year. *American Journal of Alternative Agriculture* 18(3).

<sup>23</sup> Hepperly, P., R. Seidel, D. Pimentel, J. Hanson, and D.D. Douds. 2007. Organic Farming Enhances Soil Carbon and Its Benefits. In *Soil Carbon Management: Economic, Environmental, and Societal Benefits*, ed. by Kimble, J.M., C.W. Rice, D. Reed, S. Mooney, R.F. Follet, and R. Lal, 129-153. Boca Raton, FL: CRC Press.

<sup>24</sup> Bescansa, P., M.J. Imaz, I. Virto, A. Enrique, and W.B. Hoogmoed. 2006. Soil Water Retention as Affected by Tillage and Residue Management in Semiarid Spain. *Soil and Tillage Research* 87: 19-27.

As discussed above, organic agriculture reduces carbon emissions by relying less than conventional farming on inputs derived from fossil-fuel intensive processes. As also discussed above, organic agricultural systems sequester more carbon in soils than conventional systems, helping to reduce net carbon emissions from agriculture and other industries.

It is important to note that addressing climate change requires a focus beyond carbon and to other greenhouse gases (GHG), such as methane (CH<sub>4</sub>) and nitrous oxide (N<sub>2</sub>O). Agricultural production is a relatively minor producer of carbon dioxide, but a major source of CH<sub>4</sub> and N<sub>2</sub>O. In considering how EQIP can be used to address climate change, NRCS should acknowledge that CH<sub>4</sub> and N<sub>2</sub>O emissions from agriculture must be addressed. Both of these GHGs are associated with livestock production and nitrous oxide is associated with liming and urea fertilization of soils.

By supporting the transition to organic agriculture and conservation projects on organic farms through cost-share, technical assistance, and program funds, EQIP can reduce net carbon emissions and address other more potent GHGs.

### *Renewable Energy Production*

The agricultural sources of energy production are biomass and biofuels. There is significant scientific controversy regarding whether biomass and biofuels are net reducers of carbon. In addition, given the multiple and important conservation purposes of EQIP, the program should not be used to support the production of energy from biomass or biofuels. The focus of renewable energy efforts should be to support the development solar, wind, and geothermal energy sources, which go beyond the scope of EQIP.

## **COMPREHENSIVE PLANNING ACTIVITIES**

In response to NRCS' request for comments on what type of comprehensive planning activities should be eligible for payment under EQIP, OFRF recommends that an Organic System Plan (OSP) be eligible. The National Organic Program (NOP) requires that farmers create an OSP in order to receive certification. An OSP must include information that describes the practices followed, lists the inputs used, monitors practices, describes the recordkeeping system, describes contamination prevention, and provides any additional information required by the certifying agent.

There is significant overlap between, on the one hand, NRCS conservation practices, mission goals, and practice standards and, on the other, NOP practice standards and goals. A detailed explanation of this overlap can be found in National Center for Appropriate Technology's "Correlation Chart for NRCS Conservation Practices and NOP Requirements," included at the beginning of these comments under "Previous Stakeholder Input" and accessible at ([http://ofrf.org/policy/federal\\_legislation/080811\\_NCAT\\_NRCS-NOP\\_Correlation\\_Chart.pdf](http://ofrf.org/policy/federal_legislation/080811_NCAT_NRCS-NOP_Correlation_Chart.pdf));

Given this overlap in practices and goals, OFRF strongly recommends the following under EQIP:

1. That an Organic System Plan be considered a comprehensive planning activity;
2. That an Organic System Plan be considered equivalent to a conservation plan; and
3. That technical assistance be provided to create an Organic System Plan to farmers planning to transition to organic production.

### **WATERSHED-WIDE PROJECTS**

In response to NRCS's request for comments on the "criteria for determining acceptable watershed-wide projects, particularly with respect to what should be included in a comprehensive water resource assessment and what should be considered in determining effective water conservation and management strategies at the watershed scale,"<sup>25</sup> OFRF does not have specific suggestions on the criteria. OFRF does encourage NRCS to consult with the Cooperative State, Research, Education and Extension Service on a new initiative being planned between the Organic Transitions Research Program and a water research program at the Environmental Protection Agency to foster research on the water quality, conservation, and management effects of organic systems at the watershed level.

### **CONCLUSION**

OFRF is thankful for the opportunity to comment on this Interim Final Rule and appreciates the time and consideration that will be given to our comments. OFRF is committed to fostering the improvement and widespread adoption of organic farming systems and believes that the Environmental Quality Incentives Program, as amended by the Food, Conservation, and Energy Act of 2008, when properly implemented, will play an important role in achieving this objective.

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<sup>25</sup> 74 FR 2302