

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
100 USDA, Suite 102
Stillwater, OK 74074-2653

OK Notice CONOP-63

For: County Offices

EQIP National Conference Call Questions and Answers

Approved by: State Executive Director



1 Overview

**A
Background**

A national EQIP conference call with FSA and NRCS national and state office personnel involved with EQIP was conducted September 3, 2002. The conference call discussed the August 28, 2002, EQIP Memorandum of Understanding (MOU). Questions asked during the conference calls were composed in a question and answer document. This document confirms elements relevant to implementation of EQIP at the state office and county office level. Some questions and answers may not pertain to county EQIP operations.

**B
Purpose**

This notice provides EQIP questions and answers resulting from a September 3, 2002, national FSA and NRCS EQIP conference call.

2 EQIP Questions and Answers

**A
Exhibit 1
Q & A's**

Exhibit 1 provides questions and answers from the September 3, 2002, national EQIP conference call. Some parts may not be applicable to county office operations. County offices shall review the document and process EQIP actions accordingly and in conjunction with the August 28, 2002, MOU.

**B
Filing**

File the attached Exhibit 1 with the current EQIP manual.

Disposal	Distribution
October 1, 2003	County Offices



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Department of
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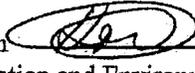
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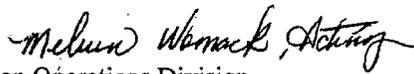
Farm Service
Agency

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SEP 26 2002

TO: SED's, All State FSA Offices
State Conservationists, All State NRCS Offices

FROM: For Robert Stephenson 
Director, Conservation and Environmental Programs Division

Mark W. Berkland 
Director, Conservation Operations Division

SUBJECT: EQIP - Questions and Answers from September 3 Conference Call

Attached please find the questions and answers presented during or as a follow up to the joint EQIP conference calls held on September 3. Please note that the responses to some questions have been clarified since the conference call. Specifically, please note the following:

- Q 2 - Resource concerns are needed in order to record practices on the CCC-1200 in the system and to create CCC-1245's
- Q17 - FSA plans to issue a CONOP notice containing instructions for transferring EQIP files to NRCS
- Q 30 - FSA offices shall provide copies of the electronic funds transfer (EFT) statement to the producer and the EQIP file
- Q 40 - No report was requested by NRCS NHQ on September 26; however, State NRCS offices have been requested to submit two reports by September 20 and October 1, respectively. FSA will continue to have until COB September 30 to record approved contracts in the automated system.

File this joint memorandum with the current EQIP manual.

Enclosure

USDA is an Equal Opportunity Employer

EQIP Joint Conference Call
QUESTIONS AND ANSWERS
September 3, 2002

8:00 a.m. Eastern Time Zone States

- Q1. How do we ensure that the technical practices are included in the CCC-1200 which NRCS approves on behalf of the Commodity Credit Corporation (CCC)?
- A. There are two options: NRCS may sign either (1) filled-in CCC-1200 generated by the system after FSA enters the contract support document data, or (2) CCC-1200 which the producer signed and staple to the filled-in CCC-1200 generated by the system.
- Q2. In the call we were instructed to identify the resource concerns on the contract support document (CSD). What if we have already completed CSD and sent to FSA?
- A. Provide the resource concerns for each practice to FSA. The resource concerns are needed in order to record practices on the CCC-1200 in the system and to create CCC-1245's.
- Q3. The last bullet in the August 28 joint memorandum refers to a hearing before the State FSA committee when NRCS made the initial adverse determination. The State FSA committee is not referenced in Handbook 1-APP (Rev. 1), paragraph 72 D.
- A. FSA's Appeals and Litigation Staff has clarified that if the county FSA committee (COC) decides not to refer the case to the State Conservationist, the participant has the right to appeal to the State FSA committee. In that case, the State FSA committee may decide to reverse the COC's determination to the extent that the State FSA committee may refer the case to the State Conservationist.
- Q4. What about non-appealable issues: who notifies the producer?
- A. NRCS makes the determination and notifies producers if a decision is not appealable. The notification shall include participant's right to request a NAD appealability determination within 30 calendar days and the address of the NAD Regional Director.
- Q5. Regarding nonappealable issues, what if the COC gets a request for EQIP for say, building a swimming pool, what should they do?
- A. Notify NRCS. See response to Q4.
- Q6. Under COC, the bullet states "make person determinations for FY 2002." What about next year?
- A. The joint memorandum lists tasks under the FY 2002 reimbursable agreement. A separate reimbursable agreement must be negotiated for FY 2003.
- Q7. Regarding delineating EQIP on aerial photography and GIS, which contracts are we delineating?
- A. FY 2002 contracts

11:00 a.m. Central Time Zone States

- Q8. Regarding State FSA committee hearing appeal when NRCS made initial adverse determination, if the State FSA committee determines there is merit in the appeal, can it take any action other than referring to State Conservationist?
- A. No.
- Q9. If the producer appeals to NAD, which agency represents USDA?
- A. FSA represents the agencies before NAD. However, if NRCS made initial adverse determination, NRCS should assist in preparing for the hearing and be present as the subject matter expert.
- Q10. Can we still fund modifications for FY 1997 and FY 1998 contracts?
- A. Through September 30, 2002, FY 1997 and FY 1998 contract EOA's may be funded using FY 2002 initial (1st) allocation funds only.
- Q11. Beginning October 1, 2002, how will we fund modifications for FY 1997 and FY 1998 contracts?
- A. We are researching this issue. After the earlier of (1) FY 2002 1st allocations funds are exhausted, or (2) September 30, 2002, current year funds cannot be used to fund EOA's for CCC-funded contracts, including FY 1997 and FY 1998 contracts.
- Q12. Do we continue to request funds from the National EOA Reserves for FY 1999, FY 2000, and FY 2001 contract modifications?
- A. Yes. NRCS State offices shall continue to submit requests to NRCS NHQ.
- Q13. How will modifications be funded for FY 2002 2nd allocation contracts?
- A. NRCS is still working out the details of this provision.
- Q14. Will non cost-shared CCC-1245's be generated for new FY 2002 contracts?
- A. No. Non cost-shared practices are not authorized for contracts under provisions of the 2002 Farm Bill. See June 27, 2002, joint memorandum, attachment under *General Information*. FSA will continue to create CCC-1245's for non cost-shared practices for FY 1997 – FY 2001 contracts at the beginning of the scheduled FY as provided in those contracts.
- Q15. Notice CONSV-78 requires that final performance for all prior year CCC-1245's for non-cost-shared technical practices must be recorded no later than COB September 30, 2002. Are we still expected to perform this work, and is this deadline still valid?
- A. Yes and yes.

- Q16. In the conference call, you said components should not be used on new contracts. How will we make partial payments if there are no components?
- A. The software will allow making a partial payment for any amount less than the total amount obligated to the practice. The NRCS official certifying performance on the CCC-1245 should determine that an identifiable portion of the practice has been completed. Before authorizing disbursement of partial payments, NRCS will obtain producer's signature on FSA-18 according to the EQIP Manual, Section 515.117 c and Exhibit 515.142.
- Q17. Will additional procedure be provided for transferring files?
- A. Yes. FSA plans to issue instructions to State and county FSA offices in a CONOP notice.
- Q18. In order to delineate EQIP practices, FSA needs a map. Will NRCS provide a map?
- A. Needed information should be contained on the CSD. NRCS must use available FSA tract and field numbers on the CSD. We are researching the additional documentation needed for practices not fully delineated by FSA tract and field numbers.
- Q19. Delineating practices presents problems for our State. How will we delineate incentive payments? For residue management, different fields are planned for different years.
- A. Because all acres included in an EQIP conservation plan of operations are under EQIP contract, is appears acreage in the different fields should be delineated. However, you raise some good points. We will research the issue further and provide procedure in a future directive.
- Q20. In our State, a lot of areas that are included in EQIP contracts are not delineated as FSA fields. How would FSA delineate those areas of aerial photography? Many contracts will be short, but practice lifespans generally exceed contract length. Which should be delineated?
- A. Again, you raise some good points that need to be considered. We will research the issue further and provide procedure in a future directive.
- Q21. The joint memorandum provides that county FSA offices will "receive from NRCS completed CCC-1245 . . ." What if the CCC-1245 is received and it is not complete, but some information is missing?
- A. FSA shall return incomplete CCC-1245's to NRCS for completion.
- Q22. So are you saying that FSA will perform a 2nd party review on the CCC-1245?
- A. Yes, but only to the extent of determining that all required blocks have been completed. FSA will NOT calculate or review cost-share and incentive payment calculations.
- Q23. How do we know what data needs to be completed on the CCC-1245?
- A. Refer to Handbook 2-CONSV, paragraph 220 for partial payments and paragraph 230 for final performance, except that in block 25 NRCS signature is now required. NRCS offices may obtain a copy of the applicable paragraphs from the county FSA office.

- Q24. In our State, we do not have enough FY 2002 1st allocation remaining to fund FY 2002 contracts which were approved and then producers opted to revise the contracts to include 2002 Farm Bill provisions. What should we do?
- A. Please contact Tony Esser in NRCS NHQ immediately on 202-720-1840.
- Q25. The joint memorandum provides that FSA only needs to receive from NRCS the CSD to record in the system. Doesn't FSA also need the CCC-1200, appendix, and CPO?
- A. At a minimum, FSA needs the CCC-1200 and CSD to record contract data, including the contract approval date and the initial expiration date. Also see response to Q18. For FY 2002 1st allocation contracts which the producer did not opt to revise to include 2002 Farm Bill provisions, NRCS should provide a copy of the appendix or otherwise notify FSA in writing that the contract includes the appendix dated 12-31-98.
- Q26. Won't FSA need a copy of the CPO or a map to delineate EQIP acreage on aerial photography or GIS?
- A. See response to Q18.
- Q27. May an operator or tenant sign CCC-1200 without the owner's signature?
- A. Yes, operators and tenants may apply for EQIP. However, NRCS cannot approve CCC-1200 without the owner's signature or a letter of authorization from the owner if either (1) a structural practice will be installed, or (2) the participant cannot provide evidence of control of the land. See EQIP Manual, sections 515.111 c and 515.62 c.
- Q28. In the conference call you stated NRCS will provide FSA with resource codes. How will NRCS provide these codes?
- A. On CSD.
- Q29. Where can we find a list of the resource codes?
- A. A list was sent to NRCS State EQIP program managers by NRCS NHQ via e-mail message on September 6, 2002. The resource codes shall be used on all FY 2002 and future contracts. Please ensure that the list is provided to field employees.
- Q30. For WRP, county FSA offices are required to provide to NRCS a copy of the payment document for issued payments. Is FSA required to provide payment document for EQIP?
- A. Yes. FSA's fiscal procedure provides that for electronic funds transfer (EFT) payments, a copy of the transaction statement shall be provided to the producer and a copy placed in the file. FSA shall send the producer's copy to the producer. FSA shall file a copy in the applicable EQIP file or, after files have been transferred to NRCS, shall provide the file copy to NRCS.
- Q31. The July 18, 2002, joint memorandum requires that NRCS "provide each FSA office with a list of authorized signatures." Can we just provide a list of the persons authorized to sign?
- A. No. Both of the following are required: (1) State Conservationist designates employees authorized to sign CCC-1200's and CCC-1245's on behalf of CCC, and (2) the original signature of employees authorized to sign must be on file in the county FSA office.

- Q32. We are confused. Is it required that EQIP contracts be recorded in the system as approved by September 30 in order to obligate the funds?
- A. Funds are marked as obligated in FSA's automated system when the contract approval date is recorded. So fiscally, the contracts must be recorded in the system by September 30; any unobligated amounts roll off the county FSA ledger at 12:00 am October 1. Legally, however, CCC must fund contracts that were approved on behalf of CCC (signed by NRCS) by September 30, 2002. In order to fund any such contracts which were not recorded in the system, both agencies must perform a significant amount of additional, detailed paperwork for each affected contract in order to "reallocate" the funds that have rolled off the county FSA ledgers. Further, the National NRCS EQIP program manager must ensure that the correct amount of obligated funds is timely reported to NRCS fiscal officials or the funds will be lost. In view of all of the above, it is imperative that EQIP contracts be timely approved and returned to FSA offices in order to be recorded in the system by COB September 30.

3:00 p.m. Mountain & Pacific Time Zone States, Alaska, and Hawaii

- Q33. How should we handle CCC-1245's from previous years which have expiration dates?
- A. Both FSA and NRCS shall disregard the expiration date on CCC-1245's that were created with an expiration date before installation of County Release No. 492. CCC-1245's shall remain in effect until the producer and NRCS certify completion of the practice or the contract is terminated.
- Q34. How is FSA being reimbursed for EQIP activity?
- A. County workload is measured using the County Workload System. A method will be devised to capture State and National EQIP workload. Reimbursement is made at the National level.
- Q35. We would like an update on the new EQIP payment limitation by attribution. Will FSA need to keep track of ID numbers? When can we expect policy to be issued?
- A. NRCS plans to publish provisions in the proposed rule that any entity not providing Social Security Numbers (SSN's) for all members is not eligible to participate in EQIP. Payment will be issued to the producer that earned the payment. However, if the producer that earned the payment is an entity, the applicable percentage of the payment will be attributed to the SSN of each member.
- Q36. So are you saying that if, for example, Oreida Corporation is enrolled in EQIP, you must have SSN's for all members of the corporation, but the payment will be issued to the corporation?
- A. NRCS is working out the details of the policy.
- Q37. What about Native American tribes?
- A. SSN's will be required for all members.

- Q38. NRCS offices keep track of the estimated percentage of practices whose primary purpose is to address livestock operations. FSA also captures this data on the CCC-1245 and loads in system. Is there a need for NRCS to continue to keep track of this estimated percentage?
- A. No. NRCS NHQ uses the data maintained by FSA in the system.
- Q39. What is anticipated for EQIP in FY 2003?
- A. At this time, NRCS anticipates publishing the proposed and final rules during FY 2003 and implementing new payment limitation by attribution policy. Otherwise, we anticipate that most EQIP provisions and agency responsibilities will be similar to those issued for FY 2002 in the 3 joint memoranda.
- Q40. Can you tell us more about the report you stated will be requested as of COB on September 26?
- A. No report was requested on September 26. However, 2 reports were requested as follows: (1) by September 20, NRCS State offices provided information to help NRCS NHQ redistribute funds in order to fully obligate all 2nd allocation funds, and (2) by October 1, a report of the contracts signed by NRCS but not entered into FSA's system by COB September 30. FSA will continue to have until COB September 30 to record approved contracts in the automated system.
- Q41. What about producer eligibility? Which agency is responsible for determining?
- A. For FY 2002, it was agreed that FSA COC's are responsible to determine producer eligibility.
- Q42. Regarding delineating EQIP acreage, will we delineate EQIP practices only? We recommend moving into GIS and using what is already developed in Toolkit.
- A. Based on feedback received, we plan to research details regarding delineating EQIP acreage further and provide procedure in a future directive.
- Q43. Please clarify the policy for EOA's for FY 2002 2nd allocation contracts.
- A. We are still working on the details of this policy.
- Q44. Which agency is responsible to review producer receipts?
- A. NRCS.
- Q45. When a producer appeals an adverse determination made by NRCS, how does the COC handle?
- A. Follow Handbook 1-APP (Rev. 1), paragraph 72.
- Q46. Can a producer appeal the State Conservationist's decision in reviewing an appeal referred by the COC?
- A. No. However, if the COC referred the case to the State Conservationist, the COC will make its determination on the appeal based on the review by the State Conservationist. The producer may appeal the determination of the COC.

- Q47. Is the COC still involved in EOA's?
A. No.
- Q48. Will NRCS issue 1099's?
A. No. Issuing 1099's is part of FSA's responsibility in issuing payments.
- Q49. Will the NRCS separation of duties required for signing CCC-1200's and CCC-1245's also apply for modifications and terminations?
A. Yes and no. The person who is authorized to approve CCC-1200's is also the person authorized to approve modifications. However, local NRCS officials may terminate contracts.

Other Questions

- Q50. Does FSA still need to perform administrative spot checks in FY 2002?
A. Yes, for previous year payments which FSA approved. Same will be true into FY 2003 to spot check FY 2002 payments approved by FSA.
- Q51. What if FSA and NRCS ledgers do not match?
A. If this occurs, State offices need to determine where the problem is and resolve. Because CCC-357's are the legal document transmitting funds and FSA enters amounts on its ledgers from the CCC-357's, FSA ledgers reflect the actual EQIP funds available. However, in order to plan distribution of funds NRCS maintains its own informal funding lists. FSA ledgers and NRCS funding lists should match. If a State office believes that CCC-357 was issued for the incorrect amount, contact NRCS NHQ.
- Q52. The August 28 joint memorandum states that NRCS will provide only practices for new EQIP contracts. Doesn't the system require entry of components? We think there is at least one new screen which will not allow the user to pass without entering a component
A. Use of components has been optional by State in the past. There is nothing in the automated system which requires entry of components when creating CCC-1200. Software will be modified to disallow entry of components on new contracts.
- Q53. When does the clock start for prompt payment?
A. We are researching this issue and will notify the field when resolved.
- Q54. When will the criteria for limited resource producers be available, and will the determination be part of producer eligibility which FSA makes?
A. The Department has developed a final definition of limited resource producer to be applicable to all USDA programs. We understand it will be published in the Federal Register, but not in the EQIP rule. Regarding who will determine limited resource producers for EQIP, we will renegotiate agency responsibilities for FY 2003.

- Q55. What is the actual role of COC in EQIP appeals?
- A. Same as in the past, except that provisions previously applicable for only NRCS technical determinations now apply to both technical and nontechnical determinations made by NRCS. See Handbook 1-APP (Rev. 1), paragraph 72.
- Q56. Our county FSA offices are used to going the extra mile to provide service to producers. What should they do if a producer directs questions to them about EQIP or turns in receipts for cost share at their office?
- A. Courteously decline the request and direct the producer to the local NRCS office.
- Q57. Please clarify Notice CONSV-82, paragraph 7 C concerning components and page 3 of the August 28 joint memorandum.
- A. Notice CONSV-82, paragraph 7 C informs State and county FSA offices that the EQIP software has been modified to allow recording up to 100 components on each CCC-1245. This modification was made because some county offices needed the capability in order to create CCC-1245's for previous year EQIP contracts. For new FY 2002 contracts, components should not be used when creating CCC-1200 or CCC-1245. It is anticipated that software will be modified to remove the ability to record component codes for new contracts.
- Q58. Does entering practices not components mean FSA only records the total practice cost on the CCC-1245 and does not show the cost of each component by using component codes on the CCC-1245?
- A. Yes. County FSA offices will record in the CCC-1200 software only the practices and the practice costs, not the components or cost of each component. This same data at the practice level will be recorded on the CCC-1245 when created.
- Q59. We heard that if an EQIP practice exceeds \$100,000 we will pay it at a cost share rate of 50 percent. Is this true?
- A. Yes. NRCS issued a revised EQIP appendix, dated 8-7-02, which provides in paragraph 5 C that "any individual cost-share practice in which the total actual cost exceeds \$100,000 shall be cost-shared at a rate NO GREATER than 50 percent unless a lower rate was established locally."
- Q60. In the conference call you stated that expiration dates on existing CCC-1245's will be disregarded, and Notice CONSV-84 provides that the practice expiration date has been eliminated when a CCC-1245 is created. However, in the software there is still an entry for the date the practice is to be completed. Why do we still enter a "practice to be completed by" date, and what if the date is not in this fiscal year because NRCS uses calendar years?
- A. The "practice to be completed by" date is taken from the contract support document and is the date by which the producer is planned to complete installation of the practice. There is no validation in the software preventing entry of a date outside the FY in which the CCC-1245 is created, such as December 31 of the following year.

- Q61. CCC-1245's previously created for practices scheduled to be performed during FY 2002 are expiring. Does NRCS need to update the contracts and conservation plans, moving these uncompleted FY 2002 practices forward to FY 2003, before FSA is authorized to print new CCC-1245's?
- A. No. See answer to Q33.
- Q62. Under what code should we put funds to be obligated to the State FY 2002 1st allocation contract EOA reserve? Will we receive a CCC-357?
- A. State FSA offices shall use code XX0000/2002, where XX is the State code. States will not receive a CCC-357, because these funds were previously transmitted to the State FSA office as part of an earlier CCC-357. However, State FSA offices will receive a memorandum requesting a report as of October 1 of the amount of funds obligated to the State FY 2002 first allocation contract EOA reserve.
- Q63. We are confused. In Notice CONSV-84, paragraph 5 B, and the software, there is a new code XX7200/2002. The notice provides that the code shall be used to establish a State level EOA reserve for modifying FY 2002 2nd allocation contracts only. However, in the conference call, we were told that an EOA reserve cannot be established for 2nd allocation contracts. Which is it?
- A. EOA reserves cannot be established using FY 2002 2nd allocation funds. If these funds are not obligated to contracts by COB September 30, 2002, the funds will be lost. Therefore, code XX7200/2002 will not be used. Unfortunately, the policy was clarified after development of the software and preparation of Notice CONSV-84.
- Q64. The EQIP manual, section 515.114 c provides that when a contract is terminated, total funds previously paid shall be refunded unless any refund owed is determined to be waived based on five criteria listed in the section. FSA has received a contract marked "Terminated" by NRCS, but no mention was made of whether refunds are waived. If NRCS is silent about refunds, is FSA to assume that refunds are required?
- A. NRCS shall advise FSA whether refunds are waived. If a contract termination is received without mention of refunds, FSA shall return the contract to NRCS and request written instruction regarding whether refunds are required. The termination shall not be recorded in the system without written instruction regarding refunds.
- Q65. Notice CONOP-13, paragraph 2 E provides that State FSA offices shall complete and submit to NRCS NHQ form CCC-913 for all requests for FY 1999, 2000, or 2001 EOA funds and form CCC-914 for each FY 1997 and 1998 EOA funded using FY 2002 funds. However, the August 28 joint memorandum provides that State NRCS offices shall prepare and process requests for funds from the National FY 1999, 2000, and 2001 EOA reserves. Which agency shall prepare and submit forms CCC-913 and CCC-914?
- A. NRCS. Please note that after September 30, 2002, CCC-914 will no longer be used to report FY 1997 or 1998 contract EOA's