

CIVIL RIGHTS IMPACT ANALYSIS
FINAL RULE:
CONSERVATION STEWARDSHIP PROGRAM
NATURAL RESOURCES CONSERVATION SERVICE
US DEPARTMENT OF AGRICULTURE

This review evaluates the Conservation Stewardship Program (CSP) Final Rule for actual or potential civil rights issues. The review analyzes the CSP Final Rule to ensure compliance with Departmental Regulation (DR) 4300-4, "Civil Rights Impact Analysis"; 7 C.F.R. part 15, "Nondiscrimination in Programs and Activities Conducted by the United States Department of Agriculture"; and DR 1512, "Regulatory Decision-Making Requirement." The review reveals no factors indicating that the CSP Final Rule would have a disproportionate adverse civil rights impact on Natural Resources Conservation Service (NRCS) producers of any gender, racial, or ethnic group or on NRCS producers with a disability.

BACKGROUND

On November 12, 2019, NRCS published the CSP interim rule with a request for public comments. NRCS solicited comments on the interim final rule for a 60-day period, ending January 13, 2020. NRCS received 615 comments from 110 respondents. Based on a multilevel leadership review of the public comments, NRCS modified the following five sections of the final rule: 1470.2, 1470.3, 1470.4, 1470.24, and 1470.26.

CSP is a voluntary nationwide program implemented under the general supervision and direction of the Chief of NRCS that encourages agricultural and forestry applicants—individuals, legal entities, joint operations, Indian Tribes, Alaska Native corporations—in the 50 States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands of the United States, Guam, American Samoa, and Commonwealth of the Northern Mariana Islands—to address priority resource concerns by: (1) undertaking additional conservation activities and (2) improving, maintaining, and managing existing conservation activities. CSP provides financial and technical assistance to help land stewards conserve and enhance soil, water, air and related natural resources on their land.

CSP is available to all producers, regardless of operation size or crops produced. Eligible lands include cropland, grassland, prairie land, improved pastureland, rangeland, nonindustrial private forest land, agricultural land under the jurisdiction of an Indian tribe, and other agricultural lands including cropped woodland, marshes, and agricultural land used or capable of being used for the production of livestock on which resource concerns related to agricultural production could be addressed. CSP encourages land stewards to improve their conservation performance by installing and adopting additional activities, and improving, maintaining, and managing existing activities on eligible land.

NRCS has simplified the administration of CSP by focusing on the conservation program participant's rights and responsibilities under the program.

LEGISLATIVE CHANGES

The Agriculture Improvement Act of 2018 (2018 Act) moved CSP from Subchapter B, Chapter 2 of Subtitle D of Title XII of the Food Security Act of 1985 to a new Subchapter B, Chapter 4 of Subtitle D of Title XII of the Food Security Act of 1985; and then repealed Subchapter B, Chapter 2 as amended. The 2018 Act made the following changes to CSP program requirements:

- Confirms validity of CSP contracts entered into prior to the 2018 Act enactment, provides for extension of such contracts that were due to expire on or before December 31, 2019, and authorizes renewal of such contracts only through the new CSP authority.
- Defines new terms and adjusts existing terms, including expanding the definition of “Conservation Activities” and defining the term “Stewardship Threshold.”
- Simplifies CSP ranking criteria and requires that both new contracts and contract renewals be ranked based on those criteria.
- Adds criterion that if two or more applications receive the same ranking, the applications will be ranked based on the extent to which actual and anticipated conservation benefits from each contract are provided at the lowest cost relative to other similarly beneficial offers.
- Identifies that participants may be given the opportunity to renew in the first half of the fifth year of the contract.
- Program allocations are to be based on funds rather than acres and eliminates the \$18/acre national average.
- Incentivizes certain activities, including authorizing payment for cover crop activities at not less than 125% of the annual payment amount, and authorizing a supplemental payment for advanced grazing management or resource conserving crop rotations at not less than 150% of the annual payment amount.
- Provides for a one-time payment to participants who agree to develop a comprehensive conservation plan.
- Establishes a \$200,000 payment limitation for individuals and legal entities for all contracts entered into during FY 2019 through 2023.
- Requires that states be given a fund allocation to support organic production and transition to organic production based on the certified and transitioning organic operations of the state and the organic acres of the state.
- Requires that CSP be streamlined and coordinated with EQIP, including applications, contracting, conservation planning, conservation practices, and related administrative procedures.
- Requires that, to the extent practicable, the program be managed to enhance soil health.
- Requires submission of an annual report to Congress on payment rates along with an analysis of whether payment rates can be reduced for the most expensive conservation activities.
- Authorizes a CSP –Grasslands Conservation Initiative to assist producers with certain base acres in protecting grazing land uses and makes several waivers of program requirements to facilitate the enrollment of contracts under the initiative.
- Authorizes funding for CSP at:
 - \$700,000,000 for FY2019
 - \$725,000,000 for FY2020
 - \$750,000,000 for FY2021
 - \$800,000,000 for FY2022
 - \$1,000,000,000 for FY2023

MODIFICATIONS TO THE FINAL REGULATION AS A RESULT OF PUBLIC COMMENTS

- § 1470.2 Administration (c)(3) and (d) to read as follows: (3) To the maximum extent feasible, manage CSP to enhance soil health. (d) To support locally-led conservation, NRCS will solicit input from State technical committees, Tribal Conservation Advisory Councils, and local working groups to develop State-level technical, outreach, and program materials.
- § 1470.3 Definitions to read as follows:
 - **Enhancement** means a type of conservation activity used to treat natural resources and improve conservation performance that allow a producer to address levels of conservation beyond what the minimum conservation practice standard requires. Enhancements, alone or in combination with other enhancements and practices, result in conservation systems that are equal to or greater than the performance level for the planning criteria identified for a given resource concern. Planning criteria are defined for each resource concern in Section III—Conservation Management Systems, Field Office Technical Guide.
 - **Management-intensive rotational grazing** means a strategic, adaptively managed multipasture grazing system in which animals are regularly and systematically moved to a fresh pasture in a manner that, as determined by NRCS:
 - (1) Maximizes the quantity and quality of forage growth;
 - (2) Improves manure distribution and nutrient cycling;
 - (3) Increases carbon sequestration;
 - (4) Improves the quality and quantity of cover for wildlife;
 - (5) Provides permanent cover to protect the soil from erosion; and
 - (6) Improves water quality.
 - **Resource-conserving crop** means a crop that is one of the following, as determined by NRCS:
 - (1) A perennial grass;
 - (2) A legume grown for use as a cover crop, forage, seed for planting, or green manure;
 - (3) A legume-grass or diverse grass-forb mixture comprised of species selected for climate, rainfall, soil, and other region-specific conditions; or
 - (4) A small grain or other resource-demanding crop grown in combination with a grass, legume, other forbs, or grass-forb mixture, whether interseeded, relay-planted into the resource-demanding crop, or planted in rotation.
- § 1470.4(c) Allocation and management to read as follows: (c) Of the funds made available for each of fiscal years 2019 through 2023 to carry out CSP, NRCS will, to the maximum extent practicable, use at least: (1) Five percent to assist beginning farmers and ranchers; and (2) Five percent to assist socially disadvantaged farmers or ranchers.
- § 1470.24(a) and (f) Payments to read as follows: (a)(3) At least one additional conservation activity must be implemented within the first 12 months of the contract. NRCS may extend this timeframe if NRCS determines that the participant is unable to complete the conservation

activity for reasons beyond their control; (f) *Non-compensatory matters*. NRCS will not provide a CSP payment to a participant for: (4) New conservation activities initiated or implemented prior to contract approval, unless NRCS granted a waiver prior to the participant starting the activity.

- § 1470.26(a) and (c) Contract renewal to read as follows: (a) During the first half of the fifth year of the initial contract period, NRCS may allow a participant to apply and compete for the opportunity under § 1470.20 to renew the contract to receive payments for an additional 5-year period, subject to the availability of funds, if the participant meets criteria from paragraph (b) of this section; (c) NRCS will determine a participant ineligible for a new CSP contract on an agricultural operation for 2 years following expiration of their prior contract if the participant does not enter a renewal contract on the agricultural operation at the end of the contract period.

CIVIL RIGHTS IMPACT ANALYSIS

The Civil Rights Impact Analysis (CRIA) is directed towards the identification of actual or potential civil rights issues. The purpose is to identify any disparate impact the CSP Rule will have on affected groups and rationally and reasonably dispose of each. Disparate impact occurs when a recipient uses a policy or practice that, while neutral on its face and applicable to everyone, disproportionately and adversely affects members of a protected group and the recipient can articulate no substantial legitimate justification. The theory of disparate impact does not require proof of discriminatory intent, but centers around the adverse effect(s) that a policy or practice has on protected groups.

The analysis evaluated the extent to which various populations are affected by the rule, and how the impact is manifested. It includes: (A) general provisions; (B) administration and development; (C) historical participation data; (D) eligibility criteria; (E) outreach strategy; (F) barrier removal provisions; (G) conclusion; and (H) NRCS Civil Rights Director's certification. The examination sought to determine if all the affected groups:

- are provided the same opportunities to participate in the decision-making or rulemaking process for CSP,
- have historically been provided the same opportunities to participate in NRCS programs, and
- are provided the same information to decide if they wish to participate in the CSP.

A. General Provisions

CSP helps agricultural producers maintain and improve their existing conservation systems and adopt additional conservation activities to address priority resources concerns. Through CSP, participants implement additional conservation activities to improve the resource conditions on their land based on their site-specific needs and objectives. CSP allows participants to address several resource concerns, which are grouped into 17 categories: wind and water erosion, concentrated erosion, soil quality limitations, weather resilience, source water depletion, field pesticide loss, salt losses to water, field sediment nutrient and pathogen loss, storage and handling of pollutants, aquatic habitat, air quality emissions, degraded plant condition, pest pressure, fire management, terrestrial habitat, livestock production limitation, and inefficient energy. CSP provides payments through five (5) year contracts; annual payments for installing new conservation activities and maintaining existing practices; supplemental payments for adopting a resource-conserving crop rotation or advanced

grazing management; and minimum payments based on a rate determined equitable by the Chief and currently set at \$1,500 per year.

B. Administration and Development

The Chief, NRCS, provides general supervision and administration of the regulations in this part. The rule states that:

- (a) No delegation in the administration of the regulation to a lower organizational level shall preclude the Chief from making any determinations under the rule. The Chief may modify or waive a non-statutory, discretionary provision if the Chief determines the application of that provision to a particular limited situation to be inappropriate and inconsistent with the purposes of the program.
- (b) To achieve the conservation goals of CSP, the NRCS will:
 - (1) Make the program available nationwide to eligible producers on a continuous application basis with one or more ranking periods to determine enrollments. One ranking period shall occur in the first quarter of each fiscal year to the extent practicable;
 - (2) Establish a scientific-based stewardship threshold for each priority resource concern.
- (c) NRCS will develop state level technical, outreach, and program materials, with the advice of the State Technical Committee and local working groups including the establishment of ranking pools; the identification of not less than five priority resource concerns for a geographic area or region within a state; identification of resource-conserving crops that will be part of a resource-conserving crop rotation; and identification of combinations of grazing conservation activities that will be part of an advanced grazing management system.
- (d) NRCS may enter into agreements with federal agencies, state and local agencies, conservation districts, Indian Tribes, private entities, and individuals to assist NRCS with program implementation including planning activities, outreach, and providing other forms of technical assistance.

C. Historical Participation Data

Although historical data reflecting participation in CSP has been maintained, the data reporting has been deemed unreliable, especially as it relates to persons with disabilities. Program participant reporting of demographic information is voluntary and third-party reporting is allowed by agency employees. Program participants are not required by law to identify disability as a condition of participation. Therefore, due to the unreliability of the historical data maintained, a comprehensive barrier analysis on program participation could not be conducted.

Several datasets are used in the following analysis. ProTracts is NRCS's primary software application for managing financial assistance programs, including CSP. This software application is used to help manage conservation program applications, contract development and implementation, and payments. Agency data is captured at the end of each quarter and includes basic performance, (i.e., number of program applications, contracts and acres). Race, ethnicity, and gender (REG) data specific to the

participant are available through the Service Center Information Management System (SCIMS) that contains information for each customer.

The Census of Agriculture accounts for all U.S. farms and ranches and the people who operate them. The USDA National Agricultural Statistics Service's (NASS) 2012 Census data reports that there is a total of 3,180,074 Principal Operators. They also report the following National Selected Principal Operator numbers for the various Equal Opportunity (EO) groups.

Total Operators by Equal Opportunity Groups based on 2012 Ag Census

Total Operators	3,180,074
Male Operators	1,821,039
Female Operators	288,264
White Operators	3,051,472
Black Operators	46,582
Hispanic Operators	99,734
American Indian Operators	71,947
Asian Operators	24,067
Native Hawaiian (Pacific Island) Operators	3,236

The following CSP participation data for the period FY 2015-2017 has been supplied and the calculation of the percentage of Principal Operators is based on NASS 2012 Census data for each of the groups. Program participation rates in the following charts refer to contracts, not applications; applicants are potential eligible operators. The program participation numbers are incomplete in that they do not include persons or business entities that did not report race or gender. However, a review of the program participation data indicates that program parity is relative to the NASS data.

Based on the 2012 Ag Census, there are over 3,180,074 farms in the United States. White operators control 3,051,472 farms or 93%, Hispanic operators control 99,734 (3%), American Indians operators control 71,947 farms (2%), Black or African American Operators control 46,582 farms (1%), and AAPI operators control 27,913 farms (.88%). Participation in USDA programs is voluntary. If only 27 AAPI operators throughout the United States participated in EQIP, the representation for this group would be so close to zero percent that a zero-participation rate is in proportion to their REG group.

PROGRAM PARTICIPATION IN CSP FOR FY 2015

CSP	Male	Female	American Indian	Asian American	African American	Hispanic	White
Number of Contracts	12,577	1,621	399	19	240	118	15,819
Funds Awarded*	\$173,498,422	\$25,668,092	\$8,612,644	\$204,506	\$1,242,963	\$1,630,714	\$256,599,905
Percentage of Principal Operators in the United States	89%	11%	2.40%	0.11%	1.45%	0.71%	95.32
Percentage of Dollars Awarded	87%	13%	3.21%	0.08%	0.46%	0.61%	95.64%
Average Funding per Contract*	\$13,794.90	\$15,834.73	\$21,585.57	\$10,763.47	\$5,179.01	\$13,819.61	\$16,220.99
Acres	13,651,040.8	2,535,489.2	1,480,823.5	13,829.6	49,876.3	265,503.7	21,342,617.1
Cost/Acres*	\$12.71	\$10.12	\$5.82	\$14.79	\$24.92	\$6.14	\$12.02

APPLICATION DATA FOR CSP FOR FY 2015

CSP	Male	Female	American Indian	Asian American	African American	Hispanic	White
Number of Applications	28,480	3,413	771	35	437	273	36,180
Number Approved	12,637	1,629	400	19	241	119	15,890
Percentage Approved	44%	48%	52%	54%	55%	44%	44%

The FY 2015 data indicates that White Operators are participating in greater numbers than any other group. They are also filing the most applications and receiving the most contracts; however, the application approval rates show that American Indian, African American, Asian American, and Hispanics have approval rates that are higher or equal to White Operator application approval rates. Because Hispanic is an ethnicity as opposed to a racial designation, NRCS believes that some of the White operators may also be Hispanic.

PROGRAM PARTICIPATION IN CSP FOR FY 2016

CSP	Male	Female	American Indian	Asian American	African American	Hispanic	White
Number of Contracts	9,041	1,103	338	14	223	107	11,238
Funds Awarded*	\$125,844,667	\$16,260,888	\$6,186,640	\$108,303	\$1,212,955	\$1,358,643	\$184,266,025
Percentage of Principal Operators in the United States	89%	11%	2.84%	0.12%	1.87%	0.90%	94.28%
Percentage of Dollars Awarded	89%	11%	3.20%	0.06%	0.63%	0.70%	95.41%
Average Funding per Contract*	\$13,919.33	\$14,742.42	\$18,303.67	\$7,735.93	\$5,439.26	\$12,697.60	\$16,396.69
Acres	10,328,360.9	1,736,449.4	1,069,510.9	6,368.6	50,211.3	177,745.2	15,414,465.1
Cost/Acres*	\$12.18	\$9.36	\$5.78	\$17.01	\$24.16	\$7.64	\$11.95

APPLICATION DATA FOR CSP FOR FY 2016

CSP	Male	Female	American Indian	Asian American	African American	Hispanic	White
Number of Applications	22,309	2,594	727	33	423	220	27,979
Number Approved	9,082	1,110	341	14	223	107	11,288
Percentage Approved	41%	43%	47%	42%	53%	49%	40%

The FY 2016 data indicates that White Operators submitted the most applications and contracts, significantly outnumbering other groups. White Operators had the lowest application approval rate in FY 2016. Note that some White Operators may also be of Hispanic ethnicity. African American Operators had the highest application approval rates.

PROGRAM PARTICIPATION IN CSP FOR FY 2017

CSP	Male	Female	American Indian	Asian American	African American	Hispanic	White
Number of Contracts	9,121	1,148	279	7	212	267	11,321
Funds Awarded*	\$106,238,507	\$13,537,018	\$4,453,644	\$94,053	\$1,107,703	\$3,536,520	\$152,572,467
Percentage of Principal Operators in the United States	89%	11%	2.31%	0.06%	1.75%	2.21%	93.67%
Percentage of Dollars Awarded	89%	11%	2.75%	0.06%	0.68%	2.19%	94.32%
Average Funding per Contract*	\$11,647.68	\$11,791.83	\$15,962.88	\$13,436.14	\$5,225.01	\$13,245.39	\$13,476.94
Acres	9,691,271.1	1,475,122.6	936,057.1	4,156.4	44,361.9	505,473.9	21,342,617.1
Cost/Acres*	\$10.96	\$9.18	\$4.76	\$22.63	\$24.97	\$7.00	\$7.15

APPLICATION DATA FOR CSP FOR FY 2017

CSP	Male	Female	American Indian	Asian American	African American	Hispanic	White
Number of Applications	19,595	2,565	647	27	443	521	24,317
Number Approved	9,140	1,149	279	7	213	267	11,344
Percentage Approved	47%	47%	43%	26%	48%	51%	47%

In FY 2017, although White Operators filed the most applications and received the most contracts, their approval rate was lower than African American and Hispanic Operators. Hispanic Operators had the highest approval rate followed by African American Operators.

Race, Ethnicity, and Gender profiles for the 2017 Ag census was released on October 1, 2019. Program participation data for FY2018 became available in November 2019. As a result, program participation data for FY 2018 applies the 2017 USDA National Agricultural Statistics Service's (NASS) Census data reports. According to the 2017 Ag Census there are 2,830,797 Principal Operators. This is a difference of 349,277 fewer operators than what was reported in the 2012 Ag census which totaled 3,180,074 operators. The Census also reports the following National Selected Principal Operator numbers for the various Equal Opportunity (EO) groups:

Total Operators by Equal Opportunity Groups Based on 2017 Ag Census

Total Operators	2,830,797
Male Operators	1,941,953
Female Operators	798,500
White Operators	2,614,526
Black Operators	38,447
Hispanic Operators	90,344
American Indian Operators	46,210
Asian Operators	16,978
Native Hawaiian (Pacific Island) Operators	2,306
Operators with More than 1 race	21,986

Comparing Farm Operator data from the 2012 and 2017 census, total operator data has changed in that there are 120,914 more male operators in 2017 compared to 2012. Female operators have more than doubled from 288,264 in 2012 to 798,500 in 2017. All other demographic groups have decreased in population: White (-120,914), Black (-8135), Hispanic (-9390), American Indian (-25,737), Asian (-7189) and Native Hawaiian/Pacific Islander (-930). The 2017 Census added the new category of more than 1 race. The population for that group is 21,986.

Program participation rates in the following charts refer to contracts, not applications. The program participation numbers are incomplete, however, in that they do not include persons or business entities that did not report race or gender. Based on the available program participation data, the program is at parity with NASS data.

PROGRAM PARTICIPATION IN CSP FOR FY 2018

CSP	Male	Female	American Indian	Asian American	African American	Hispanic	White
Number of Contracts	7,819	1,064	205	18	216	101	9,648
Funds Awarded*	\$84,995,537	\$11,787,225	\$2,753,771	\$79,281	\$1,122,770	\$859,525	\$120,709,500
Percentage of Principal Operators in the United States	71%	29%	1.63%	0.60%	1.36%	3.19%	92.36%
Percentage of Dollars Awarded	88%	12%	2.3%	0.2%	2.4%	1.1%	108%
Average Funding per Contract*	\$10,870.38	\$11,078.21	\$13,433.02	\$4,404.50	\$5,198.01	\$8,510.14	\$12,511.34
Acres	7,059,438.8	1,088,626.3	512,052.0	2,183.3	35,683.3	90,022.1	10,434,726.0
Cost/Acres*	\$12.04	\$10.83	\$5.38	\$36.31	\$31.46	\$9.55	\$11.57

APPLICATION DATA FOR CSP FOR FY 2018

CSP	Male	Female	American Indian	Asian American	African American	Hispanic	White
Number of Applications	16,628	2,141	576	31	19	229	20,419
Number Approved	7,819	1,064	205	18	216	101	9,648
Percentage Approved	47%	49%	36%	58%	52%	44%	47%

The FY 2018 data indicates that Whites are participating in greater numbers than any other group. They are also filing the most applications and receiving the most contracts; however, the application approval rates show that African American and Asian American Operator approval rates are higher than White Operator application approval rates. Because Hispanic is an ethnicity as opposed to a racial designation, some White operators may also be Hispanic.

*An analysis of barriers to minority participation has revealed that, overall, minority farmers have less acreage. So, because their holdings are smaller, the total cost to apply conservation practices across their entire operation to address their resource concerns would typically be lower in total cost. In contrast, white farmers have more acreage and because their holdings are larger, the total cost to apply conservation practices across their entire operation to address their resource concerns would typically be higher total in cost.

COMPARISON OF TOTAL AVERAGE ACRES PER FARM BASED ON 2012 and 2017 CENSUS

Census Year	2012	2017
Total Farm Average Acres	434	441
Female Operators	217	340
White Operators	424	431
Black Operators	125	132
Hispanic Operators	374	372
American Indian Operators	1021	978
Asian Operators	135	132
Native Hawaiian (Pacific Island) Operators	241	240

2017 NASS data:

https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/Race_Ethnicity_and_Gender_Profiles/

2012 NASS data:

https://www.nass.usda.gov/Publications/AgCensus/2012/Online_Resources/Race_Ethnicity_and_Gender_Profiles/

Evaluation of the four-year trend for funds awarded reveals no apparent connection between race and contract or application rates. Every year, White Operators received the bulk of funds because they are participating in greater number than any other group, and they have the most acreage. However, the application approval rates for Minority Operators over the three-year period trend higher or in some cases, are equal to, White Operator approval rates. Asian Americans are the smallest participating group in CSP. This may be influenced by several factors such as language, type of

operation owned, as well as acres owned. In addressing the lower participation rates of Asian American Operators, NRCS is working in accordance with Limited English Proficiency (LEP) guidelines to ensure outreach materials are available in other languages and in alternative formats for all Minority Operators. The program is implemented by use of multi-year contracts and NRCS will continue targeted outreach to potentially eligible landowners that may not be aware of the program.

The NASS demographic data indicates that "farms with Hispanic and Asian Operators" tend to be slightly smaller than farms overall. Eighty percent of farms with Hispanic Principal Operators had fewer than 180 acres. Additionally, Hispanic farmers were on their current farms less than 10 years. However, statistics show that once a Hispanic or Asian farmer participates in one USDA program, they are as likely as other farmers to participate in other USDA programs.

In previous Farm Bills, data has shown increased approval rates for some Minority Operators. NRCS nationally required that at least 5% of CSP acres be targeted to socially disadvantage and beginning farmers and ranchers. This may be one reason for the increase shown in some Minority Operator approval and participation rates. Although the 2018 Farm Bill converted CSP to a funds-based rather than acre-based program, the CSP final rule still requires that a minimum of 5% of available funds be targeted to socially disadvantaged and beginning farmers and ranchers.

D. Eligibility Criteria

CSP applicants may include individuals, legal entities, joint operations, or Indian tribes who are the operator, owner, or other tenant of an agricultural operation as identified in the Farm Service Agency's (FSA) farm records management system. Applicants must share in the risk of producing a crop; share in the crop available for marketing from the farm; and participate in the daily management, administration, and performance of the operation for the land included in the contract. Applicants must enroll all eligible land in their operation for which they will have effective control for the contract term. Eligible lands include private and Tribal agricultural lands, cropland, grassland, pastureland, rangeland, and nonindustrial private forest land. Public lands that meet certain conditions may also be eligible.

Certain lands are ineligible for a CSP contract, such as land enrolled in a wetland reserve easement through the Agricultural Conservation Easement Program and land enrolled in the Conservation Reserve Program (CRP). Land used for crop production after December 20, 2018, that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding this date is also ineligible for CSP unless that land was previously enrolled in CRP; maintained using long-term rotations (such as hayland in rotation); or is incidental land needed for the efficient operation of the farm or ranch.

In addition to applicant and land eligibility, applicants must meet or exceed the stewardship threshold for at least two priority resource concerns at the time they apply and agree to meet or exceed the stewardship threshold for at least one additional priority resource concern by the end of the contract.

NRCS may offer CSP participants the opportunity to apply and compete for CSP contract renewal on the first half of the fifth year of their existing contract. Renewal applicants must be in compliance with their existing contract. Applicants also must agree to meet or exceed two additional State priority resource concerns not met at the time they apply for renewal or to exceed two State priority resource concerns that have been met at the time they apply.

E. Outreach Strategy

Purpose

This outreach plan focuses on Historically Underserved audiences and tribal partners. It identifies messages and approaches that NRCS will use to provide proactive and strategic outreach for NRCS voluntary conservation programs as identified in the 2018 Farm Bill.

Background

Outreach is an integral part of the overall delivery of NRCS programs and services to customers and potential beneficiaries. NRCS conducts business to ensure that all programs and services are equally accessible to all customers, with emphasis on traditionally underserved, minority-serving institutions and persistent poverty communities. Outreach allows NRCS to be creative and innovative in the way the agency continues “helping people, help the land.” NRCS considers outreach an ongoing informational campaign designed to educate the public and make them aware of “who we are” and “what we do.”

NRCS works in coordination with other USDA and Federal agencies to ensure that we are consistent with our outreach approach to serve Historically Underserved producers and populations in rural and urban America.

NRCS continues to collaborate and work with a variety of Community Based Organizations which include Asian, Hispanic, and African American serving institutions, Tribes, Tribal Entities, Federal and State agencies and other groups that have a similar interest to ensure that NRCS complies with the 2018 Farm Bill provisions and administers its programs in an equitable manner. NRCS will also focus its outreach to disabled farmers and ranchers going forward.

NRCS will use the 2017 USDA Census of Agriculture to identify historically underserved populations with the most critical conservation needs to target outreach program assistance.

GOALS

- Increase by 30 percent the number of strategic outreach partnership agreements to assist with promoting NRCS financial assistance conservation programs to historically underserved populations. This goal will be evaluated annually based on needs and available funding.
- Increase by 10 percent the number of eligible program applications received from historically underserved populations using FY 2018 application data as the baseline. To be completed by November 30th of each year.
- Ensure that all NRCS 2018 Farm Bill programs and services are made accessible to all customers, fairly and equitably, with emphasis on reaching underserved and socially disadvantaged farmers or ranchers including veterans, tribes and tribal members. Ongoing.
- Educate and inform NRCS employees regarding the unique nature of working with historically underserved and Tribal audiences. Ongoing. Will educate at State meetings and during scheduled meetings with States.
- Educate and inform existing NRCS customers and potential new NRCS customers on NRCS conservation programs available to them through the 2018 Farm Bill using plain, understandable language. Ongoing.

- Tailor Farm Bill outreach messages and products to specific audience needs, for example providing translated materials, graphically-enhanced materials, and readable, common-sense messaging. Ongoing. Will develop as needs are identified.
- Successfully obligate Farm Bill financial and technical assistance dollars to align with USDA Strategic Goals. Ongoing.
- Highlight the value of private lands conservation and the important role that agricultural producers play in voluntarily conserving the nation's resources. Ongoing.

PROCESS

NRCS staff must use a variety of tools and resources to help agricultural producers attain their economic, natural resource, and environmental goals. An aging population, advances in agricultural technology, and long-standing customs, tradition, and Tribal hierarchy require a balance of traditional or 'old school' with ground-breaking or 'new wave' approaches to working with the NRCS customers.

The agency structure at the State level consists of one State outreach coordinator to provide advice and recommendations to the State Conservationist on State specific outreach priorities. The National Outreach & Partnership Division (OPD) works with the State outreach coordinators identify specific outreach techniques. State outreach coordinators work with the OPD staff to implement these outreach and training tools.

NRCS will continue to collaborate at the national and local level with community-based organizations through cooperative partnership agreements which assist all historically underserved groups with technical assistance, on-site demonstrations, program awareness, inner-city urban agriculture, land loss prevention, and training opportunities.

NRCS will continue to partner with Tribal entities to conduct face-to-face educational meetings and workshops with Tribes and their members to further explain 2018 Farm Bill programs. These entities will not only assist with identifying barriers within the 2018 Farm Bill that impede Tribes and their members from participation in programs but will also provide the agency with verifiable data that will assist agency leadership in making sound decisions to limit major obstructions to program participation.

KEY MESSAGES

NRCS has knowledgeable staff and strong partners who can help producers understand the changes made to conservation programs through the 2018 Farm Bill and help address any barriers that may impede a producer's or Tribes' participation.

Understanding the 2018 Farm Bill and all provisions that may apply to one's farming operation can be complex and confusing. NRCS is committed to ensuring impacted persons receive high quality service and the information necessary to comply with the policies and regulations of the program or programs in which they apply and will strive to minimize administrative burden.

NRCS provides one-on-one, personalized advice on the best solutions to meet the unique conservation and business goals of those who grow our nation's food and fiber.

NRCS works with all types of agricultural producers, including non-traditional producers, such as organic and urban farmers; underserved audiences, such as veterans and beginning farmers; Tribes and individual Tribal members.

NRCS helps people make investments on their farming operations and local communities to keep working lands working, boost rural economies, increase the competitiveness of American agriculture, and improve the health of our air, water, soil, and habitat.

NRCS generates, manages, and shares the data, technology, and standards that enable partners and policymakers to make decisions informed by objective, reliable science.

AUDIENCES

EMPLOYEES	NRCS employees – National, State and local offices Other USDA employees within the Farm Production and Conservation (FPAC) mission area. Focus will be on effective messaging and strategies to reach underserved audiences
HISTORICALLY UNDERSERVED AGRICULTURAL AUDIENCES	Beginning Farmer/Ranchers Veteran Farmer/Ranchers Socially Disadvantaged Farmer/Ranchers Minority farmer/rancher organizations Women-owned farmer/rancher organizations
TRIBES	Native American Tribes across the United States Bureau of Indian Affairs Tribal interest organizations such as Intertribal Agriculture Council
NGOS/NON-PROFITS	Non-governmental organizations and Universities/Colleges including land grant Universities with a focus on underserved audiences and tribes. Examples include: Farmer Veteran Coalition, tribal colleges, 1890, 1994 colleges, minority serving institutions
AGRICULTURAL PRODUCERS	Farmers Ranchers Non-Industrial Private Forest Owners
Soil Water Conservation District (SWCD)-RELATED PARTNERS	National Association of Conservation Districts National Associations of RC&D Councils National Association of State Conservation Agencies National Conservation Employee Association Soil and Water Conservation Districts
STATE and FEDERAL PARTNERS	State Departments of Agriculture; Fish and Wildlife/Game; Forestry; and other natural resource-related agencies Federal agencies related to natural resources management, including but not limited to: U.S. Fish and Wildlife Service Bureau of Land Management U.S. Army Corps of Engineers

	Bureau of Reclamation NOAA National Marine Fisheries USDA Farm Service Agency USDA Forest Service USDA Risk Management Agency Other USDA Agencies
NEWS MEDIA	National, regional and local news media outlets across the country that focus on underserved agricultural producers and tribes; as well as Ag-specialty publications and ag radio.

COMMUNICATIONS

NRCS uses all forms of written, social media, and traditional media to effectively communicate with our historically underserved customers. NRCS produces numerous pamphlets, documents, press releases, memorandums, and displays in a variety of languages. To date, 20 States have published NRCS information in different languages. The most common language is Spanish. Publications have also been translated into Russian, Hmong, Korean, Vietnamese, Mandarin, Japanese, Portuguese, and some Tribal languages.

NRCS’s social media presence continues to improve. YouTube videos have been produced in Spanish and Korean. The agency also uses its Twitter account to post messages in Spanish. NRCS can use its Facebook account to post messages in other languages as well.

NRCS uses agency and State websites to provide up-to-date, accurate information about programs available and program signup dates so that all customer categories are well informed.

NRCS also uses a weekly e-newsletter to disseminate information programs, services, and other related information.

NRCS communicates with partner groups regularly via email to distribute targeted updates of important information quickly and uniformly.

NRCS works collaboratively with other USDA agencies to develop materials and host outreach webinar sessions that provide a consistent and focused message while maximizing multiple distribution channels and audiences. Public affairs staff format and refine these presentations and obtain leadership approval. Once approved, NRCS disseminates these products simultaneously to each audience, including to the public.

Alignment with NRCS Communications Plan

Outreach efforts identified in this strategy align with communications goals and tactics identified in the NRCS Communications Strategy. Communications products are coordinated through appropriate public affairs staff within the FPAC External Affairs Division.

Group Outreach

NRCS Outreach staff work collaboratively with the External Affairs Division to ensure consistent messaging and top-quality materials designed specifically to inform and engage underserved

audiences. NRCS will continue to provide services to existing and new partnerships in a way that aligns with the agency's goals and objectives, the Secretary's mission, and the 2018 Farm Bill priorities.

NRCS will continue to partner with community-based organizations, Soil and Water Conservation Districts, and other entities to increase the number of individuals providing information to all customer categories in a timely fashion. NRCS enters into contribution agreements to expand outreach activities at the local level with our core conservation partners: National Association of Conservation Districts, National Associations of RC&D Councils, National Association of State Conservation Agencies and National Conservation Employee Association. NRCS will collaborate with the 1890, 1994 and Land Grant Colleges and Universities on ways to expand outreach to historically underserved communities.

NRCS Outreach & Partnerships Division will engage in and advance environmental justice strategies and priorities by cultivating stronger partnerships with community-based organizations, Federal agencies and other stakeholders, to address environmental challenges and issues in vulnerable and persistent poverty communities and populations.

NRCS will participate to the extent possible in external meetings, conferences and expos to disseminate program information to historically underserved individuals and groups. NRCS will utilize the existing professional employee organizations as modes for reaching historically underserved customers.

NRCS will continue to explore opportunities to engage historically underserved producers in environmental markets and conservation finance opportunities, tapping into new revenue streams and sources of private capital for producers.

NRCS will collaborate and implement technical assistance strategies for coordinating a more effective outreach to community-based organizations and grass root organizations. This effort will engage new and beginning farmers, historically underserved, socially disadvantaged farmers and ranchers, limited resource, veterans, etc., in aiding from State, field and local level to set goals and objectives on conservation practices and benefits.

NRCS Outreach & Partnership Division will seek to provide a better understanding and public awareness of the general knowledge and basic benefits of USDA NRCS conservation programs by working in unison with the Department's Office of Partnership and Public Engagement and NRCS State and field staff.

NRCS Outreach & Partnership Division will engage staff in partnership outreach efforts by connecting USDA programs to communities while also attempting to collect data and input from farming communities to help USDA better serve their conservation needs.

Tribal Government Relations and Impact Statement

NRCS provides conservation programs and technical services to American Indians, Alaska Natives and Tribal governments. This is done through 45 full-time and 30 part-time field offices on Indian lands and through numerous other field offices located off Indian lands. Working with the Indian Nations Conservation Alliance (INCA) NRCS has assisted with the establishment of 54 Tribal Conservation Districts and 4 State Tribal Conservation Advisory Councils.

- **Regional Tribal Conservation Advisory Councils.** In order to strengthen working relationships with Indian Tribes, NRCS established three (3) advisory councils in 2012. The Agency uses the Councils to assist in establishing regular and meaningful consultation and collaboration with Tribal representatives and officials in the development of Federal policy that has Tribal implications. The Councils assist NRCS's Chief, Regional Conservationists, and State Conservationists in strengthening government-to-government relationships and clarifying lines of communication and consultation with American Indian Tribes. Each Council holds three (3) meetings annually.

Overview: NRCS administers conservation programs and technical assistance to American Indians and Alaska Natives (AIAN) and adheres to all Executive Orders concerning government-to-government relations fulfilling the agency's trust responsibility to Tribes and Tribal individuals. NRCS has made a concerted effort to improve USDA conservation program delivery and technical assistance to AIAN provided by NRCS offices nationwide.

NRCS enters into grant, cooperative and contribution agreements with Tribal organizations that can help NRCS improve working relationships with Indian tribes and works closely with other USDA agencies to promote a seamless delivery system to conservation programs.

Indian Country: NRCS has been working in Indian Country for over 40 years. In 1980, NRCS opened their doors to Tribal lands, providing programs and technical services to AIAN and Tribal governments. Currently, NRCS has 45 full-time and 30 part-time field offices on Indian lands. There are approximately 150 NRCS Tribal liaisons serving 573 Federally-recognized tribes. The Agency has over 300 AIAN employees. To-date, the Secretary of Agriculture has entered into mutual agreements with 54 Tribal Conservation Districts, including 19 in Alaska.

Purpose and Policy: In furtherance of the unique status of Indian Tribes, their members, and the government-to-government relationship between the United States and Indian Tribes, NRCS has developed policy to provide guidance for interactions with Indian Tribes and their members.

- NRCS, as a federal agency, acknowledges the trust responsibility relationship between the federal government and Indian Tribes as established by specific statutes, treaties, court decisions, executive orders, regulations and policies.
- NRCS will consult and work with Indian Tribes before making decisions or implementing policy, rules or programs that may affect an Indian Tribe to ensure that Tribal rights and concerns are addressed.
- NRCS will identify and take appropriate steps to remove impediments to working directly and effectively with Indian Tribes.
- NRCS will work with other federal agencies and other governmental or non-governmental entities to further the goals of this policy.
- NRCS will work with Indian Tribes to achieve their goal of self-sufficiency.

Partnerships: As tribes move into more active roles of land management and use the authorities available to them, NRCS will work to increase the opportunities for them to benefit from NRCS programs and help NRCS benefit from the tribal interactions. The AIAN has always been involved in the stewardship of their ancestral lands. NRCS shares these values and knows that mutual respect is the key ingredient to further government-to-government relations. The tribes have a rich heritage in the knowledge of land, water, wildlife, air, and soils; NRCS works to partner this knowledge with its own. NRCS also established agreements with Indian Nations Conservation Alliance (INCA), Intertribal Agricultural Council (IAC),

American Indian Higher Education Consortium (AIHEC), United South Eastern Tribes, Inc. (USET), First Nations Development Institute (First Nations), Indigenous Food and Agriculture Initiative (IFAI) and many others to further our presence in Indian Country.

Tribal Impact Statement

Pursuant to EO 13175, there is no negative impact for American Indians, American Indian tribes, and tribal entities.

F. Barrier Removal Provisions

The following barriers to participation have been identified based on participant feedback in past focus groups and listening sessions. There is a distrust of the federal government because of past class action cases. Some communities lack a clear land title or are unable to demonstrate control of the land for enrollment purposes. Additionally, the cyclical application process may create a lack of funding. Some limited resource and minority participants may need a higher cost share from the government, than what has been set aside. Some applicants have found field offices to be non-responsive. Some farmers have limited or no access to technology for conducting business with the Agency. Some have also reported that field offices may be non-compliant with receipt-for-service requirements, leaving the applicant with no proof of their visit. Office hours and service locations are inconvenient. There is a lack of diversity in the workforce. There are delays due to contract modifications, and an applicant's desired expanded projects may not be covered or allowed under the program. Some Native Americans have also experienced unique challenges because of the tribal government's relationship with the federal government and the unique way of operating, especially with fractionated land.

The National Outreach Division is requesting that State outreach coordinators further analyze the issues identified so that they can develop more targeted approaches to outreach with the goal of increasing program participation. The state outreach coordinators have also been requested to incorporate feedback gleaned from 2018 Farm Bill Listening Sessions.

The Civil Rights Division continues to work with the regional conservationists and have arranged to monitor state outreach plans and progress towards meeting measurable milestones by issuing a bi-annual call letter to the states requesting status reports.

G. Conclusion

The civil rights review of the CSP final rule finds no disproportionate or adverse impacts for minorities, women, or persons with disabilities. The data presented indicates producers who are members of the protected groups have participated in NRCS conservation programs at parity with other producers. Specific program outreach efforts target groups such as American Indian tribes. NRCS's partnerships with local working groups and Conservation Districts, as well as the USDA Office of Tribal Relations, have increased participation in NRCS financial assistance programs.

Upon review of the historical participation data, it is reasonable to conclude that NRCS will administer the CSP in a non-discriminatory manner. Outreach and communication strategies are in place to ensure all producers will have the same participation opportunities and the same information to allow them to make informed decisions regarding the use of their lands. CSP applies to all persons equally regardless of race, color, national origin, gender, sex, or disability

status. Therefore, the CSP final rule portends no adverse civil rights implications for persons of any gender, racial or ethnic group or those with a disability.

H. Certification

I certify that the review and analysis of the 2018 CSP Final Rule has been conducted in accordance with DR 4300-4, "Civil Rights Impact Analysis"; 7 C.F.R. part 15, "Nondiscrimination in Programs and Activities Conducted by USDA"; and DR 1512-1, "Regulatory Decision-Making Requirements." The CSP Final Rule portends no adverse civil rights implications for women, minorities, and persons with disabilities.



Emily H. Su
Director
Civil Rights Division
Farm Production and Conservation

6/5/20

Date