

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

This review evaluates the Environmental Quality Incentives Program (EQIP) Final Rule for actual or potential civil rights issues. The review analyzes the Final Rule to ensure compliance with Departmental Regulation (DR) 4300-4, “Civil Rights Impact Analysis”; 7 C.F.R. part 15d, “Nondiscrimination in Programs and Activities Conducted by the United States Department of Agriculture”; and DR 1512-1, “Regulatory Decision-Making Requirement.” The review finds no factors indicating that the EQIP Final Rule would have a disproportionate adverse civil rights impact for Natural Resources Conservation Service (NRCS) producers of any gender, race, ethnicity, or on NRCS producers with a disability.

BACKGROUND

The 2018 Farm Bill reauthorized and amended EQIP. EQIP is implemented under the general supervision and direction of the Chief of NRCS. Through EQIP, NRCS incentivizes agricultural producers to conserve and enhance soil, water, air, plants, animals (including wildlife), energy, and related natural resources on their land. In particular, EQIP promotes agricultural production, forest management, and environmental quality as compatible goals and optimizes environmental benefits by assisting producers in addressing resource concerns on their operations. Another goal of EQIP is to help agricultural producers meet Federal, State, and local environmental requirements and avoid the need for new requirements.

Eligible lands include cropland, grassland, rangeland, pasture, wetlands, nonindustrial private forest land, and other land on which agricultural or forest-related products or livestock are produced and natural resource concerns may be addressed. Participation in the program is voluntary.

NRCS and the Commodity Credit Corporation (CCC) published an Interim Rule, with request for comments, on December 17, 2019, to implement changes to EQIP that were either required by the Agriculture Improvement Act of 2018 (the 2018 Farm Bill) or required to implement administrative streamlining improvements and clarifications. NRCS and CCC received 598 comments on the Interim Rule from 197 respondents. Additionally, one organization submitted a spreadsheet containing 12,852 comments. The final rule makes permanent many of the changes in the Interim Rule, responds to comments received, and makes adjustments in response to those comments.

EQIP continues USDA's commitment to streamlining and improving its conservation programs and providing flexible technical and financial assistance to producers to install and maintain conservation systems that enhance soil, water, related natural resources, and wildlife habitats while sustaining production of food and fiber on farmland, rangeland, and forestland. Over the life of the program, EQIP has entered into approximately 626,162 contracts with farmers and ranchers to apply conservation practices on approximately 254 million acres.

LEGISLATIVE CHANGES

The Interim Rule included the following changes:

- Broadened the purposes of EQIP to add specifically addressing new or expected resource concerns, adapting to and mitigating against increasing weather volatility, and drought resiliency measures.
- Amended how EQIP interacts with the Regional Conservation Partnership Program (RCPP) since RCPP is now a stand-alone program.
- Amended some definitions and added others to address changes made by the 2018 Farm Bill, including—
 - Animal feeding operation (AFO);
 - Eligible land;
 - Estimated income foregone;
 - Forest management plan;
 - High priority area;
 - Incentive practice;
 - Priority resource concern;
 - Semipublic;
 - Soil remediation;
 - Soil testing; and
 - Water management entity.
- Added “increased weather volatility” as a specific resource concern under the national priorities identified in the regulation.
- Added to “outreach responsibilities” the requirement to notify historically underserved producers about the availability to elect to receive advance payments.
- Added provisions to enter into an EQIP contract with water management entities for certain water conservation projects.
- Removed the requirement that a participant must implement and develop a Comprehensive Nutrient Management Plan (CNMP) by the end of the contract and replaced it with: “any conservation practices in the EQIP plan of operation must be implemented consistent with a CNMP.”
- Incorporated the ability to waive the \$450,000 regulatory contract limitation and establish a \$900,000 regulatory contract limitation for certain projects with joint operations, group projects, or contracts where NRCS has waived the payment limitation for a water management entity.
- Increased payment rates for certain high-priority practices and increased payment rates for practices that address source water protection.
- Updated the statutory payment limitations for general EQIP contracts and also contracts entered into under the National Organic Initiative.
- Clarified provisions related to contract administration, including procedures for contract modification and termination.
- Relocated provisions related to administration of Conservation Innovation Grants to its own subpart and incorporated the addition of On-farm Conservation Innovation Trials (On-Farm Trial), which included the Soil Health Demonstration (SHD) Trial.
- Added a new subpart to address the new enrollment option, EQIP incentive contracts, as created by section 2304 of the 2018 Farm Bill.
- Relocated the General Administration provisions from subpart C to a new subpart E and updated

language with respect to the section addressing environmental markets to reflect the changes made by the 2018 Farm Bill.

SUMMARY MODIFICATIONS TO FINAL REGULATION FOLLOWING PUBLIC COMMENTS

Underlined text signals new language in the final rule.

Section 1466.1 is amended by revising paragraph (a)(2) through (4) as follows:

§ 1466.1 Applicability.

(a) *Purposes.* (1) ***

(2) Through EQIP, NRCS provides technical and financial assistance to eligible agricultural producers, including nonindustrial private forest (NIPF) landowners and Indian Tribes, to help implement conservation practices which address resource concerns related to organic production; soil, water, and air quality; wildlife habitat; nutrient management associated with crops and livestock; pest management; ground and surface water conservation; irrigation management; drought resiliency measures; adapting to and mitigating against increasing weather volatility; energy conservation; and related resource concerns.

(3) EQIP's financial and technical assistance helps:

- (i) producers comply with environmental regulations and enhance agricultural and forested lands in a cost-effective and environmentally beneficial manner; and
- (ii) to the maximum extent practicable, avoid the need for resource and regulatory programs.

(4) The purposes of the program are achieved by planning and implementing conservation practices on eligible land to address identified, new, or expected resource concerns, including such resource concerns related to lands enrolled under a Conservation Reserve Program contract that are transitioning into production pursuant to 16 U.S.C. 3835(f).

3. Section 1466.3 is amended by revising the definition for “comprehensive nutrient management plan” (CNMP) as follows:

§ 1466.3 Definitions.

Comprehensive nutrient management plan (CNMP) means a conservation plan that is specifically for an AFO. A CNMP identifies conservation practices and management activities which, when implemented as part of a conservation system, will manage sufficient quantities of manure, waste water, or organic by-products associated with a waste management facility. A CNMP incorporates practices to use animal manure and organic by-products as a beneficial resource while protecting all applicable natural resources including water and air quality associated with an AFO. A CNMP is developed to assist an AFO owner/operator in meeting all applicable local, Tribal, State, and Federal water quality goals or regulations. For nutrient-impaired stream segments or water bodies, additional management activities or conservation practices may be required by local, Tribal, State, or Federal water quality goals or regulations.

4. Section 1466.4 is amended by revising paragraph (a) as follows:

§ 1466.4 National priorities.

(a) The national priorities in paragraphs (a)(1) through (8) of this section, consistent with statutory resources concerns, include soil quality, water quality and quantity, plants, energy, wildlife habitat, air quality, increased weather volatility, and related natural resource concerns, that may be used in EQIP implementation are:

- (1) Reductions of nonpoint source pollution, such as nutrients, sediment, pesticides, or excess salinity in impaired watersheds consistent with total maximum daily loads (TMDL) where available;
- (2) The reduction of ground and surface water contamination;
- (3) The reduction of contamination from agricultural sources, such as animal feeding operations;
- (4) Conservation of ground and surface water resources, including improvement of irrigation efficiency and increased resilience against drought and weather volatility;
- (5) 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 the National Ambient Air Quality Standards;
- (6) Reduction in soil erosion and sedimentation from unacceptable levels and improvement of soil health on eligible land;
- (7) Promotion of at-risk species habitat conservation including development and improvement of wildlife habitat; and
- (8) Energy conservation to help save fuel, improve efficiency of water use, maintain production, and protect soil and water resources by more efficiently using fertilizers and pesticides.

5. Amend §1466.6 by revising paragraph (d)(1) as follows:

§ 1466.6 Program requirements.

(d) *Eligibility of a water management entity.*

(1) Notwithstanding paragraphs (b) and (c) of this section, NRCS may enter into an EQIP contract with a water management entity provided the criteria in paragraphs (d)(1)(i), (ii) and (iii) of this section can be met:

- (i) The entity is a public or semipublic agency or organization,
- (ii) Its purpose is to assist private agricultural producers manage water distribution or

conservation systems, and

(iii) The water conservation or irrigation practices support a water conservation project under § 1466.20(c) of this part that will effectively conserve water, provide fish and wildlife habitat, or provide for drought-related environmental mitigation, as determined by the Chief.

6. Section 1466.7 is amended by revising paragraph (d) as follows:

§ 1466.7 EQIP plan of operations.

(d) If an EQIP plan of operations includes an animal waste storage or treatment facility to be implemented on an AFO, the participant must agree to:

(1) Develop a CNMP by the end of the contract period, and

(2) Implement any applicable conservation practices in the EQIP plan of operation consistent with an approved CNMP.

7. Section 1466.20 is amended by revising paragraph (b)(2) as follows:

§ 1466. Application for contracts and selecting applications.

(b) ***

(2) ***

(viii) The applicant's meeting O&M requirements for the lifespan of conservation practices previously funded through EQIP;

(ix) The land is enrolled under a CRP contract transitioning to production pursuant to 16 U.S.C. 3835(f).

(x) Other locally defined pertinent factors, such as the location of the conservation practice, the extent of natural resource degradation, and the degree of cooperation by local producers to achieve environmental improvements.

8. Section 1466.31 is amended by revising paragraph (a) as follows:

§ 1466.31 Purpose and scope.

(a) The purpose of Conservation Innovation Grants (CIG) is to stimulate the development and adoption of innovative conservation approaches and technologies, including field research, while leveraging Federal investment in environmental enhancement and protection in conjunction with agricultural production. Notwithstanding any limitation of this part, NRCS administers CIG in accordance with this subpart. Unless otherwise provided for in this subpart, grants under CIG are subject to the provisions of 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

9. Section 1466.32 is revised to read as follows:

§ 1466.32 Conservation innovation grant funding.

(c) Authority to reduce matching requirement. The Chief may reduce the matching requirements of paragraphs (b)(1) and (2) above, provided that the applicant is:

(1) an historically underserved producer;

(2) a community-based organization comprised of, representing, or exclusively working with historically underserved producers on a CIG project;

(3) developing an innovative conservation approach or technology specifically targeting historically underserved producers' unique needs and limitations; or

(4) an 1890 or 1994 land grant institute on (7 U.S.C. 3222 et seq.), Hispanic-serving institution (20 U.S.C. 1101a), or other minority-serving institution, such as an historically Black college or university (20 U.S.C. 1061), a tribally controlled college or university (25 U.S.C. 1801), or Asian American and Pacific Islander-serving institution (20 U.S.C. 1059g).

(d) Limitation to funding technical assistance. CIG provides financial assistance to grantees. Procurement of any technical assistance to agricultural producers required to carry out a project is the responsibility of the grantee. A Federal technical representative designated by NRCS will provide technical oversight for grant projects.

(e) Set-aside. NRCS may set aside up to 10 percent of the total funds available for CIG for applications from historically underserved producers, or a community-based organization comprised of, representing, or exclusively working with these producers on a CIG project.

CIVIL RIGHTS IMPACT ANALYSIS

This Civil Rights Impact Analysis (CRIA) evaluates the final rule for any actual or potential civil rights issues. The purpose is to identify any disparate impact the EQIP Rule will have on affected groups and rationally and reasonably dispose of each. Disparate impact occurs when a policy or practice disproportionately and adversely affects members of a protected group and there is 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 the various populations are affected by the rule and how the impact is manifested. This 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 minority groups:

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

A. General Provisions

Through EQIP, NRCS continues USDA's commitment to streamlining and improving conservation programs and providing flexible technical and financial assistance to producers to install and maintain conservation systems that enhance soil, water, related natural resources (including grazing land and wildlife habitat) while sustaining production of food and fiber. EQIP activities will be carried out according to an EQIP plan of operations. This plan of operations addresses the conservation objectives to be achieved through one or more conservation practices or activities. EQIP is a voluntary program and offers financial and technical help to participants to perform or implement conservation practices and activities on eligible land based on contracts with terms of up to ten years. These practices are subject to NRCS technical requirements which are adapted for local conditions.

B. Administration and Development

The Secretary of Agriculture has delegated authority to the Chief of NRCS to implement EQIP. The NRCS Chief may implement the program in any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

- **Program Delivery:** EQIP helps agricultural and livestock producers conserve and enhance soil, water, air, plants, animals (including wildlife), energy, and related natural resources on their land. Eligible lands include cropland, grassland, rangeland, pasture, nonindustrial private forest land, and other agricultural land on which agricultural or forest-related products or livestock are produced and natural resource concerns may be addressed.
- **Signup Period and Contract Determinations:** EQIP applications are made available on the USDA and NRCS websites, by partners, and through direct outreach. Information is provided that explains the process to request assistance. Applications are accepted on a continuous basis throughout the year.

C. Historical Participation Data

Although historical data reflecting participation in EQIP 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, a comprehensive barrier analysis on program participation could not be conducted.

NRCS works primarily with four key operational databases or business tools: the Conservation Assessment and Ranking Tool (CART), ProTracts, the National Easements Staging Tool (NEST), and the Financial Management Modernization Initiative (FMMI). In addition to these datasets, NRCS also works with agency data stewards regarding the National Conservation Planning and Agreements Database (NPAD) database.

CART and ProTracts are NRCS's primary business tools for managing several financial assistance programs, including EQIP. These business tools are used to help manage the assessment of conservation practice schedules, the ranking and funding of applications, and to manage contracts. 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 sex data specific to the participant are available through the link to the Service Center Information Management System 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 with farms. 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 EQIP participation data for the period FY 2015- FY 2017 and the calculation of the percentage of Principal Operators is based on NASS data reported in the 2012 Census of Agriculture for each of the groups. It should be noted that program participation rates in the following charts refer to contracts, not applications; applicants are potential participants. 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 maintained indicates that program parity is relative to the NASS data.

Based on the 2012 Ag Census, there are 3,180,074 Principal Operators with 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 calculation for this group would be so close to zero that a zero-participation rate is in proportion to their REG group.

PROGRAM PARTICIPATION IN EQIP FOR FY 2015

EQIP	Male	Female	American Indian/Alaska Native (AI/AN)	Asian American Pacific Islander (AAPI)	Black	Hispanic	White
Number of Contracts	23,725	4,903	632	581	1,140	1,062	29,245
Funds Awarded	\$565,919,568	\$105,593, 787	\$25,241,035	\$19,137,829	\$15,181,802	\$24,412,730	\$747,296,508
Percentage of Principal Operators in the United States	83%	17%	1.94%	1.78%	3.49%	3.25%	89.54%
Percentage of Dollars Awarded*	84%	16%	3.04%	230%	1.83%	2.94%	89.90%

Average Funding per Contract**	\$23,853.30	\$21,536.57	\$39,938.35	\$32,939.47	\$13,317.37	\$22,987.50	\$25,552.97
Acres	5,977,341.6	927,629.6	828,639.8	23,516.8	53,322.4	357,790.6	8,512,046.5
Funding/Acre	\$94.68	\$113.83	\$30.46	\$813.79	\$284.72	\$68.23	\$87.79

APPLICATION DATA FOR EQIP FOR FY 2015

EQIP	Male	Female	AIAN	AAPI	Black	Hispanic	White
Number of Applications	98,176	20,430	3247	1733	5802	3392	121,028
Number Approved	23,803	4,924	632	583	1,145	1,064	29,343
Percentage Approved	24%	24%	19%	34%	20%	31%	24%

In FY 2015, Whites comprised the largest application group. Female applicants outnumbered any racial minority group category. Applications from Black/African Americans outnumbered all other racial minority groups, while applications from Hispanic operators outnumbered those of American Indians. Asian Americans filed the least number of applications. Approval rates for application followed the same trend.

Asian Americans received the largest funding per acre at \$813.79. The average funds awarded per acre for other demographic groups were: Black/African American at \$284.72, Women at \$113.83, Whites at \$87.79 and Hispanics at \$68.23. The smallest funding per acre was for American Indians at \$30.46 per acre.

PROGRAM PARTICIPATION IN EQIP FOR FY 2016

EQIP	Male	Female	AIAN	AAPI	Black	Hispanic	White
Number of Contracts	26,251	5,566	765	708	1,298	1,039	32,233
Funds Awarded	\$690,806,342	\$123,532,086	\$36,346,748	\$25,151,485	\$19,496,389	\$30,554,886	\$890,520,701
Percentage of Principal Operators in the United States	83%	17%	2.12%	1.96%	3.60%	2.88%	89.43%
Percentage of Dollars Awarded*	67.2%	12.0%	3.5%	2.7%	1.9%	3.0%	86.6%
Average Funding per Contract**	\$26,315.43	\$22,194.05	\$47,512.09	\$35,524.70	\$15,020.33	\$29,407.98	\$27,627.61
Acres	6,201,415.9	1,061,611.3	1,098,627.4	26,604.0	67,752.2	404,546.9	8,754,741.3
Funding/Acre	\$111.39	\$116.36	\$33.08	\$945.40	\$287.76	\$75.53	\$101.72

APPLICATION DATA FOR EQIP FOR FY 2016

EQIP	Male	Female	AIAN	AAPI	Black	Hispanic	White
Number of Applications	98,748	20,992	3475	1709	6597	3250	120,217
Number Approved	26,321	5,591	767	709	1,307	1,042	32,322
Percentage Approved	27%	27%	22%	41%	20%	32%	27%

Similar results were found for FY 2016 as in FY 2015. Asians had the highest approval rates and funding per acre. In FY 2016, American Indians had the lowest funding per acre but African Americans/Blacks had a lower approval rate than American Indians.

PROGRAM PARTICIPATION IN EQIP FOR FY 2017

EQIP	Male	Female	AIAN	AAPI	Black	Hispanic	White
Number of Contracts	28,102	6,205	684	643	1,516	768	34,378
Funds Awarded	\$772,686,517	\$146,554,456	\$38,821,179	\$24,479,887	\$22,065,381	\$26,027,477	\$981,123,168
Percentage of Principal Operators in the United States	82%	18%	1.80%	1.69%	3.99%	2.02%	90.49%
Percentage of Dollars Awarded*	84%	16%	3.55%	2.24%	2.02%	2.38%	89.80%
Average Funding per Contract**	\$27,495.78	\$23,618.77	\$56,756.11	\$38,071.36	\$14,555.00	\$33,889.94	\$28,539.27
Acres	7,082,032.8	1,226,830.7	959,316.5	22,617.4	70,138.5	300,156.9	9,770,829.4
Funding/Acre	\$109.11	\$119.46	\$40.47	\$1,082.35	\$314.60	\$86.71	\$100.41

APPLICATION DATA FOR EQIP FOR FY 2017

EQIP	Male	Female	AIAN	AAPI	Black	Hispanic	White
Number of Applications	95,650	20,759	3186	1795	5975	2438	116,674
Number Approved	28,178	6,235	685	645	1,522	770	34,477
Percentage Approved	29%	30%	22%	36%	25%	32%	30%

Results for FY 2017 also are similar to FY 2015 results. A comparison of the three-year trend from FY 2015 to 2017 indicates an overall increase in application approval rates among most races and genders. The exception would be that Hispanic and Asian American approval rates decreased in

comparison to other groups. The three-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 numbers than any other group. However, application approval rates for Minority Operators, over the three-year trend, were equal to and in some cases higher than White Operators approval rates.

Race, Ethnicity, and Gender profiles for the 2017 Ag Census were released on October 1, 2019. Program participation data for FY2018 became available in November 2019. As a result, program participation data for FY 2018 utilizes the 2017 USDA National Agricultural Statistics Service's (NASS) Census data reports. According to the 2017 Ag Census, there were 2,830,797 Principal Operators in total, 349,277 fewer operators compared to the 2012 Ag Census. The 2017 Census also reports the following National Selected Principal Operator numbers for the various demographic 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, 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 demographic groups decreased in absolute number: White (-120,914), Black (-8,135), Hispanic (-9,390), American Indian (-25,737), Asian (-7,189) and Native Hawaiian/Pacific Islander (-930). The 2017 Census added the new demographic category of “more than 1 race,” reporting the total population for that group at 21,986. Program participation data maintained indicates that there is program parity relative to the NASS Census data.

PROGRAM PARTICIPATION IN EQIP FOR FY 2018

EQIP	Males	Females	American Indian/Alaska Native	Asian American	Black	Hispanic	White
Number of Contracts	30,726	6,634	734	711	1,357	1,902	38,332
Funds Awarded	\$883,378,317	\$159,645,488	\$39,832,013	\$29,791,768	\$21,706,360	\$59,460,218	\$1,126,612,595

EQIP	Males	Females	American Indian/Alaska Native	Asian American	Black	Hispanic	White
Percentage of Principal Operators in the United States	71%	29%	1.63%	0.60%	1.36%	3.19%	92.36%
Percentage of Dollars Awarded*	29%	6.4%	7%	6.8%	1.3%	1.8%	37%
Average Funding per Contract**	\$28,750.10	\$24,064.74	\$54,267.05	\$41,9001.22	\$15,995.84	\$31,261.94	\$29,390.91
Acres	7,618,829.9	1,641,601.4	1,338,557.2	35,065.3	59,056.6	446,984.4	11,471,658.1
Funding/Acre	\$115.94	\$97.25	\$29.76	\$849.61	\$367.55	\$133.03	\$98.21

APPLICATION DATA FOR EQIP FOR FY 2018

EQIP	Males	Females	American Indian/Alaska Native	Asian American	Black	Hispanic	White
Number of Application	66,832	14,688	1,984	1,285	4,638	2,854	82,116
Number Approved	30,726	6,634	734	711	1,357	1,902	38,332
Percentage Approved	46%	45%	37%	55%	29%	67%	47%

*Total percentage of dollars awarded does not equal 100%. Business entities and other NRCS programs (RCPP) also use EQIP.

**An analysis of barriers to minority participation has revealed that, overall, minority farmers have less acreage. 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.

Asian Americans are the smallest participating group in EQIP. This may be due to several factors such as language, type of operation owned, physical location of the operator/owner, lack of desire of operator to work with NRCS, 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 outreach will be targeted to potentially eligible landowners that may not be aware of the program.

American Indians are also a small participating group in EQIP. This may be due to the unique land ownership issues associated with Indian land. NRCS contracts with American Indians are more frequently made with tribes and tribal entities rather than with individual Indian landowners.

Fractionated land can only qualify for program participation when the control and ownership can be properly documented. It is anticipated that the change in payment limitations for American Indians will increase program participation. From FY 2015 through 2017, there were increased approval rates for some Minority Operators, which may be due to the setting aside five (5%) percent of EQIP acres for socially disadvantaged farmers and ranchers and an additional five (5%) percent of EQIP acres for beginning farmers and ranchers.

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

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	1,021	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/

Interestingly the average acres per farm in the demographic groups has also changed. Only three groups showed an increase in size of average acres farmed (Females, White, and Black). Correlating with this change is also the increase in number of applications approved.

NRCS complies with the law regarding the assessment and evaluation of compliance for the Agency's federally assisted and conducted programs. On a cycle of every five years, the Agency's Civil Rights Division conducts a thorough Civil Rights Compliance Review. Program participation data is reviewed for parity to ensure equitable program participation opportunities and freedom from potential barriers. NRCS has also invited the Office of the Assistant Secretary for Civil Rights compliance staff to participate in the NRCS Compliance Review process.

D. Eligibility Criteria

The regulation provides that eligible producers who are engaged in agricultural, livestock or timber production, on eligible land, may apply for the EQIP program.

Eligible land includes cropland, rangeland, grassland, pasture, nonindustrial private forest land, and other land on which agricultural products, livestock or forest-related products are produced and resource concerns may be addressed. Other agricultural lands may include cropped woodland, marshes, environmentally sensitive areas, and other types of agricultural land used to produce livestock. However, land may be considered for enrollment in EQIP only if NRCS determines that the land is:

- 1) Privately-owned land;
- 2) Publicly-owned land where:
 - a. The land is a working component of the participant's agricultural and forestry operation;
 - b. The participant has control of the land for the term of the contract; and
 - c. The conservation practices to be implemented on the public land are necessary and will contribute to an improvement in the identified natural resource concern.
- 3) Indian land

To be an eligible producer, an applicant must meet all the following criteria:

- 1) A person, legal entity, Indian Tribe, native corporation, or joint operation with signature authority; or, as a State or local government, if applying as a water management entity with an EQIP water conservation project;
- 2) Engaged in agricultural production or forestry management or have an interest in the agricultural or forestry operation associated with the land being offered for enrollment;
- 3) Have control of the land for the term of the contract period;
- 4) Be in compliance with the provisions for protecting the interests of tenants and sharecroppers;
- 5) Be in compliance with the highly erodible land and wetland conservation compliance provisions set out at 7 C.F.R. Part 12;
- 6) Be within the appropriate payment limitation requirements; and
- 7) Be in compliance with the adjusted gross income (AGI) requirements, as specified in 7 C.F.R. Part 1400.

The applicant is responsible for providing documentation to establish producer eligibility for EQIP.

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 American, Hispanic, and African American serving institutions, Tribes, Tribal Entities, Federal and State agencies and other groups that have a similar interest in ensuring that NRCS complies with the 2018 Farm Bill provisions and administers its programs in an equitable manner. NRCS will also focus its outreach on 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 and 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. This information is available to all States. 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 Final Rule disclosed 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 programs, including EQIP, will continue to be administered in a non-discriminatory manner. Outreach and communication strategies are in place to ensure that all operators will be provided the same information to allow them to make informed compliance decisions regarding the use of their lands that will affect their participation in USDA programs. EQIP applies to all persons equally regardless of their race, color, national origin, gender, sex or disability status. Therefore, the final EQIP Rule portends no adverse civil rights implications for persons of any gender, racial or ethnic group or with a disability.

H. Certification

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



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

6/15/20

Date