

**CIVIL RIGHTS IMPACT ANALYSIS
REGIONAL CONSERVATION PARTNERSHIP PROGRAM
NATURAL RESOURCES CONSERVATION SERVICE
US DEPARTMENT OF AGRICULTURE**

This review evaluates the Regional Conservation Partnership Program (RCPP) Interim Rule 2018 for actual or potential civil rights issues. The review analyzes the Interim 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 USDA"; and D.R. 1512, "Regulatory Decision-Making Requirement." The review reveals no factors indicating that the RCPP Interim Rule would have a disproportionate adverse civil rights impact for NRCS producers in any racial or ethnic group, for women, or for persons with disabilities.

BACKGROUND

The RCPP is a voluntary, collaborative program that provides financial and technical assistance to partner organizations to help agricultural producers plan and implement conservation activities to address natural resource concerns on agricultural, nonindustrial private forest, and Tribal lands. It leverages private funding through partnerships to provide additional federal financial and technical assistance to owners and operators of agricultural and nonindustrial private forest lands in designated geographical areas.

The Natural Resources Conservation Service (NRCS) will implement RCPP by entering into partnership agreements with eligible partners. Partnership agreements identify NRCS financial and technical assistance that may be available to producers, including landowners and operators of agricultural and nonindustrial private forest lands, to address priority natural resource concerns located in approved project areas.

Under this Interim Rule, the following are eligible to submit a proposal for partnership with NRCS: agricultural or silvicultural producer associations or other group of producers, States or units of local government, Indian tribes, farmer cooperatives, institutions of higher education, municipal water or wastewater treatment entities, or organizations or other nongovernmental entities with an established history of working cooperatively with producers on agricultural land, as determined by the NRCS Chief.

NRCS will review and evaluate the proposals based on the criteria set forth in this notice. Positive consideration will be given to proposals that provide for outreach to beginning farmers or ranchers, socially disadvantaged farmers or ranchers, limited resource farmers or ranchers, and Indian tribes within the area covered by the project. Priority consideration will also be given to proposals that achieve program purposes—including regional efforts that cross State boundaries and/or encourage partners to cooperate with producers in meeting, or avoiding the need for, national, State, and local natural resource regulatory requirements related to production—and implement projects that will result in the installation and maintenance of eligible activities that affect multiple agricultural or nonindustrial private forest operations on a local, regional, State, or multi-State basis. Once proposals have been submitted for review and ranking, there will be no further opportunity to change or re-submit the proposal.

Where flexibility is needed to meet project objectives, the partner may request an alternative funding arrangement. Generally, under a partnership agreement, NRCS provides technical and

financial assistance directly to producers through program contracts. Under an alternative funding arrangement, NRCS may provide financial assistance to a lead partner for the implementation of covered program practices and activities on land owned or operated by a producer. In considering whether an alternative funding arrangement is appropriate, NRCS will consider a number of factors, including the innovative use of private financial mechanisms, the types of projects the proposal seeks to undertake, and the types of resource concerns it will address.

Once the agency approves and announces the selected proposals, agricultural producers within the approved project areas may submit an application directly to NRCS for one or more of the covered programs.

Producers interested in participating in an approved RCPP project may apply for assistance at their local USDA service center. The designated conservationist will help the producer determine which program is appropriate based on the practices and activities the applicant seeks to install or perform to meet the approved partner project objectives.

Producers seeking to participate in a RCPP project must meet applicant eligibility requirements (see page 6). An agricultural producer may elect to use a technical service provider (TSP) for technical assistance associated with conservation planning or practice design and implementation. Eligible partners may receive technical assistance for project development and outreach and may also make use of TSPs.

RCPP is not a grant program, and all Federal funds made available are paid directly to producers through program contract agreements; to lead partners through the partnership agreement; or to non-lead partners through supplemental agreements.

In addition to participating under the auspices of a partnership agreement, individual producers may participate directly in RCPP independent of a partner in an approved partnership project area or a critical conservation area designated by NRCS.

Partners leverage RCPP funding in project areas and report on the benefits achieved. Eight areas have been designated as critical conservation areas to focus RCPP assistance through a special funding pool.

Sections 2701-2707 of the Agriculture Improvement Act of 2018 (2018 Act) made the following changes to RCPP program requirements:

- Reauthorizes and funds the program at \$300 million for each fiscal year (FY 2019 - 2023) in mandatory funding and repeals the 7 percent covered program funding.
- Authorizes RCPP program contracts instead of covered program (e.g., RCPP-EQIP, RCPP-CSP, etc.) contracts.
- Reduces the number of funding pools by eliminating the national competitive process. State and multistate pool would have 50 percent of the funds and critical conservation areas would have 50 percent of the funds;
- Adds definitions and simplifies the definitions of eligible land and eligible activities. Covered programs become source of authority for eligible land and eligible activities and add the authorities of the Conservation Reserve Program and PL-566 (Watershed Protection

and Flood Prevention) to covered programs. Expands PL-566 authorities for all funding pools not just critical conservation areas.

- Adds authority to enter into alternative funding arrangement or grant agreements with eligible partners depending on the specific requirement of the project. Funding is limited to 15 total projects annually.
- Expands the purpose of the program to include protection of natural resources including sources of drinking water and groundwater on eligible land.
- Updates the definition of eligible partners to include conservation districts and acequias.
- Allows partnership agreements to be longer than 5 years in select situations. Also, allows a partnership agreement, or a renewal partnership agreement, to be extended one time for up to 12 months.
- Allows partnership agreement renewals that may be funded through an expedited noncompetitive process.
- Narrows the scope of a project by adding one or more conservation benefits that the project should achieve, the eligible activities on eligible land to achieve conservation benefits, and the implementation timeline for carrying out the project, including interim milestones.
- Requires guidance for partners on how to quantify and report on outcomes of the projects. Updates reporting requirements and emphasizes the importance of reporting progress on a regular basis.
- Requires reporting publicly, at the time of selection, the amount of technical assistance that will be needed to implement projects. Limits costs for technical assistance to those specific and necessary to carry out the objectives of the program and to develop and implement strategies to encourage third-party technical service providers to provide technical assistance to eligible partners pursuant to a partnership agreement.
- Adds forms for how eligible partners make contributions through direct funding, in-kind support, or a combination of direct funding and in-kind support. Time spent between the announcement of the project award and the signing of the partnership agreement can be counted toward the partner contribution.
- Requires the Secretary to establish a timeline for carrying out the duties under a partnership agreement which includes: identifying a State program coordinator who will assist partners, establishing guidance to assist partners with assessments requirements, providing partners (other than a grant agreement) a semiannual report that contains the status of each pending and obligated contract under the project, and an annual report describing how the Secretary used amounts reserved for that year's technical assistance.
- Requires a simplified application process.
- Prohibits adjusted gross income applicability to partner agreements, including grant agreements.
- Gives high priority to partners that submit, on behalf of participants, application bundles where a majority of producers in a watershed agree to submit applications for conservation activities to address a substantial portion of the conservation benefits to be achieved by the project.
- Outlines the partner responsibilities under a grant agreement including carrying out eligible activities on eligible land in agreement with producers to achieve conservation benefits on a regional or watershed scale and an annual report that describes the status of the project.
- Includes outreach provisions for historically underserved producers and eligible partners and producers in critical conservation areas.
- Requires identification of one or more priority resource concerns that apply to each critical conservation area. It also requires selection of applications for partnership agreement under

critical conservation areas that address one or more priority resource concerns for which the critical conservation area is designated.

- Requires RCPP in FY 2020 and thereafter to be implemented through a regulation but authorizes implementation in FY 2019 to be in accordance with availability of program funding.

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 RCPP 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 the various populations are affected by the rule, and how the impact is manifested. The CRIA 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 RCPP,
- 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 RCPP.

A. General Provisions

The purposes of RCPP are to:

- (1) Further the conservation, restoration, and sustainable use of soil, water, wildlife, and related natural resources on a regional or watershed scale; and
- (2) Encourage partners to cooperate with producers in—
 - (A) meeting or avoiding the need for national, State, and local natural resource regulatory requirements related to production; and
 - (B) implementing projects that will result in the installation and maintenance of eligible activities that affect multiple agricultural or nonindustrial private forest operations on a local, regional, State, or multi-State basis.

B. Administration and Development

- (a) The funds, facilities, and authorities of the Commodity Credit Corporation (CCC) are available to NRCS for carrying out RCPP.
- (b) NRCS may enter into agreements with other Federal or State agencies, Indian Tribes, conservation districts, units of local government, public or private organizations, and individuals to assist NRCS with implementation of RCPP.
- (c) To assist in the implementation of the program, the Chief may waive the applicability of the limitation in section 1001D(b)(2) of the Food Security Act of 1985 for participating producers if the Secretary determines that the waiver is necessary to fulfill the objectives of the program.

(d) The Chief may not adjust the application of statutory requirements for a covered program, including requirements governing appeals, payment limits, and conservation compliance.

C. Historical Participation Data

NRCS has an evaluation and monitoring tool for the Agency that complies with DR4370-001 (10/11/11) Collection of race, ethnicity, and gender data for civil rights compliance and participation. Program Participation data is collected from three key operational databases: ProTracts, the National Easements Staging Tool (NEST), and the Financial Management Modernization Initiative (FMMI).

RCPP was initiated in 2014. RCPP programs include the agricultural conservation easement program (ACEP), the environmental quality incentives program (EQIP), the conservation stewardship program (CSP), the conservation reserve program (CRP), and the healthy forests reserve program (HFRP), which cross reference the NRCS databases above. This data analysis is limited as the above systems do not capture complete applicant data or race, ethnicity, or gender (REG) data for participants awarded contracts. In an attempt to capture this information, a follow-up data call was initiated in September 2018 to NRCS officials responsible for managing the contracts. The data call provided RCPP raw data that included:

- a. RCPP Agreement Name
- b. Program
- c. Year (2014-2018)
- d. Historically Underserved designation
- e. Farm acreage
- f. Farm type (ranch or crop)
- g. Demographic information (ethnicity, gender, age)
- h. Contract number
- i. Location (state, county, coordinate – if possible)
- j. Contract dollar amount (\$)

The review of this information focused on demographic data (see attachment A). Program participation for FY 2014 through FY 2018 indicates that there were:

| | |
|---------------------------|--------|
| White | 20,758 |
| Black | 340 |
| Hispanic | 305 |
| Asian | 95 |
| AI/AN | 212 |
| Hawaiian/Pacific Islander | 22 |
| Female | 2,391 |
| Male | 15,423 |

Total U.S. Operators by Population (Race, Ethnicity, and Gender)

| | Male (A) | Female (B) | Asians | Native Hawaiians & Pacific Islanders | Blacks | Whites | American Indian/Native Alaskan | Hispanics | Unidentified gender (LLCs, etc.) (C) | TOTAL |
|---|---------------|---------------|-----------|---|------------|--------------|--------------------------------------|------------|---|-----------------------------|
| Total U.S. Operators by Population | 1,821,039 | 288,264 | 24,067 | 3,846 | 46,582 | 3,051,472 | 71,947 | 99,743 | 1,070,771 | 3,180,074 (A+B+C) |
| | 57% | 9% | .76% | 1.2% | 1.5% | 86% | 2.3% | 3.1% | ----- | |
| RCPP Contracts | 15,423 | 2391 | 95 | 22 | 340 | 20758 | 212 | 305 | Not available | 39,526 (A+B) |
| | 39% | 6% | 2.4% | .05% | .87% | 53% | .54% | .77% | | |

Consistent with other NRCS programs, all census groups are represented. White male landowners represent the largest participation group. Female participation appears to be in proportion to the total national population. As the third largest census group, the Hispanic population ranks 4th in participation. American Indians and Alaska Natives are also participating at a lower proportion than the national average. Their low participation may be attributed to fractionated land interest and land enrolled under tribal authority. Other demographic categories also appear to rank in proportion to Ag Census population rates. Black farmers participate more than Hispanic farmers, who participate more than American Indian /Alaska Native and Asian and Hawaiian/Pacific Islanders, respectively.

RCPP data also included breakouts for other farmer groups:

| | |
|------------------------|------|
| Beginning | 3307 |
| Limited Resource | 261 |
| Veteran | 545 |
| Socially Disadvantaged | 867 |

Participation records were not separated by Fiscal Year. In the future, there will be an annual data call that will include applicant and participation data and allow for the evaluation of all data on a yearly basis as part of the monitoring plan for RCPP.

RCPP in many instances may be geographically located on watershed boundaries or other targeted areas to address a specific resource concern that may or may not have large numbers of historically underserved farmers. Geographic areas where RCPPs are located are decided by the entities, not the agency. In order to conduct any meaningful civil rights impact analysis for RCPP, additional data collection and analysis would be required to assess the demographic makeup of many different RCPP projects. Through meaningful monitoring, this information should be available in the future.

D. Eligibility Criteria

(a) Program participation is voluntary. The applicant must develop an RCPP plan of operations for the agricultural or nonindustrial private forest land to be treated that serves as the basis for the program contract. NRCS provides participants with technical assistance and payments to plan and apply needed eligible activities.

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

- (1) Be in compliance with highly erodible land and wetland conservation requirements.
- (2) Meet the eligibility requirements of a covered program, except as waived by the Chief;
- (3) Have control of the land for the term of the proposed contract period;

(A) The Chief may determine that land allotted by the Bureau of Indian Affairs (BIA), Tribal land, or other such circumstances provides sufficient assurance of control,

(B) If the applicant is a tenant of the land involved in agricultural production or forestry management, the applicant shall provide the Chief with the written concurrence of the landowner in order to apply a structural conservation practice,

(4) Submit an RCPP plan of operations consistent with the purposes of the program.

(5) Supply information, as required by NRCS, to determine eligibility for the program, including but not limited to, information to verify the applicant's status as a limited resource, beginning farmer or rancher, and payment eligibility as established by part 1400 of this chapter.

(6) Provide a list of all members of the legal entity or joint operation and embedded entities along with members' tax identification numbers and percentage interest in the entity. Where applicable, American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payment, and

(7) With regard to any participant that utilizes a unique identification number as an alternative to a tax identification number, the participant will utilize only that identifier for any and all other RCPP agreements to which the participant is a party. Violators will be considered to have provided fraudulent representation and will be ineligible for future conservation program consideration in accordance with applicable suspension and debarment regulations; and

(8) Comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109- 282, as amended) and 2 C.F.R parts 25 and 170.

(c) Eligible land includes land eligible under a covered program, including but not limited to agricultural land and 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 include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of agricultural land used for production of livestock. However, land may be considered for enrollment in RCPP only if NRCS determines that the land is:

(1) Privately owned land;

(2) Publicly owned land where:

(A) The land is under the participant's control for the contract period and is included in the participant's operating unit; and

(B) The conservation practices will contribute to an improvement in the identified natural resource concern; or

(3) Indian land.

(d) Conservation practices and activities.

(1) NRCS will determine the conservation practices and activities for which participants may receive program payments. A list of eligible practices activities will be available to the public.

(2) No payments will be made to anyone for a conservation practice or activity that either the applicant or another producer has initiated implementation prior to application to the program.

Payments may be made for a conservation practice or activity under an RCPP contract that has been initiated or implemented after application to the program but prior to contract approval, but only if a waiver was granted by NRCS or designated conservationist prior to initiation of practice or activity implementation.

(3) Where new technologies or management approaches that provide a high potential for optimizing environmental benefits have been developed, NRCS may approve interim conservation practice standards or activities that incorporate the new technologies and provide financial assistance for pilot work to evaluate and assess the performance, efficiency, and effectiveness of the new technology or management approach.

(e) Technical services provided by qualified personnel not affiliated with USDA.

(1) NRCS may use the services of qualified TSPs in performing its responsibilities for technical assistance.

(2) Participants may use technical services from qualified personnel of other Federal, State, and local agencies, Indian Tribes, or individuals who are certified as TSPs by NRCS.

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

(4) NRCS retains approval authority of work done by non-NRCS personnel for the purpose of approving RCPP payments.

E. Outreach Strategy

Outreach is an integral part of the overall delivery of the NRCS programs and services to customers and potential beneficiaries. NRCS conducts business to ensure that all programs and services are made equally accessible to all customers, with emphasis on the traditionally underserved, minority-serving institutions and persistent poverty communities. Outreach allows NRCS to be creative and innovative in the way the agency achieves its mission of "Helping People Help the Land." NRCS considers outreach as an ongoing informational campaign designed to educate the public and make them aware of who we are and what we do.

The outreach plan focuses on Historically Underserved audiences and tribal partners. It identifies messages and approaches that the USDA Natural Resources Conservation Service (NRCS) will utilize to provide proactive and strategic outreach for NRCS voluntary conservation programs as identified in the 2018 Farm Bill.

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

NRCS continues to collaborate and work with a variety of Community Based Organizations (CBO) to 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 the 2018 Farm Bill and all provisions are made available to all that apply and meet the required program eligibility. Data from the 2017 U.S. Department of Agriculture Census of Agriculture will serve as the basis for identifying the historically underserved populations with the most critical conservation needs and assist in targeting outreach program assistance for increased participation in RCPP.

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. To be completed by January 1, 2020. *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 30 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 and landowners 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 occur at state meetings and also during scheduled VTC's 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.*
- Value of Conservation: 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 every imaginative tool possible to enlighten and assist agricultural producers with attaining their economic, natural resource and environmental goals. The agency has identified the States with the oldest median age of agricultural producers in the United States. 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. States have the flexibility to develop outreach plans to meet their specific needs. The National Outreach & Partnership Division (OPD) will work with the Outreach State coordinators to provide general and specific techniques that are flexible and beneficial to the success and outcome of our conservation program participation and services. State Outreach Coordinators should work with the OPD staff to implement training tools and techniques that are transparent and can be synchronized with the Outreach training course.

NRCS will continue to collaborate at the national and local level with community-based organizations through cooperative partnership agreements which assist new immigrant farmers, specialty crop farmers, and limited resource and socially-disadvantaged farmers and ranchers with

technical assistance, on-site demonstrations, program awareness, inner-city urban agriculture, land loss prevention, and training opportunities. NRCS currently has several partnership agreements with third parties in place to facilitate outreach and technical assistance to minority landowners in 33 selected counties in Alabama, Georgia, Tennessee and Florida. The objective is to help minority landowners navigate through NRCS programs in order to improve their land and financial condition.

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 and will also provide the agency with verifiable data that will assist agency leadership in making sound decisions that will limit major program participation obstructions.

KEY MESSAGES

NRCS has knowledgeable staff and strong partners who can assist producers with understanding the changes in the 2018 Farm Bill and 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 |
| 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. |

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. To strengthen working relationships with Tribes, NRCS established three advisory councils in 2012. The agency uses these 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 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 the USDA conservation program delivery and technical assistance to American Indians and Alaskan Natives 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 a quarter century. 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, the 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 also, to 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 and 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 Analysis

Traditional barriers to participation in most major NRCS programs apply to RCPP because RCPP encompasses NRCS traditional programs, such as the agricultural conservation easement program (ACEP), the environmental quality incentives program (EQIP), the conservation stewardship program (CSP), the conservation reserve program (CRP), and the healthy forests reserve program (HFRP).

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; a misunderstanding of easements and how they differ from grants; absence of a clear land title or the inability to demonstrate control of the land for enrollment purposes; lack of funding based on the cyclical application process; a desire for a higher cost share from the government for limited resource and minority participants; complaints about non-responsive field offices and non-utilization of technology allowing farmers to conduct business with the agency from the farm; non-compliance with receipt-for-service requirements; inconvenient office hours and service locations; lack of diversity in the workforce; delays due to contract modifications; a desire to expand projects covered; unique challenges faced by American Indians because of their government-to-government relationship with the federal government and their unique way of operating.

In recognition of existing barriers NRCS currently has several partnership agreements with third parties in place to facilitate outreach and technical assistance to minority landowners in 33 selected counties in Alabama, Georgia, Tennessee and Florida. It is anticipated that these agreements will be renewed. The objective is to help minority landowners navigate through NRCS programs in order to improve their land and financial condition.

The National Outreach Division is requesting that State Outreach Program Managers further analyze these issues above so that they can develop more targeted approaches to outreach and increased participation. They have also been requested to incorporate feedback gleaned from 2019 Farm Bill Listening Sessions.

The Civil Rights and EEO Division is also working 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.

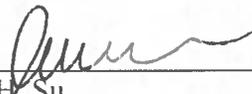
G. Conclusion

The civil rights review of the Interim Rule discloses no disproportionately 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 the local working groups and Conservation Districts, as well as the USDA Office of Tribal Relations, have increased participation in NRCS easement programs.

Extrapolating from historical participation data, it is reasonable to conclude that NRCS programs, including the RCPP, will continue to be administered in a non-discriminatory manner. Outreach and communication strategies are in place to ensure all producers 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. RCPP applies to all persons equally regardless of their race, color, national origin, gender, sex, or disability status. Therefore, the RCPP Rule does not create any adverse civil rights implications for persons of any ethnic or racial group, women, and persons with disability.

H. Certification

I certify that the review and analysis of the 2018 RCPP Interim 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 RCPP Interim 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 Business Center

9/11/19

Date