

**CIVIL RIGHTS IMPACT ANALYSIS  
FOR THE FINAL RULE:  
Environmental Quality Incentive Program**

Agency: US Department of Agriculture  
Natural Resources Conservation Service (NRCS)  
Conservation Operations Division

Subject: Civil Rights Impact Analysis  
Environmental Quality Incentives Program Final Rule

A review of the final rule, Environmental Quality Incentives Program (EQIP), has been directed towards the identification of actual or potential civil rights issues. In this regard, the review analyzed the rule to ensure compliance with Departmental Regulation (DR) 4300-4, “Civil Rights Impact Analysis”; 7 CFR 15d, “Nondiscrimination in Programs and Activities Conducted by the United States Department of Agriculture”; and DR 1512-1, “Regulatory Decision Making Requirements.” The review reveals no factors indicating the final EQIP rule would have a disproportionate adverse civil rights impact for NRCS producers who are minorities, women, or persons with disabilities.

**I. Civil Rights Impact Analysis**

The CRIA is directed towards the identification of actual or potential civil rights issues. The purpose is to identify all the various adverse implications the final EQIP rule will have on each affected group and rationally and reasonably dispose of each. The theory of discrimination applied to the rule is disparate impact. Disparate impact is manifested when on the surface the situation appears the same for all, but there is a different effect. The analysis evaluated the extent to which the various populations are affected by the rule, and how the impact is manifested. The review examined (a) the rule and its implementation plan, (b) historical participation data, (c) public communication and outreach efforts, and (d) barrier removal provisions incorporated into the new rule. 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 EQIP,
- if all the affected groups have historically been provided the same opportunities to participate in the EQIP or similar NRCS programs, and
- if all the affected groups are provided the same information to decide if they wish to participate in the EQIP.

## **A. EQIP Rule and Implementation Plan**

### **Description of EQIP**

EQIP was re-authorized in the 2002 Farm Bill to promote agricultural production and environmental quality as compatible national goals. 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 practices that enhance soil, air, water, related natural resources (including grazing land and wetland), and wildlife while sustaining production of food and fiber.

EQIP activities will be carried out according to an EQIP plan of operations. This plan addresses the conservation and environmental purposes to be achieved through 1 or more practices. EQIP participation is voluntary, so producers are not obligated, but are encouraged, to develop comprehensive or total resource management plans. EQIP offers financial, educational, and technical help to install or implement structural, vegetative, and management practices called for in contracts of up to 10 years on eligible agricultural land.

Funding for EQIP comes from the Federal Government's Commodity Credit Corporation. EQIP is authorized at \$4.6 billion over five years starting at \$400 million in fiscal year (FY) 2002, increasing to \$700 million in FY 2003, \$1 billion in FY 2004, \$1.2 billion in FY 2005 and FY 2006, and \$1.3 billion in FY 2007. Total cost-share and incentive payments are limited to \$450,000 per individual or entity, regardless of the number of contracts entered into.

Cost sharing may pay up to 75 percent of the costs of certain structural conservation practices important to improving and maintaining the health of natural resources in the area. Incentive payments may be made to encourage a producer to adopt land management practices such as nutrient management, manure management, integrated pest management, irrigation water management, and wildlife habitat management that they may not otherwise use without the program incentive. Additionally, producers may be eligible to receive payments for costs they incur from certified Third Party Vendors that assist in planning and installing conservation practices funded by EQIP.

Limited Resource Farmers and beginning farmers may be eligible for up to 90 percent of the cost of conservation practices.

### **Application Evaluation**

Contract applications will be accepted throughout the year. NRCS evaluates the environmental benefits of each application using a locally developed ranking process to optimize environmental benefits.

### **Eligibility**

Eligibility is limited to producers who are engaged in livestock or crop production on eligible land which includes: cropland, rangeland, pasture, private nonindustrial forestland, and other farm or ranch lands as determined by the Secretary.

### **Program Delivery.**

EQIP utilizes the state technical committees and local working groups to implement the program to address identified needs and concerns.

NRCS administers EQIP with the Farm Service Agency (FSA) consultation at the national level.

### **Signup Period and Contract Determinations**

Any producer who is eligible may submit an application for participation in EQIP at a USDA service center. Information will be provided that explains the process to request assistance. Applications will be accepted throughout the year.

The State Conservationist, with advice from the State Technical Committee, will:

- Establish State program management policies, procedures, and program performance indicators
- Conduct the statewide public outreach and information campaign (s)
- Identify, monitor and analyze performance indicators and evaluate and report program impacts on resources
- Participate in appeals processes, as appropriate: and
- Concur in Local Work Group application process to assure program purposes are achieved and that USDA's civil rights responsibilities are met.

The local designated conservationist will:

- Determine cost-share and incentive payment limits and methods of payment, with advice of the Local Work Group
- Work with the applicant to collect information necessary to evaluate the application, using the criteria developed and forward request for "person determination" to FSA
- Develop and utilize a ranking process for participant applications for contracting and work with the applicant to develop a contract.

## **B. Program Participation Data**

NRCS engages in data collection to assess the impact of its programs on protected groups and provides targeted outreach efforts as delineated below in an attempt to mitigate any deleterious impact.

Past EQIP and NRCS program participation data for producers who are minorities, women and persons with disabilities are collected under the NRCS Performance and Results Measurement System (PRMS) and the Farm Service Agency (FSA) System<sup>36</sup> (data records). As a matter of guidance, a disparity of 10% or more indicates disparate impact or a lack of parity (NRCS General Manual Title 230, Equal Opportunity, Part 405).

Summary data displayed below in Table 1 EQIP Parity Report uses PRMS data and 1997 Agriculture Census data to compare FY 2001 participation rates in EQIP of minority and female producers to the participation rates of White male producers. Table 2 Parity Report uses PRMS data and the 1997 Agriculture Census to illustrate the rate of assistance provided by NRCS in FY 2001 in all of its conservation programs to minority and female producers as compared to white male producers. Table 3 uses the 1990 Census to depict the percentage of the general population based on race benefiting from NRCS conservation programs. Tables 4, 5 and 6 has extracted

cumulative EQIP data from FSA System36 which shows the number of EQIP applications, EQIP applications approved, and the actual allocations of EQIP dollars to all producers including minority, female and producers with disabilities. The data from the FSA System36 provides an insight into the actual dollar allocations for EQIP contracts based on RSNOD (race, sex, national origin, disability) status of applicants, but may not be completely accurate since the reporting is cumulative and some states may not have submitted all of their contract data for input into the system.

The Agriculture Census does not collect data on disability. However, PRMS was modified in June 2001 to include a data field to collect disability data. Data regarding the disability status of producers participating in NRCS conservation programs will be reported for FY 2002.

The “others” category in the tables includes those producers whose race were unknown or who identified themselves as being of multiple races.

**Table 1. Parity Report – Environment Quality Incentive Program, FY 2001\***

Race	American Indian		Asian/Pacific Islander		Black		Hispanic		White		Total
	F	M	F	M	F	M	F	M	F	M	
<b>Gender</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	
<b>National</b>	1499	2900	105	594	1158	5019	720	4760	34308	145844	197379
<b>Census (#)</b>	1252	9058	1291	7198	1660	16524	2533	25184	158232	1687229	1911823
<b>Service %</b>	119.7	32.0	8.1	8.3	69.8	30.4	28.4	18.9	21.7	8.6	N/A
<b>Disparity (%)</b>	111.1	23.4			61.1	21.7	19.8	10.3	13.1	N/A	N/A

\* PRMS EQIP Parity Report, FY 2001

Table 1 is used to calculate the percentage of farm operators counted in the 1997 Agriculture Census benefiting from occurrences of EQIP assistance. The first row shows the occurrences of EQIP services rendered to operators. The second row of data represents the number of farm operators from the 1997 Agriculture Census data. The third row of data is the percent of farm operators served (line1/line2), and the fourth row shows any disparity greater than 10% (line3/line3 White males). The data from Table 1 indicate farm operators belonging to each protected group received EQIP services during FY 2001 at parity with White male farm operators (8.6%). In fact, rates for American Indians (119.7 % females, 32% males), Blacks (69.8% females, 30.4% males), and Hispanic females (28.4%) exceeded parity with White male operators.

**Table 2. Female and Minority Participation in NRCS Conservation Programs FY 2001\*\***

<b>Race</b>	<b>NRCS Prog. Participation</b>	<b>1997 Census of Agriculture</b>	<b>% Serviced</b>
American Indian	9,576	12,925	74%
Asian American	2,615	8,489	31%
African American	21,405	18,184	118%
Hispanic	18,677	16,923	110%
Others	2,062	3,331	62%
Females	262,981	165,101	159%
White Males	868,457	1,678,222	51%
<b>Total</b>	<b>1,155,188</b>	<b>1,911,823</b>	<b>60%</b>

\*\* PRMS Agricultural Producer Parity Report National Summary, October 1 through September 30, FY 2001

The data in Table 2 illustrate that the rates of NRCS conservation services provided to minority and female producers, with the exception of Asian Americans (31%), exceeded the rate of services provided to white males (51%). Seventy-four percent of American Indians received NRCS services, African American producers received services at a rate of 118 percent, Hispanics received services at a rate of 110 percent, and females received services at the rate of 159 percent.

**Table 3: FY 2001 General Parity Report\*\*\***

<b>Race</b>	<b>American Indian</b>	<b>Asian/Pacific Islander</b>	<b>Black</b>	<b>Other</b>	<b>White</b>	<b>Total</b>
National	31877	17954	173062	19773	2069218	2311884
Census (#)	2209994	7826806	31425253	10623082	215420010	267505145
Service (%)	1.442	0.229	0.551	0.186	0.961	N/A
Disparity (%)					N/A	N/A

\*\*\* PRMS General Parity Report, October 1 through September 30, FY 2001

Table 3 shows the percentage of the general population counted in the 1990 Census benefiting from NRCS conservation assistance. The census data is by race. The first row of data represent the number of customers by race receiving conservation assistance from NRCS. The second row of data represents the general population from the 1990 Census data. The third row of data is the percent of the general population serviced by NRCS. The fourth row shows that there is no disparity in the rate of services rendered by NRCS to Whites as compared to minorities.

**Table 4. Applications – Environment Quality Incentive Program – FSA System36**

	Male	Female	Handicap	American Indian	Asian American	African American	Hispanic	White	Other
#	241,226	47,254	438	3,295	474	7,750	4,035	270,769	2,147
%	83.6	16.4	.15	1.1	.16	2.7	1.4	93.9	.74

The data in Table 4 show the number and percentage of applications NRCS has received from producers for EQIP based on the RSNOD status of applicants. Information regarding EQIP applications, application approvals, and awarding of contracts and payments were recorded and tracked in the FSA data system.

**Table 5. Application Approvals – Environment Quality Incentive Program- FSA System 36**

	Male	Female	Handicap	American Indian	Asian American	African American	Hispanic	White	Other
#	63,576	6,498	123	1,289	74	1,850	1,530	64,691	640
% approved	26.3	13.8	28.1	39.1	15.6	23.9	37.9	23.9	29.8
% of all applications approved	90.7	9.3	.17	1.8	.11	2.6	2.2	92.3	.91

The data in Table 5 show the number and percentage of applications that have been approved for EQIP contracts based on the RSNOD status of the applicant, and the percentage of all applications approved by NRCS based on RSNOD. The approval rate for White applicants is 23.9 percent compared with approval rates of 39.1 percent for American Indians, 15.6 percent for Asian Americans, 23.9 percent for African Americans, and 37.9 percent for Hispanics. There is parity in the approval rates based on race and national origin. Parity also exists in the approval rates for producers with disabilities (28.1%). There is, however, disparity in the approval rate of EQIP contracts for male applicants (26.3 %) as compared to the approval rate for female applicants (13.8%).

**Table 6. Cost Share– Environment Quality Incentive Program**

	Male	Female	Handicap	American Indian	Asian American	African American	Hispanic	White	Other
\$	30,635,251	3,122,138	55,259	701,355	31,821	283,524	148,832	32,305,544	286,093
%	90.8	9.2	.16	2.1	.09	.83	.44	95.7	.85

Table 6 shows the actual EQIP dollars received by producers based on their RSNOD for cost share payments. When the percentage of cost share dollars received is compared with the number of applications approved in Table 5, disparities are manifested for African American (.83 % vs 2.6%), Hispanic (2.2 % vs .44 %) and Asian American (.11% vs .09 %) producers. By contrast, White producers' actual cost share rate exceeded their application approval rate (95.7% vs 92.3 %). Often, protected group producers who have been approved for conservation

practices do not have the personal financial resources to match cost share requirements necessary to execute a contract.

An analysis of the data indicates that with the exception of cost share payments for African Americans, Hispanics, and Asian Americans, plus female application approval rates, minorities, females, and persons with disabilities are participating in NRCS programs, including EQIP, in an equitable manner. Provisions incorporated into the final rule to address these disparities are explained in section D below. NRCS at the National level will continue to monitor participation rates and will make a concerted effort to implement and enforce outreach strategies indicated above where and when there are significant disproportionate services rendered to specific minority groups. State Conservationists will continue to examine data regarding program participation specific to their state, determine what barriers may exist for participation, and take action to ensure that all persons have an equal opportunity to participate.

### **C. Outreach and Communication Strategy**

The NRCS Director of Communications and the Director of Outreach have provided and coordinated training regarding outreach strategies necessary to inform all segments of the affected public about the final EQIP rule. Public notification and outreach will be aggressively expanded to include news releases, radio and TV spots, publications, and brochures to ensure those traditionally under-served (with special focus on the Asian American community) will have an equal opportunity to benefit from the final rule.

The Conservation Operations Division (COD) of NRCS will work in partnership with the USDA Office of Outreach and the NRCS Outreach Division to locate and provide information to protected groups. A press release announcing the issuance of the newly final EQIP will be electronically sent to universities and colleges specifically identified with a protected group. The press release will contain a contact person for obtaining further information. Mailing lists have been obtained or are being created to reach fifty-two land-grant Universities, eighteen 1890 Universities, 192 HACU's, colleges and universities located in 6 U.S. Territories, and 32 Tribal Colleges and Universities.

COD will work in partnership with the Outreach Division to submit information for publication in the national newsletters of several national agricultural organizations. These include American Agri-Women, WAgN (Women's Agricultural Network), MANRRS (Minorities in Agriculture, Natural Resources, and Related Sciences), WIFE (Women Involved in Farm Economics), and the National AgriAbility Project (between 22,000-30,000 farmers with disabilities receive their Breaking New Ground Newsletter). Significant media outreach will be undertaken to acquaint under served producers with the newly final EQIP. Spanish-translated press releases and informational materials will be made available.

Local offices will continue to encourage community involvement and locally led conservation activities they have underway. Locally led conservation is helping community stakeholders to:

- Assess their natural resource conservation needs,

- Set community conservation goals;
- Develop an action plan;
- Obtain resources to carry out the plan;
- Implement solutions; and
- Measure their success.

The locally led process provides for input from a broad range of agencies, organizations, businesses, and individuals in the local area who have an interest in natural resource management and are familiar with the local resource needs and conditions. Through this input process there is the opportunity for minority and socially disadvantaged groups to indicate how to address their natural resource concerns. Outreach efforts are made to ensure that the diversity of residents, landowners, and land operators in the local area are well represented in this process.

States will make every effort to reach all eligible producers through various means including newspapers, magazines, local publications, radio, personal contacts, meetings, newsletters, churches, organizations, community advocacy groups, etc.

Special efforts will be made to distribute the information regarding the new EQIP through personal mailings to potential participants who are minorities or socially disadvantaged, females, or persons with disabilities.

#### **D. Barrier Removal Provisions of the final EQIP Rule**

The final rule incorporates features to address potential disparities for producers who are members of a protected group. The final rule will increase significantly the level of funding for EQIP as compared to previous years. This increased funding **may** result in a much higher application approval rate. Conservation incentive payments generally provide a fairer distribution of benefits among farmers and landowners across the nation than do other farm programs such as commodity subsidies because of :

- payment limitations, and
- a greater number of farmers and ranchers are eligible to apply to participate.

The final rule will address major systemic barriers for farm operators who have historically experienced distinct disadvantages in obtaining USDA program assistance by inducing and helping them to enter farming by providing incentive payments and by assisting with a higher percentage of the cost share payments to participate. To ensure they will have an equal opportunity to participate, Limited Resource Farmers/Producers (LRF/Ps) and beginning farmers may be eligible for up to 90 percent of the cost of conservation practices as compared with up to 75 percent for other farmers. In addition, the “buy down” practice that was encouraged in the previous EQIP is not allowed under the final rule. Essentially, under the “buy down” practice producers could accept lower percentages of cost share and thus be awarded additional points on their applications, thereby, gaining an advantage in the application approval process. Provisions



of the new EQIP rule levels the playing field for protected group producers many of whom are LRF/Ps.

To meet the economic threshold for designation as LRF/P to qualify for the higher cost share, a producer will have at least one of the following characteristics:

- is an individual with direct or indirect gross farm sales not more than \$100,000, and
- Has a total household income at or below national poverty level for a family of four, or has less than 50% of county median household income, in each of the previous two years.

A beginning farmer or rancher is an individual who has operated a farm or ranch for 10 years or less.

Further, the NRCS taskforce established to collaborate in the creation and implementation of the final EQIP rule and other conservation programs emanating from the 2002 Farm Bill consists of staff members from the Civil Rights Division, the Conservation Operations Division, the Outreach Division and various State and district offices. The EQIP taskforce membership is comprised of two White females, four White males, one Black male, and one American Indian male. When the final rule is published, all populations will be provided the opportunity to comment on the rule as final, and on the implementation of the rule. Outreach and communication strategies are in place to ensure all producers will be provided the same information to decide if they wish to participate in EQIP; and, the rule will provide benefits to all producers regardless of their status as it relates to race, national origin, gender or disability.

## **E. Conclusion**

Therefore, our review discloses no adverse civil rights implications and we conclude the final rule portends no disproportionately or negative affect for minorities, women, or persons with disabilities.

## II. CERTIFICATION

I certify that the regulation has been reviewed according to Departmental Regulation 4300-4, "Civil Rights Impact Analysis," and the analysis and recommendations as required under that regulation are part of this certification.

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Andrew Johnson,  
Director  
Civil Rights Staff  
Natural Resources Conservation Service

Date