

**AMERICAN INDIAN AND ALASKA NATIVE POLICY
OF THE
NATURAL RESOURCES CONSERVATION SERVICE
AN AGENCY OF THE
UNITED STATES DEPARTMENT OF AGRICULTURE**

INTRODUCTION

In furtherance of the unique status of American Indian and Alaska Native Governments, their citizens and the locally lead conservation process, the Natural Resources Conservation Service (NRCS) hereby proclaims its American Indian and Alaska Native Policy. The policy provides the guiding principles to be followed in all NRCS interactions with American Indian and Alaska Natives governments and their citizens.

The basis for this relationship predates the NRCS enabling legislation and most of the agricultural law under which NRCS operates. Constitutional and Legal Authority is based on a number of components including the following: U.S. Constitution Article I , Section 8 &10; Article III, Section 2; Article IV; 1790, Act To Regulate Trade And Intercourse With The Indian Tribes; Cherokee Nation vs. Georgia 1831; Worster vs. Georgia 1832; Winters vs. United States 1908; Indian Re-organization Act 1934; 1969 Alaska Native Claims Settlement Act (ANCSA); 1988 MOU between Secretary of Interior and Secretary of Agriculture; and The 1990 Food Agriculture Commerce and Trade Act, which requires NRCS to provide weekly service at tribal headquarters and provides for socially disadvantaged farmer classification and subsequent increased cost share for those so qualified which includes American Indians; The U.S. Department of Agriculture Policy on American Indians and Alaska Natives, October 16, 1992; and President Clinton's, April 19, 1994 Executive Memorandum to all department heads on the "Government-to-Government Relations With Native American Tribal Governments." The 1996 Federal Agriculture Improvement and Reform Act contains a number of program modifications which must include American Indians if we are to meet our legal mandates. Nearly all, of over five hundred federally recognized tribes are signatory to one or more treaties with the U.S. Government. In many cases these treaties may influence natural resource management options both on and adjacent to the American Indian Tribal lands and in the case of Alaska Native Claims Settlement Act provisions for Alaska Natives.

Acknowledging the government wide 'TRUST' or fiduciary obligation to American Indian Tribes and Alaska Native Corporations, but also supporting American Indian and Alaska Native Governmental autonomy, the NRCS espouses a Government-to-Government relationship between the Federal Government and American Indian and Alaska Native Governments.

This policy pertains to Federally recognized American Indian Tribes and Alaska Native Corporations and provides guidance to NRCS personnel for issues affecting these Nations and their citizens. State recognized tribes and their citizens; unrecognized tribes and their citizens or American Indians or Alaska Natives who are not members of Federally recognized Tribes and Alaska Native corporations shall not have special stature as provided for by statute or regulation, but shall be served as any other citizen of the United States.

This policy is for internal management and program delivery only and shall not be construed to grant or vest any right to any party in respect to any federal action not otherwise granted or vested by existing treaty, law or regulation.

DEFINITIONS

American Indian Tribe (or Tribe) or Alaska Native Corporation (or ANC). Any American Indian Tribe, Band, Nation, Pueblo, or other organized group or community, including any Alaska Native village or Regional Corporation (as defined in, or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), which is acknowledged by the Federal Government to constitute a Tribe or ANC with a Government-to-Government relationship with the United States and eligible for the programs, services, and other relationships agreed to in treaty or established by the United States for American Indians and Alaska Natives because of their status as American Indians or Alaska Natives.

Tribal or Alaska Native Corporation Government. The recognized Government of an American Indian Tribe / Alaska Native Corporation or component Band Government of such Tribe or ANC that has been determined eligible for specific services by Congress or officially recognized by inclusion in 25 CFR part 83, "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs," as printed in the Federal Register.

American Indian or Alaska Native. Any citizen of a Tribe (as determined by the Tribe) or Alaska Native (as determined by the Alaska Native Claims Settlement Act).

Tribal Conservation District. A conservation district, soil and water district, or resource conservation district which has been constituted under Tribal Law or ANC bylaws and recognized by the USDA's Secretary of Agriculture through an official Mutual Agreement (MA) signed by the Secretary of Agriculture, the Tribal or ANC Leader (Chair, Governor, President, War Chief, Chief, etc.), and the Tribal Conservation District chair (or interim chair).

Consultation. Consultation in the USDA, Natural Resources Conservation Service is the explicit recognition on the part of the agency that a Government-to-Government relationship must exist with each American Indian and Alaska Native Corporation. This relationship is based on the execution by the agency of legally established TRUST responsibilities, and is to be based on respect for American Indian Nations and Alaska Native Corporation as sovereign entities. This consultation relationship is based on the responsibility of the NRCS to seek advice, guidance, and counsel from, and to confer with American Indian Nations and Alaska Native Corporations, with regard to natural resource conservation issues that may affect a Tribe or ANC.

Ceded Rights. American Indian Nations retained specified rights (hunting, fishing, plant gathering, access to spiritual sites, etc.) when treaties were negotiated by the Tribe and the United States Government, signed and approved by the U.S. Senate. Ceded rights were not given to American Indian Nations by the U.S. Government, but acknowledged as pre existing and continuing rights through the treaty process.

POLICY PRINCIPALS

The following policy statements provide guidance to the Natural Resources Conservation Service (NRCS) employees for actions dealing with American Indian / Alaska Native Corporation Governments and their citizens.

NRCS RECOGNIZES AND COMMITS TO A GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH AMERICAN INDIAN / ALASKA NATIVE CORPORATION GOVERNMENTS.

NRCS recognizes that Tribes and ANCs have the right of self-government which flows from the inherent sovereignty of Tribes, ANC's, Nations and this provides Federally recognized Tribes and ANCs with the unique and direct relationship with the Federal Government. NRCS further recognizes the rights of each Tribal or ANC Government to set its own priorities and goals for the welfare of its citizens and that NRCS will deal with each Tribal / ANC Government , when appropriate, to meet that Tribe's / ANC's needs.

A significant component of American Indian and Alaska Native self-government is their opportunity to form **Tribal Conservation Districts** under tribal law, if they so choose. NRCS will provide all American Indian and Alaska Native Governments information on conservation district options and process for their consideration. NRCS recognizes that the ultimate decision on which option an American Indian Tribe or Alaska Native Corporation takes is solely theirs and the Secretary of Agriculture, not NRCS's. **If a Tribal Conservation District is formed, NRCS will work with the newly formed district and the Tribe or ANC to establish an office at Tribal or ANC headquarters with at least staffing and technical capacity equivalent to that found within existing surrounding NRCS offices.**

NRCS ACKNOWLEDGES THE POLICY COMMITMENTS OF THE U.S. CONGRESS AND THE CHIEF EXECUTIVE AS PRECEDENCE.

NRCS recognizes the U.S. Congress passed House Concurrent Resolution #331, in 1988, declaring the Policy "To Acknowledge the Contribution of the Iroquois Confederacy of Nations to Reaffirm the Continuing Government-to-Government Relationship between Indian Tribes and the United States Established in the Constitution," and incorporates the Policy Memorandum of the White House, issued April 29, 1994, herein, as so to guide the Executive Departments and Agencies in the Government-to-Government relations with American Indian and Alaska Native Governments.

NRCS ACKNOWLEDGES THE 'TRUST' RELATIONSHIP BETWEEN THE FEDERAL GOVERNMENT AND AMERICAN INDIAN AND ALASKA NATIVE GOVERNMENTS AS ESTABLISHED BY SPECIFIC STATUTES, TREATIES, COURT DECISIONS, EXECUTIVE ORDERS, REGULATIONS, AND POLICIES.

NRCS, in keeping with the fiduciary relationship, recognizes its 'TRUST' responsibility and will consult and work with American Indian and Alaska Native Governments at the appropriate level prior to implementing any action when developing legislation, regulations, and/or policies that will affect American Indian and Alaska Native Governments, their lands and resources, and their development efforts. NRCS management is responsible to assure that American Indian and Alaska Native Governments are represented as full and equal partners on all agency task forces and advisory groups addressing issues which will affect American Indian and Alaska Native lands. This includes National, State and local groups. American Indian and Alaska Native Governments are to be made aware of their opportunities to participate through the consultative process and upon an indication of a Tribe's or ANC's desire to participate, the Tribe or ANC shall select and appoint a citizen of their choosing to represent them. In the case of National groups, nominations will be sought and selected individuals will be appointed.

NRCS ACKNOWLEDGES THE COMMERCE CLAUSE OF THE UNITED STATES CONSTITUTION, ALSO KNOWN AS THE "INDIAN COMMERCE CLAUSE."

NRCS recognizes the "Commerce Clause" of the United States Constitution (Article I, Section 8, Clause 3) is also known as the "Indian Commerce Clause" and states: "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;". NRCS understands that trade and commerce were the original building blocks that established the Government-to-Government relationships with the American Indians and Alaska Natives. NRCS pledges to honor the constitutional protections secured to American Indian and Alaska Native commerce.

NRCS WILL CONSULT AND WORK WITH AMERICAN INDIAN AND ALASKA NATIVE GOVERNMENTS BEFORE MAKING DECISIONS OR IMPLEMENTING POLICY, RULES OR PROGRAMS THAT MAY AFFECT A TRIBE OR ALASKA NATIVE CORPORATION TO ENSURE THAT AMERICAN INDIAN AND ALASKA NATIVE RIGHTS AND CONCERNS ARE ADDRESSED.

NRCS recognizes that as a sovereign government, the American Indian Tribe or Alaska Native Corporation is responsible for the welfare and rights of its citizens and has the right to regulate activities within their jurisdictional boundaries as defined in law and treaties, which may include ceded rights. Therefore, NRCS will involve American Indian and Alaska Native Governments and seek their input at the appropriate level on policies, rules, programs, and issues that may affect American Indian and Alaska Native rights and lands. In the case of program and project implementation, it shall be the responsibility of NRCS management to inform American Indian and Alaska Native Governments of their options to influence programs and projects prior to implementation within a given American Indian or Alaska Native Government's jurisdiction.

NRCS recognizes Federal Law, Section 7 (b) of P.L. 93-638 (25 U.S.C. 450 (e) (b)) which requires that on all contracts or grants for the benefit of Indians, preference shall be given to Indians, to the greatest extent feasible, in the award of subcontracts, employment opportunities. (Case law also indicates that contracts under grants are "subcontracts" for purposes of this act.) NRCS will work with, and require contractors to work with Tribal Employment Rights Office(s) ("TERO") when providing funds for projects on American Indian and Alaska Native lands.

NRCS WILL IDENTIFY AND TAKE APPROPRIATE STEPS TO REMOVE ANY IMPEDIMENTS TO WORKING DIRECTLY AND EFFECTIVELY WITH AMERICAN INDIAN AND ALASKA NATIVE GOVERNMENTS.

NRCS recognizes there may be legal (both Federal and Tribal Law), cultural, procedural, organizational, and other impediments that affect its working relationship with American Indian and Alaska Native Governments. NRCS will apply the requirements of Executive Orders Nos. 12875 ("Enhancing the Intergovernmental Partnership") and 12866 ("Regulatory Planning and Review") and the "Regulatory Flexibility Act" to design solutions and tailor Federal programs, when appropriate, to address specific or unique needs of American Indian and Alaska Native communities. NRCS will use the National Performance Review; USDA's Civil Rights Action Team recommendations, Civil Rights Implementation Team recommendations; and government reorganization to implement effective means for direct cooperation with American Indian and Alaska Native Governments and their citizens. Part and parcel to this effort will be the continued utilization of American Indians and Alaska Natives in the training of NRCS employees on Tribal and ANC Governments, protocols, and cultural value systems.

NRCS WILL WORK COOPERATIVELY WITH OTHER FEDERAL DEPARTMENTS AND AGENCIES, AND WHERE APPROPRIATE TRADITIONAL PARTNERS, TO FURTHER THE GOALS OF THIS POLICY.

NRCS recognizes the importance of interagency and partnership cooperation. Therefore, NRCS will encourage and strive for communication, coordination, and cooperation among all governmental agencies and appropriate partnerships to ensure that the rights of American Indians and Alaska Natives are fully recognized and upheld.

NRCS WILL WORK WITH AMERICAN INDIAN AND ALASKA NATIVES TO ACHIEVE THEIR GOAL OF SELF-SUFFICIENCY.

NRCS recognizes the importance of legal, social, cultural and economic independence to American Indian and Alaska Native self-determination and Tribal and ANC self-sufficiency, and pledges to assist these Governments with developing strong stable resource management programs which will allow American Indian and Alaska Natives to participate in today's national and global marketplace. **Therefore, NRCS will make every effort to ensure that eligible Tribes and ANCs have access to NRCS technical assistance and programs that will help them meet their goal of self-sufficiency. This includes fully implementing Section 2501 (g) of the Food Agriculture Commerce and Trade Act of 1990, by informing all American Indian and Alaska Native Governments of their options and, through the consultative process, implementing their requests.** If appropriate, NRCS will develop non-traditional approaches to office locations, office hours, staffing patterns, job series, recruitment, staff evaluation, staff supervision, and reward systems.

NRCS WILL INTERNALIZE THIS POLICY TO THE EXTENT THAT IT WILL BE INCORPORATED INTO THE NATIONAL, REGIONAL, STATE AND LOCAL LEVEL ONGOING AND LONG-TERM PLANNING AND MANAGEMENT PROCESSES, AS WELL AS DAY-TO-DAY OPERATIONS.

NRCS recognizes that policies are not relevant or successful unless they are acted upon and properly implemented. NRCS will effectively and fully incorporate all of the principals of this policy into all operations and basic tenants of its mission. NRCS has established an office of American Indian and Alaska Native Liaison to coordinate this policy and act as liaison with American Indian and Alaska Native Governments in implementing and working with the policy and principals.

THE EFFECTIVE DATE OF THIS NRCS POLICY IS UPON SIGNING BY THE CHIEF OF THE NATURAL RESOURCES CONSERVATION SERVICE AND AFTER CONSULTATION WITH AMERICAN INDIAN AND ALASKA NATIVE GOVERNMENTS.

Therefore, the Chief of the Natural Resources Conservation Service hereby directs all NRCS staff to implement this policy by incorporating all the above principals in their planning and management activities, their day-to-day operations, and their policy development.



Natural Resources and Environment

Several USDA agencies, including the Natural Resources Conservation Service (NRCS), implement an extensive joint outreach effort with the Intertribal Agriculture Council (IAC) to increase awareness of USDA services available to American Indian and Alaska Native communities. The IAC is a nonprofit corporation of 61 member Indian tribes devoted to improving agriculture as a source of economic development for American Indian people. NRCS has designated a full-time American Indian Liaison in order to work more closely with the IAC. NRCS has worked with the IAC to help Indian tribes establish 33 full-time and 73 part-time NRCS offices at tribal headquarters and 15 American Indian Conservation Districts under tribal law, with an additional two Districts in the development phase. NRCS has conducted 20 "Working Effectively with American Indians" workshops; these sessions focus on historical, legal, and cultural issues that are significant for effective program delivery to American Indians and Alaska Natives.

The Forest Service has an American Indian and Alaska Native policy and has published a national tribal resource book entitled *Forest Service National Resource Book on American Indian and Alaska Native Relations* to promote cooperative relations with American Indian and Alaska Native tribes. The Forest Service works with Indian tribes to coordinate the management of national forest lands and resources with adjacent Indian tribes; to honor American Indian water rights and reserved rights to hunt, fish, gather, and graze on present-day national forests through consultation and agreement with affected Indian tribes; to engage in ongoing consultation with Indian tribes to accommodate traditional, cultural sites on public lands; and to provide research, technology transfer, and technical assistance to Indian tribes.

Natural Resources Conservation Service

American Indians and Alaska Natives are eligible to participate in all Natural Resources Conservation Service (NRCS) programs and may have special status as provided by statute or regulation. The demand for NRCS services by American Indian tribal groups continues to increase as the value of NRCS assistance becomes better understood.

Assistance provided includes, but is not limited to, the following: Conservation planning on cropland, pastureland, and rangeland and assistance to apply rangeland management and improvement practices, irrigation water development structures and management, brush control, erosion control structures, agriculture, forestry, salinity control, land treatment for watershed programs activities, no-till conservation tillage, soil interpretation for various land uses, farmland protection, wildlife habitat improvement, and wetlands restoration.

In addition to cost sharing available through the Farm Service Agency (FSA), as noted in the following pages, NRCS provides cost share assistance for conservation practices under certain programs, such as Public Law 83-566 Watershed Protection and Flood Prevention programs, the Wildlife Habitat Improvement Program (WHIP), and the Conservation Operations Program (COP), and administers on behalf of the Commodity Credit Corporation (CCC) the Environmental Quality Incentives Program (EQIP) and the Wetlands Reserve Program (WRP).

Three actions have increased American Indian access to NRCS programs and assistance: (1) Authorization of Indian tribes to be legal sponsors of watershed projects; (2) the 1997 USDA Office of the General Counsel review of policy and the resulting determination that USDA can provide the same assistance, through conservation districts, to American Indians and Alaska Natives on their lands as it does to non-Indians; and (3) the establishment, in 1980, of the USDA policy to provide conservation assistance through conservation districts organized under tribal or Federal law.

One new action significantly increased American Indian access to programs and services: Section 2501(g) of the 1990 Food, Agriculture, Conservation, and Trade Act (the 1990 Act) required certain USDA agencies, including NRCS, Farm Service Agency (FSA), and Rural Development (RD), to establish suboffices at tribal headquarters, if requested by Indian tribes.

NRCS gives technical help in soil and water conservation to individual landowners and operators, organizations, city, county, and State governments, through nearly 3,000 local soil and water conservation districts. It provides technical and financial help for watershed protection and flood prevention, and through other conservation programs. Natural resource information is available to land use officials for planning and maintaining housing, schools, water supply, highways, and recreational facilities.

Primary NRCS programs are described in more detail below:

- **Soil Survey Program**

Assistance Available: Published soil surveys of counties or other comparably sized areas are available for use by interested Indian tribes, agencies, organizations, and individuals. Many of the soil surveys include American Indian land both on and off reservations. Soil surveys are in progress on other reservations. They contain basic and detailed information needed for agricultural and natural resource development programs.

How to Apply: An applicant should contact his or her tribal or county NRCS office, local Extension Service, the State Agricultural Experiment Station, the nearest USDA Agricultural Service Center or Conservation District Office, or local Member of Congress.

For More Information: Contact Director of Soils, NRCS, USDA, Washington, DC 20250; telephone: (202) 720-1820.

- **Technical Assistance Program**

Assistance Available: Through its field offices, local conservation districts, and Tribal Conservation Districts, NRCS helps farm and ranch owners and operators plan and apply more than 100 conservation practices to manage, conserve, improve, and develop soil, water, and related resources. NRCS has expertise in resource assessment and planning, agronomy, range management, forestry, agricultural engineering, soils, water management, wildlife habitat management, recreation, aquaculture, rural development, resource inventories, and watershed and flood protection.

The Service provides technical assistance to American Indian communities through Tribal Conservation Districts and Tribal Governments handling natural resource conservation programs and other rural development activities.

Technical assistance is coordinated at the national level by the NRCS Conservation Operations Division. Field office personnel provide assistance upon request to individuals, district cooperators, Indian tribes, Tribal Councils, or other community leadership. Through participation in national, State, and local Field Advisory Committees (FAC's), NRCS can help American Indian community leaders access USDA program benefits.

How to Apply: Contact the county or tribal NRCS Office, Tribal Conservation District, Conservation District Office, or the nearest USDA Agricultural Service Center.

For More Information: Contact the Director of Conservation Operations Division, NRCS, USDA, Washington, DC 20250; telephone: (202) 720-1845.

- **Resource Conservation and Development Program**

Assistance Available: Technical assistance is available to help local people initiate and carry out long-range programs of Resource Conservation and Development (RC&D).

Indian tribes have the option of forming RC&Ds based on reservation boundaries and tribal law. RC&D assistance may be used on reservation lands for public water-based recreation and fish and wildlife developments or on private lands owned or operated by American Indians for flood prevention, sedimentation and erosion control, farm irrigation, water quality management, and control and abatement of agriculture-related pollution. The RC&D Project Steering Committee and local leadership plan and carry out associated project measures funded by other non-USDA entities, both Federal and private. Associated measures deal with any project the RC&D and local people need and approve.

How to Apply: Contact the county or tribal NRCS Office, Tribal Conservation District, Conservation District Office, RC&D Coordinator's Office, or the nearest USDA Agricultural Service Center.

For More Information: Contact Director of Resource Conservation and Development Division, NRCS, USDA, Washington, DC 20250; telephone: (202) 720-2241.

- **American Indian Liaison**

Assistance Available: NRCS has an American Indian Liaison located at National Headquarters. The Liaison's role is to work with Indian tribes and various American Indian groups to improve technical assistance to American Indians and to increase their participation in NRCS and USDA programs.

For More Information or Assistance: Contact the American Indian Liaison, Community Assistance and Rural Development Division, NRCS, USDA, Washington, DC 20250; telephone: (202) 720-8576.

- **Watershed Projects**

Assistance Available: Watershed projects begin with local initiative and responsibility. Local proposals are reviewed by the State, which may make financial and other assistance available. Federal technical and financial assistance is also available.

State agencies, Indian tribes, and nonprofit local organizations can sponsor a watershed project. Watershed projects help cities, towns, and rural areas stimulate economic growth. Where projects are developed for multiple purposes, both urban and rural areas benefit. Control of flooding, erosion, and siltation reduces risks in farming and lowers the cost of maintaining roads and bridges. It also reduces reservoir sedimentation and prevents costly flood damage in urban communities.

Reservoirs built through watershed projects provide opportunities for fishing, boating, swimming, and other recreation. They supply water for irrigation, municipal use, and industry.

A watershed project has an immediate and positive effect on the economy and rural communities, and it often acts as a catalyst for a wide range of rural development actions.

Watershed works of improvement (flood control dams, diversion channels, land treatment, etc.) provide multiple rural development benefits that can best be optimized when the projects are included in local rural development plans.

How to Apply: Contact the county or tribal NRCS office, or the nearest USDA Agricultural Service Center.

For More Information: Contact the Director of Watershed and Wetlands Division, NRCS, USDA, Washington, DC 20250; telephone: (202) 720-3527.

- **Plant Material Centers**

Nature and Purpose: The primary purpose of the Plant Material Centers is to develop materials and plant science technology for conservation of resources. An important activity is to select from plants observed to be the best range of adaptability, growth rate, and hardiness and increase their numbers so they can be released to those people who wish to reestablish native plants. The Plant Material Centers also provide "seed" on plants that are of cultural and religious significance to American Indian people, such as sweet grass in the northern plains.

Type of Assistance: The purpose of this program is to select and grow plants which naturally occur in the wild and then provide them to those persons who wish to reestablish native plants.

Local Contacts: Indian tribes or Cultural Committees should contact the NRCS office serving the reservation or the NRCS State Conservationist.

Washington Contact: American Indian Liaison. Community Assistance and Rural Development Division, NRCS, USDA, Washington, DC 20250; telephone: (202) 720-8576.

- **Wildlife Habitat Incentives Program**

Nature and Purpose: Participants who want to implement practices that will improve habitat condition for wildlife may enter into cost-share agreements for a 5- to 10-year period. Since there is a time lag between the installation of a practice and the actual wildlife benefits, participants will receive cost-share assistance as practices are established but must maintain the practice for the practice lifespan which may expand beyond the agreement period.

Type of Assistance: The Wildlife Habitat Incentives Program (WHIP) will provide participants with the technical expertise to successfully establish realistic wildlife goals for their land, as well as provide financial assistance in the form of cost-share agreements to help establish practices.

Local Contacts: Closest NRCS local office, Tribal Conservation District, or local conservation district.

- **Conservation of Private Grazing Land**

Nature and Purpose: The purpose of the Conservation of Private Grazing Land program is to ensure that technical education and related assistance is provided to those who own private grazing lands. Assistance is available for: better grazing land management, soil protection, more energy efficiency, water conservation, providing wildlife habitat, sustaining forage and grazing plants, using plants to sequester greenhouse grasses and increase organic matter, and using grazing land as a source of biomass energy and raw materials for industrial products.

Type of Assistance: Conservation technical assistance funds.

Local Contacts: Your USDA Service Center, Tribal Conservation District, or your local conservation district.

- **Wetlands Reserve Program**

Nature and Purpose: The Wetlands Reserve Program (WRP) is a voluntary program to restore and protect wetlands on private property. It is an opportunity for landowners to receive financial incentives to enhance wetlands in exchange for retiring marginal agricultural land. Landowners who choose to participate in WRP may sell a conservation easement or enter into a cost-share restoration agreement with USDA to restore and protect wetlands. The landowner voluntarily limits future use of the land, yet retains private ownership. The landowner and NRCS develop a plan for the restoration and maintenance of the wetland. The program offers landowners three options: permanent easements, 30-year easements, and restoration cost-share agreements of a minimum 10-year duration.

Eligibility Requirements: Program is available in all States. Eligible acreage would include cropped and grazed wetlands, certain riparian areas, and other restored wetlands.

Local Contacts: To receive more information, contact the local NRCS Office, Tribal Conservation District, or local conservation district office.

- **Environmental Quality Incentives Program (EQIP)**

Nature of Program: EQIP is a program which helps farmers and ranchers install enduring natural resource conservation and pollution abatement practices. The program provides technical, educational, and financial assistance to eligible farmers and ranchers to address soil, water, and related natural resources on their lands in an environmentally beneficial and cost-effective manner. The purposes of the program are achieved through implementation of a conservation plan which identifies the structural, vegetative, and land management practices which will be applied on the eligible land. Five- to ten-year contracts are made with eligible

producers. The program is carried out primarily in priority areas that may be watersheds, regions of multi-state areas, and for significant statewide natural resource concerns that are outside geographic priority areas.

Eligibility Requirements: Individual/family farmers and ranchers who face serious threats to soil, water, and related natural resources, or who need assistance with complying with Federal and State environmental laws are eligible to apply for EQIP. A participant may be an owner, landlord, operator, or tenant of eligible agricultural lands. Eligible agricultural land may include tribal, allotted, or American Indian trust land. Limited-resource producers, small-scale producers, producers of minority groups, federally recognized Indian tribal governments, Alaska Natives, and Pacific Islanders are encouraged to apply.

How To Apply: Program participation is voluntary. The applicant applies at the local USDA Service Center on Form CCC-1200. Applications may be filed at any time during the year. The participant develops and submits a conservation plan for the farm or ranching unit of concern. The participant's conservation plan serves as the basis for the EQIP contract. Technical assistance, educational assistance, and cost-share or incentive payments may be provided to apply the needed conservation practices and land use adjustments within a time schedule specified by the conservation plan. A contract with a participant may apply one or more land management practices or one or more structural or vegetative practices or both.

Local Contacts: The NRCS or the Farm Service Agency at the local USDA Service Center, Tribal Conservation District, or the local conservation district.

Available Assistance: Structural and vegetative practices can be funded by cost sharing up to 75 percent of the total cost of establishing the practice. Incentive payments can be made for land management practices in an amount and rate that NRCS determines is necessary to encourage a participant to perform the practice that would not otherwise be initiated without government assistance. Other practices may be required to be installed without program payments. The contract period is between 5 and 10 years, depending on the conservation systems that need to be applied. Obligations for assistance are tied to the schedule for applying conservation practices included in the conservation plan used as the basis for the contract. Payments are made when the participant and NRCS certify that a conservation practice is completed in accordance with the contract.

Use Restrictions: Technical assistance is provided for conservation planning to eligible participants. Education and financial assistance is provided for implementation of structural, vegetative, and land management conservation practices. Fifty percent of the funding available nationally for technical, cost-share payments, incentive payments, and education will be targeted at practices relating to livestock production. Cost-share and incentive payments are limited to \$10,000 per person per fiscal year and to \$50,000 for any contract. In relation to contracts on tribal land, Indian trust land, or land allotted by the Bureau of Indian Affairs, payments exceeding the above limitation may be made to the tribal venture if an official of the BIA or tribal official certifies that no one person directly or indirectly will receive more than the limitation. Expenditures under a contract entered into during a fiscal year will not be made to the participant until the subsequent fiscal year.

- **Farmland Protection Program (FPP)**

Nature of Program: The FPP allows the Federal Government to establish partnerships with State, tribal, or local government entities to acquire conservation easements or other interests in farmland to limit conversion to non-agricultural uses. The program provides funds to States, Indian tribes, or local government entities to leverage their farmland protection programs. The program is carried out through existing farmland protection programs in the State, tribal, or local government entities.

Eligibility Requirements: Any local or State agency, county or groups of counties, municipality, town or township, soil and water conservation district, or Indian tribe or tribal organization, that has a farmland protection program that purchases conservation easements for the purpose of protecting topsoil by limiting conversion to non-agricultural uses of land, and that has pending offers with willing landowners may apply for funds. Potential participating entities must provide written evidence of their commitment to the long-term conservation of agricultural lands through the use of legal devices, such as right-to-farm laws, agricultural districts, zoning, or land use plans; the use of voluntary approaches to protect farmland from conversion to non-agricultural uses; of their capability to acquire, manage, and enforce easement rights or other interests in land; and show that at least 50 percent of the cost of the total easement acquisition is available. Eligible agricultural lands are lands with prime, unique, or other productive soils that have sufficient agricultural support systems and suffer urban development pressure. Individuals must apply through their local agency that handles the purchase of development rights programs.

How To Apply: A Notice of Request for Proposals is published in the Federal Register to announce the application window. Any local or State agency, county or groups of counties, municipality, town or township, soil and water conservation district, or Indian tribe or tribal organization may submit a proposal to an appropriate NRCS State Office to request funds. The application information will be available from the NRCS State Offices and the homepages of the Federal Register (<http://www.access.gpo.gov>). USDA NRCS (<http://www.nrcs.usda.gov>) and the Farmland Information Library (<http://farmlandinfo.org>).

Local Contacts: The NRCS or the Farm Service Agency at the local USDA Service Center, Tribal Conservation District, or local conservation district office.

Available Assistance: Federal funds are obligated through a Cooperative Agreement signed by the USDA and the selected State, Indian tribe, or local entity. Federal funds must be disbursed within 2 years after signing the Agreement. Technical assistance is provided to the landowners in planning, designing, and installing conservation practices.

Authorization: The 1996 Federal Agriculture Improvement and Reform Act, Section 388.

Use Restrictions: The Federal share for any easement acquisition shall not exceed 50 percent of the fair market value of the easement. Each cooperating agency is to fund its own administrative costs of acquiring these easements, such as survey or title search, and the costs of managing and enforcing them. Federal funds cannot be used for these administrative costs. Acquisition of an easement or other interests in land is for a minimum duration of 30 years, preferably in perpetuity. A conservation plan is required to ensure responsible land stewardship. A contingent remainder right must be incorporated in the easement deed for the

protection of the Federal investment. A failure to abide by the terms of the Cooperative Agreement or of the recorded easement deed may result in the easement rights being vested in the United States and/or for the cooperating entity to reimburse the United States for the Federal share of the easement value.

- **Emergency Watershed Protection Program**

Nature of Program: The Emergency Watershed Protection (EWP) program is designed to reduce threats to life and property in the wake of natural disasters. It provides technical and cost sharing assistance.

Available Assistance: Assistance includes both removing and establishing vegetative cover; gully control; installing streambank protection devices; removing debris and sediment; and stabilizing levees, channels, and gullies. In subsequent storms, EWP projects protect homes, businesses, highways, and public facilities from further damage. Floodplain easements under EWP may be purchased by the Federal Government to help prevent future losses due to natural disasters.

Use Restrictions: The opportunity to participate in this program depends upon whether each individual Indian tribe's constitution permits it to commit to a long-term easement.

Local Contacts: The NRCS office serving the reservation or the appropriate NRCS State Conservationist.

Washington Contact: American Indian Liaison, Community Assistance and Rural Development Division, NRCS, USDA, Washington, DC 20250, telephone: (202) 720-8576.

The Wetland Conservation Provisions of the Food Security Act of 1985, as Amended (Swampbuster)

Swampbuster has reduced the loss of wetlands resulting from agricultural activities to the lowest levels on record. Swampbuster helps preserve the environmental functions and values of wetlands, including flood control, sediment control, ground water recharge, water quality, wildlife habitat, recreation, and aesthetics.

The Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) changed Swampbuster to give producers greater flexibility to comply with wetland conservation requirements and to make wetlands more valuable and functional. The 1996 Act changed the following Swampbuster provisions:

Wetland Determinations

Upon request, NRCS will determine if a producer's or Indian tribe's land has areas subject to Swampbuster. The agency maintains a list of the plants and combinations of soils and plants found in wetlands and uses these technical tools, along with the hydrology of the area, to conduct determinations. These determinations stay in effect as long as the land is used for agricultural purposes (unless a violation occurs) or until the producer or Indian tribe requests a review due to natural events. NRCS certifies previous wetland determinations upon request.

Mitigation (Offsetting Losses)

Landowners have more opportunities to work with USDA, tribal or local conservation districts, or others to choose the best ways to mitigate wetland losses.

- There are more options for mitigation. These options include the kinds and locations of restoration, enhancement, or creation activities that maintain a wetland's functions and values.
- Landowners who want to convert or alter wetlands may enhance existing wetlands, restore former wetlands, or create new wetlands to offset functions and values that are lost from conversions or alterations.
- Wetland conversions authorized by Section 404 of the Clean Water Act will be accepted if the conversion activities were properly mitigated.

"Minimal Effect" Determinations

Practices that alter wetlands can now be put on a "fast track" for approval if NRCS determines that a planned activity is on the list of "categorical minimal effects." Activities on this list have an insignificant impact on the functions and values of the landowner's wetland and other wetlands in the area.

Abandonment

The 1996 Act revised the concept of abandonment. Now, as long as land is used for agriculture and met prior converted cropland criteria on December 23, 1985, the designation remains in effect. When there is an approved plan, landowners with farmed wetlands and farmed wetland pasture may allow an area to revert to wetland status and convert it back to a farmed wetland or farmed wetland pasture for agricultural purposes without violating Swampbuster. In addition, areas that met prior converted cropland criteria on December 23, 1985, may be certified as prior converted cropland upon request by the landowner.

Authority of the Secretary of Agriculture

The Secretary of Agriculture now has the authority to waive ineligibility status, grant time to restore converted wetlands, and, for individual producers, identify which USDA programs are affected by Swampbuster violations and the amount of sanctions to be assessed.

Maintaining USDA Program Eligibility

To maintain eligibility, participants must certify that they have not produced crops on converted wetlands after December 23, 1985, and did not convert a wetland after November 28, 1990, to make agricultural production possible.

If Swampbuster is violated, USDA farm program benefits may be lost. If participants produce a crop on a converted wetland, they may lose benefits for that year. If participants convert a wetland after November 28, 1990, they risk loss of benefits for the year the conversion took place, and for the years that follow until the wetland's functions and values are restored.

Local Contacts: The NRCS office serving the reservation or the appropriate NRCS State Conservationist.

Washington Contact: American Indian Liaison, Community Assistance and Rural Development Division, NRCS, USDA, Washington, DC 20250; telephone: (202) 720-8576.

- **Tribal Conservation Districts**

Nature of Program: A significant component of American Indian and Alaska Native self-government is the opportunity to form Tribal Conservation Districts under tribal law.

Available Assistance: NRCS will provide all American Indian and Alaska Native Governments with information on conservation district options and processes for their consideration. The ultimate decision regarding which option an American Indian tribe or Alaska Native Corporation chooses rests with the Indian tribe and the Secretary of Agriculture. If a Tribal Conservation District is formed, NRCS will work with the newly formed district and the Indian tribe or Alaska Native Corporation to establish a cooperative working agreement between the Indian tribe, the Tribal Conservation District, and the NRCS State Conservationist(s). The cooperative working agreement provides an opportunity to establish levels of service from NRCS, the tribal government's role, and to resolve other issues between the tribe and NRCS.

A Tribal Conservation District provides guidance to NRCS for prioritizing program assistance. Under the locally led initiative, a Tribal Conservation District may call the USDA local advisory committee meeting, which establishes local conservation priorities for USDA programs.

Local Contacts: The appropriate NRCS State Conservationist.

Washington Contact: American Indian Liaison, Community Assistance and Rural Development Division, NRCS, USDA, Washington, DC 20250; telephone: (202) 720-8576.

Forest Service

The Forest Service (FS), a leader in the conservation and wise use of the Nation's forests and rangelands, is the steward of 156 national forests comprising 191 million acres in 42 States. It also administers 83 experimental forests and ranges, 19 grasslands, and 15 land utilization projects. The Forest Service works with State forestry organizations to help private landowners, including Indian tribes and landowners, to apply good forest practices. The Forest Service performs research to find better ways to manage and use our Nation's resources and provides technical assistance. The Forest Service works with indigenous people in other parts of the world through its Office of International Programs.

The Forest Service is increasingly working with American Indian and Alaska Native tribes and individuals on activities and programs.

First, the Forest Service has established a Tribal Government Policy and Program to strengthen growing relationships with American Indian and Alaska Native tribes. The program is located in the State and Private Forestry Deputy Area at the Washington Office. Each region and some research stations have Tribal Government staff (Tribal Liaisons). The guiding policy for this program is located in Forest Service Manual directive 1563. The Washington Office Tribal Government Liaison may be contacted at: (202) 205-0892.

The *Forest Service National Resource Book on American Indian and Alaska Native Relations* promotes cooperative relations with American Indian and Alaska Native tribes. The initial publication of 3,000 books was exhausted in 6 weeks and it has been reprinted. Initial distribution was to Forest