

Preparing for the Biden Administration’s Changes to Environmental Policy, Climate Change, Environmental Justice, and Enforcement

Virtual seminar presented by REGFORM (Regulatory Environmental Group for Missouri), March 24, 2021

--Tracy Zayac, Stormwater/Watershed Specialist

I attended the above-named seminar on March 24, 2021, to learn more about what we might expect in the environmental area at the federal level, with the change in administration. Following is a short summary of points that may intersect with District activities in the coming years, organized by topic.

EPA, state, and stakeholder relations

- “Cooperative federalism” can continue to be the model for federal-state interactions
 - Transparent communication is key, and relationship goes both ways

Environmental justice

- Becoming more clearly important to consider community relationships in every area you affect, not just “fenceline neighbors”
 - Key message: Take a more expansive view of environmental justice, stay engaged, and really understand the relationship with your community.
 - Listen to the community and be prepared to address their questions (i.e., what they actually want to know vs. what you think they want to know)
 - Plan your message and collaborate with local media to ensure right information is getting out—particularly key in smaller media markets
- Total community burden of a proposed project will become a more important consideration in, e.g., EPA permitting processes
 - Likely to show up more at the federal than state level, at least in the short term
 - Legislation currently in the House (CLEAN Futures Act) will, among other things, define “environmental justice”, “community-based science”, and other terms that are becoming increasingly commonplace in environmental regulatory discussions

Climate change

- Biden administration focused on “all-government” climate action—motor vehicles/transport will come first, but actions anticipated in other sectors, too
- Social cost of carbon may become part of EPA cost/benefit analysis for permit applications and regulations

Rulemaking and new rules, laws, or policies

- More than 50 Trump-administration rules are currently under review, per Biden executive order
 - Whether these rules will stand as they are, revert to previous versions, or be completely rewritten will be case-specific
- New rules on environmental justice, PFAS, water quality, and more will be coming
 - NEPA: cumulative impacts may become a criterion in required analysis
- Expansion of science that agency can use as informative (if not always decisional)
 - includes incorporating community-based science
- One big question: how to deal with scientific uncertainty and make decisions notwithstanding that uncertainty
 - This is as much an outreach/science communication question as a policy question, and one that any science-related organization should be thinking about.
- Everyone's favorite: WOTUS
 - Navigable waters protection rule currently in effect for all states
 - Will continue to be true unless a court enjoins the rule
 - EPA will likely revisit and look at the Trump administration's categories of water and definitions
 - Look for changes to definitions of "tributary" and "wetlands"



United States Department of Agriculture

AND JUSTICE FOR ALL

In accordance with Federal law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, and American Sign Language) should contact the responsible State or local Agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online, at www.usda.gov/sites/default/files/documents/usda-program-discrimination-complaint-form.pdf, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

mail:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or

fax:

(833) 256-1665 or (202) 690-7442;

email:

program.intake@usda.gov.

This institution is an equal opportunity provider.

Conforme a la ley federal y las políticas y regulaciones de derechos civiles del Departamento de Agricultura de los Estados Unidos (USDA), esta institución tiene prohibido discriminar por motivos de raza, color, origen nacional, sexo, edad, discapacidad, venganza o represalia por actividades realizadas en el pasado relacionadas con los derechos civiles (no todos los principios de prohibición aplican a todos los programas).

La información del programa puede estar disponible en otros idiomas además del inglés. Las personas con discapacidades que requieran medios de comunicación alternativos para obtener información sobre el programa (por ejemplo, Braille, letra agrandada, grabación de audio y lenguaje de señas americano) deben comunicarse con la agencia estatal o local responsable que administra el programa o con el TARGET Center del USDA al (202) 720-2600 (voz y TTY) o comunicarse con el USDA a través del Servicio Federal de Transmisión de Información al (800) 877-8339.

Para presentar una queja por discriminación en el programa, el reclamante debe completar un formulario AD-3027, Formulario de queja por discriminación del programa del USDA, que se puede obtener en línea, en www.usda.gov/sites/default/files/documents/usda-program-discrimination-complaint-form.pdf, en cualquier oficina del USDA, llamando al (866) 632-9992, o escribiendo una carta dirigida al USDA. La carta debe contener el nombre, la dirección y el número de teléfono del reclamante, y una descripción escrita de la supuesta acción discriminatoria con suficiente detalle para informar al Subsecretario de Derechos Civiles (ASCR, por sus siglas en inglés) sobre la naturaleza y la fecha de la presunta violación de los derechos civiles. La carta o el formulario AD-3027 completado debe enviarse al USDA por medio de:

correo postal:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; o'

fax:

(833) 256-1665 o' (202) 690-7442;

correo electrónico:

program.intake@usda.gov.

Esta institución ofrece igualdad de oportunidades.

NRCS is required to deliver USDA Civil Rights and Equal Opportunity requirements and information with institutions that participate in or administer USDA federally conducted and/or federally assisted programs. In effort to fully comply with Federal, Departmental, and Agency governing Civil Rights laws and regulations, this checklist serves as an internal guide to assist with the Civil Rights responsibilities and expectation discussion between NRCS and Partners.

Responsibilities for Review:

☐ **NRD/NRCS Partnership Responsibilities**

- Annual review of the Memorandum of Agreement (MOA) between NRCS and NRD.
 - Reference **Part D** of the MOA
- Prohibition disclosure of certain information by the USDA and its Cooperators - applicants, participants, location, and any and all privacy information is not to be disclosed without a FOIA request. Upon Board membership ending, former Board members have the responsibility to protect any information.
 - Reference **Part C** of the MOA
- NRD Staff and board members are invited to participate in NRCS Civil Rights Training or staff meetings with Civil Rights Agenda items.
 - Reference **Part A** of the MOA. Trainings can include SEPM observance events and other NRCS sponsored civil rights trainings.

☐ **Federally Assisted and Federally Conducted Program Delivery** (Technical Assistance & Financial Assistance)

- 1964 Civil Rights Act – Title VI is a federal law that prohibits discrimination on the basis of race, color or national origin in programs and activities that receive federal financial assistance. Unlawful/prohibited discrimination is unfair or unequal treatment based on a prohibited bases.
- NRCS employees and partners who work with USDA programs are required to guarantee fairness and equal treatment to all customer eligible to receive USDA/NRCS programs and services regardless of any of the cited prohibited bases enforced by USDA:
 - Race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial/parental status, income derived from a public assistance program, political beliefs, reprisal or retaliation for prior civil rights activity.
- NRCS State and Field Offices are required to establish and maintain outreach programs at the local level to ensure that all person know about the availability of conservation program services effectively and are encouraged to participate.

☐ **Public Notification Responsibilities**

- Conservation partners are aware of NRCS public notification responsibilities which include the following notices:

▪ “And Justice for All” Posters*	▪ USDA Nondiscrimination Statement
▪ USDA Equal Employment Opportunity is the Law	▪ NRCS LEP Policy Statement
▪ USDA Sexual Harassment is Illegal Poster	▪ USDA Civil Rights Policy Statement
▪ USDA Interpretation LEP Poster	▪ USDA Anti-Harassment Policy Statement
▪ FPAC EEO Counseling Poster	▪ FPAC Alternative Dispute Resolution Fact Sheet
▪ [Reserved]	▪ [Reserved]

- The public notification requirements must be prominently and visibly displayed in all offices where there is a USDA presence and where viewing is accessible for employees and customers.
- Compliance with Section 504¹ and Section 508² of the Rehabilitation Act of 1973.
- **Not a link to provide that has all of the public notification documents**

Public notification document descriptions:

1. **Secretary of Agriculture Civil Rights Policy Statement-** affirms USDA's commitment to equality and civil rights for program delivery and employment with emphasize on USDA's zerotolerance for any form of discrimination or reprisal.
2. **USDA Alternative Dispute Resolution (ADR) Policy Statement-** affirms USDA's commitment to conflict prevention to increase customer satisfaction and employee morale.
3. **USDA Anti-Harassment Policy Statement-** affirms USDA's commitment to maintaining an environment free from unlawful harassment (sexual and non-sexual).
4. **USDA Nondiscrimination Statement** - must be posted in all USDA offices and included on all materials produced by USDA for public information, public education, or public distribution. In addition to Section 504 and Section 508 requirements, the statement shall be made available in otherlanguages appropriate to the local population served or directly affected by USDA program or activity.
5. * **"And Justice for All" posters** - primary method utilized to inform customers or their

¹ Federal facilities and location must be accessible for the public to guarantee access to person with a disability.

² Public and employee notices regarding events and activities sponsored, co-sponsored, hosted and or co-hosted by USDA, NRCS contain NRCS point of contact information including name, telephone number, email address, and a respond by date for person to request accommodations. (example: an interpreter, translator, seating arrangements, etc. Materials in an alternative format (example: braille, large prints, audiotape—captioning, etc.)

civil rights. Institutions participating or administering USDA programs are required to display the appropriate poster in respective facilities where poster can be viewed by customers. (NRCS applicable versions: AD-475-A, relevant to assisted programs; and Form AD-475-C, relevant to conducted programs.)

6. **USDA "Sexual Harassment is Illegal" poster** - general preventive tips and guidance on filing sexual harassment claims.
7. **USDA "EEO Is The Law" poster**- employee information and guidance on filing an EEO complaint.
8. **FPAC "EEO Counseling" poster** - contact information for employees filing an EEO complaint. (does not apply to customers)
9. **NRCS Limited English Proficiency (LEP) Policy Statement** – reaffirms USDA's commitment and provides support to the provisions of federally conducted and federally assisted prohibited discrimination based on national origin. LEP applies to individuals who do not speak English as their primary language, and who have a limited ability to read, speak, write, or understand English.
10. **USDA Interpretation LEP Poster** - provides notice to customers that LEP oral interpreting and written translation services are available at no cost to customer relative to NRCS federally assisted and federally conducted programs.

Acknowledgment of Review

State: _____

NRD: _____

NRD Representative:
(Printed Name and Title)

Signature and Date:

NRCS District Conservationist:
(Printed Name)

Signature and Date:
