

December 23, 2024

Via Federal eRulemaking Portal

Louis Aspey
Associate Chief, Natural Resources Conservation Service
Department of Agriculture
Natural Resources Conservation Service
1400 Independence Ave SW
Washington, DC 20250

RE: Request for Public Input About Implementation of the Conservation Practices To Support Climate Change Mitigation and Adaptation

Dear Mr. Aspey:

I am a scholar and Policy Analyst at the Ethics and Public Policy Center (EPPC). I write in response to the Department of Agriculture National Resource Conservation Service's notice and comment request.¹

The Department's notice includes, without explanation, a USDA Non-Discrimination Policy prohibiting discrimination on the basis of "gender identity (including gender expression), [and] sexual orientation."² The Department claims that this policy is "in accordance with Federal civil rights law and USDA civil rights regulations and policies."³ The Department provides a laundry list of protected bases and prohibits discrimination based on unidentified bases. The expansive list of protected bases and scope of prohibited nondiscrimination obligations is far from clear and will create uncertainty and confusion. I ask the Department to clarify the scope of its nondiscrimination requirements consistent with the law and acknowledge constitutional and statutory protections for religious individuals and organizations.

The notice provides no explanation or sources for its "Non-Discrimination Policy," nor does the agency explain how the policy fits into the existing conservation programs.⁴ In the absence of an explanation, I am concerned that these requirements will be interpreted in unlawful and harmful ways. Furthermore, the Department fails to address the broad constitutional and statutory protections for religious "employees[] [or] institutions" participating in the services described in the notice.

Similar concerns about the scope of nondiscrimination and religious protections were addressed at length in my comments on HHS's proposed acquisition regulation. Those previous comments are hereby incorporated by reference and are accessible here: <https://eppc.org/wp-content/uploads/2024/12/EPPC-Scholars-Comment-on-HHS-Acquisition-Regulation.pdf>.

¹ 89 Fed. Reg. 88719 (Nov. 8, 2024), <https://www.federalregister.gov/documents/2024/11/08/2024-26051/request-for-public-input-about-implementation-of-the-conservation-practices-to-support-climate>.

² *Id.* at 88721.

³ *Id.*

⁴ *Id.* at 88719.

Conclusion

For these reasons and the reasons raised in our previous comments, I urge the Department to clarify the scope of its nondiscrimination requirements, ensure such requirements are consistent with the law, and acknowledge constitutional and statutory protections for religious organizations.

Natalie Dodson
Policy Analyst
HHS Accountability Project
Ethics & Public Policy Center