

Kevin Norton
Acting Chief, Natural Resources Conservation Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250

January 19, 2021

Re: Guidance for Identification of Nonindustrial Private Forest Land (NIPF); Docket no. NRCS-2020-0009

Dear Acting Chief Norton,

The undersigned organizations, representing forest landowners, state agencies, land managers, sportsmen and women, and conservationists, appreciate the opportunity to comment on guidance related to the identification of nonindustrial private forest land (NIPF), as it relates to Natural Resources Conservation Service (NRCS) conservation programs.

Specifically, we write to oppose revising the NRCS conservation program manual with the new definition of NIPF proposed in the Federal Register on December 17, 2020. This guidance is a significant departure from the long-standing definition of NIPF. As NRCS states, NIPF has been consistently defined in both statute and program regulations for over 35 years. Yet in this notice, NRCS proposes narrowing of the definition of nonindustrial private forest land to now exclude forest land historically eligible for enrollment in the Agricultural Conservation Easement Program (ACEP), the Conservation Stewardship Program (CSP), the Environmental Quality Incentives Program (EQIP), and the Regional Conservation Partnership Program (RCPP).

NIPF is defined in the Food Security Act of 1985, as amended, to be “rural land, as determined by the Secretary, that: has existing tree cover or is suitable for growing trees; and is owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity that has definitive decision-making authority over the land.” We concur with the existing definition of “rural land” and land that “has existing tree cover or is suitable for growing trees.” We do not concur with the agency’s proposed new definition of “nonindustrial private individual, group, association, corporation [et al].” In stark contrast to FSA’s definition of NIPF and its own long-standing interpretation, NRCS is proposing to deem nonindustrial owners to now be industrial owners if they own more than 45,000 acres of forest land, resulting in these individuals, groups (including non-profit 501(c)3 entities), associations, corporations and Indian tribes being ineligible from participating in NRCS conservation programs. We strongly urge NRCS to withdraw this guidance and use a definition of NIPF that is consistent with the historical understanding of the term, that is, whether a landowner is “principally engaged in the primary processing of raw wood products” on the subject land.

Excluding landowners from participating in conservation programs based on the size of their holdings would severely reduce the scope of forest land eligible for these programs by unfairly prohibiting many working forests and nonindustrial forest landowners from being eligible in clear contradiction of Congressional intent. Federal statute allows all NIPF to be eligible for

enrollment in NRCS conservation programs, without a limit on the acres owned by a nonindustrial forest owner. For several farm bills, Congress has made clear its intent with regards to eligibility for programs through adjusted gross income (AGI) and other payment limitations. The agency's proposed new administrative restriction on eligibility based on land owned sets a dangerous precedent for determining program eligibility for all types of working lands, not just forests. Furthermore, the rationale of the proposed NRCS manual revisions erroneously and heavily relies on Forest Service research on what constitutes a "large corporate owner," despite there being no statutory basis for limiting eligibility for owners based on size of holdings.

Conservation in this country depends on the ability of all types and sizes of private landowners, including farmers, ranchers, and forest landowners, to enroll their working lands in federal conservation programs. This is true for landscape efforts like the Longleaf Pine Initiative and Working Lands for Wildlife and impactful public-private partnerships like those funded through RCPP, as well as with individual contracts and voluntary easements enrolled under EQIP, CSP, and ACEP. Conservation on working forest lands is especially critical for our country right now, as it is one of the most cost-effective ways to address concerns related to climate mitigation and resilience, water quality, air quality, wildfire prevention, and wildlife habitat. Using acreage owned, regardless of whether the land is otherwise NIPF, to determine eligibility for forest landowners would significantly reduce the ability of these programs to address natural resource concerns on the scale necessary to meet the challenges posed by climate change and an increasingly urban landscape.

We strongly urge NRCS to remove any language that redefines nonindustrial private landowner based on acreage owned and continue to allow all landowners and forest lands previously eligible for NRCS conservation programs to remain eligible. We believe the commonly held and historically used definition of NIPF, in conjunction with existing statutory provisions regarding AGI and payment limitations, is sufficient for the purposes of NRCS program implementation.

Sincerely,

Alabama Forestry Association
Alachua Conservation Trust
American Woodcock Society
Appalachian Mountain Club
Arkansas Forestry Association
Association of Consulting Foresters
Association of Fish and Wildlife Agencies
Atlantic Salmon Federation
BTG Pactual Timberland Investment Group
Conservation Force
Conservation Law Foundation
Downeast Lakes Land Trust
Downeast Salmon Federation
Ducks Unlimited
Empire State Forest Products Association
Florida Forestry Association

Forest Landowners Association
Forestry Association of South Carolina
Green Diamond Resource Company
Hancock Natural Resource Group
Land Trust Alliance
Lowcountry Land Trust
Maine Audubon
Maine Forest Products Council
Maine Rivers
Maine Unitarian Universalist State
Advocacy Network
Massachusetts Forest Alliance
Mississippi Forestry Association
Molpus Woodlands Group
National Alliance of Forest Owners

National Association of Forest Service
Retirees
National Association of State Foresters
National Bobwhite Conservation Initiative
National Wild Turkey Federation
National Woodland Owners Association
Natural Resources Council of Maine
North Carolina Forestry Association
North Florida Land Trust
Pennsylvania Forest Products Association
Pingree Associates, Inc.
Professional Logging Contractors of Maine
Project SHARE
Rayonier
Resource Management Service, LLC
Ruffed Grouse Society

Safari Club International
Society for the Protection of New
Hampshire Forests
Society of American Foresters
Texas Forestry Association
The Conservation Fund
The Lyme Timber Company
The Nature Conservancy
Theodore Roosevelt Conservation
Partnership
Trout Unlimited
Virginia Forestry Association
Washington Forest Protection Association
Weyerhaeuser Co.
Wildlife Forever
Wildlife Management Institute