

IOWA INSTRUCTION 190-387 – CONSERVATION PLANNING ASSISTANCE IN SITUATIONS
WHERE CLIENTS HAVE PREVIOUSLY CLEARED TREES
OR HERBACEOUS NATIVE VEGETATION

1. PURPOSE:

This Iowa Instruction provides direction on the provision of conservation planning assistance in situations where clients have previously cleared trees or herbaceous native vegetation.

2. EXPLANATION:

The Natural Resources Conservation Service (NRCS) has responsibilities to both provide conservation planning assistance to clients and to uphold state and federal laws, including the Endangered Species Act. This instruction provides direction to NRCS employees in situations where native vegetation has been cleared prior to the commencement of NRCS conservation planning assistance.

Approved By: /s/

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Introduction

Assistance provided by the Natural Resources Conservation Service (NRCS) is subject to many different laws and regulations. These laws and regulations have distinct purposes. NRCS must work so that assistance provided through USDA conservation programs does not unintentionally violate other laws.

Conservation planning is the foundation of all the assistance that NRCS provides. Direction for NRCS conservation planning assistance is found in the National Planning Procedures Handbook (NPPH). The NPPH can be accessed under Title 180 – Conservation Planning and Application at <http://directives.sc.egov.usda.gov/>. Further direction is provide in General Manual 190 Part 410.22(E)(5).

Conservation Planning Assistance on Recently-Cleared Land

1. NRCS conservation planning assistance accounts for site conditions at the time planning assistance starts.
2. During Step 1 (Identify Problems and Opportunities) and Step 3 (Inventory Resources) of the conservation planning process current site conditions are recorded on...
 - a. The planning map, and
 - b. The CPA-52 Environmental Evaluation Worksheet.
3. During the conservation planning process the Step 1 of the Baseline Assessment, tools found in the NRCS-FWS Programmatic Consultation will be used.
Note findings from Step 1 assessments in the CPA-52.
4. If there is evidence (on-site or remotely sensed) that protected species habitat has been recently cleared, the NRCS planner will...
 - a. Inform the client of their responsibilities under...
 - i. Section 9 of the Endangered Species Act (ESA)
 - ii. The Endangered Plants and Wildlife Chapter 481B of the Code of Iowa
 - b. Give the client a copy of the *Protect Threatened and Endangered Species* flyer (Attachment 1).
 - c. Note on the CPA-15 Conservation Assistance Notes.
5. During Step 5 (Formulate Alternatives) and Step 6 (Evaluate Alternatives) of the planning process, NRCS will recommend alternative conservation treatments that will...
 - a. Avoid adverse effects and
 - b. To the extent practicable, provide long-term benefit to protected species.

Known Violations of the ESA or State Law

NRCS and partner employees with personal knowledge of the taking of a threatened or endangered plant or animal based on their interaction with a client while providing technical assistance will notify the client of their responsibilities under Section 9 of the ESA and the Endangered Plants and Wildlife Chapter 481B of the Code of Iowa using the *Protect Threatened and Endangered Species* flyer (Attachment 1). This will be noted on the CPA-15 Conservation Assistance Notes.

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The employee will notify their supervisor of the potential taking. The supervisor will notify the State Conservationist through proper channels. The State Conservationist will then consult with the United States Department of Agriculture Office of General Counsel (USDA-OGC).

(For example: The presence of a federally-listed plant species in a prairie remnant area is documented in the case file for a tract of land. Conservation planning assistance is later requested for that same tract. During the field visit for conservation planning the soil conservationist observes that the prairie remnant on which the federally-listed plant species was found has been plowed up. In this case the procedures described above will be followed.)

Individual NRCS Employee Responsibilities under the ESA

Every NRCS employee is subject to the laws of the United States, including the ESA. A NRCS employee that is found to have counseled clients to clear land prior to the start of conservation planning assistance in order to avoid ESA provisions could be found individually liable for prosecution under the ESA and individually subject to its penalties.

For Further Information

Section 9 of the ESA may be accessed at <http://www.fws.gov/endangered/laws-policies/section-9.html>.

Iowa law and policies regarding threatened or endangered species may be accessed at <http://www.iowadnr.gov/Environment/ThreatenedEndangered.aspx>.

For further information on threatened and endangered species in Iowa go to <http://www.ia.nrcs.usda.gov/technical/EndangeredSpecies.html>.