

Program Description

April 2007

Wetlands Reserve Program

Overview

The Wetlands Reserve Program (WRP) is a voluntary program. It provides technical and financial assistance to eligible landowners to restore, enhance, and protect wetlands. Landowners have the option of enrolling eligible lands through permanent easements, 30-year easements, or restoration cost-share agreements. The program is offered on a continuous sign-up basis and is available Nationwide. This program offers landowners an opportunity to establish, at minimal cost, long-term conservation and wildlife habitat enhancement practices and protection.

WRP has an acreage enrollment limitation rather than a funding limit. Congress determines how many acres can be enrolled in the program and funding is somewhat flexible. The Natural Resources Conservation Service (NRCS) estimates program funding needs based on the national average cost per acre.

Authority

The WRP was mandated by Section 1237 of the Food Security Act of 1985 (P.L. 99-198), as amended by the Food, Agriculture, Conservation and Trade Act of 1990 (P.L. 101-624) and the Federal Agriculture Improvement and Reform Act of 1996 (P.L. 104-127), to assist owners in restoring and protecting wetlands. WRP was reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill). WRP is a Commodity Credit Corporation (CCC) program administered by NRCS.

Scope

WRP is available in all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States,

American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

Enrollment Options

The program offers three enrollment options:

1. *Permanent Easement.* Easement payments for this option equal the lowest of three amounts: the difference in the appraised fair market value of the larger parcel before the easement is in place and appraised fair market value of the larger parcel after the easement is in place, an established payment cap, or an amount offered by the landowner. In addition to paying for the easement, the U.S. Department of Agriculture (USDA) pays up to 100 percent of the cost of restoring the wetland.

2. *30-Year Easement.* Easement payments through this option are 75 percent of what would be paid for a permanent easement. USDA also pays up to 75 percent of restoration costs.

For both permanent and 30-year easements, USDA pays all costs associated with recording the easement in the local land records office, including recording fees, charges for abstracts, survey and appraisal fees, and title insurance.

3. *Restoration Cost-share Agreement.* This is an agreement (generally for a minimum of 10 years) to re-establish degraded or lost wetland functions and values. USDA pays up to 75 percent of the cost of the restoration activity. This enrollment option does not place an easement on the property. For all

enrollment options, other agencies and private conservation organizations may provide additional incentives as a way to reduce the landowner's share of the costs. Such special partnership efforts are encouraged.

Easement Payments

NRCS State Conservationists, with advice from the State Technical Committees, establish a process to determine easement values. The easement value shall not exceed the difference in the appraised fair market value of the larger parcel before the easement is in place and the appraised fair market value of the larger parcel after the easement is in place. Appraisals may be acquired by federal contract, interagency agreement, cooperative agreement, or other appropriate methods. NRCS conducts administrative and technical reviews to ensure that land value results are reasonable from a business decision making perspective and appraisals are completed properly.

Filing Applications

Landowners and Tribes may file an application for a conservation easement or a cost-share restoration agreement with USDA to restore and protect wetlands at any time. Participants voluntarily limit future use of the land, but retain private ownership. Easements are held by the United States of America, by and through the CCC.

Applications may be obtained and filed at any time with your local USDA Service Center or conservation district office. Applications also may be obtained through USDA's e-gov Internet site at: <http://forms.sc.egov.usda.gov/efoms/formsearchervlet> - enter "Natural Resources Conservation Service" in the Agency field, "Wetlands Reserve Program" in the Program Name field, and "AD-1153" in the Form Number field.

Persons who file applications for easement options are provided a copy of the easement deed and other forms necessary for the transfer

of land rights. NRCS handles administrative and technical responsibilities.

Selecting Applications

After applications are filed, NRCS makes a land and landowner eligibility determination. A site visit is made to collect data associated with the ranking process, prepare a preliminary restoration plan, complete National Environmental Policy Act requirements, and evaluate the site and surrounding area for the presence of hazardous substances.

State Conservationists, with input from State Technical Committees, develop ranking criteria based on broad national guidelines. Offers are ranked based on cost and ecological considerations. Separate ranking lists are kept for each enrollment type.

Funding decisions are made at the state level and are generally based on total point score. State Conservationists have the authority to enroll projects outside of the ranking process if the area has been designated by the State Conservationist as a "special project" area. Special project priority may be provided to a particular geographic area or to a specific project even though the individual offer might not otherwise rank high enough to be accepted. This policy provides NRCS the opportunity to begin a WRP initiative in an area that has been determined important for wetland restoration activities, regardless of individual site ranking. The national office is not involved in the selection of projects, except if funding is needed to enroll a special project.

Completing Restoration Cost-share Agreements

Once a restoration cost-share agreement is selected for funding, NRCS works with the landowner to complete the restoration. Restoration may be accomplished through long-term contracts with the landowner, cooperative agreements, locally awarded contracts, or federal contracts. Cost-share payments are provided after practices are

certified by NRCS as properly established. No land use payment is provided.

Easement Acquisition

After an easement application is selected for funding, NRCS arranges for an appraisal to provide the applicant with a contracted payment amount using an option agreement to purchase. The option agreement is the obligating document. After the landowner accepts the amount offered on the agreement and NRCS provides approval for CCC, NRCS obligates the funds for the project in the financial system. The option agreement generally has an effective period of 12 months from the date of execution. The effective period may be extended when necessary. The landowner's signature on the option agreement authorizes NRCS to proceed with the easement acquisition process. The acreage amount placed on the option agreement is an estimate of the easement acreage. This acreage value may have to be adjusted after a survey is complete.

Closing Agents. NRCS may use closing agents, including title companies, escrow companies, private attorneys, or other qualified entities to assist NRCS with the execution and recordation of the Warranty Easement Deed. Closing agents may be acquired by federal contract, interagency agreements, cooperative agreements, or other methods, as determined appropriate.

Boundary Descriptions. As an integral part of the easement acquisition process, the boundary of the easement must be delineated in a manner suitable for recording in the local land records office. The Warranty Easement Deed must meet the requirements of the state and county recording statutes where the easement will be filed. A certified land survey by a licensed professional surveyor is required for all easement purchases.

After a boundary survey is complete, NRCS, the landowner, and the surveyor, if applicable, meet to ensure the area delineated is the area

the landowner wants in the program. Permanent markers are put in place, as well as signs promoting participation.

Title Insurance. Title Insurance is required on all easements. It may be acquired by federal contract, interagency agreements, cooperative agreements, or other methods determined appropriate.

Office of General Counsel (OGC). The OGC regional attorney reviews easement packages and issues preliminary title opinions. Preliminary title opinions list exceptions to clear title which must be resolved prior to recording the easement, provide closing instructions, and authorize recording the easement and making payment. After the easement has been recorded, the OGC regional attorney will issue a final title opinion.

After the easement is recorded, NRCS proceeds with making arrangements for restoration. Restoration may be accomplished through long term contracts with the landowner, cooperative agreements, locally awarded contracts, or federal contracts.

NRCS and its partners, including conservation districts, continue to provide assistance to landowners after completion of restoration activities. This assistance may be in the form of reviewing restoration measures, clarifying technical and administrative aspects of the easement and project management needs, and providing basic biological and engineering advice on how to achieve optimum results for wetland dependent species.

Role of Conservation Districts

Conservation districts assist NRCS with program implementation through the following activities:

- Identifying priority areas within their district;
- Providing input to the State Technical Committee;

- Assisting with the development of cost-share rates;
- Assisting with the development and implementation of conservation planning;
- Assisting with local outreach and educational efforts.

Eligibility

Landowner. To offer a conservation easement, the landowner must have owned the land for at least 12 months prior to enrolling it in the program, unless the land was inherited, the landowner exercised the landowner's right of redemption after foreclosure, or the NRCS State Conservationist determines the landowner did not obtain the land for the purpose of enrolling it in the program. To participate in a restoration cost-share agreement, the landowner merely needs to show evidence of ownership.

Eligible Land. Land must be restorable and be suitable for wildlife benefits. This includes:

- Wetlands farmed under natural conditions;
- Farmed wetlands;
- Prior converted cropland;
- Farmed wetland pasture;
- Ag land that has become a wetland as a result of flooding;
- Range land, pasture, or production forest land where the hydrology has been significantly degraded and can be restored;
- Riparian areas which link protected wetlands;
- Lands adjacent to protected wetlands that contribute significantly to wetland functions and values; and
- Previously restored wetlands that need long-term protection.

Ineligible Land. Ineligible land includes:

- Wetlands converted after Dec. 23, 1985;
- Lands with timber stands established under a Conservation Reserve Program contract;
- Federal lands;
- Lands where conditions make restoration impossible.

The Adjusted Gross Income provision of the 2002 Farm Bill impacts eligibility for WRP and several other 2002 Farm Bill programs. Individuals or entities that have an average adjusted gross income exceeding \$2.5 million for the three tax years immediately preceding the year the contract is approved are not eligible to receive program benefits or payments. However, an exemption is provided in cases where 75 percent of the adjusted gross income is derived from farming, ranching, or forestry operations.

Determining National WRP Allocations

For WRP, the number of acres is the limiting factor, with funding being somewhat flexible. Congress directs the agency to enroll a specific acreage level.

The NRCS national office utilizes a resource based formula when determining allocations. This formula includes factors related to ecological considerations regarding number of wetlands lost in a state and whether the state impacts migratory birds, potential acres of restorable wetlands and impacts to water quality and threatened and endangered species, and state performance related to prior year WRP.

For More Information

If you need more information about WRP, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at: <http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:
<http://www.usda.gov/farmbill>

Note: This is not intended to be a definitive interpretation of farm legislation. Rather, it is preliminary and may change as USDA develops implementing policies and procedures. Please check back for updates.