

The following action items are to be completed for the Delaware Wetland Reserve Program. The action items listed are based on the Business Process Flow Chart established in Wetland Reserve Program CPM Circular No. 50. See **Attachment 1**.

## **Actions 1 and 2 are completed by the Field Office**

### **Action 1 – Landowner Application**

Field Office will accept WRP applications (CPA-1200) on a continuous basis. Upon receiving an application NRCS will ensure the landowner meets landowner eligibility in order for the application to move forward. (See Action 2)

### **Action 2 – Determine landowner eligibility.**

1. For Easements: Landowner must have owned property for seven (7) years. Requests for exceptions must be submitted in writing to Program Manager for consideration by the State Conservationist or the Chief. Exceptions include but are not limited to:
  - Land acquired by will or succession as a result of death (Requires State Conservationist Approval).
  - Land acquired under circumstances that give adequate assurances that it was not purchased to be entered in the program (Requires Approval by the Chief).

For Cost Share agreements: Landowner needs only to show proof of ownership.

2. Landowner provides the necessary information for NRCS to determine if the landowner is eligible to participate including:

- Copy of the deed (land survey if possible).
- If an individual, not participating in Farm Service Agency (FSA) programs:

Landowner must prove to NRCS that all individuals on the deed are compliant with the HELC/WC and AGI provisions of the Farm Bill. (AD-1026 and CCC-926)

Eligibility documentation will be provided FSA to update eligibility in Subsidiary File and SCIMS.

- If an individual, participating in FSA programs:

Landowner must ensure that all individuals on the deed are compliant with the HELC/WC and AGI provisions of the Farm Bill by visiting FSA. (AD-1026 and CCC-926)

- If an entity, not participating in FSA programs:

The entity must provide NRCS a list of the individuals that comprise the entity including the percent of ownership for each individual on CCC-901.

The entity must prove to NRCS that each individual within the entity is in compliance with the HELC/WC and AGI provisions of the Farm Bill. (AD-1026 and CCC-926)

The entity must provide documents to NRCS that show the entity to be a legal and valid entity in the State and which member(s) has the authority to sign contractual documents on behalf of the entity.

Eligibility documentation will be provided to FSA to update eligibility in Subsidiary File and SCIMS.

- If an entity, participating in FSA programs:

The entity must provide to FSA a list of the individuals that comprise the entity including the percent of ownership for each individual on CCC-901.

The entity must prove to FSA that each individual within the entity is in compliance with the HELC/WC and AGI provisions of the Farm Bill. (AD-1026 and CCC-926)

The entity must provide documents to FSA that show the entity to be a legal and valid entity in the State and which member(s) has the authority to sign contractual documents on behalf of the entity.

Once Landowner is determined eligible, Land eligibility can be determined. If Landowner is determined ineligible, applicants receives notice by mail.

### **Action 3 is completed by the Field and State Office**

#### **Action 3 – Determine land eligibility.**

Field Office Staff and USFWS representative will make preliminary contact with landowner and assess potential eligibility. Document proposed restoration areas with photos and GPS points.

1. Determine if the land meets one or more of the requirements to be eligible for enrollment as listed in the WRP statute, rule, and manual.

#### **Land Eligibility – Former or Degraded Wetlands**

Former or degraded wetlands occurring on cropland, pasture, hayland, and forest production lands that have been used or are currently being used for food or fiber production are eligible when the hydrology:

Has been essentially removed by drainage or diversion to the extent that wetland functions and values have been substantially removed and will be substantially restored through the implementation of WRP practices.

After preliminary assessment is completed the District Conservationist or representative will schedule site visits with the Restoration Implementation Team. Extent of restoration will be determined through an on site visit by the Restoration Implementation Team including District Conservationist or representative,

USFWS representative, State Resource Conservationist, Program Manager, State Engineer or representative.

### **Extent of Restoration**

Utilizing Soils Map, Lidar Data, and State Wetland Inventory Map and when possible, obtain field measurements using surveying equipment to determine and document extent of hydrology that can be restored and associated buffer.

2. Determine if there are any on or off site issues that would make the land ineligible for enrollment.

Once Landowner and land eligibility is determined, the Field Office will submit a copy of the application with site map to the Program Manager who will request:

A preliminary title search to identify any clouds on the title that could potentially delay or prevent closing the easement.

Request a records search to identify any potential hazardous substance issues that may exist that could potentially delay or prevent closing the easement.

After submitting the application for preliminary title search and environmental evaluation the Field Office will develop WRP Ranking Packets, many of the forms are located in the **WRP Workbook**.

1. Complete the environmental ranking worksheet.
2. Copy of AD-1026, CCC-926, SF-1199, and Incorporation Papers. (if applicable)
3. Complete the Preliminary Wetland Restoration Plan of Operations Map utilizing Wetland Planning Layers and will include;
  - Location (Primary Roads) and Access to Easement
  - Estimated restored /buffer acres
  - GPS referenced restoration practices
  - Soils with descriptions
  - Lidar Map (if available)
  - State Wetland Inventory Map
4. Complete Preliminary Wetland Restoration Plan of Operations. **See Attached Plan.**
5. Complete preliminary planning activities such that a cost estimate can be derived for the ranking and to ensure that the landowner agrees with the proposed restoration.
6. Complete the Hazardous Substance Checklist.
7. Complete the National Historic Preservation Act (NHPA) and Endangered Species Act (ESA) and National Environmental Protection Act (NEPA) assessments in consultation with the USFWS representative.

Note: Delaware CPA-052 Environmental Evaluation and subsequent review by Delaware Coastal Management Program meets the above requirement.

To verify Endangered Species will not be impacted on a project site visit:  
<http://www.fws.gov/chesapeakebay/EndSppWeb/ELEMENTS/listreq.html>  
Record determination in Technical Assistance Notes.

8. Complete the Preliminary Certificate of Inspection and Possession.
9. Obtain Tax Ditch Association Notification Letter if applicable.
10. Obtain Restoration Contractor Form. Landowners enrolled in WRP have an option to choose who will complete the construction work required to restore the degraded wetlands on their property.
11. Landowner Offer if applicable.
12. Forward WRP Ranking Packet to the Program Manager by Batch Date. **See Attachment 2.**

**Retain a copy of all documents and Construct a Field Office Case File for each application. See Attachment 3.**

#### **Action 4 – 6 is completed by State Office**

##### **Action 4 – Make tentative funding decisions. See Attachment 2.**

Program Manager will select for tentative approval the applications that would be funded given the State's historic FA allocation levels.

##### **Action 5 – Send selected applicants a letter of tentative acceptance.**

Program Manager will notify participants with letter of tentative acceptance that it is not a promise of funding but permission to move ahead with the next step of the process. It allows NRCS to determine if a landowner remains interested before any additional funds and time are expended.

##### **Action 6 – Unfunded, eligible applicants receive deferral letter.**

All eligible applicants not selected for funding initially will be deferred. It is possible, depending on the acceptance rate of selected applicants, that some of these could be selected for funding later. Program Manager will send a deferral letter.

At this point the process splits into two separate processes depending on enrollment type. Details of the actions for each process are as follows:

## **Easement Process**

### **Actions 1 – 5 is completed by State Office**

#### **Action 1 – Procure an appraisal for easement applications.**

Appraisals will no longer be used to determine WRP Easement payments. In lieu of appraisals, compensation to the landowner for a conservation easement will be determined by selecting the method below that will result in the lowest payment.

1. The fair market value of the land using an area-wide market analysis or survey. The market analysis has been completed for Delaware. The fair market value for wooded areas is \$5000 per acre and \$7000 per acre for cropland.
2. The amount corresponding to the Geographic Area Rate Cap (GARC) is set at \$2900 per acre for wooded areas and \$4000 per acre for marginal cropland for permanent easement, 75% of GARC for thirty year easements.
3. The landowner offer must be declared in writing. A lower offer may enhance the probability of enrollment.

#### **Action 2 – Provide Agreement for the Purchase of Conservation Easement to landowner.**

Form LTP-31, Agreement for the Purchase of Conservation Easement, is mailed to the landowner by certified mail with return receipt by Program Manager.

#### **Action 3 – Landowner accepts offer.**

If the landowner signs and returns the LTP-31 accepting the NRCS offer, proceed to Action 4. If the landowner rejects the offer, stop the acquisition process.

#### **Action 4 – State Conservationist signs agreement.**

If funds are available, the State Conservationist signs the LTP-31. At this point, the acres are considered enrolled in the WRP, and acquisition funds are obligated to the Agreement for the Purchase of Conservation Easement.

If the landowner chooses to drop out of the program at any point after the State Conservationist signs the LTP-31 but before closing, NRCS stops the acquisition process and initiates cost recovery.

#### **Action 5 – Procure legal boundary survey.**

A legal boundary survey must be secured on all easements and coordinated by State Engineer. Funds are obligated for this activity directly to the agreement used to procure the services, not to the individual easement.

1. Provide the surveyor with the following information:
  - a. National scope of services that includes requiring a digital copy of the survey that can be directly uploaded to the national shape file.
  - b. Map of the easement area.

- c. Title and other ownership information.
2. District Conservationist or representative and State Engineer will conduct an on site visit with the landowner and surveyor to ensure that the proper area proposed for enrollment is identified for the surveyor.
3. When the survey is completed, NRCS will review the survey to ensure accuracy and acceptability.
4. If accepted, provide a digital copy to National Cartography and Geospatial Center for uploading to the national WRP shape file.

## **Action 6 is completed by the Field and State Office**

### **ACTION 6 – Complete final engineering designs and surveys.**

This action item should begin when the Agreement for the Purchase of Conservation Easement is signed as Action 7 is being conducted. The Restoration Design will be developed by State Office Engineering Staff with assistance from Field Office Staff.

The Final Restoration Design will be reviewed and approved by the State Resource Conservationist, USFWS representative and the State Conservation Engineer. After it is approved, a Final Wetland Restoration Plan of Operations can be completed. Signature boxes for the State Resource Conservationist, USFWS representative and the State Conservation Engineer will be added to the toolkit final page for their signatures. The Final Wetland Restoration Plan of Operations can be a combination of Auto Cad drawings, Toolkit Plan, Maps, pictures and or GPS data. Customize the toolkit template to name the plan Final Wetland Restoration Plan of Operations and add/ remove text boxes as needed to include all necessary information. A copy of the Final Wetland Restoration Plan of Operations will be delivered by the Field Office Staff and USFWS representative and discussed with the Landowner and their signature.

## **Action 7 is completed by State Office**

### **ACTION 7 – Complete easement acquisition.**

1. Obtain and review the title commitment.
2. Prepare the Certificate of Use and Consent.
3. Obtain preliminary title opinion from Office of General Council (OGC), sending any information required by your local OGC attorney advisor, including:
  - a. Copy of preliminary title commitment
  - b. Copy of the survey
  - c. Copy of hazardous substance record search and checklist
  - d. Copy of water rights information (not applicable for Delaware)
  - e. Copy of Preliminary Certificate of Inspection and Possession
  - f. Copy of Certificate of Use and Consent

4. Provide closing instructions to closing agent. Funds are obligated for this activity directly to the agreement used to procure the services, not to the individual easement.
5. Conduct easement closing.
6. NRCS signs the deed to accept the easement, and, in states where it is legal, payment is made directly to the landowner, not to the closing agent. The closing agent is paid for closing services.
7. Field Office completes the Final Certificate of Inspection and Possession.
8. Secure the final title opinion from OGC and have the closing agent record the deed.

## **Action 8 is completed by the Field and State Office**

### **ACTION 8 – Complete final restoration plan and develop contract documents.**

This action is completed concurrently with Actions 6 and 7. The final restoration plan is completed using the amounts and components resulting from the final engineering plans and designs. The final restoration plan must be signed by NRCS, USFWS, and the landowner.

The Final Wetland Restoration Plan of Operations shall consist of the following:

1. Objectives of the restoration. (Standard narratives provided for CST, customize as needed).
2. Description of habitat types and functions being restored.
3. Description of practices required for restoration and management of the site.
4. Schedule of dates for implementing practices and measures.

Note: The first practice should begin within one year of easement recording and completed within three years.

5. Cost share rates, practice costs, and partner contributions if applicable indicated on a CPA-1155 and USFWS landowner agreement if applicable.
6. Restoration Plan Map including:
  - a- Field numbers (e.g. W1, W2 for wood segments if area not contiguous)
  - b- Boundaries of the easement or agreement area.
  - c- Practice location
  - d- Access easement
  - e- Utility locations
  - f- Cultural resources locations
  - g- Acres of the easement agreement area.

Include photographs that document site conditions before, during, and after restoration. Documentation required for application of the required practice including job sheets and engineer designs. State office will provide copies of engineer designs for the Final Restoration Plan.

Note: Before final design is completed and implementation of the WRP project, NRCS must ensure that all requirements will be met, and permits obtained, to comply with federal, and state laws, including NEPA (Environmental Evaluation), Endangered Species Act, Cultural Resources, Nationwide Permit 27 (section 514.62), Clean Water Act (section 401B) and other applicable state laws.

### **ACTION 9 – State Conservationist signs contract.**

The State Conservationist approves the appropriate contract documents, and funds for the restoration are obligated directly to that agreement, not to the individual easement.

### **Actions 10 and 11 is completed by the Field and State Office Staff**

#### **ACTION 10 – Implement restoration plan.**

The following activities are included in this action:

1. Practice layout, Contractor Pre-construction meeting, installation, checkout, and certification.
2. Practice payment.
  - A. Use form AD-1161 to certify the practices once they are completed and certified by a person that has job approval authority to certify the practices. Fill out box 8 (Specified Conservation Practices Performed) from A to J and sign box 14). It is important that you note if it is a partial or final payment. Program Manager will complete the additional contract information needed. This form will be used as if it was a 1245.
  - B. The District Conservationist or the person that certifies the practice should sign and date each bill. This is to certify that what we are being billed for matches what has been installed or constructed.
  - C. If the landowner wants the contractor paid directly, an assignment of payment needs to be completed. It is important to have the vendor's information set up in FFIS in order to make the payment.
  - D. Submit all bills and supporting documents to the Program Manager. The second level review will be done at the State Office.

Any concerns related to paying the bills should be brought to the Program Manager attention before approval of the payment. Program Manager will send an email once the payment has been approved and sent to be processed.

**Note: Please report the wetland restoration practice in CST. Ensure acres reported are equal to easement acre and that the land units are attached to the correct system guide. This is important to meet the WRP goals.**

3. Conduct on site complex NHPA and ESA activities as required.

### **Action 11 – Easement monitoring, management, and enforcement.**

This action actually begins once the easement closing occurs, and is conducted during restoration as well as after.

All easements will be inspected annually for effectiveness of the restoration activities and for potential violations. A WRP Monitoring Checklist will be completed each year of the easement.

## **Restoration Cost-Share Agreement Process**

### **Action 1 – Complete final engineering designs and surveys**

This action is completed concurrently with Action 2.

### **Action 2 – Complete final restoration plan and long-term contract.**

The final restoration plan is developed concurrently with Action 1 and must be signed by both NRCS and the landowner. Based on the final restoration plan and the practice components and extents from the final engineering plans and designs, the long term agreement with the landowner is developed. The landowner signs the contract. If the landowner refuses to sign the plan, stop the enrollment process.

### **Action 3 – State Conservationist signs contract.**

The State Conservationist signs the contract, and the funds for restoration are obligated to this agreement. At this point, the acres are considered enrolled in WRP.

### **Action 4 – Implement the restoration plan.**

The following activities are included in this action:

1. Practice layout, installation, checkout, and certification.
2. Practice payment.
3. Conduct on site complex NHPA and ESA activities as required.

### **Action 5 – Conduct contract management, monitoring, and enforcement.**

This action is conducted concurrently with Action 4 and for 10 years after Action 4 is completed.