

Vermont Bulletin: SB_VT_440-23-05 Date: November 08, 2022
Subject: Criteria for Parcel Enrollment under Entity-Held Easement Buy-Protect-Sell Transactions

Purpose: To issue Vermont NRCS-specific policy for enrollment of an entity-held easement under a “Buy-Protect-Sell” transaction

Expires: September 30, 2023

Background: Under the 2018 Farm Bill NRCS is authorized to enter into a “Buy-Protect-Sell Transaction” legal arrangement between an eligible entity and NRCS relating to land owned or being purchased by an eligible entity (BPS-eligible entity) on a transitional basis during which a conservation easement will be secured on eligible private or Tribal land, and ownership of the land is transferred to a qualified farmer or rancher. Buy-protect-sell transactions are available for parcels enrolled under the two entity-held easement programs: the Agricultural Land Easement component of the Agricultural Land Easement Program (ACEP-ALE) and entity-held easements under the Regional Conservation Partnership Program (RCPP entity-held easements). Full policy describing these transactions is contained in 440-CPM-528.30(E), 440-CPM-531.100(F), and NI 300-308.

To facilitate a buy-protect-sell transaction NRCS may establish State-specific land eligibility enrollment criteria related to the conditions necessitating the transitional ownership of the land by the BPS-eligible entity. This State Bulletin outlines these criteria as established in consultation with the State Technical Committee on November 2, 2022.

Policy: In addition to all general land eligibility criteria set forth by the applicable program, for a parcel to be eligible for enrollment under a buy-protect-sell transaction the following State-specific transitional ownership categories are hereby established (see 440-CPM-528.33(D) and NI 300-308.2(1)(iv)). Eligibility for enrollment as a buy-protect-sell transaction may be based on any one of the following criteria or a combination thereof:

- **Financial barriers to acquisition**— The eligible entity may facilitate a buy-protect-sell transaction as in interim holding strategy to provide the prospective buyer time to build up capital or obtain financing to purchase the parcel in cases where there are financial barriers to acquisition of leased or rented farmland. The intended qualified farmer who will assume ownership of the property is identified at the time of application.
- **Exigent Situations**—When time pressures motivate an existing landowner to sell a property with no clear transition plan to maintaining agricultural production, the BPS-eligible entity would buy the land and hold title to the land while locating a buyer who wishes to resume agricultural production.
- **Land use changes**—For bringing an underutilized property back into agricultural production, or for transitioning to less intensive use (i.e., protecting special areas of significance within the easement boundary), the entity may hold title to the property

while obtaining a buyer who wishes to modify agricultural production. The parcel's agricultural use must be appropriate for the type of land selected, as determined by NRCS' land eligibility review.

To support a determination of eligibility under one of the categories set forth above, the BPS-eligible entity must provide the following:

- For **financial barriers to acquisition**, provide current rental/lease agreement and sufficient supporting documentation for the current fee title owner's intent to sell. Provide written justification for the identified landowner's inability to acquire title prior to enrollment in the NRCS easement program. Prospective landowner will be identified at the time of application.
- For **facilitating succession due to time pressures and/or unforeseen circumstances**, documentation of landowner's intent to sell (i.e., purchase and sales or similar agreement, real estate listing, or notarized statement from landowner) and description of the circumstances (i.e., bankruptcy, death, health decline, unforeseen change in management structure).
- For **land use changes**, justification outlining the parcel's history of agricultural use and argument as to how the proposed buy-protect-sell transaction will facilitate a transition back to agricultural use, OR justification of how the proposed buy-protect-sell transaction will result in a less intensive agricultural use. In addition, the entity must provide a description of or the actual deed language that will describe the conservation values addressed, including areas of special protection or significance.

A parcel may be enrolled in accordance with this State criteria as established and/or one of the other conditions necessitating transitional ownership as set forth in NRCS regulation and policy, subject to other land and landowner eligibility requirements as determined by NRCS.

Contact: Questions related to this Bulletin and the buy-protect-sell policy should be referred to ASTC-Programs Obediah.Racicot@usda.gov or Realty Specialist Julia.Grey@usda.gov.

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