



Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE'S

LANDOWNER GUIDE TO

USDA NATURAL RESOURCES CONSERVATION SERVICE

**AGRICULTURAL CONSERVATION
EASEMENT PROGRAM —
WETLAND RESERVE
EASEMENTS (ACEP-WRE)**

January 2025



Under the **Agricultural Conservation Easement Program**, landowners can voluntarily protect, restore, and enhance wetlands on their property by enrolling their land into an **ACEP Wetland Reserve Easement**. The Natural Resources Conservation Service (NRCS) will restore land where former wetlands have been drained, altered, or manipulated for agricultural production. The landowner must be interested in restoring the wetland and protecting the site.

Through voluntary conservation programs, NRCS helps agricultural producers and other partners protect and conserve natural resources on private lands throughout the United States.

Wetland Reserve Easements help private and tribal landowners protect, restore, and enhance wetlands which have been previously degraded due to agricultural uses.



WETLAND RESERVE EASEMENTS

Benefits

Wetland Reserve Easements not only remove marginal cropland from production, protecting landowners from the constraints of crop loss and poor production, they also provide habitat for fish and wildlife, including threatened and endangered species, improve water quality by filtering sediments and chemicals, reduce flooding, recharge groundwater, protect biological diversity, provide resilience to climate change, and provide opportunities for educational, scientific, and limited undeveloped recreational activities.

Landowner Eligibility

Eligible landowners include:

- Landowners who have owned their private land for at least 24 months, including land held by American Indian tribes.
- All landowners, including members of landowner-legal entities, which is a legal entity that possesses an ownership interest in land offered for easement, must meet **Adjusted Gross Income (AGI)** limitations and must be compliant with the **Highly Erodible Land** and **Wetland Conservation** provisions of the Food Security Act of 1985. (Tribes are not subject to AGI provisions.)



Adjusted Gross
Income



Highly Erodible
Land



Wetland
Conservation

Land Eligibility

Land eligible for Wetland Reserve Easements includes privately held farmed or converted wetlands that can be successfully and cost-effectively restored. NRCS will prioritize

applications based the easement's potential for protecting and enhancing habitat for migratory birds and other wildlife.

Enrollment Options

- **Permanent Easements** — Permanent easements are conservation easements in perpetuity. NRCS pays 100 percent of the easement value for the purchase of the easement. Additionally, NRCS pays between 75 to 100 percent of the restoration costs.
- **30-year Easements** — 30-year easements expire after 30 years. Under 30-year easements, NRCS pays 50 to 75 percent of the easement value for the purchase of the easement. Additionally, NRCS pays between 50 to 75 percent of the restoration costs.
- **Maximum-extent Easements** — Maximum-extent easements are easements that are for the maximum duration allowed under applicable state laws. NRCS pays 50 to 75 percent of the easement value for the purchase of the term easement. Additionally, NRCS pays between 50 to 75 percent of the restoration costs.
- **30-year Contracts** — 30-year contracts are only available to enroll acreage held by tribal landowners. Program payment rates are commensurate with 30-year easements.

For all Wetland Reserve Easement options, NRCS pays all costs associated with recording the easement in the local land records office, including recording fees, charges for abstracts, legal boundary survey, appraisal fees, and title insurance.

Easement Compensation Value

Wetland Reserve Easement values are determined by using the lowest of three options:

- **Fair Market Value (FMV)**. This may be determined either through an Area Wide Market Analysis (AWMA), which determines fair market values for the land

use types typically enrolled in ACEP-WRE in the market areas identified by NRCS in the local region, or an appraisal.

- Geographic Area Rate Cap (GARC). A GARC is a specific percentage of the Fair Market Value that reflects fair compensation for the rights being acquired by NRCS through the easement purchase.
- Landowner offer.

It is important to note that the geographical area rate cap will always be less than the fair market value of the land as determined by the areawide market analysis or appraisal because the landowner still retains certain rights, including controlling access, subsurface mineral rights, undeveloped recreational rights, and title.

Frequently Asked Questions (FAQ)

Q: How does the restoration begin?

A: Once land is enrolled into a Wetland Reserve Easement, NRCS develops and implements a Wetland Reserve Plan of Operations.

Q: What is a Wetland Reserve Plan of Operations?

A: This plan details practices to help restore, protect, and enhance the wetlands' functions and values. The landowner will be provided an opportunity to contribute to the development of the plan, however, NRCS is the final decision maker. Practices used to restore the wetland may include but are not limited to levees, water control structures, and shallow excavation to restore hydrology, as well as tree and/or grass plantings. Restoration practices are applied to maximize wildlife benefits. Ultimately, the goal is to return the property to as close to its original historic state (prior to degradation) as possible.

Q: Once I apply, do I have to go through with the easement? What if I change my mind?

A: You are not considered enrolled into a Wetland Reserve Easement until you sign the agreement for the purchase of the conservation easement. You may withdraw your application at any time without penalty before you sign the agreement. After signed,

you will be officially enrolled in the easement program. If you withdraw after you are officially enrolled, NRCS may seek cost recovery. Before signing the purchase agreement, you should have a firm understanding of the easement boundaries, planned restoration activities, and be comfortable with the restrictions contained in the Warranty Easement Deed.

Q: What is an Easement Deed?

A: An easement deed assigns all rights, title, and interest in the lands comprising the easement to the grantee (United States), but reserving to the landowner only those rights, title, and interests enumerated in the deed.

Q: What if the land is owned by a legal landowner entity and not an individual?

A: Landowner entities can enroll their property into an ACEP Wetland Reserve Easement; however, these entities must be privately owned. Federal, state, and local governmental agencies are not eligible to participate in an ACEP Wetland Reserve Easement. Entities can include a group of landowners (e.g., family members), nonprofit organizations, foundations, or church organizations.

Q: Is there a minimum number of acres I must enroll?

A: No, you do not have to enroll all your land (or parcel) into an ACEP Wetland Reserve Easement. The easement boundary will be determined by both your conservation goals and how well the land meets the goals and requirements of the program. The size and configuration of the easement boundary is contingent upon many factors including how many restorable wetland acres are present. Easement size and boundary will be discussed during a preliminary visit with NRCS, and the final boundary will be determined in collaboration with NRCS.

Q: Does a Wetland Reserve Easement mean the public can access the easement property?

A: No, the terms of the easement do not require public access be allowed. While the Easement Deed guarantees easement access to NRCS or its representatives, all other access

determinations are at the sole discretion of the landowner. Your easement boundary will be clearly marked by signs that state it is private property and not open to the public.

Q: Can I lease the Wetland Reserve Easement for hunting or fishing?

A: Yes, you reserve the right to use or lease your land for undeveloped recreational activities. Undeveloped hunting and fishing are permitted activities.

Q: Can I use the Wetland Reserve Easement for developed recreation?

A: While you reserve the right to lease your land for undeveloped recreation, you cannot use the easement area for developed recreation. Examples of developed recreation include, but are not limited to, camping facilities; recreational vehicle trails and tracks; sporting clay operations; skeet shooting operations; firearms range operations; and the infrastructure to raise, stock, or release captive raised waterfowl, game birds, or other wildlife for hunting or fishing.

Q: Can I graze, hay, or mow on the Wetland Reserve Easement?

A: Generally, all of these activities are specifically prohibited by the terms of the easement deed. However, there are a couple of options potentially available for consideration:

NRCS **may** allow a Compatible Use Authorization.

If it is determined by NRCS that grazing, haying, or mowing meets all policy requirements, the goals of ACEP-WRE, and would benefit the wildlife habitat and/or functions and values of the easement area the landowner may be permitted, through a Compatible Use Authorization, to utilize these practices to accomplish planned and approved management objectives.

NRCS **may** allow for the reservation of grazing rights as a separate enrollment option.

As a component of ACEP-WRE, NRCS implements a reservation of grazing rights enrollment option wherein the landowner may reserve grazing rights on the lands subject to

the easement or 30-year contract. This option is only available for unique wetland ecosystems where grazing is the appropriate vegetation management or disturbance activity tool needed to maintain the long-term viability of the unique attributes of that particular wetland ecosystem. Grazing is the only additional right that may be reserved to the landowner and the extent of the reserved grazing right is identified in Form NRCS-LTP-33, "Warranty Easement Deed with Reservation of Grazing Rights," and is further described in the exhibit E to the deed and the grazing management plan that will be a component of the wetland reserve plan of operations (WRPO).

Q: Can I build a house or other structure on the Wetland Reserve Easement?

A: No, building or placing structures on, under, or over the easement area is prohibited.

Q: Do I lose the water rights associated with the Wetland Reserve Easement area?

A: This depends on how much water is needed to complete the agreed-to restoration plan. Some water rights may have to be designated (encumbered) for the Wetland Reserve Easement to ensure that the wetland continues to function following restoration. You reserve the right to water uses and water rights not needed for the restoration identified as "reserved" to the landowner in the Easement Deed. Water needs and water rights will be discussed during the planning stages of easement acquisition.

Q: Will I still need to pay taxes on the Wetland Reserve Easement?

A: Yes, because you retain the title and ownership of the land that is placed in the ACEP Wetland Reserve Easement, you must pay scheduled taxes.

Q: Do I have a say in what restoration actions will occur on my property?

A: Yes, you will work closely with NRCS throughout the Wetland Reserve Easement process. This includes participating in the design of the wetland restoration project. The restoration project must fit the goals of the

program. If a mutually agreed upon restoration plan cannot be developed, the property will not be enrolled. Once the easement is in place, all final restoration decisions are the responsibility of NRCS.

Q: How long does it typically take to secure the easement and restore the site?

A: Securing an easement is a lengthy process, so you should not expect immediate compensation for your ACEP Wetland Reserve Easement. NRCS's goal is to acquire easements within 18 to 24 months from the official agreement date. Restoration must be completed within three years of closing of the ACEP Wetland Reserve Easement.

Q: After the Wetland Reserve Easement is acquired and the wetland restoration is completed, what are my responsibilities as a landowner?

A: Once the planned restoration activities are completed, the landowner must obtain a compatible use authorization for the maintenance of the ACEP Wetland Reserve Easement, which the landowner is responsible for. This would apply to activities such as controlling noxious weeds, maintaining structures (fences, water control, etc.) and taking emergency measures to control pests as required by state and federal laws.

Q: Are Wetland Reserve Easements monitored?

A: NRCS is required to monitor easements annually. Monitoring is part of NRCS's ongoing commitment to easement stewardship. Monitoring is necessary to ensure full wetland functions and values are achieved and maintained, to detect any potential violations, to direct the course of management, to verify current ownership, and to maintain a good working relationship between the landowner and NRCS.

This document should not be used to determine eligibility for programs. Requirements can be complex. Please check with each agency to determine if you or your organization are eligible for these programs.

Q: I think a Wetland Reserve Easement is a good fit for me and my property. What do I do next?

A: Talk to your local NRCS field office staff to discuss your property and its potential for an ACEP Wetland Reserve Easement. NRCS field office locations can be found on the NRCS website at www.nrcs.usda.gov/contact/find-a-service-center.

More Information

Contact your state NRCS office for more specific information. A state office directory can be found online at www.nrcs.usda.gov by clicking the **State Offices** link in the upper right hand corner of the homepage.



NRCS STATE OFFICE
LOCATOR



NRCS SERVICE CENTER
LOCATOR

