

FINDING OF NO SIGNIFICANT IMPACT  
FROM IMPLEMENTATION OF THE  
AGRICULTURAL CONSERVATION EASEMENT PROGRAM (ACEP)

The National Environmental Policy Act (NEPA) requires Federal agencies to prepare an Environmental Impact Statement (EIS) for major Federal actions significantly affecting the quality of the human environment. The 2014 Farm Bill repealed the Wetland Reserve Program (WRP), Farm and Ranch Lands Protection Program (FRPP), and Grassland Reserve Program (GRP), and consolidated the majority of those program provisions without change into one program consisting of two components, referred to as the Agricultural Land Easement (ALE) component and Wetland Reserve Easement (WRE) component. Lands enrolled in the former FRPP, GRP, and WRP are considered enrolled in ACEP under the 2014 Farm Bill.

NRCS has completed a Programmatic Environmental Assessment (EA) of its proposal to promulgate a regulation implementing ACEP. The NRCS Chief, who is the responsible Federal official, must determine if the proposed action, Alternative 2 of the EA, constitutes a major Federal action significantly affecting the quality of the human environment such that an EIS should be prepared.

In developing its proposed action, NRCS had to ensure ACEP would be implemented in a manner that achieves the purposes for which WRP, FRPP, and GRP were authorized. As stated in the legislation, the purposes of ACEP under the 2014 Farm Bill are to: (1) combine the purposes and coordinate the functions of the WRP, the GRP, and the FRPP as they were in effect before ACEP enactment; (2) restore, protect, and enhance wetlands on eligible land; (3) protect the agricultural use and future viability, and related conservation values of eligible land by limiting nonagricultural uses of that land; and (4) protect grazing uses and related conservation values by restoring and conserving eligible land.

The 2014 Farm Bill also allows for a higher rate of cost share to be provided to enroll grasslands of special environmental significance into the agricultural land easement component of ACEP. The proposed action defines grasslands of special environmental significance as:

- Grasslands that contain little or no noxious or invasive species, are subject to threat of conversion to nongrassland uses, or are subject to fragmentation, and the land is:
- (1) Rangeland, pastureland, or shrubland on which the vegetation is dominated by native grasses, grasslike plants, shrubs, or forbs, or;
  - (2) Improved, naturalized pastureland, and rangeland.

In addition, these must be lands that:

- (1) Provide, or could provide, habitat for threatened and endangered species or other at-risk species,
- (2) Protect sensitive or declining native prairie or grassland types, or
- (3) Provide protection of highly sensitive natural resources.

The Programmatic EA accompanying this statement has provided the analysis needed to assess the significance of the impacts of the proposed action. The ACEP authorizes activities that

protect our Nation's agricultural lands, including grasslands, and the impacts from implementing these easements and restore degraded agricultural wetlands. There are many benefits associated with ACEP activities (EA pages 15, 18, 19, 21, 23, 25, 37, 39, 40, 41, 42, 46, 59, 60) and few, if any, adverse effects.

I have determined, for the reasons outlined below, that there will be no significant individual or cumulative impacts on the quality of the human environment as a result of implementing ACEP according to the interim final rule, particularly when focusing on the significant adverse impacts which NEPA is intended to help decision makers avoid and mitigate. Therefore, an EIS will not be prepared.

- 1) ACEP consolidates the previous WRP, FRPP, and GRP and the EAs prepared for each of those programs resulted in a FONSI. The Programmatic EA evaluated both the beneficial and adverse impacts of the proposed action and the effects of ACEP are nearly identical to those of the predecessor programs. While ACEP provides many benefits to the environment, there is potential in some cases to adversely affect resources in the short run. As a result, there may at times be minor site-specific adverse environmental effects that are likely to be short term. (EA pages 19, 21, 37, 40, 59, 65). NRCS policy at 7 CFR 650.3(b)(4) requires that NRCS plans minimize adverse effects before NRCS provides technical or financial assistance. In addition, NRCS has in the past and will continue to prepare documentation of a site-specific environmental evaluation (EE) and will consult with the appropriate organizations to avoid, reduce, or otherwise mitigate adverse impacts on natural resources. As part of this process, NRCS also complies with requirements for protecting unique geographic features and other resources, as well as NRCS policies protecting natural resources (EA pages 12, 21, 22, 37, 40, 77-79). Thus, any adverse effects that may result from this program will occur at a much lower threshold than the EIS threshold.
- 2) The proposed action will not result in significant adverse effects on public health or safety. The application of conservation practices is anticipated to provide long-term beneficial impacts to improve natural ecosystem functions, and appropriate measures will be taken on a site-specific basis to mitigate the potential for adverse effects to occur to public health and safety during implementation.
- 3) There is no evidence indicating there will be any significant adverse effects to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas from selection of the proposed action, particularly on a national basis. ACEP will protect existing agricultural lands and improve the condition of natural resources. There may be minor short-term adverse impacts but NRCS avoids significant adverse effects on a site-specific basis by consulting as required with agencies having jurisdiction over these resources and following its own requirements to avoid and mitigate even short-term adverse effects.
- 4) The effects of ACEP on the quality of the human environment are not controversial. All NRCS conservation practice standards are published for public comment in the Federal Register before being adopted to ensure integration of appropriate science and to identify and resolve any related controversy. It is only through the implementation of these conservation practices that ACEP affects the environment. The purchase of conservation easements alone does not require a change in land use, though soil conservation measures

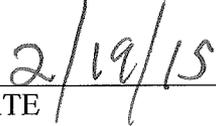
may be required if there are highly erodible lands. Any controversies that may arise from site-specific application of conservation practices will be identified during the EE process and appropriate mitigation measures applied. If necessary, an EA or EIS may be prepared in addition to this Programmatic EA to ensure compliance with NEPA.

- 5) The proposed action is not considered highly uncertain and does not involve unique or unknown risks. ACEP is a consolidation of three conservation easement programs NRCS has implemented for a number of years—WRP, FRPP, and GRP. Conservation practices implemented under ACEP-WRE are supported by science and have been demonstrated to restore wetlands, benefit wildlife, and improve natural resource conditions. The effects of the conservation practices to be applied are analyzed at a broad scale in the Programmatic EA and have been detailed in Conservation Practice Network Effects Diagrams that are incorporated in the Programmatic EA. They have also been documented in the EAs for the previous three programs. The conservation practice standards also are published for public comment before being adopted by NRCS and are reviewed and revised as new technology becomes available. Each of these helps ensure ACEP does not involve unique or uncertain risks.
- 6) The proposed action will not establish a precedent for future actions with significant adverse effects, nor does it represent a decision in principle about future considerations. The proposed action involves publishing a rule that implements a program as required by Congress in the 2014 Farm Bill, and defining grasslands of special environmental significance. No significant adverse effects were identified in the ACEP EA.
- 7) The proposed action will result in enrollment of agricultural lands into conservation easements and restoration of degraded wetlands on agricultural lands across the United States. As discussed in the EA, the impact of these actions is expected to be beneficial to natural resources. Though some minor, short-term adverse effects may occur in some locations from wetland restoration activities, the cumulative effect of these individual actions on the quality of the human environment are not expected to be significantly adverse, particularly on a national basis. To the extent there are indications that site-specific or area-wide ACEP activities may have potential to result in significant adverse effects to the quality of the human environment, an EA or EIS may be prepared separately from the ACEP Programmatic EA.
- 8) The proposed action will not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural, or historical resources. As stated in the EA, NRCS follows the Advisory Council on Historic Preservation's regulations for implementation of Section 106 of the National Historic Preservation Act of 1966 and related policy guidance to ensure historic properties are taken into account during project and program planning. NRCS also enters into programmatic agreements to ensure it takes appropriate steps to identify and avoid adversely affecting these resources as it implements conservation practices.
- 9) The proposed action will not adversely affect endangered or threatened species, marine mammals or critical habitat to any significant degree. As discussed in the Programmatic EA, NRCS regularly consults with the United States Fish and Wildlife Service and National Marine Fisheries Service, as applicable, to ensure these species are not jeopardized, adverse effects are minimized, and there are no adverse modifications to designated critical habitat. Particularly through the restoration of wetlands and protection

of grasslands, the proposed action is likely to protect and improve endangered and threatened species habitats.

- 10) The proposed action does not violate Federal, State or local requirements imposed for protection of the environment. The NRCS EE Worksheet identifies requirements for protection of the environment to ensure they are considered and that adverse effects are addressed during the EE process, normally by consultation with the agency having jurisdiction and ensuring program participants obtain required permits. As a result, the proposed action is consistent with the requirements of these laws and related policies.

  
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