

Part 531 – Regional Conservation Partnership Program Manual

Subpart F – Program Contracts

531.50 General

A. This subpart provides policy related to NRCS program contracts with eligible producers or eligible landowners only available in the Regional Conservation Partnership Program (RCPP) Classic.

B. NRCS enters into program contracts, also referred to as producer contracts, with eligible producers or landowners to provide technical assistance (TA) and financial assistance (FA) to implement eligible activities on eligible land and to address at least one RCPP project resource concern. See section 531.51A below for eligible activities offered in RCPP program contracts. For any covered program, unless otherwise stated in this subpart, NRCS will follow existing applicable policy contained in the manuals listed below:

- (1) Title 440, Conservation Programs Manual (440-CPM), Part 530, “Working Lands Conservation Programs Manual”
- (2) 440-CPM, Part 527, “Easement Common Provisions”
- (3) 440-CPM, Part 528, Subpart O, “Agricultural Conservation Easement Program”

C. Program contracts are template-based documents and are not subject to agreement-level negotiations.

D. The 2018 Farm Bill authorizes RCPP program contracts rather than signing up producers through the traditional conservation programs.

E. RCPP regulation in 7 CFR Part 1464, Subpart C, “Program Contracts,” contains regulatory requirements for program contracts. In the event of a conflict between this subpart, 7 CFR Part 1464, and the manuals listed in section 531.50B above, 7 CFR Part 1464 prevails. See subpart U, exhibit 531.204D, “RCPP Regulation 7 CFR Part 1464” of this manual.

Note: Each program contract is subject to the regulations in place on the date it is executed by NRCS.

F. Following execution of the programmatic partnership agreement (PPA), producers or landowners within the approved project areas may apply directly to NRCS to enter into an RCPP program contract or apply indirectly through the project partner in accordance with the terms of the PPA. Program contracts are subject to availability of funds.

Note: Producers electing to apply through a partner must meet all eligibility requirements.

G. Producers seeking to participate in an RCPP project must meet applicable RCPP program and project related requirements, including those specified in the applicable national funding opportunity. These requirements vary depending on the producer’s objectives, the project, and the activities included in the application and contract.

H. When consistent with an executed PPA and if TA funding is available, a participant may elect to use a certified technical service provider (TSP) for TA associated with conservation planning or practice design, implementation, and check-out. For additional TSP guidance, see 440-CPM, Part 504, “Technical Service Provider Assistance,” and the TSP website at, <https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/technical/tsp/>.

Note: If NRCS cannot deliver FA to producers solely through program contracts between NRCS and eligible producers or landowners, NRCS may use supplemental agreements (SAs) with an eligible partner to further project objectives consistent with RCPP requirements and the associated PPA. See subpart E, “Supplemental Agreements,” of this manual for additional guidance.

Note: Program contract terms may require the producer to allow third parties, such as a partner or TSP, access to their operation to support RCPP project outcome assessment or program contract TA delivery.

531.51 Types of RCPP Activities in Program Contracts

A. Available types of program contracts with producers or landowners covered in this subpart include:

- (1) Land management activity that includes land improvement, management, or restoration activities, including land treatment activities as authorized by Public Law 83-566,
- (2) Land rental activity, and
- (3) Conservation easements held by the United States (U.S.-held easements).

Note: See subpart C, “Proposal and Programmatic Partnership Agreements,” of this manual for additional guidance related to all activity types available under RCPP.

B. Land Management and Rental Activities

- (1) Land management and rental (LMR) activities are based on an Environmental Quality Incentives Program or Conservation Stewardship Program contracting model to address RCPP project resource concerns on eligible lands. See 440-CPM-530, Subpart S, “RCPP Land Management and Rental” (440-CPM-530-S), for application processing and contract development guidance.
- (2) The conservation work included under this category also includes restoration and land management activity authorized under Wetland Reserve Easement component of the Agricultural Conservation Easement Program (ACEP-WRE), Healthy Forests Reserve Program (HFRP), and Public Law 83-566 (land treatment).
- (3) Land management and rental contracts utilize proven aspects of NRCS planning, implementation, and contracting methodology, and are expected to be based on existing NRCS standards, specifications, and payment schedules to the extent practicable.

C. U.S.-Held Conservation Easement Activity

- (1) Under RCPP, conservation easements may be acquired and held by the United States by, and through, USDA NRCS (RCPP U.S.-held easements). RCPP U.S.-held easement activities are based on the applicable aspects of the ACEP-WRE and the HFRP to address RCPP project resource concerns on eligible lands. RCPP U.S.-held easements are purchased by NRCS directly from eligible landowners of eligible lands.
- (2) The RCPP Agreement to Purchase of a Conservation Easement (RCPP APCE) and the RCPP Warranty Easement Deed and associated exhibits are the program contract documents used to enroll RCPP U.S.-held easements.
- (3) The general purpose and intent of a RCPP U.S.-held easement is to further the restoration, protection, management, maintenance, enhancement, and monitoring of the conservation values on eligible lands. To establish the specific purpose of each RCPP easement, the conservation values must be stated in the individual RCPP Warranty Easement Deed. The conservation values are the natural resources being protected and the resource concerns being addressed consistent with the conservation benefits identified at the RCPP project level and as agreed to in the individual RCPP PPA.

- (4) All RCPP U.S.-held easements must use one of three standard RCPP Warranty Easement Deeds and required exhibits to the deeds.
- (i) Each of the three RCPP Warranty Easement Deeds contain a standard set of terms that establishes the level of restrictiveness of the easement by identifying the general easement purposes; the rights being acquired by the United States; the rights being retained by the landowner; and the allowable uses, restrictions, and prohibitions. The three RCPP Warranty Easement Deed options, characterized by the level of restrictiveness, are as follows:
- Highly Restrictive.—Form NRCS-CPA-1300, “RCPP Warranty Easement Deed for Protection of Conservation Values.”
 - Moderately Restrictive.—Form NRCS-CPA-1301, “RCPP Warranty Easement Deed for Conservation Uses,” and Form NRCS-CPA-1301, “Exhibit E.”
 - Minimally Restrictive.—Form NRCS-CPA-1302, “RCPP Warranty Easement Deed for Working Lands,” and Form NRCS-CPA-1302, “Exhibit E.”
- Note:** An exhibit E is only used for the moderately and minimally restrictive RCPP U.S.-held easements. Provisions set forth in exhibit E are additional to the standard rights and restrictions identified in the body of the RCPP Warranty Easement Deed being used.
- (ii) The standard terms of an RCPP Warranty Easement Deed cannot be modified. RCPP project-specific provisions must be stated in the deed or the exhibits thereto as instructed in the form. For all RCPP U.S.-held easements, the RCPP project-specific conservation values must be stated in the ‘Purposes and Intent’ section of the individual RCPP Warranty Easement Deed.
- (iii) NRCS, in consultation with the RCPP partner, must determine which RCPP Warranty Easement Deed is appropriate to achieve the identified RCPP project purposes for a given project and to protect the conservation values to be stated in the individual easement deed.
- (iv) The conservation values statement that will be used in the deed and, as applicable, the terms to be included in an exhibit E, should be drafted as early as possible and must be reviewed and approved by the NRCS Easement Programs Division and USDA Office of the General Counsel (OGC) prior to procuring an appraisal of the proposed easement.
- (5) Application, ranking, easement acquisition processes, and contracting of RCPP U.S.-held easements generally emulates applicable aspects of ACEP-WRE and HFRP, while incorporating applicable RCPP specific programmatic and project specific requirements as set forth in regulations, policy, and guidance applicable to RCPP U.S.-held easements. The acquisition of RCPP U.S.-held easements is also subject to U.S. Department of Justice title standards and require OGC approval. Administration, enrollment, valuation, acquisition, and stewardship of RCPP U.S.-held easements must be conducted pursuant to the requirements set forth in applicable regulations, this manual, 440-CPM-527, 440-CPM-528, and other agency directives.
- (6) Once acquired, an RCPP U.S.-held easement runs with the land for the complete term of the easement (perpetuity or maximum duration as allowed under State law) and is binding to all successors and assigns. Subordination, modification, exchange, or termination of an RCPP U.S.-held easement must be consistent with the policies and procedures under 7 CFR Part 1468.

531.52 Application Ranking, Evaluation, and Selection

A. NRCS ranks, evaluates, and selects applications for program contracts through a competitive application process based on negotiated project expectations in the applicable PPA exhibit and agency-established processes in the program manuals listed in section 531.50B above.

B. When a PPA identifies applications that are critical to an RCPP project, the PPA may identify those as exempt from competitive ranking.

Note: Guidance for LMR application processing is contained in 440-CPM-530-S, National Instruction (NI) 440-310, “NRCS Program Ranking through Conservation Assessment Ranking Tool (CART),” and NI 440-316, “Guidance for Regional Conservation Partnership Program (RCPP) Programmatic Partnership Agreements.”

Note: For multistate PPAs, the lead State is responsible for coordinating with the States involved in the project area to ensure consistent implementation of the program.

531.53 Program Contract Development and Requirements

A. Land Management and Rental Contracts

- (1) For a participant to receive payments, the producer must enter into a program contract and agree to the terms and conditions.
- (2) States must follow contracting guidance in 440-CPM-530 as applicable. In addition, see 440-CPM-530-S and related guidance issued by National Headquarters (NHQ).

B. U.S.-Held Easements – Reserved

531.54 Modification and Transfers

A. Land Management and Rental Contracts

States must follow modification and transfer guidance in 440-CPM-530, Subpart G, “Modifications,” as applicable and related directives issued by NHQ. In addition, see 440-CPM-530-S for program eligibility requirements.

B. U.S.-Held Easements – Reserved

531.55 Violations and Remedies

A. Land Management and Rental Contracts

States must follow guidance in 440-CPM-530, Subpart I, “Contract Violations,” as applicable. In addition, see 440-CPM-530-S.

B. U.S.-Held Easements – Reserved