



**MN Conservation Reserve  
Enhancement Program (CREP)  
Reinvest in Minnesota (RIM)  
General Program Guidance Document  
February 2020**



Included in this MN CREP guidance document is information on submittal requirements, program eligibility, application scoring and ranking, payment, enrollment of RIM-Only lands, and conservation plans.

MN CREP has four eligible CRP Conservation Practices (CPs):

- Wellhead Protection Areas (CP-2)
- Grass Filter Strips (CP-21)
- Wetland Restoration – Floodplain (CP-23)
- Wetland Restoration – Non-Floodplain (CP-23a)

The terms *offer* and *application* in this document should be considered similar. *Offer* is typically used in CRP and *application* is used in RIM.

#### **APPLICATION AND SUBMITTAL REQUIREMENTS**

An application for RIM must be submitted as part of the MN CREP process. The Application Checklist in the [MN CREP Application Workbook](#) lists the documents required to complete an application. Applications for RIM must be submitted via the Easement Application Submittal Module. The Application Submittal Module Information Center provides additional guidance on submitting applications. The Application Checklist should be reviewed prior to application submittal. Only complete applications will be reviewed and considered for funding.

#### **RIM PROGRAM ELIGIBILITY AND EASEMENT AREA ASSESSMENT**

All MN CREP applications must meet eligibility requirements for both RIM and CRP programs. Eligibility requirements for RIM include:

- The landowner must not be prohibited from owning agricultural land under [MN Statute Section 500.24](#) and either owns eligible land or is purchasing eligible land under a contract for deed.
- Land must be owned by the landowner, a parent or another blood relative for at least one year before the date of application.
- To meet RIM crop history requirements, land must have been in agricultural crop production for at least 2 of the past 5 years before the date of application. RIM may enroll additional acreage. See **ENROLLING RIM-ONLY LANDS** below.

- The CRP offer must be greater than or equal to 8 acres in size. If the CRP offer is under 8 acres, it must meet one of the following waiver criteria:
  1. Socially Disadvantaged, Limited Resource, or Beginning Farmer or Rancher  
At least one person or legal entity on the offer is a socially disadvantaged, limited resource, or beginning farmer or rancher as determined by USDA. The determination will be provided by FSA to the local SWCD.
  2. CP-2 offers  
The majority (>50%) of the land in the CREP application is physically located within a Wellhead Protection Area (WHPA) identified by the Minnesota Department of Health (MDH) AND mapped as very high and/or high vulnerability.
  3. CP-21 offers  
The CP-21 must be immediately adjacent to a Public Water included on the buffer protection map. The CP-21 will be adjacent to a CREP eligible offer or approved contract. The CP-21 will, at a minimum, meet the required width for filtering sediment, soluble materials and pathogens according to NRCS CP21 Filter Strip Documentation of Suitability and Feasibility Worksheet and the MN NRCS Filter Strip (393) Conservation Practice Standard.
  4. CP-23 and CP-23a offers  
The CP-23 or CP-23a will be immediately adjacent to already permanently protected land (fee title or easement) or another MN CREP application.

The MN CREP Application Workbook includes a Landowner Eligibility Form to confirm that the landowner meets eligibility requirements. Additional detail on eligibility requirements for RIM can be found in the RIM Reserve Eligibility Information and Landowner Eligibility Types chapters of the [RIM Handbook](#).

The MN CREP Application Workbook also has a Landowner Questionnaire and Easement Area Assessment worksheet. The worksheet is designed to provide valuable information about the easement area and highlight items that may create issues with easement recording or obtaining clear title. Questions are designed to alert staff and the landowner of these issues early in the process.

For example, there may be an issue obtaining clear title if the answer to question 1 on the worksheet indicates there is a mortgage on the property. If a mortgage exists, the State will require a subordination consent to be recorded for the mortgage before it will acquire a RIM easement. If the mortgage lender refuses to subordinate its interest to the RIM easement, the landowner must pay off the mortgage or refinance with a lender that will subordinate. It is important to review the items in the Landowner Questionnaire and Easement Area Assessment worksheet with the landowner and to ensure accurate responses are provided. Identifying potential issues at the time of application will reduce delays in processing the easement later. If a RIM easement is not conveyed as part of MN CREP, the landowner will be subject to CRP cancellation.

#### **APPLICATION SCORING AND RANKING**

In addition to meeting program eligibility requirements, applications will be scored and ranked within specified batching periods announced by the State. Applications will be scored and ranked based on the CP. If there are multiple CP types on an application, the largest CP (by acreage) will be scored and ranked. If the largest acreage CP is funded, the additional CPs are also funded. Applications should be scored using the restoration benefits achieved within the entire RIM easement area rather than the CRP eligible acres.

When more than one MN CREP application is needed to successfully restore a drained wetland or complex of wetlands, it is allowable to use a joint score that represents the restoration benefits of the combined MN CREP applications. This scoring option is limited to adjoining, already funded and new MN CREP applications where combined enrollment is necessary for complete and successful restoration of wetland hydrology. Applications

utilizing this scoring option must clearly show and identify the adjoining MN CREP areas, as well as provide justification for this method of scoring.

The identification and evaluation of drained and altered wetlands for CP-23 and CP-23a applications is an important part of assessing CREP eligibility as well as preparing RIM and CRP conservation plans. See Appendix 1 for information on determining the extent of restorable wetland acres as part of CREP to assist in completing the Environmental Benefits Scoring Worksheet in the MN CREP Application Workbook.

### EASEMENT PAYMENT

The payment provided to landowners for the State's conservation easement will be determined by completing the Conservation Easement Financial Worksheet (CEFW) as part of the MN CREP Application Workbook. The CRP Data worksheet is completed using information directly from the federal CRP-1 and is transferred to the CEFW. The CEFW uses the CREP payment rate, CRP-1 information, application acres and township payment rates for RIM-Only lands to determine the easement payment. Payment is based on land type and will either be land with crop history (MN CREP Cropland or RIM-Only Crop) or land without crop history (RIM-Only Non-Crop). Specific township per acre values are based on land use.

- **MN CREP Cropland.** Acres eligible for this payment rate must meet both CRP and RIM eligibility and crop history and be included as part of the MN CREP enrollment area.
- **RIM-Only Crop.** Acres eligible for this payment rate must meet RIM eligibility and crop history requirements but are not eligible for enrollment in CRP as part of the CREP application. Most existing CRP acres qualify as meeting RIM crop history criteria and are eligible for this payment rate. Acres eligible for this payment rate are limited.
- **RIM-Only Non-Crop.** Acres eligible for this payment rate must meet all RIM eligibility requirements, but do not meet RIM crop history requirements. This includes CRP acres that were enrolled at a non-cropland rate (e.g. marginal pastureland). Acres eligible for this payment rate are limited.

CRP has a \$50,000 annual payment limitation (additive with payments for other CRP contracts), as well as an Adjusted Gross Income (AGI) payment limitation. USDA does have a waiver process for these limitations. Landowners are encouraged to work with the local FSA office to maximize CRP payments. Applications that meet the annual payment limitation will be flagged in the MN CREP Application Workbook. The State will not pay for costs not covered by FSA as a result of these limitations without a waiver (see **WAIVERS** below).

### ENROLLING RIM-ONLY LANDS

Land that does not meet CRP requirements for enrollment into MN CREP may be enrolled in RIM if it improves the quality of the application and/or provides additional water quality and wildlife benefits. These additional RIM-Only lands will be subject to all easement conditions and must meet RIM eligibility requirements. All RIM-Only lands **must abut or adjoin** some portion of the MN CREP application area except when divided by narrow non-easement corridors (driveways, ditches, or watercourses). The RIM-Only enrollment options below are available to all practices unless otherwise noted.

The State pays 100% of both easement and restoration costs on RIM-Only acres. Therefore, the enrollment of RIM-Only lands will be limited, based on the acreage of MN CREP Cropland. If RIM-Only land is being enrolled utilizing this provision, documentation is required in the MN CREP Application Workbook citing which eligibility category (1 through 3) is being utilized. Maps and acreage documentation to verify compliance with the category limits is also required. RIM-Only acres in category 2 will require a subcategory selection and an explanation of how the additional areas meet the definition of the subcategory. **Appropriate documentation must be completed in the workbook and/or maps provided. BWSR reserves the right to not approve RIM-Only acres.**

## 1. Existing CRP

Enrollment of existing CRP acres is limited to no more than **50%** of the acres being enrolled as MN CREP Cropland. Existing CRP is defined as acres in an existing CRP contract that are not expiring in the application year and therefore are ineligible as a CRP re-enrollment in the current CREP application. CRP contracts approved after May 2017 do not qualify as existing CRP for this section.

## 2. Other Lands

The total acreage of land categorized as Other Lands is limited to no more than 20% of the acres being enrolled as MN CREP Cropland.

**2.1 Landlocked Areas:** Areas owned by the applicant that would otherwise be landlocked or inaccessible due to the proposed easement. Examples may include small wooded areas within a cropped area, rock outcroppings, steeply sloped areas, and areas of existing wetland. This does not include large non-crop areas adjacent to a public water.

**2.2 Minnesota Biological Survey Areas of Biodiversity Significance or the Minnesota Wildlife Action Plan: Wildlife Action Network (WAN) Areas:** Areas that include priority threatened habitat. A map showing the species of concern and location of the area within the easement is required.

**2.3 Areas Needed to Provide Manageable Easement Boundaries:** Areas that enable more practical and manageable easement boundaries. Examples include land along a property boundary or areas necessary to provide straight easement boundaries. This does not include large non-crop areas adjacent to a public water.

**2.4 Non-Cropped Lands Needed to Enable Wetland Restoration:** Drainage ditches, partially drained wetland areas, and other non-cropped areas necessary for restoration of CP-23 and CP-23a wetland restorations.

**2.5 Lands Meeting Crop History within Buffers of Public Waters:** If land fits this category, it can be enrolled along with other lands as RIM-Only for the combined maximum of 20%.

## 3. Lands that Improve Wildlife/Nesting Habitat for CP-23a Wetland Restorations

Additional cropland areas can be enrolled to improve wildlife/nesting habitat for MN CREP CP-23a wetland restorations. These areas will include upland acres that exceed the CRP CP-23a 4:1 limit. Acres under this section can only be considered when the upland to wetland ratio as part of the CRP offer is maximized at 4:1. These RIM-Only Crop acres, when combined with the CRP acres, cannot exceed an 8:1 total upland to wetland ratio. Existing CRP acres **do not** qualify under this section. If this section is utilized, include a copy of the CRP CP-23a Non-Floodplain Wetland Restoration Documentation of Suitability and Feasibility Worksheet completed by NRCS and a map labeling the acres meeting the 4:1 ratio and the additional acres up to 8:1.

The calculation of additional lands in any of the categories should be done independent of the other categories. For example, if a landowner submits a 100-acre CP-23a offer for MN CREP; up to 50 acres of Existing CRP and up to 20 additional acres of Other Lands may be enrolled, resulting in a total easement size of 170 acres.

The payment for RIM-Only lands is based on program crop history requirements (Crop or Non-Crop) – see **EASEMENT PAYMENT** section above.

## WELLHEAD (CP-2) APPLICATIONS

For CRP, 100% of cropland offered for a CP-2 practice must be physically located within an approved wellhead protection area (WHPA). Only the land within the WHPA is CRP eligible and paid at the MN CREP Cropland rate.

To meet State requirements, the CREP application must have a majority (50% or greater) of the area physically located within a WHPA and mapped as very high or high vulnerability. Additional lands, not exceeding the area within the WHPA may be included for RIM-Only acres.

Areas that do not meet the CRP requirement (100% within the WHPA) are not eligible to receive the MN CREP Cropland rate but may be eligible for RIM-Only Crop or RIM-Only Non-Crop payment rates and must be less than the offered acres within the WHPA. To be eligible, the area outside of the CRP offer must meet the State eligibility requirements, be the same parcel or field, and abut or adjoin the CRP offer.

### **MINNESOTA BUFFER LAW AND LANDS WITH CROP HISTORY**

All MN CREP applications are subject to Minnesota buffer law. Land is ineligible to be offered in CRP if either of the following apply:

- The land is under other easements or other legal restrictions that require a resource-conserving cover be maintained throughout any part of the proposed contract period.
- Land where the producer is required to perform a practice as an obligation to comply with local, State, or Federal law, and is notified in writing that the required practice must be performed or enforcement action, such as fines or closing the operation, will be taken against the producer.

Land that is not currently enrolled in CRP, and which is subject to [Minnesota Statute 103F.48](#), is ineligible for enrollment in CRP.

For areas where the buffer law is applicable, the following guidance must be used. This section applies to all practices unless otherwise noted and provides eligibility and payment information for specific buffer areas and land cover. Buffer areas that meet the criteria below must abut or adjoin the MN CREP Cropland acres to be eligible for payment, if payment is available. A flowchart of this information is included as Appendix 3.

- **Required buffers for Public Drainage Systems** (16.5 feet): The 16.5-foot area should be excluded from the easement. The acreage must be donated if included in the easement (see **DONATED LANDS** below).
- **Required buffers for Public Waters** (30 feet minimum, 50 feet average): This section should be used for lands that meet RIM crop history adjacent to Public Waters. If land does not meet crop history criteria, use guidance from the **Other Lands** section above.

Enrollment of acres under this section is limited to no more than 20% of the acres being enrolled as MN CREP Cropland acres on the CEFW in combination with Other Lands from the section above. Land must meet RIM crop history criteria and will receive payment at the RIM-Only Non-Crop rate.

If these areas are adjacent to a CP-21 practice, the CP-21 practice must utilize the required width listed in the MN NRCS Filter Strip (393) Conservation Practice Standard, Table 1. Filter strip widths (flow lengths) for soluble nutrients, chemicals, and pathogens.

- **Existing CRP within buffers for Public Waters:** Existing CRP within buffer areas is limited to enrollment acreage of 50% of the MN CREP Cropland acres on the CEFW in combination with land from the Existing CRP section above. These acres will be paid at the RIM-Only Crop rate.
- **Re-enrolling CRP within buffers:** Areas under continuous CRP coverage are exempt under the buffer law. A landowner is eligible to receive the MN CREP Cropland rate when re-enrolling land in CRP as part of CREP.

### **WAIVERS**

Requests for waivers should be discussed in advance with the Private Lands Specialist and must be approved by the

Easement Section Manager prior to submittal of the MN CREP application.

Waivers may be submitted to address CRP payment limitations or enrollment of RIM-Only Crop or RIM-Only Non-Crop lands in excess of the limits listed above and are available for all practices. For CRP annual payment limitations, the current application must exceed \$50,000 to be eligible for a waiver. Other CRP contracts cannot be combined with the current offer to request a waiver on annual payment limits. Waiver requests for additional RIM-Only Crop and RIM-Only Non-Crop must clearly demonstrate the benefits and need for enrolling the additional acres.

In the absence of an approved waiver, the enrollment of acres exceeding the limits must be treated as donated lands (see **DONATED LANDS** below).

#### **DONATED LANDS**

There may be situations where enrollment of land that is ineligible for easement payment is desirable or necessary. These areas will be accepted as part of the RIM easement as donated lands. Examples where enrollment of donated land may be necessary include:

- **Public Waters and Public Waters Wetlands.** RIM policy states that all Public Waters and Public Waters Wetlands are eligible for enrollment but shall not receive payment. Program preference is to exclude these areas from the easement. In some situations, it may be more practical to include all or portions of these areas within the easement as donated land. This section does not apply to the enrollment of Public Water and Public Waters Wetlands that meet MN CREP program eligibility requirements and where restoration is planned as part of the application.
- **Surface Drainage Ditches.** Drainage ditches that will be filled, plugged, or otherwise abandoned as part of a planned wetland restoration should be included within the enrolled easement area and are eligible for payment. If these areas are not eligible for CRP and MN CREP enrollment, utilize the **ENROLLING RIM-ONLY LANDS** section above as applicable.

Ditches systems that provide drainage benefits to adjoining lands that cannot be filled, plugged, or otherwise abandoned in support of planned wetland restorations (and their associated right-of-way) need to be either excluded from the easement or included as donated easement acres. If not already legally defined, the right-of-way shall be considered the width deemed necessary for reasonable access and maintenance work (typically one rod (16.5 ft) from top of ditch bank on each side).

The terms and conditions of a RIM easement do not prohibit necessary, lawful maintenance of existing public and private drainage systems. Said maintenance is the responsibility of the landowner or others and does not become the state's responsibility as a result of the easement.

- **Subsurface Drainage Tile.** Easement lands containing subsurface drain tile are eligible for easement enrollment and payment in accordance with previously discussed eligibility and enrollment criteria. The terms and conditions of a RIM easement do not prohibit necessary, lawful maintenance of existing public and private subsurface drainage tile systems. Said maintenance is the responsibility of the landowner or others and does not become the state's responsibility as a result of the easement.
- **US Fish and Wildlife Service (USFWS) Easements and Agreements.** Lands enrolled in USFWS easements and agreements for the Small Wetland Acquisition Program (SWAP) - generally referred to as no fill, drain or burn easements - are subject to the RIM Reserve Policy dated June 27, 2018 (see **Appendix 2**). SWAP easements must meet both CRP and RIM eligibility and crop history requirements to be eligible for MN CREP and be considered MN CREP Cropland acres. If the areas do not meet eligibility and crop history requirements, they are treated as donated acres.

Note – BWSR will not provide a valuation for easement acres or donated lands for tax purposes. Landowners must work with their tax professionals.

### RIM CONSERVATION PLAN

A conservation plan is required for all RIM easements in addition to the preparation of a CRP conservation plan. Program requirements and acreage differences between the CRP and RIM applications may require slightly different conservation plans to be prepared. Plans should be as consistent as possible to facilitate restoration work and practice reimbursement for both programs. Any updates to the CRP plan should be included in the RIM plan.

Current CRP areas that are re-enrolling in CREP may retain existing vegetation if CRP guidelines allow. Vegetative diversity of the area should be reviewed and increased if necessary and possible.

RIM conservation plans use practice codes that identify the type of practice to be established or that exists within the easement. Practice codes that include restoration (vegetative or hydrologic) have an associated per acre maximum reimbursement. State funds will be used in combination with eligible CRP practice payments to complete restoration work on MN CREP sites.

Only restoration work that is completed after the RIM easement agreement has been fully executed can be reimbursed, therefore seed purchase and restoration work should not be done until the agreement has been executed. Requests for reimbursement can only be made after the easement has been recorded. BWSR will not reimburse for restoration costs incurred if the easement is not recorded. Common RIM practices on MN CREP easements are listed below along with maximum state cost share.

PRACTICE CODE/NAME	MAXIMUM \$ /ACRE (STATE)
RR-2a Native Grasses to be Established	\$300
RR-2PP Pollinator Planting to be Established	\$600
RR-3a Tree and/or Shrub Planting to be Established	\$400
RR-8 Wetland Restoration	\$600

All areas mapped with hydric soils should use practice code RR-8 with RR-2 listed as supporting. RIM has additional conservation practice codes that may be used when preparing conservation plans. These practice codes document existing vegetation areas or water features where no practice funding is available. These additional conservation practices will be used on areas outside of the eligible CRP offer.

For CREP, BWSR will provide practice payments for wetland restoration work, site preparation, seed, and seeding but will not provide practice payments for establishment (clippings) or ongoing maintenance.

For additional information on conservation plans, refer to the following chapters in the [RIM Handbook](#):

- Conservation Plan Development chapter for RIM Conservation Plan development
- Practice Specifications chapter for information on practices and eligible costs
- Conservation Plan Implementation chapter for installation periods and cost-share process

### STATE VEGETATION REQUIREMENTS

Suitable annual, biennial and perennial native plant species are required for projects to meet State requirements. Native plant communities sustain environmental and human health, provide wildlife habitat, and add resiliency to our landscapes. BWSR’s [Native Vegetation Establishment and Enhancement Guidelines](#) provides information on site restoration using natives; including guidelines for species diversity, seed source, and noxious weed control. The table below compares CRP practices to State practice codes and requirements. Refer to [NRCS MN Technical Note #31 \(Ver. 1.5\)](#) as applicable.

Practice	State of MN Requirements for Vegetation Establishment
CP-2	<b>327 Standard (native species only)</b> Minimum - Standard 327.1.A - Native Grasses and Forbs Preferred – Standard 327.1.A - Native Grasses and Forbs: Additional forbs up to standard maximum Optional - <a href="#">MNCREP – Herbaceous Vegetation Planting Guidelines to Benefit Monarch Butterflies and Pollinators – CP2 and CP23a</a> . Monarch Food Plots limited to 10% of the offered CP-2 acres.
CP-21	<b>393 Standard (native species only)</b> Minimum - Table 12 of NRCS Technical Note #31 required (native species only) Preferred - Table 13 of NRCS Technical Note #31: Additional forbs up to standard maximum when width allows
CP-23	<b>657 Standard (native species only)</b> Minimum – Wetland: Standard 657 - Wetland Restoration Adjacent Upland (Herbaceous): Standard 327 – Conservation Cover, Native Grasses, Forbs and Legumes Adjacent Upland (Forested): Standard 612 - Tree/Shrub Establishment
CP-23a	<b>657 Standard (native species only)</b> Minimum – Wetland: Standard 657 - Wetland Restoration Adjacent Upland: Standard 643 - Tallgrass Prairie Specifications Preferred – Adjacent Upland: <a href="#">MNCREP – Herbaceous Vegetation Planting Guidelines to Benefit Monarch Butterflies and Pollinators – CP2 and CP23a</a> .

*Deviation from the above table requires approval from BWSR.*

Seed source should be considered. Guidelines for working with conservation seed mixes for MN CREP include:

- **Obtain three seed bids** for projects (particularly for larger plantings on CP-23 and CP-23a). BWSR has developed a [Best Value Calculator](#) to help evaluate both costs and source distance for bids.
- **Use local sources** to the extent possible using the following seed source sequence:
  - Collected directly from adjacent remnant prairie
  - Collected from a local remnant prairie within the same ecological sub-section
  - Collected from a remnant prairie within the same ecological section
  - 175 miles from the project site is the recommended maximum distance. Use professional judgment about acceptable distance if seed shortages exist.
- **Prevent Noxious Weeds.** Avoid introduction of Palmer Amaranth and other noxious weeds, particularly for seed coming from Iowa or other areas where Palmer Amaranth is widespread. Ensure seed vendors provide documentation that testing (required by MDA) has been done for any amaranth seed in mixes to ensure that it is not Palmer Amaranth. Ensure seed vendors provide a seed tag after accepting a seed mix for a project.
- **Work with vendors** to make seed substitutions when necessary.
- **Use best professional judgment.** Regional and statewide BWSR, DNR and USFWS staff are available to provide additional guidance about seed mix considerations.



## Appendix 1 – Determining the Extent of Restorable CREP Wetland Acres

Identification and evaluation of drained and altered wetlands is an important part of assessing CREP eligibility and preparing RIM and CRP conservation plans for funded applications. The following information is consistent with RIM program guidance, NRCS Conservation Practice 657 – Wetland Restoration, and NRCS CCRP CP23 and CP23A Eligibility Documents.

Drained and altered wetlands include wetland areas where hydrology, vegetation and/or soils have been altered adversely affecting the functions and values of the wetland. This includes:

1. Sites where no hydrologic manipulation has occurred other than farming (wetlands cropped under natural conditions). These areas will be considered restored upon establishment of hydrophytic vegetation.
2. Sites with hydrologic manipulation (ditch, subsurface tile, fill). The goal is to restore these areas to their original condition. Where physical or legal reasons limit or prevent the restoration of original hydrology; the wetland is considered “minimally restored” upon establishment of hydrophytic vegetation.

The total area of drained, altered, and farmed wetland area(s) in an application area constitutes the restorable wetland when determining eligibility and preparing conservation plans.

Drained and altered wetland areas are first identified by reviewing maps of hydric soils. The NRCS Web Soil Survey displays the extent and area of all hydric and non-hydric soil map units for an identified parcel. The Soil Survey also provides the classification of each map unit along with its hydric rating. Many soil map units are composed of one or more soil types and will often contain inclusions of dissimilar soils that are not mapped. A map unit that is identified as being hydric may have small areas, or inclusions, of non-hydric soils within it. Conversely, a non-hydric map unit may have inclusions of hydric soils within it. The extent of these dissimilar inclusions is variable between soil units and locations. In addition, mapping variances and errors exist, and soil units may not represent the actual extents of a former wetland. Additional resources should be used in combination with soils maps to accurately determine the extent of drained and altered wetland areas.

Additional resources for identifying drained and altered wetlands include:

- Current and historic aerial images with wet signatures
- LiDAR or other survey data
- USDA wetland determinations (“PC”, “FW”, “W” and “FWP” wetlands)
- Extent of drainage systems or drainage signatures from photo reviews
- USFWS National Wetland Inventory
- Drained wetland inventories
- Onsite hydric soil investigations
- Cropping history
- Knowledge of landscape and identification of depressional or wet areas (landowner discussions)

## Appendix 2 – RIM Reserve Policy on USFWS Easement and Agreement Lands

### Policy for Enrollment of US Fish and Wildlife Easement and Agreement Lands into the Reinvest In Minnesota (RIM) Reserve Program

June 27, 2018

The US Fish and Wildlife Service (USFWS) through its private lands program has restored and protected thousands of acres of valuable wetland habitats throughout Minnesota. To accomplish that, they have and continue to use limited term agreements and perpetual easements on those private properties.

Through their Partners Program, “partner agreements” are exercised with private landowners that can be 10, 15, or 20 years in duration. These agreements are not easements nor are they recorded. The protection and restoration of drained and altered wetlands are the basis for these agreements.

They also utilize and secure a variety of types of easements for which a number of different rights and land use restrictions are purchased. The primary objective for most of these easements is to protect existing wetland resources through restrictions on filling, burning, or draining. A number of easements have additional restrictions such as no cropping, haying, grazing, etc. and many allow the restoration and subsequent management of drained and altered wetlands. These easements have all been purchased by the USFWS based upon national policy regarding easement acquisition, are perpetual in duration, and are recorded legal documents.

Many of the wetlands and surrounding lands that are secured under agreement or easement by USFWS could be further protected and/or restored and may be good sites for enrollment into more restrictive conservation programs such as the Reinvest In Minnesota (RIM) Reserve. If a USFWS agreement or easement exists on an area being considered for enrollment into the RIM, certain program considerations are needed with regard to site eligibility, scoring, and easement payment determination.

#### Eligible USFWS Lands:

- “Partners for Fish and Wildlife (PFW) Agreements” are eligible for enrollment into RIM with full easement compensation allowed.
- Small Wetland Acquisition Program (SWAP) wetland easements, generally referred to as a no fill, drain or burn easements are generally eligible for enrollment into RIM, but may or may not be eligible for a RIM easement payment. Field offices will be responsible to coordinate with their local USFWS District Manager and determine, to the best of their abilities, the size and location of the USFWS easement to be included as these specified acres.
  - When RIM is making a full, non-discounted easement payment (i.e. standalone RIM), these USFWS easement lands are not eligible for a RIM easement payment and should be treated as donated acres when calculating the easement payment as compensation for these easement acres has already been made by USFWS.
  - When RIM is partnering with another governmental unit or conservation organization and as a result is providing a discounted or reduced easement payment (i.e. CREP), these USFWS easement lands are eligible for full easement payment from RIM in accordance with the partnership criteria.

- Other more restrictive USFWS easements such as FmHA Conservation Easements will generally be ineligible for enrollment due to similarities of easements rights already purchased.

Other Considerations:

- Eligibility also requires that a substantial environmental benefit be achieved by enrollment of the parcel. For example, previously restored or existing functional wetlands should only be considered for enrollment if significant improvements or restoration of surrounding upland buffer areas to these wetlands will result.
- Scoring - treat all eligible USFWS lands like it does not have an easement or agreement on it and score it according to the instructions and eligibility and evaluation worksheets.
- Technical assistance and program payments for conservation practices on areas protected by USFWS easements or PFW agreements will be only be supported for vegetation establishment on cropped areas or for areas where drained wetlands exist and can be restored. Technical assistance or funding will not be available for the repair of prior installed restoration components such as embankments or outlet structures within these easement or agreement areas. The maintenance and repair of these items is and will continue to be the responsibility of the USFWS. The exception to this will be components installed under PFW agreements when the agreement already has or will expire within 2 years of the date of the RIM application.
- The local USFWS District Manager should be consulted with and should provide written approval for or all planned conservation practice work including restoration, repairs, or enhancements that will be conducted within their easement or agreement boundaries.

In general, certain USFWS agreement and easement lands are eligible for program enrollment in adherence with this policy. For those sites that are eligible for enrollment in RIM, local staff must make a special effort to coordinate with the local USFWS District Manager before submitting applications for funding consideration. This is very important since USFWS has a prior secured interest on the property potentially creating an issue with long term management needs and philosophies and rights of enforcement. It is advised to avoid sites where potential conflicts or issues may arise.

**This policy was first adopted on December 22, 2011 under the following name: *“Policy for Enrollment of US Fish and Wildlife Easement and Agreement Lands into the Reinvest In Minnesota (RIM) Reserve– Wetlands Reserve Program (WRP) December 22, 2011.”***

### Appendix 3 Buffer Law Flowchart

