

**SUBCHAPTER 59F – CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP) – STATE
PORTION OF THE PROGRAM**

**SECTION .0100 - CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP) -- STATE
PORTION OF THE PROGRAM**

02 NCAC 59F .0101 OBJECTIVES

(a) The North Carolina Conservation Reserve Enhancement Program (CREP) is a state/federal/local partnership that combines existing federal Conservation Reserve Program (CRP) funding and state funding from various sources, including the Agriculture Cost Share Program (ACSP), to take environmentally sensitive land out of crop production. For purposes of this Rule the generic term "CREP" references either the federal portion or the combined federal and state portions of the program. The combined federal and state portion of CREP is referred to as NC-CREP. Under CREP, landowners may voluntarily enroll eligible land in 10-year, 15-year, 30-year or permanent agreements or contracts. The Commission operates the state portion of NC CREP program as the lead agency for the State of North Carolina (State), and may from time to time delegate activities to the Division.

(b) The program objectives for the Commission, which are the same as those of the multi-agency CREP team, are the following: to reduce agricultural non-point source pollution; to enroll eligible land in 10-year, 15-year, 30-year or permanent easements or leases; to encourage voluntary sign-ups for the program; and to enhance ecological aspects and wildlife habitat of areas near watercourses.

(c) The Division, or its agent, shall seek eligible applicants for enrollment into the program in accordance with the United States Department of Agriculture's 2-CRP Manual. Landowner payments shall be made in accordance with state and federal requirements, and shall be subject to the availability of funds.

(d) The applicable standards, rules, regulations, and practices of the Natural Resource Conservation Service (NRCS) NRCS Field Office Technical Guide, the United States Department of Agriculture's 2-CRP Manual, the Division of Forest Resources, 15A NCAC 09C .0400 and the Ecosystem Enhancement Program, G.S. 143-214.8 are incorporated herein by reference, and such incorporation includes subsequent amendments and editions of the referenced material. Likewise, the provisions of the United States Department of Agriculture's 2-CRP Manual are incorporated herein by reference, and such incorporation includes subsequent amendments and editions of the referenced material. Copies of all of these materials are available at the offices of the Division, and the cost of any copies shall not exceed ten cents (\$.10) per page.

*History Note: Authority G.S. 106-840; 106-850(a); 139-4;
Temporary Adoption Eff. October 1, 2000;
Eff. August 1, 2002;
Amended Eff. December 1, 2006; July 1, 2004;
Transferred from 15A NCAC 06G .0101 Eff. May 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015.*

02 NCAC 59F .0102 ELIGIBILITY

(a) Persons may offer to enroll acreage to CREP at any time within the enrollment period or any extension thereof. Acreage enrolled into the CREP is referred to as "CREP Enrollments." Acreage enrolled into NC-CREP is referred to as NC-CREP Enrollments. In order to be enrolled into the CREP, all of the following shall be met:

- (1) the producer eligibility requirements within the United States Department of Agriculture's 2-CRP Manual;
- (2) the cropland and marginal pasture land requirements within the United States Department of Agriculture's 2-CRP Manual;
- (3) Acreage offered is eligible under the United States Department of Agriculture's 2-CRP Manual and applicable NRCS standards, and is suitable for the intended practice; and
- (4) Producer accepts the maximum payment rate based on the payment formula described in Rule .0105 of this Section.

(b) The Commission may refuse enrollment where water quality benefits do not justify the payments, or where the acquisition is impractical or nuisance conditions exist on the land.

(c) The following acreage is ineligible to be enrolled in CREP:

- (1) federally-owned land unless the applicant has a prior written lease for the time frame in which the land is under the Conservation Reserve Program (CRP);

- (2) land on which a federal agency restricts the use in a mortgage or an easement;
 - (3) acreage permanently under water, including acreage currently enrolled in CRP;
 - (4) land currently enrolled in other federal programs and still under lifespan requirements;
 - (5) land already enrolled in CRP; or
 - (6) acreage withdrawn, terminated or otherwise released from the CRP after enrollment and before the contract expiration date.
- (d) For the NC-CREP, landowners may enroll into one of the enrollment options included in the United States Department of Agriculture's 2-CRP Manual. 30-year contract or easement;
- (e) Existing forested buffers may be enrolled under NC-CREP according to the limitations in the United States Department of Agriculture's 2-CRP Manual.
- (f) An unmanageable field remnant may qualify for enrollment subject to the conditions in the United States Department of Agriculture's 2-CRP Manual.
- (g) Landowners may switch from a 30-year contract/easement to one of the permanent easement options or may enroll additional land under the payment schedule existing at the time of the change in enrollment.
- (h) Eligibility for the CREP shall be determined by the local District, Farm Service Agency (FSA), NRCS and the Division. An eligible applicant may enter into the federal agreements (10-years to 15-years), as well as the State agreements (30-year or permanent). Persons and land qualifying for the federal portion of CREP may also be qualified for enrollment under NC-CREP. Any landowner enrolling 10 acres or greater per tract, regardless of the length of enrollment, must enter into a 30-year or permanent State agreement.

History Note: Authority G.S. 106-840; 106-850(a); 139-4; Temporary Adoption Eff. October 1, 2000; Eff. August 1, 2002; Amended Eff. December 1, 2006; July 1, 2004; Transferred from 15A NCAC 06G .0102 Eff. May 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015.

02 NCAC 59F .0103 CONSERVATION PLAN

(a) A conservation plan is required for all CREP Enrollments. The conservation plan is a record of the applicant's decisions and supporting information for the treatment of a unit of land or water as a result of the planning process that meets the NRCS Field Office Technical Guide quality criteria for each natural resource and that addresses economic and social considerations. The plan shall describe the schedule of operations and activities required to solve identified natural resource concerns. Conservation plans shall be prepared according to all applicable federal, state and local environmental laws, executive orders, and rules. The conservation plan shall be consistent with any conservation easement protecting the enrollment area. This applies regardless of eligibility for cost-share funds. Participants shall also agree to establish and maintain approved practices according to the conservation plan of operations and forest management plans, for the duration of the agreement. Practices included in the conservation plan must cost-effectively achieve a reduction in soil erosion and nutrient transport. All forestry management practices must be completed according to a forestry management plan approved by a registered forester. The Division and the Commission may review conservation plans at any time while CREP agreements are effective.

(b) All CREP Enrollments must provide interception of water from the crop or pasture land into the enrollment area. All CREP Enrollments must maintain a contiguous buffer with the water course. Enrollments of wetland restoration areas shall be accepted only if enrollments shall be in trees, in those areas where trees would be the natural cover. The riparian forested buffer or wetland practice may include an outer buffer layer of native grasses between cropped areas and the trees, as specified in the practice criteria.

Hydrologic restoration to the greatest extent practicable shall occur on all NC-CREP Enrollments. Hydrologic restoration to the greatest extent practicable means to improve/increase hydrology and to retain water to the maximum extent as long as there are no adverse impacts to non-enrolled lands. This may be accomplished through the following means: creating sheet flow; reducing concentrated flow areas; blocking or filling artificial drainage; or using water control structures in conjunction with buffers. All shall meet or exceed appropriate NRCS standards. Water infiltration and retention shall be maximized on non-hydric soils by creating sheet flow and by reducing concentrated flow areas. Plans shall provide for improved wildlife habitat. The establishment of CREP practices shall be:

- (1) consistent with conservation compliance provisions;
- (2) at the participant's own expense;

- (3) included in the approved conservation plan;
 - (4) approved by the local District; and
 - (5) subject to FSA and Division approval where applicable.
- (c) 30-year contracts/easements and permanent easements for which the participant chooses the timber harvest option shall require a minimal impact zone adjacent to the qualifying waterbody. A Minimal Impact Zone is a zone measured from the top of the stream bank for which tree removal is restricted to removal of dead trees and practices necessary to prevent pest or disease infestation or to maintain health of individual trees. Timber management and harvesting may be allowed in the remaining portion of the CREP enrollment as outlined in the contract/easement.
- (d) A modification to an approved conservation plan must be in the best interest of CREP, and consistent with any conservation easement protecting the enrollment area. Such plans shall be revised as needed. Circumstances necessitating a revision include but are not limited to:
- (1) adding or revising a CREP practice;
 - (2) substituting CREP practices;
 - (3) scheduling reapplication of a CREP practice;
 - (4) reflecting change in ownership; or
 - (5) implementing other non-cost shared conservation measures, if producer agrees to install according to the approved conservation plan on CREP land already seeded to an acceptable cover.

History Note: Authority G.S. 106-840; 106-850(a); 139-4; Temporary Adoption Eff. October 1, 2000; Eff. August 1, 2002; Amended Eff. December 1, 2006; July 1, 2004; Transferred from 15A NCAC 06G .0103 Eff. May 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015.

02 NCAC 59F .0104 APPROVING STATE AGREEMENTS

- (a) Final approval for all NC-CREP agreements shall be the responsibility of the Division. Thirty-year and permanent agreements require recording of a conservation easement or conservation lease in the appropriate county registry. The intent is to provide that the NC-CREP Enrollment Area shall be protected for the life of the signed agreement. The Division shall provide a mechanism to acquire and record easements and leases for NC-CREP. The Division shall provide a survey where needed to develop legal description of the easement area. Conservation easements and leases entered into shall be consistent with the requirements of the Department of Administration and with 01 NCAC 06B .0210.
- (b) For approval under NC-CREP, the Division must receive:
- (1) the State CREP form signed by the local District and the applicant;
 - (2) a copy of landowner's deed(s) to the land to be enrolled;
 - (3) a completed conservation easement(s) or lease(s);
 - (4) latitude and longitude coordinates locating the easement or lease site; and
 - (5) descriptions (maps, surveys, directions to site, etc.) identifying the easement or lease site.
- (c) Under a CREP 30-year or permanent conservation easement or lease, the title of the land still resides with the landowner. The landowner may use the land under the conservation easement or lease in a manner that does not violate the conditions and terms of the easement or lease. The conservation easement or lease does not restrict the owner from selling or devising the land, however the easement or lease shall run with the land and remain an encumbrance thereon. The State must be allowed access to monitor the NC-CREP conservation easement or lease area.

History Note: Authority G.S. 106-840; 106-850(a); 139-4; Temporary Adoption Eff. October 1, 2000; Eff. August 1, 2002; Amended Eff. December 1, 2006; July 1, 2004; Transferred from 15A NCAC 06G .0104 Eff. May 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015.

02 NCAC 59F .0105 PAYMENT

(a) The NC-CREP combines federal and state funding to achieve the goals of the program. For that reason, the eligible person may receive two separate payments (i.e. federal and state) to meet expectations set by the applicable contracts.

(b) The State payment shall be dependent on the length of the contract signed. The State payment shall consist of a one-time bonus payment for executed contracts for 30-year and permanent enrollments that require a conservation easement or lease. The State shall also pay a portion of cost-sharable practices implemented within the guidelines of the ACSP subject to availability of funds to the District. Any agricultural cost share payments shall be consistent with all Commission requirements, including those in 02 NCAC 59D .0101-.0108.

(c) For enrollments involving the ACSP, all cost-share practices are subject to terms and policies as set forth in the ACSP rules and best management practices manual. State cost-share percentages, listed below, shall be dependent on the length of enrollment. All payments involving ACSP funds shall require approval of the local District Board of Supervisors, and are subject to the availability of funds to the District.

10 year	25 percent
15 year	30 percent
30 year	40 percent
permanent agreement	50 percent

(d) The maximum one-time bonus payment under NC-CREP that an eligible person can receive shall be limited by the maximum payment allowed under the federal payment. The payment for enrollment of land in 30-year or permanent conservation easements or leases shall be made once the conservation easement or lease is executed by the State and a technical representative has determined that the participant is actively engaged in the applicable practices.

(e) The formula for payment of the one-time State bonus shall be as established in the 2-CRP Manual, subject to the availability of funds.

History Note: Authority G.S. 106-840; 106-850(a); 139-4; Temporary Adoption Eff. October 1, 2000; Eff. August 1, 2002; Amended Eff. December 1, 2006; July 1, 2004; Transferred from 15A NCAC 06G .0105 Eff. May 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015.

02 NCAC 59F .0106 NONCOMPLIANCE WITH CREP AGREEMENT

(a) If noncompliance with any CREP agreement is determined, the landowner shall return the enrolled area to the condition that meets the guidelines of the CREP upon receiving written notification of noncompliance from the Division. The notice shall include:

- (1) a detailed description of the enrolled area;
- (2) a description of the area in noncompliance;
- (3) recommended measures to correct the noncompliance; and
- (4) a schedule for correcting the noncompliance.

The Division shall not reimburse any expense incurred to correct the noncompliance. If the noncompliance involves a cost-shared practice that is within the state cost share contract maintenance period, then the requirements in 02 NCAC 59D .0107 shall be followed.

(b) From the date of the notice of noncompliance, the landowner shall be given 30 days to reply in writing to the Division with a plan to correct the noncompliance. The Division shall work with the landowner to ensure that the plan meets the CREP objectives. After a plan is approved in writing by the Division, the landowner shall correct the noncompliance within 90 days after the date of approval. For vegetative practices, applicants shall re-establish vegetation within one year after the date of approval. An extension may be granted by the Division if it is determined that compliance cannot be met due to circumstances beyond the landowner's control.

History Note: Authority G.S. 106-840; 106-850(a); 139-4; Temporary Adoption Eff. October 1, 2000; Eff. August 1, 2002; Transferred from 15A NCAC 06G .0106 Eff. May 1, 2012; Readopted Eff. November 1, 2017.

