

Farmland Protection & Advancement Tools

Hosted by
Metrowest Conservation Alliance

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Presenters

Kathleen Doherty, American Farmland Trust
Farmland Easement Support Specialist

Natashia Sawabi, USDA-Natural Resources Conservation Service
Natural Resource Specialist

Jasper Cowley, USDA-Natural Resources Conservation Service
Natural Resource Specialist

Dylan Krupa, USDA-Natural Resources Conservation Service
MA RCPP Coordinator

Presenters

Mike Perrin, Sudbury Valley Trustees
Conservation Associate

Jamie Potters, American Farmland Trust
New England Program Manager

Dave Viale, MA Department of Agricultural Resources
Agricultural Lands Program Supervisor

Introduction

American Farmland Trust

Saving the land that sustains us by:
protecting farmland,
promoting sound farming practices,
and keeping farmers on the land.

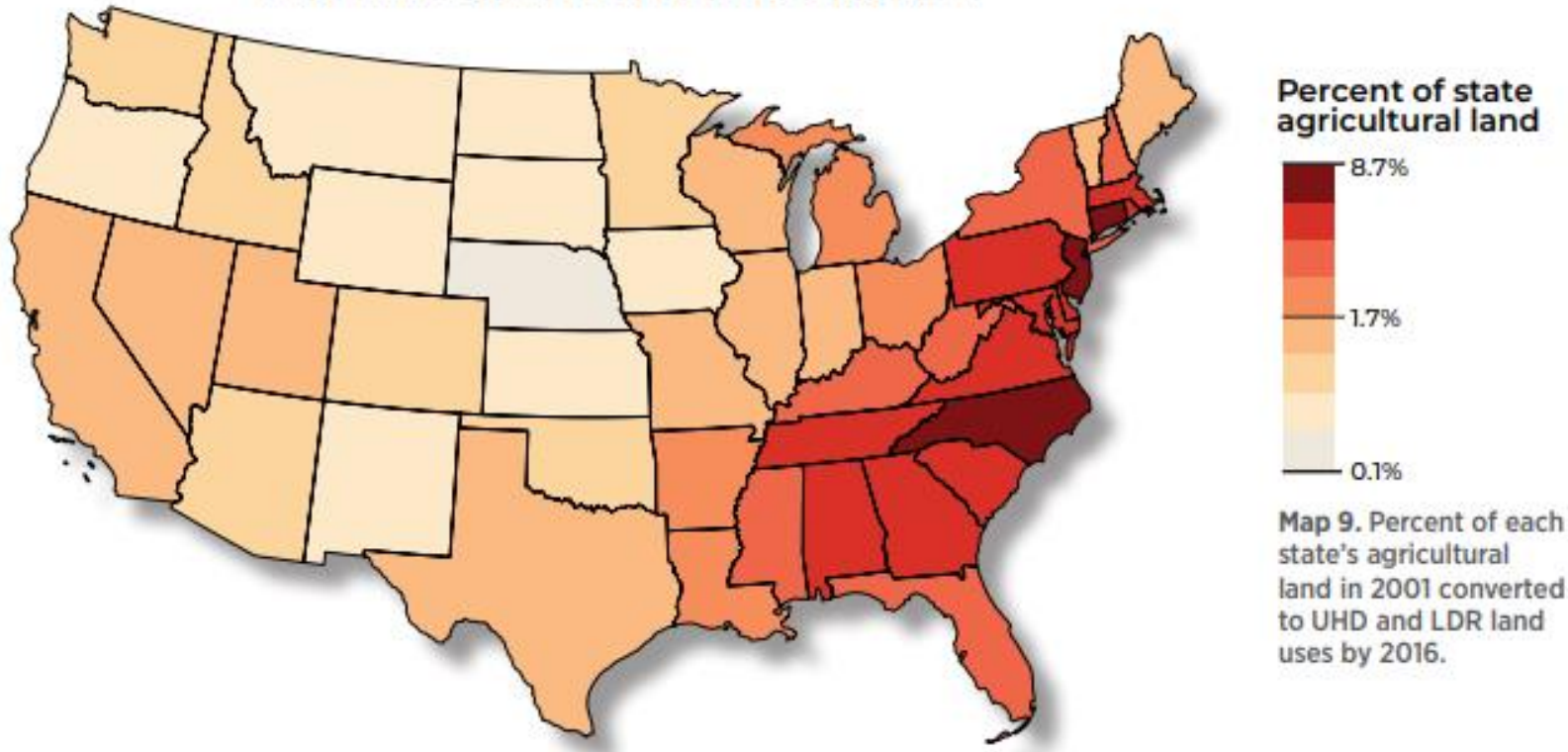
Outline

1. Why protect farmland?
2. Overview of farmland protection tools
3. Programs for permanent farmland protection
4. Additional resources for farmers
5. Opportunities to get involved

Why protect farmland?

Farmland loss

Percent Conversion to UHD and LDR



UHD = urban and highly developed land use
LDR = low-density residential land use

From 2001 to 2016, MA was 6th in the country for percentage of farmland converted.

(AFT [Farms Under Threat: State of the States](#), 2020)

From 2017 to 2022, MA lost 27,202 acres in farms (or 5.5%).

(USDA [Census of Ag](#), 2022)

Projected farmland loss

If recent trends continue,
MA will lose 73,800* acres
of farmland by 2040.

(AFT [Farms Under Threat 2040](#), 2022)

*the equivalent of nearly all the farmland
that MDAR has protected in the last 43
years.

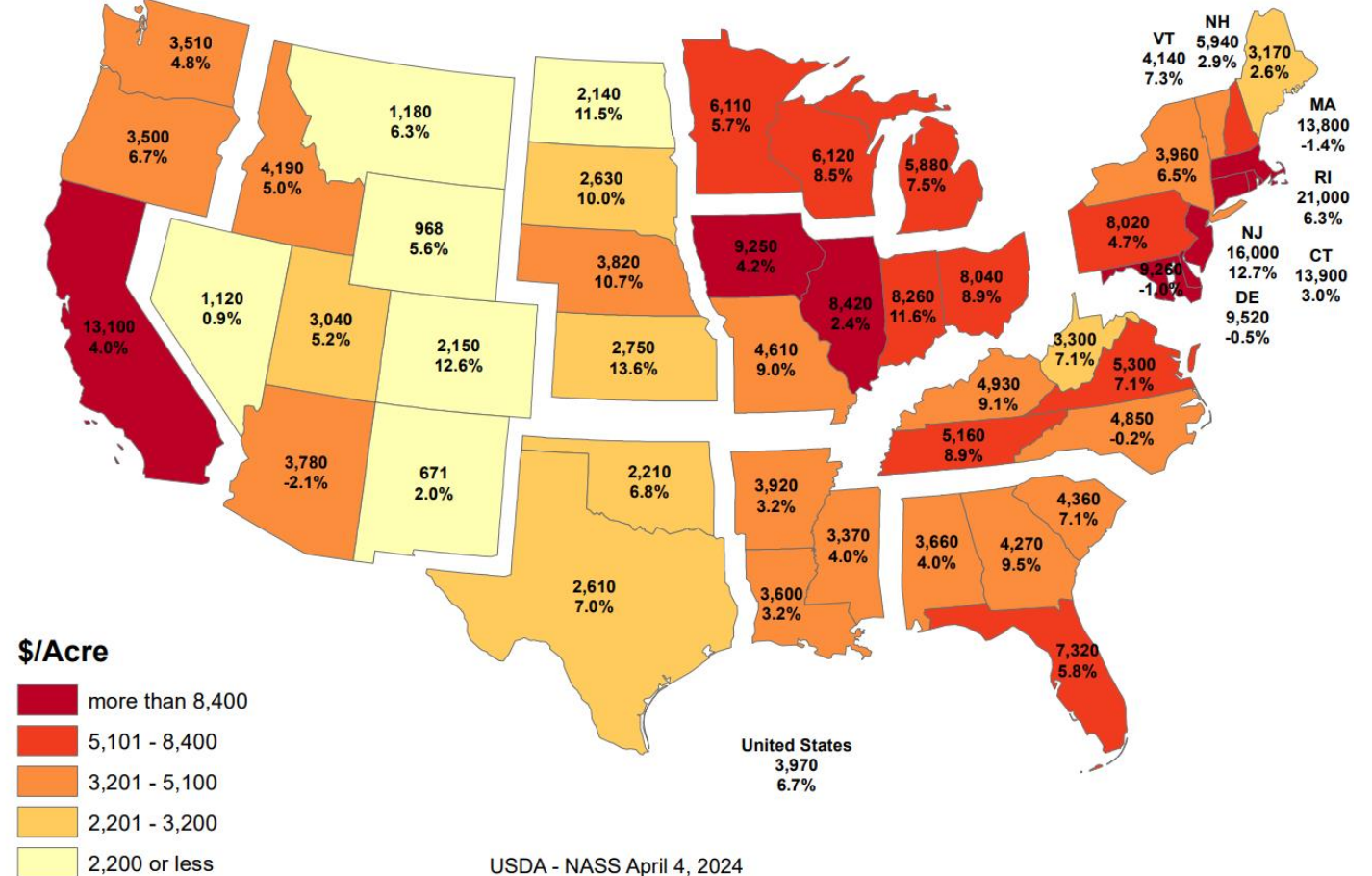
Percentage of Agricultural Land Projected to be Converted by 2040			
	Business as Usual	Runaway Sprawl	Better Built Cities
New Jersey	16.0	20.1	10.0
Connecticut	15.8	20.9	10.3
Massachusetts	14.8	17.9	10.0
Rhode Island	14.5	17.6	9.8
Delaware	12.5	16.6	8.1
North Carolina	11.6	16.2	6.4
New Hampshire	8.3	10.0	5.2
Tennessee	8.2	11.5	4.6
Maryland	7.8	10.8	4.3
South Carolina	7.5	10.1	4.4
Florida	7.4	9.1	4.9
Virginia	7.3	10.2	4.0
Contiguous U.S.	2.0	2.6	1.1

Farmland affordability

At **\$13,800** per acre,
MA has the 4th highest
farm real estate values
in the country.
([NASS](#), 2023)

2023 Farm Real Estate Value by State

Dollars per Acre and Percent Change from 2022



USDA - NASS April 4, 2024

Overview of farmland protection tools

Farmland protection tools

- Short-term protection
 - MDAR Farm Viability Enhancement program
 - Chapter 61A
- Permanent protection
 - APR or CR with farm-friendly terms
 - Buy-Protect-Sell
 - Ground lease
- Local tools
 - Farmland of Local Importance designation
 - Local planning tools (right-to-farm, zoning, etc.)

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Farm-friendly CR/APR terms

- Purpose of CR: protect agricultural use and future ag viability
- Permitted uses
 - Agricultural structures, with limits on size and location
 - Agritourism and commercial use
 - Dwellings, including farm worker housing (when possible)
- CR terms to enhance farm viability
 - OPAV (Option to Purchase at Ag Value)
 - Affirmative ag covenant
- Emerging issues
 - Solar development, subdivision, soil health, other issues?

Farmland of Local Importance (FLI)

- Definition: Land/soils that are not recognized as prime/unique/statewide important farmland, but are **suited for crop production**
- Benefit: Farms with FLI can qualify for more land protection programs!
- Process of **designating FLI** soils
 - Municipality must formally recognize FLI soils (**town-by-town basis**)
 - NRCS soil scientists can help identify/designate FLI soils
 - FLI soils must meet certain “qualifiers” as evidence they are suitable for crop production

Programs for permanent farmland protection

Programs for permanent farmland protection

- State
 - APR (Ag Preservation Restriction)
 - Private APR
 - Farm-friendly CR (Conservation Restriction) through EEA
 - Conservation land tax credit (CLTC)
- Federal
 - ACEP-ALE (Ag Land Easements)
 - ACEP-WRE (Wetland Reserve Easements)
 - RCPP (Regional Conservation Partnership Program)
- Town
 - CPA (Community Preservation Act)
 - Chapter 61 (current use property tax program)

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Ag Preservation Restriction (APR)



- Applicant = landowner, **holder = MDAR**
- Funding
 - APR provides ~40% of easement purchase price
 - Up to 50% comes from ACEP-ALE
 - Local match requirement of 5-10%
 - MDAR covers title, appraisal, and 50% of survey cost
- **Required terms** for MDAR-held APRs
 - Commercial ag required
 - **No dwellings**
 - Ag buildings allowed but impervious surfaces are limited
 - **OPAV** (**Option to Purchase at Ag Value**)

“Private” APR



- Applicant = landowner, **holder = land trust or town (not MDAR)**
- Funding
 - **No funding from MDAR** for Private APRs
 - CR value may be donated by landowner, or may be raised through private fundraising
- Required terms
 - **No easement template!** Land trust may develop its own easement terms
 - Dwellings may be included
 - Approved and signed by Commissioner of MDAR, not Secretary of EEA



Additional resources for farmers

Resources for farm practices

- Farm Bill programs from [USDA-NRCS](#)
 - Technical assistance and cost-share funding for a huge variety of farm practices
 - EQIP, AMA, CSP, CRP, CIG... the list goes on!
- [MDAR](#) grants and resources
 - Farm viability enhancement, APR improvement, climate smart ag, and more
- AFT [New England Climate & Agriculture](#) program
 - Farmer learning, technical assistance, grants, and more!

Resources for farm businesses

- [MDAR grants guide](#)
 - Food safety, farm energy, organic certification, and more!

Resources for farmland access and succession planning

- [Land for Good](#)
 - Helping farmers with succession planning across New England
- [New England Farmland Finder](#)
 - For farmers searching for land, and landowners looking for farmers!
- [Legal Food Hub](#)
 - Free legal assistance for farmers offered by the Conservation Law Foundation

Resources for beginner farmers

- [MDAR MEGA grant](#) and other programs
 - MDAR has grants and assistance for beginner farmers!
- [USDA-NRCS](#) has special provisions for historically underserved producers
 - Includes beginning farmers, veterans, socially disadvantaged farmers, and limited resource farmers
- [Farm Credit East](#) offers trainings and loans for beginner farmers

Resources for urban ag

- MDAR Urban Ag program and other programs
 - Yes, MDAR has funds for urban farmers, too!
- USDA has programs for urban farmers

Opportunities to get involved

Opportunities to get involved!

- Apply for farmland protection programs
 - **Millions of \$\$ available** in Massachusetts through APR and ALE
 - Possible additional funds coming from MDAR; watch for RFR
- Encourage towns to adopt Farmland of Local Importance
 - More FLI soils → More farmland eligible for federal funding
- Stay in the loop!
 - MLTC Ag Conservation Working Group (email Jamie to get on the list)
 - NRCS Easements Sub-Committee (email Kathleen to get on the list)
 - Resources from the National Ag Lands Network (NALN)
- Make the case!
 - AFT Farms Under Threat is a great resource
 - **MA Farmland Action Plan was just released**

Contact us any time

Presenters

Kathleen Doherty, kdoherty@farmland.org

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Natashia Sawabi, natashia.sawabi@usda.gov

USDA-Natural Resources Conservation Service, Natural Resource Specialist

Jasper Cowley, jasper.cowley@usda.gov

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Dylan Krupa, dylan.krupa@usda.gov

USDA-Natural Resources Conservation Service, MA RCPP Coordinator

Presenters

Mike Perrin, mperrin@svtweb.org

Conservation Associate, Sudbury Valley Trustees

Jamie Pottern, jpottern@farmland.org

American Farmland Trust, New England Program Manager

Dave Viale, david.viale@mass.gov

MA Department of Agricultural Resources, Agricultural Lands Program Supervisor



United States Department of Agriculture



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Agricultural Conservation Easement Program - ACEP

Agricultural Land Easements (ALE) and Wetland Reserve Easements (WRE)
Rita Thibodeau – Assistant State Conservationist for Programs

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ACEP Components



Agricultural Land Easements (ACEP-ALE)

- Consolidated the purposes and functions of:
 - Farm and Ranch Lands Protection Program- FRPP
 - Farmland Protection Program-FPP
 - Grassland Reserve Program-GRP
- NRCS provides matching funds (50%) to eligible entities for the purchase of agricultural land easements.
- The United States obtains a third party right of enforcement (Entity Held Easement)

Wetland Reserve Easements (ACEP-WRE)

- Consolidated the purposes and functions of:
 - Wetlands Reserve Program-WRP
 - Emergency Wetlands Reserve Program-EWRP
- NRCS purchases easements directly from private and Tribal landowners through a reserved interest deed in eligible land to restore, protect, and enhance wetlands and associated lands.
- The United States obtains a right of enforcement. (US Held Easement)

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ACEP ALE 101



BASIC UNDERSTANDING OF ALE

- Entity Eligibility
- Land Eligibility
- Landowner Eligibility
- ALE Agreements
- Closing ALE easements
- Stewardship



ACEP-ALE Overview



ACEP-ALE Purposes and Objectives

The purposes of ALE:

- (i) Protect the agricultural use and future viability, and related conservation values, of eligible land by limiting nonagricultural uses of that land that negatively affect the agricultural uses and conservation values; and
- (ii) Protect grazing uses and related conservation values by restoring or conserving eligible land.

NRCS provides cost-share assistance (up to 50% of easement cost) to eligible entities to purchase agricultural land easements from eligible landowners



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Eligible Entity Categories



To be eligible to receive ACEP-ALE funding, an entity must be one of three eligible entity types:

- State or Local Government
- Indian Tribes
- Non-governmental organizations that operates principally for conservation purposes:
(example: a Land Trust)



ENTITY ELIGIBILITY



Entity Eligibility Requirements:

- The authority and capability to acquire, manage and enforce agricultural land easements or their equivalent
- Have an established farmland protection program
- Demonstrate a commitment to the long-term conservation of agricultural lands.



ENTITY ELIGIBILITY



Entity Eligibility Responsibilities

- Legal and administrative
- Pay procurement costs (purchase and sales agreement, survey, appraisal, etc)
- Hold title
- Meet ALE requirements
- Meet performance deadlines
- Maintain SAM and DUNS, SCIMS
- Complete monitoring
- Enforce the terms of the deed and plan



ENTITY AND LANDOWNER ELIGIBILITY

Participating Farmer or Rancher with established Farm Records with the Farm Service Agency

- Adjusted Gross Income Verification (entities such as non-profits waived)
- Self certify if Historically Undeserved member of community
- Farm Management Plans
- Highly Erodible Lands Compliance
- If applying for USDA programs for the first time, create Farm and Tract numbers for newly acquired land.



LAND ELIGIBILITY



Eligible Land Uses

To be eligible land must be:

- Cropland
- Rangeland (not found in MA)
- Grassland or land that contains forbs, or shrubland for which grazing is the predominant use
- Located in an area that has been historically dominated by grass land, forbs, or shrubs and could provide habitat for animal or plant populations of significant ecological value
- Pastureland
- Up to **two-thirds acreage**: Nonindustrial private forest land that contributes to the economic viability of an offered parcel or serves as a buffer to protect such land from development



LAND ELIGIBILITY



Land Eligibility Overview

An onsite review by NRCS is required prior to the NRCS making a land eligibility determination.

To be eligible for ACEP-ALE, Tribal or private land must meet **one or more** of these categories:

- Has at least 50% prime, unique, or other productive soil.
- Contains historical or archaeological resources.
- Enrolling the land would protect grazing uses and related conservation values
- Protecting the land will further a State or local policy consistent with the purposes of ACEP



LAND ELIGIBILITY



Eligible Land Uses Incidental Land—

Incidental land includes such land as farmstead areas, other areas with agricultural buildings and infrastructure, forest land, and non-forested wetlands which may be included if;

- Necessary for the efficient administration of easement
- Contributes as a buffer or connector of other protected easement land.



Ineligible Lands –

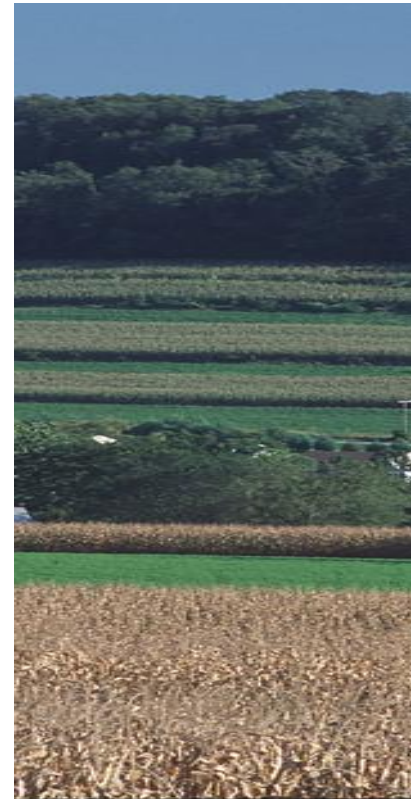
The following lands are not eligible for cost-share assistance under ACEP-ALE:

- Lands owned by an agency of the United States
- Lands owned in fee title by a State or local government.
- Land subject to an easement or deed restriction similar to ACEP-ALE.
- Land owned by a nongovernmental organization whose purpose is to protect agricultural use and related conservation values, unless the land is owned on a transitional basis as part of buy-protect-sell transaction.
- Land where the purposes of the program would be undermined due to onsite or offsite conditions, such as risk of hazardous materials, permitted or existing rights-of-way, infrastructure development, or adjacent land uses.
- Land that NRCS determines to have unacceptable exceptions to clear title or insufficient legal access.
- Land on which gas, oil, earth, or mineral rights exploration has been leased or is owned by someone other than the landowner unless NRCS determines that the third-party rights will not harm or interfere with achieving the ACEP-ALE purposes.



Minimum Deed Terms

- Provisions that must be included in the agricultural land easement deed for it to be legally sufficient, conform to agency policy, and be consistent with the purposes of ACEP-ALE.



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Agreement Process



- Complete all eligibility materials with both NRCS and FSA.
- Apply before the State deadline (Last week of November 2024)
- Due Diligence review among MA NRCS and National Level (Winter-Spring).
- Once ranked, and if pre-approved for funding, application moves forward to gain Approval.
- National Level NRCS determines Approval.
- Entity signs Agreement and parcel contract (deadline August 2025)
- Once finalized, project is Obligated for funding.
- Entity works with Nationals to close on the project.





Wetland Reserve Easements

- The purpose of the Wetland Reserve Easement component of the Agricultural Conservation Easement Program (ACEP-WRE) is to:

Restore, protect, and enhance wetlands on eligible private or Tribal lands while maximizing wildlife habitat benefits and wetland functions and values.

Landowner Eligibility

ELIGIBILITY DETERMINATION

- 24 months current ownership
- Provide unencumbered access from a public right of way
- All FSA eligibility requirements apply
 - HELC/WC requirements of the Food Security Act 1985
 - AGI Provisions
 - CCC-902 Farm Operating Plan
- Signature Authority





Wetland Reserve Easements Eligible Land

- Farmed or Converted Wetlands (pre-1985)
- Former or Degraded Wetlands
- Lands Substantially Altered by Flooding
- Adjacent Lands that contribute to values/functions of offered eligible lands



Wetland Reserve Easements Enrollment Options

Permanent easements - This is a conservation easement in perpetuity.

30-year easements - This is a conservation easement lasting 30 years. Easement payments are 75 percent of what would be paid for a permanent easement.

30-year contracts - This is a 30-year agreement that is eligible only on acreage owned by Indian tribes. Program payment rates are commensurate with 30-year easements.

WRE – Restoration

Wetland Reserve Plan of Operation (WRPO)

NRCS must develop a WRPO that is designed to achieve program purposes and is consistent with State-specific criteria and guidelines.

These are criteria and Guidelines are identified in the Wetlands Restoration Criteria and Guidelines document (WRCG).





Wetland Reserve Easements Restrictions

Permanent structures of any kind are not allowed on the easement area. Any existing structures must be removed at the landowner's expense prior to the recording of the easement. This includes structures like sheds and pump houses. Hunting blinds that are removed at the end of the season are allowed.

Access roads within an easement boundary are not guaranteed to remain functional or passable. In some instances, they may be allowed to remain with a compatible use permit.

Activities such as cutting vegetation or harvesting wood products will require a compatible use permit. Compatible uses are allowed only if they are fully consistent with the protection and enhancement of the wetland.



Examples include:

Wetland Reserve Easements CUA

Invasives Management: to prevent spread of invasive plant species and to maintain wildlife habitat and wetland functions and values.

Mowing for access roads or nature trails, and to manage and maintain structures such as embankments.

Wetland Reserve Easements

Program Objectives:

- (i) Habitat for migratory birds and other wetland-dependent wildlife, including endangered or threatened species and species of concern.
- (ii) Protection and improvement of water quality.
- (iii) Attenuation of floodwater.
- (iv) Recharge of groundwater.
- (v) Protection and enhancement of open space and aesthetic quality.
- (vi) Carbon sequestration.
- (vii) Protection of native flora and fauna contributing to the Nation's natural heritage.
- (viii) Contribution to educational and scientific scholarship.





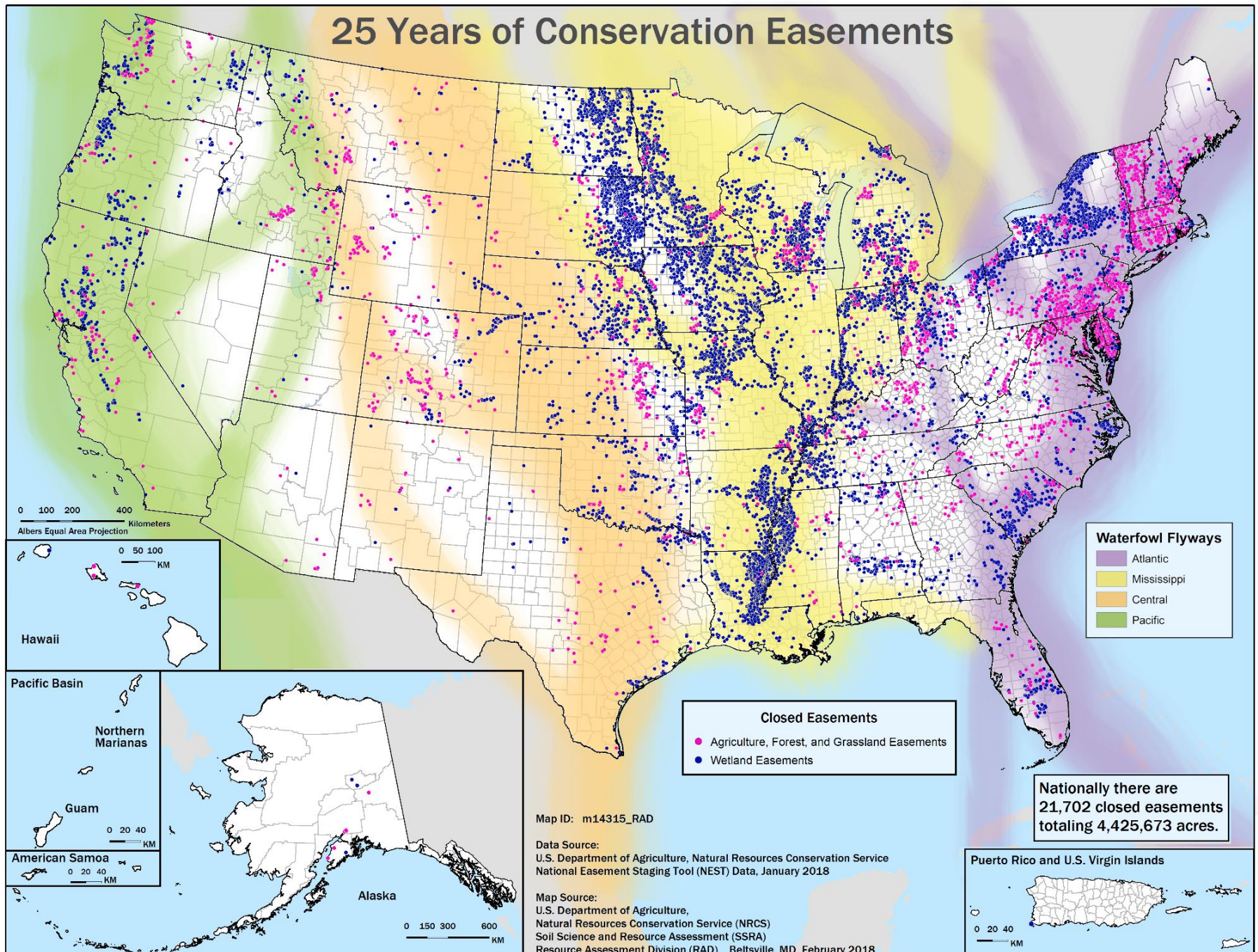
Mass Audubon Tidmarsh Wildlife Sanctuary

Wetland Reserve Easements CUA

“Once a working cranberry farm, this landscape underwent the largest freshwater ecological restoration ever completed in the Northeast. Now Tidmarsh is a 481-acre property that's home to a vast expanse of cold-water streams, ponds, forest, and woodlands—all permanently protected and open for everyone to enjoy!” ~Mass Audubon

Was privately owned cranberry land protected and restored under the Wetland Reserve Program Easement, then sold to Mass Audubon for long-term stewardship.

25 Years of Conservation Easements





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Questions ?



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RCPP Entity-held Easements and US-held Easements

FARM PRODUCTION AND CONSERVATION
FSA | NRCS | RMA | Business Center

What-

Regional Conservation Partnership Program (RCPP) helps producers protect working agricultural lands to ensure resilience to climate change by increasing the sustainable use of soil, water, wildlife, and related natural resources.

How-

NRCS and partners co-invest in conservation activities to address resource concerns at a regional scale.

Where-

Private or Tribal agricultural land, nonindustrial private forest land, or associated land on which an eligible activity would benefit agricultural land.

When-

RCPP projects are typically five years.

RCPP Classic

- Partner defined project
- NRCS responsible for FA execution through producer contracts, easements, and watershed agreements
- Partner may deliver FA in support of NRCS producer contracts
- NRCS involved in technical assistance, may delegate some to partner

Alternative Funding Arrangements (AFA)

- Partner led project
- Partner contracts directly with eligible producers/landowners or performs work on their behalf
- Partner expected to deliver all technical assistance

2018 Farm Bill RCPP Easement Opportunities

Entity-held Easements

Purchased and held by an Eligible Entity.

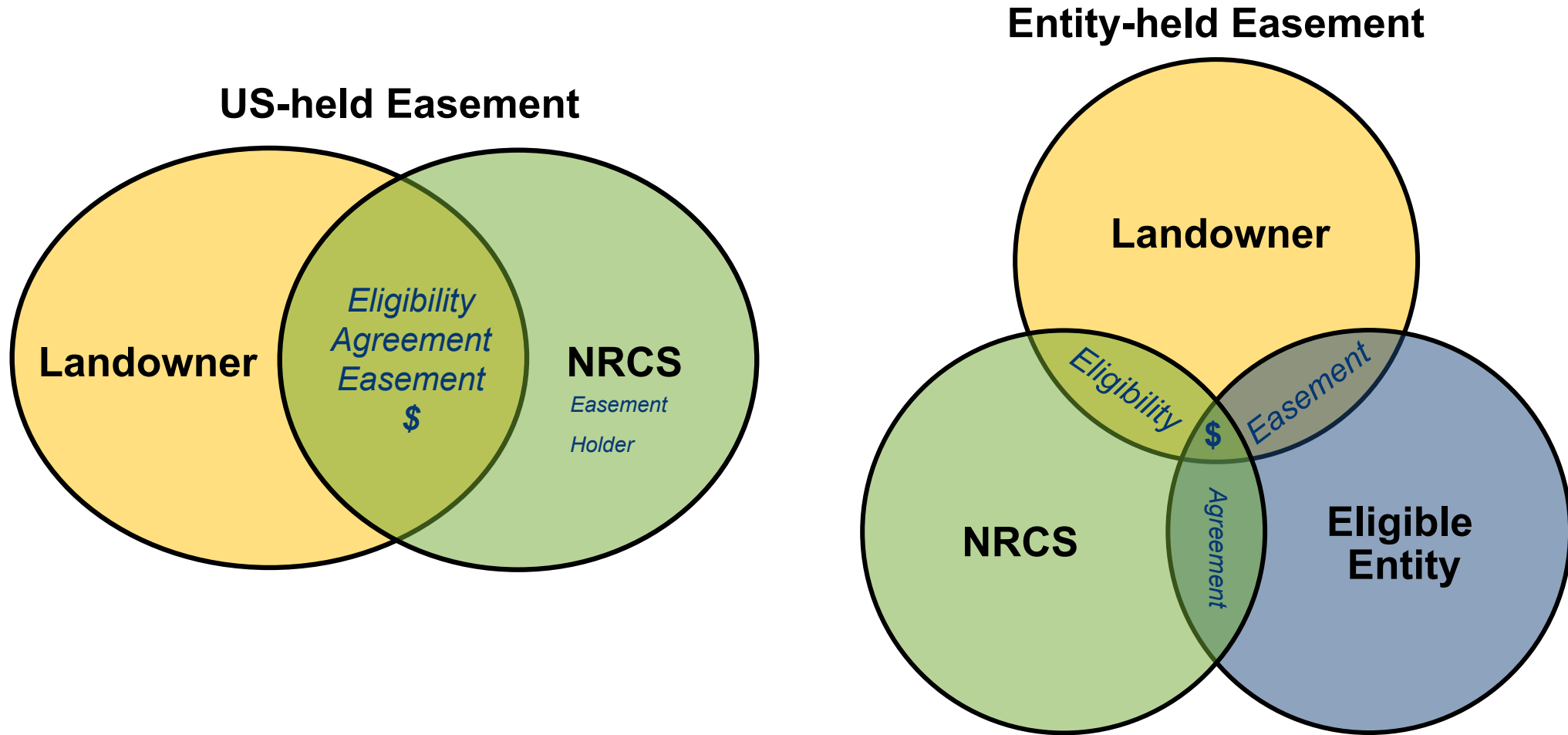
- **RCPP Classic**
- **RCPP AFA**
 - *25% max*
 - *No US ROE*

US-held Easements

Purchased and held by the United States, by and through NRCS.

- **RCPP Classic**

Basics of US and Entity-held Easements



Key Features, Roles, Responsibilities

Key Features, Responsibility	Responsible Party	
	Entity-held Easements	US-held Easements
Obtain and Pay for Easement Acquisition-Related Items <i>(e.g., appraisal, survey, title, recording, etc.)</i>	Eligible Entity	NRCS
Due Diligence <i>(obtain, review, approve)</i>	Eligible Entity <i>(primary)</i> NRCS <i>(secondary)</i>	NRCS <i>(primary)</i> OGC <i>(secondary)</i>
Monitoring, Stewardship, and Enforcement of Closed Easement	Easement Holder <i>Eligible Entity</i>	NRCS

RCPP Easement Deed Terms

Highly Restrictive

- Restoration/Protection of native habitats in natural/historic condition.
- Minimal disturbance, No agricultural uses.

Moderately Restrictive

- Management of specific habitats to provide conservation benefits.
- Conservation activities to manage/maintain conservation values.

Minimally Restrictive

- Protection of agricultural uses, including grazing uses.
- Rights related to agricultural use remains.

Easement Values

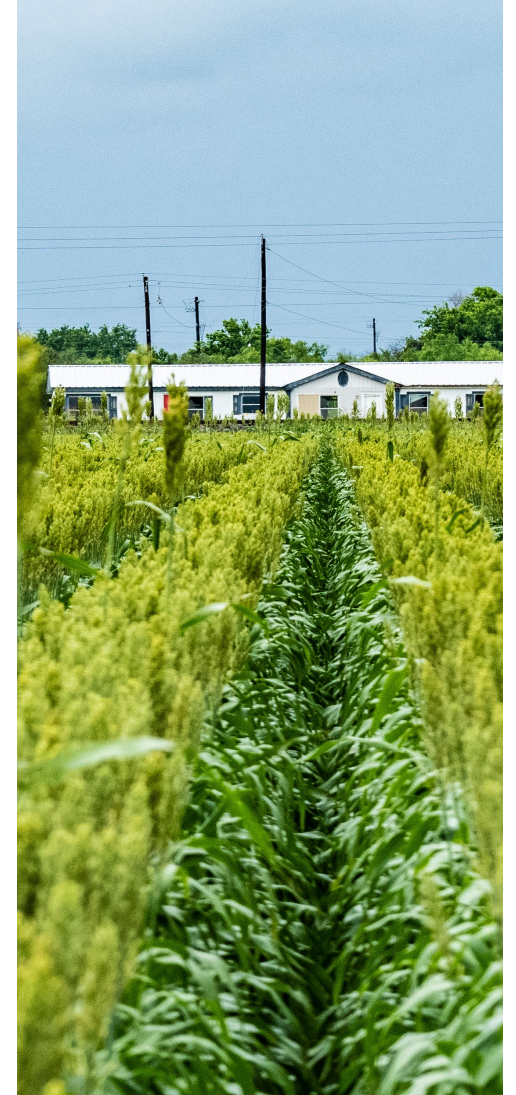
Federal share = NRCS maximum contribution

- 50% of Easement Value – with US Right Of Enforcement
- 25% of Easement Value – without US Right of Enforcement
- Where easement will directly facilitate purchase of lands by historically underserved (HU) landowners Fed share may be:
 - **Up to 75%** for easements **with** a US Right of Enforcement
 - **Up to 50%** for easements **without** a US Right of Enforcement

Right of Enforcement: the right of the United States to inspect and enforce regulations on contracted easements.

Non-Federal Share = Remainder of Easement Value

- Landowner and Entity are responsible for remaining contributions





Historically Underserved

Beginning Farmer

Has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 consecutive years.

Limited Resource Farmer

Direct or indirect gross farm sales not more than the current indexed value in each of the previous two years and who has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years

Socially Disadvantaged Farmer

Individual or entity who is a member of a socially disadvantaged group.

Socially disadvantaged groups consist of the following:

- American Indians or Alaskan Natives
- Asians
- Blacks or African Americans
- Native Hawaiians or other Pacific Islanders
- Hispanics

Entities need socially disadvantaged individuals to own at least 50 percent of the farm business.

Veteran Farmer

Served in the US Army, Navy, Marine Corps, Air Force, or Coast Guard, including the reserve component thereof; was released from service under conditions other than dishonorable; and:

- Has not operated a farm or ranch, or has operated a farm or ranch for not more than 10 years; or
- Who first obtained status as a veteran during the most recent 10-year period.

Entities can be a Veteran Farmer only if all individual members independently qualify.

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