

# CONSERVATION PLAN IMPLEMENTATION PROCEDURES

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# A. CONSERVATION PLAN IMPLEMENTATION OVERVIEW

## A.1 General

Establishing the conservation practices identified in the conservation plan is arguably the single most important component of the easement process. The care taken to ensure that conservation practices are properly installed and maintained will pay off in healthy vigorous stands of vegetation and/or properly functioning engineering practices. Despite these efforts, conditions are not always favorable for proper establishment and circumstances sometimes require a practice to be reinstalled. Regardless of the activity, whether it be the installation, reinstallation, establishment or maintenance of a conservation practice, the SWCD is responsible to ensure the activity is properly completed and in accordance with terms of the conservation easement.

Any willful action by the landowner that is not in compliance with the conservation plan and all attachments will be considered a direct violation of the conservation easement and should be resolved following the procedures identified in the Non-Compliance/Violation Procedures subsection of the handbook.

This subsection of the handbook defines, illustrates and provides instructions regarding the installation, reinstallation, establishment and maintenance of conservation practices as well as the procedure for using easement program cost-share funds to accomplish these components.

## A.2 Definitions

***Easement Program Cost-Sharing*** refers to the payment that the state has agreed to make upon the completion and certification of any authorized installation, reinstallation, or establishment of a practice on a BWSR conservation easement.

***Establishment (Post-Installation)*** refers to activities performed to a conservation practice shortly after it has been installed that are deemed necessary to ensure its adequate development.

***Installation*** refers to the procedures required to seed grass, plant trees and construct structures.

***Operation and Maintenance*** refers to the continuous upkeep of a conservation practice by the landowner.

***Practice Certification*** refers to the SWCD's verification that the conservation practice has been satisfactorily installed according to practice specifications and seeding, planting or construction plans.

***Reinstallation*** refers to reseeding, replanting, repairing or reconstructing a conservation practice identified in the practice plan.

## B. INSTALLING CONSERVATION PRACTICES

### B.1 Overview

A copy of the conservation plan with all the attachments will be given to the landowner(s) when the conservation easement is signed. This information will provide the installation, establishment and maintenance requirements of the conservation practices identified. The following components of the conservation plan package should be followed by the landowner and the SWCD to implement the conservation plan:

- ❖ Conservation Easement Financial Worksheet
- ❖ Conservation Plan
- ❖ Conservation Practice Plan
- ❖ Conservation Plan Map
- ❖ Seeding, Planting and Construction Plans
- ❖ Operation and Maintenance Requirements
- ❖ Supplementary Information (livestock exclusion plans, etc.)

The landowner is responsible for installing each conservation practice identified in the conservation plan in accordance with the requirements of the conservation easement. When necessary, this responsibility includes the hiring and associated negotiations with contractors selected to install the practices (e.g., structural work, seeding, etc.). The SWCD should assist the landowner to the extent allowable in the selection of a contractor(s). It is important that the contractor hired is capable of performing the job identified. It is equally important that landowners who desire to do the work themselves are capable of performing the job identified.

### B.2 Installation Period

Conservation practices should be installed as soon as possible after the conservation easement has been signed and recorded. All conservation practices should be installed and certified within three years after the easement is recorded. At the end of the three-year time frame, BWSR will free up any remaining cost-share funds that have been set aside for the conservation practices and make those funds available for additional easements.

The three-year time frame for installations will begin:

- a) The calendar year (season) in which the easement recording dates were between January 1st and May 31st; or
- b) The following calendar year (season) for easements with recording dates between June 1st and December 31st.

The three-year time frame will end on December 31st of the third year.

Landowners may occasionally request to take advantage of planting and construction seasons and install certain conservation practices prior to recording of the conservation easement. Due to the potential complications and commitments associated with early

installation activities, it is suggested the SWCD not promote it. However, it is allowed with the following limitations.

#### Installation Prior to Application

Although unlikely, certain practices a request may be made to install a practice prior to BWSR's acceptance of the application. Conservation practices installed during this time frame will not be eligible for any easement program cost-sharing assistance nor can the state guarantee acceptance of the parcel. Eligibility criteria should be reviewed to determine if the practice installation will affect eligibility for enrollment (e.g., wetland restoration "must be restorable at time of application"). Refer to item B of the Program Eligibility section in Part I of the handbook for more information.

#### Installation Prior to Signing the Conservation Easement Agreement

Although conservation practices may be installed during this time frame, no easement program cost-sharing will be allowed for the practice installation nor can BWSR guarantee acquisition of the easement. The landowner will be responsible for the cost of the installation. They may seek financial assistance from another agency or organization.

#### Installation After Signing the Conservation Easement Agreement

Easement program cost-sharing for the installation of any conservation practices is permissible only after all required parties have signed the conservation agreement. Easement program cost-share dollars cannot be paid to the landowner until the conservation easement has been fully executed and recorded. If for some reason the conservation easement is not recorded, the costs associated with installing the practice will be the landowner's responsibility. Please review the conservation plan language in the Agreement for conservation easement with the landowner. It is extremely important that landowners are aware of this should they decide to install a practice prior to easement recording.

### B.3 Cost-Share Assistance

Cost-share assistance is available from the state through the conservation easement programs to help the landowner pay for the installation of the required conservation practices as identified in the conservation plan. Refer to the Practice Specifications subsection of the Agreement Stage section of the handbook for more information regarding eligible costs associated with practice installations.

The amount of cost-share funds available is identified on the Conservation Easement Financial Worksheet (CEFW) that was developed and agreed to at the time the Easement Agreement is executed. Please refer to the Conservation Plan Development subsection of the handbook for more information regarding the allowable amounts of cost-sharing and how to utilize those funds. Refer to Cost-Share Payment Process, item E in this section, for detailed information on requesting cost-share funds.

## C. ENHANCING, REINSTALLING AND REPAIRING FAILED CONSERVATION PRACTICES

### C.1 Overview

The information in this section pertains when making enhancements to a site or if all or a portion of a conservation practice has failed and is in need of reseeding, replanting or repairing. Practice failure can be attributed to many things, the most common being weather conditions. However, landowner negligence in maintaining a practice is also cause for a number of failures.

Upon discovery or notification of a failed conservation practice, the SWCD must attempt to determine the cause for failure and assess if the landowner was at fault. The board conservationist should be consulted to help determine the cause of failure, if unsure. The operation and maintenance requirements given to the landowner should be reviewed to assist in making the determination. If the SWCD determines that the landowner is at fault (e.g., not properly maintaining the practice), follow the procedures identified in the Non-Compliance/Violations Procedures subsection of the handbook to correct the problem.

If the SWCD determines that the failure was caused by reasons beyond the landowner's control (i.e., drought, flooding, fire, etc.), the state may allow for easement program cost-sharing for the necessary reinstallation activities for the failed practice.

Some examples of reinstallation activities include:

- ❖ Reseeding or replanting all or a portion of a practice area.
- ❖ Repairing or reconstructing a water control structure, dike, tile line, etc. which has failed or is damaged.
- ❖ Inter-seeding to add additional native species to the stand.

### C.2 Cost-Share Assistance

Cost-share assistance is available from the state through the conservation easement programs to help the landowner pay for certain enhancements to the site or reinstallation if the SWCD determines the practice failure was caused by reasons beyond the landowner's control. Refer to the Practice Specifications subsection of the Agreement Stage section of the handbook for more information regarding eligible costs associated with installing practices.

The maximum amount of program practice payment limits can be used to cost-share for site enhancements and the reinstallation of a failed conservation practice. Refer to Table 1 of the Conservation Plan Development subsection of the handbook for a listing of current payment limits. This maximum amount is not restricted by the original amount of easement programs cost-share funds requested and/or used to install the practice. The current maximum easement program cost-share rate applied to the practice area being reinstalled is the available dollar amount for the activity (see example of worktable in item C.3). Refer to Cost-Share Payment Process, item E in this section, for detailed information on requesting cost-share funds.

### C.3 Authorization of Activities

The landowner and SWCD need to seek authorization from BWSR to perform enhancement and reinstallation activities only if they are requesting BWSR easement program cost-sharing or if the reinstallation activity involves the repair or modification of a structural conservation practice (i.e., RR-8, wetland restoration). This authorization must be obtained prior to beginning any of the reinstallation activity.

To request BWSR authorization, the SWCD and landowner must complete and submit the applicable portions of the Practice Implementation/Amendment Request Form. The following guidelines should be used when completing the "reinstallation request" portion of the form.

#### Payee Information

This portion of the form pertains to landowner and easement information. If the easement area has been sold, the new owner's name, social security number and address must be on file at the BWSR. If the landowner has moved their new address must on file.

#### Reinstallation Request

Please complete the reinstallation request worktable to help calculate the total easement program cost-share dollars available and show the easement program cost-share amount requested for the reinstallation activity. Also, provide a detailed explanation of the reason for the failure in the space provided. For example:

INSTALLATION REQUEST	Reinstallation <input checked="" type="checkbox"/> or Conservation Plan Amendment <input type="checkbox"/>
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Has Practice Failed Before? (Applies to Reinstallations Only) <input checked="" type="checkbox"/> Y or <input type="checkbox"/> N				Proposed Date of (Re)installation (Month/Year) <i>June, 1995</i>		
Practice Type	Practice Area(S)	Acres to be Treated	Max. C/S Payment Rate	Max. C/S \$'s Available	Total C/S \$'s Requested	Est. Total Cost:
<i>RR3</i>	<i>4 &amp; 5</i>	<i>3.0</i>	<i>\$300.00</i>	<i>\$900.00</i>	<i>\$500.00</i>	<i>\$400.00</i>
Explain Reason for Failure or Conservation Plan Amendment (attach additional sheets if necessary): <i>Selective replanting to practice areas 3 and 4 is necessary due to tree/shrub mortality caused by drought conditions.</i>						

**Note:** In this example the total easement program cost-share (C/S) dollars requested exceeds the estimated total cost by \$100.00. This is done to hopefully cover any unforeseen expenses associated with the replanting. It is much easier to set-up (encumber) the extra funds now than it would be to request them later. The appropriate amount of C/S dollars to request will vary between practices and sites; however, requesting 25 percent more than the estimated total cost is usually a good rule of thumb.

Generally, if the C/S dollar request is close to the maximum amount of C/S dollars available, the maximum amount of C/S dollars available should be requested.

The total easement program C/S dollars requested cannot exceed the total easement program C/S dollars available. Additional funds from other agencies or organizations will need to be pursued or the landowner will be responsible for the balance.

### Signatures

The landowner and the SWCD technical representative must sign this form prior to submitting it to the BWSR for review. Appropriate BWSR staff should be consulted early in the process when planning an activity to assure the project will meet program requirements.

### BWSR Action

The BWSR will review the form and approve or not approve the request. If it is not approved, it will be returned to the SWCD with an explanation and possibly some recommendations for revisions. If the request is approved, a copy of the form will be returned to the SWCD with authorization to begin the replanting, repairing or reconstructing activity.

## D. ESTABLISHING AND MAINTAINING CONSERVATION PRACTICES

### D.1 Overview

Maintenance activities are very important in keeping each conservation practice identified on the easement area in good condition. Maintenance begins after successful development of the conservation practice and continues for the duration of the practice. However, prior to successful development of a conservation practice, certain establishment activities may be needed after the installation to assist in the practice's development. The following guidelines should be used to distinguish between "establishment" and "maintenance" activities.

Establishment activities include:

- ❖ Chemical treatment and/or planned mowing to control heavy weed competition that is inhibiting the growth of trees or grasses during the establishment period.
- ❖ Use of a weed badger to control heavy weed competition that is inhibiting the growth of trees during the establishment period.
- ❖ Minor construction activities to enhance or improve a structural conservation practice.

Maintenance activities include:

- ❖ Spot mowing or spot chemical treatment to control noxious weeds after the establishment of grasses or trees.
- ❖ Trapping or poisoning of rodent infestations that are adversely affecting the vegetation and/or structure.
- ❖ Prescribed burning of native grasses.
- ❖ Removal of undesirable trees or shrubs.
- ❖ Monitoring of the easement area.

### D.2 Maintenance Period

As previously stated, maintenance usually begins after successful development of the conservation practice and continues for the duration of it.

### D.3 Establishment Period

There are three different development categories that a conservation practice can generally be placed into:

- a) Conservation practices that already exist;
- b) Conservation practices that require installation; and
- c) Conservation practices that may require installation at a later date but natural succession will first be given an opportunity to occur.

Regardless of which category a conservation practice fits into, the SWCD should monitor the development of the practice by performing periodic site inspections. If a conservation practice is not developing satisfactorily, the SWCD will need to work with the landowner to determine what specific establishment activities can be implemented to improve conditions for proper development of the practice.

There is no set time period in which establishment activities must take place. However, with most conservation practices, it is expected that establishment will take place within three years of installing the practice.

An exception to this will likely be the establishment of vegetation in riparian floodplain areas where the practice installation may be delayed in attempt to allow natural succession to occur, thereby eliminating the need for the installation. Certain localized establishment activities may be needed to allow for increased natural revegetation (e.g., disking a non-erosive area to provide a tree-seed bed).

#### D.4 Use of Easement Program Cost-Share Funds

Easement program cost-sharing is not allowed to reimburse the landowner(s) for any maintenance activities. The costs associated with maintaining a conservation easement are the responsibility of the landowner(s).

Easement program cost-sharing may be available to reimburse the landowner(s) for establishment activities. Using easement program cost-share funds for establishment activities is not authorized if the required activity is the result of improper installation (i.e., inadequate site preparation). Refer to the Practice Specifications subsection of the Agreement Stage section of the handbook for more information regarding eligible costs associated with establishment activities.

If the establishment activity is authorized (see item D.5), easement program funds can be used to cost-share the establishment activity only if funds remain from the initial conservation practice installation. In other words, if the full \$100 per acre was used to initially install a grass planting, there would be no funds remaining for any establishment activity that may be needed for that grass planting. The cost of the activity would then be the landowner's responsibility. If no cost-share dollars have been requested, typical of riparian floodplain sites left alone to allow for natural succession, the full amount of easement program cost-sharing would be available.

Only the amount of easement program cost-share dollars remaining from the initial installation can be requested for establishment activities. The amount of remaining cost-share funds must be converted to a revised per acre allowable payment rate. This revised payment rate, when applied to the amount of area to be treated, will result in the available dollars for the establishment activity (see example of worktable in item D.6).

#### D.5 Requesting Cost-Share Assistance

Eligible requests for cost-sharing of establishment activities should occur at the end of the establishment period or when the maximum cost-share amount has been reached. At this time, all of the landowner's eligible establishment costs should be combined and submitted for one reimbursement. This will help improve the efficiency of processing payments and will provide a financial incentive for the landowner to continue with establishment activities until successful development of the practice. Refer to Cost-Share Payment Process, item E in this section, for detailed information on requesting cost-share funds.

## D.6 Authorization of Establishment Activities

The landowner and SWCD need to seek authorization from BWSR to perform establishment activities only if they are requesting BWSR easement program cost-sharing funds or the establishment activity involves the modification or improvement of a structural conservation practice (e.g., RR-8, wetland restoration). This authorization must be obtained prior to beginning any of the establishment activity.

To request BWSR authorization, the SWCD must complete and submit the applicable portions of the Practice Implementation/Amendment Request. The following guidelines should be used when completing the "establishment request" portion of the form:

### Payee Information

This portion of the form pertains to landowner and easement information. If the easement area has been sold, the new owner's name, social security number and address must be on file at the BWSR. If the landowner has moved their new address must on file.

### Establishment Request

Please complete the establishment request worktable to help calculate the total easement program cost-share dollars available and show the easement program cost-share amount requested for the establishment activity. Also, provide a brief description of the proposed establishment activity. For example:

#### ESTABLISHMENT REQUEST

Practice Type: <b>RR3</b>	Practice Area(s): <b>3</b>	Total Practice Acres: <b>10.0</b>	Max. C/S Payment Rate: <b>\$300.00</b>	Max. C/S \$'s Available: <b>\$3,000.00</b>	Total C/S \$'s paid to date: <b>\$2,400.00</b>
C/S \$'s per acre paid to date: <b>\$240.00</b>	Per Acre C/S \$'s Remaining: <b>\$60.00</b>	Acres to be Treated: <b>2.0</b>	Total C/S \$'s Available: <b>\$120.00</b>	Total C/S \$'s Requested: <b>\$120.00</b>	Est. Total Cost: <b>\$150.00</b>
Describe Activity (attach additional sheets if necessary):  <b>Use weed badger to release trees from heavy weed infestation.</b>					

**Note:** In this example the landowner would be responsible for the balance of \$30.00.

If the estimated total cost is less than the total easement program cost-share (C/S) dollars available, the total easement program C/S dollars requested should be greater than the estimated total cost. Hopefully this will cover any unforeseen expenses associated with the establishment activity. It is much easier to set-up (encumber) the extra funds now than it would be to request them later. The appropriate amount of C/S dollars to request will vary between practices and sites; however, requesting 25 percent more than the estimated total cost is usually a good rule of thumb.

Generally, if the amount of easement program C/S dollars being requested is close to the maximum amount of C/S dollars available, the maximum amount of C/S dollars available should be what is requested.

The total easement program C/S dollars requested *cannot* exceed the total easement

program C/S dollars available. Additional funds from other agencies or organizations will need to be pursued or the landowner will be responsible for the balance.

### Signatures

The landowner and the SWCD technical representative must sign this form prior to submitting it to the BWSR for review.

### BWSR Action

The BWSR will review the form and approve or not approve the request. If it is not approved, it will be returned with an explanation provided. If the request is approved, a copy of the form will be returned to the SWCD with authorization to begin the described establishment activity.

## E. COST-SHARE PAYMENT PROCESS

### E.1 Overview

The cost-share payment process reimburses the landowner for eligible costs incurred when installing, reinstalling and establishing conservation practices identified on the conservation plan. These eligible costs are set by law, and vary between practices and durations of easements. Refer to information contained within this subsection of the handbook and to Table 1 in the Conservation Plan Development subsection of the Agreement Stage section of the handbook for more information regarding specific cost-share amounts.

### E.2 Practice Certification

The SWCD technical representative is responsible for certifying that all installation, reinstallation and establishment activities are satisfactorily completed in accordance with the required practice standards and specifications. Practice certification is required by law and is needed before the state can make a cost-share payment to the landowner. Refer to the Practice Specifications subsection of the handbook for more information regarding practice standards and specifications.

Certification of these activities is required regardless of who performs them. For example, if the U.S. Fish & Wildlife Service installs a wetland restoration practice on the easement area, the SWCD technical representative is responsible for inspecting the work performed and certifying that it was installed according to the practice standards and specifications. As with any construction activity, this requires the SWCD technical representative to be available for periodic site inspections during the construction of the practice.

If the SWCD technical representative discovers that certain activities are not completed in accordance with the practice standards and specifications, they must document and discuss the corrective measures required with the landowner(s) and any other parties involved. These corrective measures must be made prior to the SWCD certifying completion of the practice installation.

The SWCD is responsible for certifying each conservation practice installed on an easement area. Certification of a practice installation must be done within one year of the practice installation. However, timely practice certification and voucher submittal are necessary for the state to promptly reimburse the landowner for its share of the installation cost. Certification of practice completion is documented in item E of the Cost-Share Voucher & Practice Certification Form.

### E.3 Requesting Cost-share Payments

To request a cost-share payment complete a Cost-share Voucher and Practice Certification Form and submit it to the BWSR.

The BWSR will use the data received from this form for many things, including

assessment of cost-share rates, appraisal of practice activities and acknowledgment of all financial contributors to the program.

A separate Cost-share Voucher and Practice Certification form must be submitted each time a conservation practice has been installed, established, or reinstalled, regardless of whether easement program cost-share funds are being requested. This will allow for documentation of all financial contributors. This is required for all conservation practices except those classified as "already established" (RR-9, RR-10 and RR-13).

BWSR easement program cost-share payments will be made after review and approval of items submitted for payment (provided the conservation easement has been recorded). These guidelines must be followed when completing the form (note that the lettered items below directly correspond to the lettered sections of form):

#### **A. Payee Information**

Identify the name and address of the party to receive the state's cost-share payment. If the name and/or address are different from what is indicated on the easement agreement, or different from the most recent name and/or address change notification submitted to BWSR, please check the box and refer to the Easement Alteration subsection of the handbook for addition information regarding name and/or address change requirements.

#### **B. Project Information**

Identify the BWSR program and specific practice information. *Please note that only one practice type may be identified per form.* However, a single practice type may have more than one practice area indicated.

#### **C. Cost Information**

Select the type of cost-share request under "Basis of Request". Note that establishment and reinstallation requests must be authorized by BWSR prior to submitting cost-share request.

All cost-share requests submitted for conservation practices, which are fully completed "installed", should be checked as "Final" under "Type of Request."

Partial payments are allowed if time delays in "installing" a practice warrant it. If a partial request is being made, check the "Partial" box under "Type of Request." The last of the partial payment requests submitted for the practice installation should be then checked as a "Final" request.

Enter the date the practice installation was fully completed in the "Installation Date" box. Do not enter a date for establishment or reinstallation cost-share requests.

Identify the type of work performed and the associated costs, and have the payee certify that the costs are accurate. Items listed for materials, equipment and labor must be listed in a concise, detailed manner. An itemized list or copy of bid schedule may be attached as a supplement to the form, but is not required.

Note: Itemization is only required if cost-sharing through BWSR is being requested.

#### **D. Payment Information**

All funding sources, and their payment amounts, must be indicated. If more than one easement is involved in the completion of a single practice (e.g., wetland restoration) the following procedure should be used:

- a) Submit one form for each easement involved;
- b) Create an itemized list of the cost information and attach a copy to each form;
- c) Each form must identify the cost-share request unique to that easement; and
- d) Each form submitted should "cross-reference" the payment amounts being requested by other easements and/or payments from other sources.

#### **E. SWCD Certification**

This portion of the form is for the SWCD to certify completion of the work performed and to certify that the quantities and costs are correct.