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Part 517 - Wildlife Habitat Incentives Program

Subpart A - General Information

517.0 General

A. Introduction

- (1) The Wildlife Habitat Incentives Program (WHIP) is administered by the Natural Resources Conservation Service (NRCS). The program offers technical and financial assistance to protect, restore, develop, and enhance wildlife habitat.
- (2) For the purposes of this program, the term "wildlife" means birds, fishes, reptiles, amphibians, invertebrates, and mammals, along with all other non-domesticated animals. The term "wildlife habitat" means the aquatic and terrestrial environments required for wildlife to complete their life cycles, including air, food, cover, water, and spatial requirements.
- (3) Policy set forth in this Part is specific to the WHIP. Part 512 provides general policy for Conservation Program Contracting ([440-CPM, Part 512](#)).

B. Objective

The objective of WHIP is to help participants protect, restore, develop, or enhance habitat for upland wildlife, wetland wildlife, threatened and endangered species, fisheries, and other types of wildlife.

C. National Priorities

In order to provide direction to the State and local levels for implementing WHIP to achieve its objective, NRCS has established the following national priorities:

- (i) Promote the restoration of declining or important native wildlife habitats.
- (ii) Protect, restore, develop or enhance wildlife habitat of at-risk species (candidate species, and State and Federally listed threatened and endangered species).
- (iii) Reduce the impacts of invasive species on wildlife habitats.
- (iv) Protect, restore, develop or enhance declining or important aquatic wildlife species' habitats.

D. Source of Authority

The sources of authority for the policies and procedures contained in this manual are as follows:

[Farm Security and Rural Investment Act of 2002](#) (2002 Farm Bill), Section 2502 (Section 1240N of the Food Security Act of 1985, as amended) [7 CFR Part 636](#) and [Final Rule](#)

E. Freedom of Information Act (See [440-CPM, Part 512, Section 512.28, Public Access to Data](#))

F. Related Manuals and Handbooks

The following agency policy and technical references have topics related to WHIP:

- (i) [National Planning Procedures Handbook](#) (NPPH)
- (ii) [National Food Security Act Manual \(NFSAM\)](#)
- (iii) [GM-180, Part 409, Conservation Planning Policy](#)
- (iv) [GM-190, Part 410, Compliance with NEPA](#)
- (v) [GM-420, Part 401, Cultural Resources](#)

- (vi) [440-CPM, Part 509, Equitable Relief from Ineligibility for Conservation Programs](#)
- (vii) [440-CPM, Part 510, Appeals and Mediation](#)
- (viii) [440-CPM, Part 512, Conservation Program Contracting](#)
- (ix) [GM-450, Part 407, Documentation, Certification and Spot Checking](#)
- (x) [190-National Biology Manual](#)
- (xi) [210-National Engineering Manual](#)
- (xii) [Field Office Technical Guides \(FOTG\)](#)

G. Technical Assistance

- (1) NRCS has responsibility for administering WHIP, including providing technical assistance. The State Conservationist can enter into agreements with qualified partners, authorizing them to provide part or all of the needed WHIP technical assistance. Technical assistance may include, but is not limited to, any of the following activities:
 - (i) Information for participants
 - (ii) Training
 - (iii) Conservation planning
 - (iv) Practice survey, layout, design, and installation
 - (v) Program evaluation, monitoring, and assessment
 - (vi) Quality assurance reviews of contracts
- (2) The State Conservationist may utilize the services of other Federal agencies, non-government organizations, Conservation Districts, or other units of State or local government in order to meet the objective of WHIP. (See [440-CPM, Part 504, Technical Service Provider Assistance](#).)
- (3) The United States Fish and Wildlife Service (FWS), the United States Department of Agriculture’s Forest Service (FS), the United States Army Corps of Engineers (COE), the United States Environmental Protection Agency (EPA), and other Federal agencies can provide technical or financial assistance to program participants in support of WHIP.
- (4) Technical assistance does not include research and development.

H. Supplements to this Part (Also see [440-CPM, Part 512, Section 512.0 \(J\) \(K\)](#))

State policy for WHIP must be established by means of supplements to this Part. A copy of all State supplements to this Part must be submitted to the Deputy Chief for Programs for review. State supplements must not be in conflict with or less restrictive than the statutory or regulatory WHIP provisions. The final version of all state amendments must be submitted to the Deputy Chief for Management for posting in the electronic directive system.

I. Distributing IRS Forms (See [440-CPM, Part 512, Section 512.00 \(I\)](#))

517.1 Required State Actions (See [440-CPM, 512.1](#))

517.2 Definitions (See [440-CPM, Part 502](#))

517.3 NRCS Responsibilities (See 440-CPM, [Part 512, Section 512.3](#))

A. National Headquarters

The following table describes the responsibilities of the NRCS National Office.

Position	Responsibilities
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NRCS Chief	Provides overall national leadership for agency activities. Establishes national priorities. Determines allocation of funds to achieve the WHIP objective.
Deputy Chief for Programs	Establishes program policies and direction. Provides national leadership for WHIP. Recommends allocation of funds to achieve the program's objective.
Financial Assistance Programs Division Director	Establishes program procedures regarding planning, implementation, and technical training. Provides policy and procedural guidance on WHIP operations to NRCS State Offices. Coordinates training for State WHIP activities. Develops methodology for allocation of funds to achieve the program's objective. Develops agreements with other agencies and groups. Conducts an overall program assessment.

B. Regional Assistant Chiefs

The Regional Assistant Chief (RAC) will be the approving authority for all contracts and agreements when the total contract obligation exceeds an amount designated by the Chief annually through the NRCS Directives System (e.g., \$150,000, \$100,000). This authority cannot be delegated.

C. State Conservationists

The State Conservationist will be responsible for leadership and delegating the responsibilities for management of WHIP at the state level according to [440-CPM, Part 512, Section 512.3](#) and as shown in the following table.

Activity	Details
Chairperson	Chair the State Technical Committee.
Delegation of Authority	Designate staff and delegates authority to carry out WHIP at State and Field Office levels. Designates the authorized NRCS representative, in writing, to obligate funds, disburse payments, and act as Contracting Officer (CO) as instructed in 440-CPM, Part 512, Section 512.3 .
Leadership	Provide leadership for planning and implementation, including the evaluation of qualifications of others that provide technical

	<p>assistance.</p> <p>Approve and/or revise the practice list for WHIP, when necessary.</p> <p>Provide program and technical training needed to implement the program effectively.</p> <p>Provide leadership for quality assurance.</p> <p>Develops funding allocations.</p>
Evaluation	<p>Identifies, monitors, and analyzes performance indicators.</p> <p>Determines appropriate distribution method for WHIP agreements and associated documents, ensuring that records are readily available when required.</p> <p>Evaluates and reports program accomplishments.</p>
Coordination	<p>Coordinates with State and Federal agencies to streamline the permit process such as wetlands and endangered species permits.</p> <p>May seek advice from the State Technical Committee in the establishment of:</p> <p>Policies</p> <p>Procedures</p> <p>Priorities and priority areas</p> <p>Application evaluation and ranking system</p> <p>Eligible practice list for WHIP and associated cost-share rates</p> <p>Wildlife habitat emergency requests</p> <p>Develops agreements with other agencies and groups for the most efficient use of personnel and other resources to meet the WHIP workload demand.</p> <p>Coordinates public outreach campaigns with partners.</p>

517.4 FSA Responsibilities (See [440-CPM, Part 512, Section 512.4](#))

517.5 Responsibilities of Participants and Other Partners

A. Participant Responsibility (See [440-CPM, Part 512, Section 512.40](#))

B. Conservation Districts

- (1) Local Conservation Districts (CD) are legal subdivisions of State government and are charged by State law with providing leadership for soil, water and natural resource conservation within District boundaries. As a result, they have an essential role in the implementation of USDA cost-share programs.

- (2) Tribal Conservation Districts (TCD) are appointed by a Tribal Government or formed under a Tribal Resolution. The TCD role includes identifying local resource concerns, objectives, and priorities; recommending application and evaluation process and priorities for assistance; and, assuring local resource priority issues and concerns are being addressed within Tribal District boundaries. CDs and TCDs have the following responsibilities:
- (i) Assemble and conduct the USDA local work group ([440-CPM, Part 501, Section 501.02, \(e\)](#)).
 - (ii) Set the agenda.
 - (iii) Acquire input, in the form of a conservation needs assessment, from community stakeholders.
 - (iv) Identify local program priorities and available resources.
 - (v) Provide input and recommendations to NRCS for program guidelines.
 - (vi) Accept applications for contracts and forward to NRCS.
 - (vii) Develop Wildlife Habitat Development Plans (WHDP) or plans of operation, where appropriate.
 - (viii) Provide technical assistance support, where appropriate.
 - (ix) Provide administrative support for contracts, where appropriate.
 - (x) Assist NRCS with local information and outreach activities.
 - (xi) Work with NRCS on issues relating to WHDP's or plans of operations and conditions for contract termination.
 - (xii) Others as requested by the State Conservationist and consistent with Statutory, Regulatory, and NRCS policies.

C. Other Agencies and Tribes

Other Federal, State, and local agencies and Tribes may have the following responsibilities:

- (i) Serve as a member of the State Technical Committee and/or Local Work Group.
- (ii) Provide input and recommendations to NRCS for developing program guidelines.
- (iii) Assist NRCS with information and outreach activities.
- (iv) Provide technical assistance where appropriate.

Note: Tribal Conservation Districts formed under Tribal Resolution or as appointed by Tribal governments are afforded the same responsibilities as indicated in CPM paragraph 517.4B.

517.6 The Role of the State Technical Committee

- A. The State Technical Committees provide advice. Although Technical Committees have no implementation or enforcement authority, USDA shall give strong consideration to the Committee's recommendations.
- B. Each State Technical Committee will establish criteria and guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides.
- C. Advise in establishing WHIP State plans and ranking criteria (See [440-CPM, Part 501, Subpart B.](#)).

517.7 Responsibilities of the USDA Local Work Group

The purpose of the USDA local work group is to facilitate locally led conservation ([440-CPM, Part 500](#)) and to provide advice to NRCS concerning the implementation of conservation programs including WHIP in accordance with the Federal Advisory Committee Act. The roles

and responsibilities of the USDA Local Work Groups, a subset of the State Technical Committee, are found in the Conservation Programs Manual ([440-CPM, Part 501, Subpart A](#)).

517.8 Establishing State WHIP Plans

A. Purpose

State WHIP plans in conjunction with national priorities and established habitat needs, shall serve as the basis for allocation of WHIP funds to the NRCS State Conservationist. State WHIP plans ensure that resources are targeted to the needs of the highest priority wildlife habitat. The State WHIP Plan will be developed and published on the State's NRCS website.

B. State Plan Development

The State Conservationist, with advice from the State Technical Committee (See [440-CPM, Part 501, Subpart B](#)), will develop and submit to the Regional Assistant Chief (RAC) and the FAPD Division Director a State plan for implementing and administering WHIP every five years, or more frequently if needed. As a minimum, the plan will include the following information:

- (i) State objectives.
- (ii) National and State wildlife habitat priorities, which may be expressed as:
 - Habitat types of special concern.
 - Wildlife species to be targeted.
- (iii) A general description of wildlife habitat improvement practices to be emphasized.
- (iv) Partnership involvement, including the amounts and kinds of resources the partners will provide to support the program. Disclosure of partner financial assistance dollars is optional.
- (v) State application evaluation and ranking process and criteria (may be updated annually).
- (vi) Criteria for measuring program success, performance goals, etc.

C. State Wildlife Priorities

NRCS and partner resources can be used effectively by establishing priority wildlife species or habitats in conjunction with national priorities. Prioritization should be done at the State level. The State Conservationist may seek advice from the State Technical Committee, in implementing the responsibility for identifying the wildlife species or habitats that are to be a priority. Local wildlife priorities, as identified in the conservation needs assessment completed through the locally led process, are forwarded to the State Conservationist.

D. Performance Measurement and Accountability

Program implementation will be measured at the State and national level. Specific information will be collected at the field level and forwarded to the State Conservationist. The data will be used to provide information to the Administration, Congress, and the public concerning the general location, extent and types of wildlife habitat developed through WHIP as well as progress of WHIP plans. The performance data and resource information in conjunction with State WHIP plans from the Customer Service Toolkit, PRS, and ProTracts will be used to determine appropriate funding levels for States.

Part 517 - Wildlife Habitat Incentives Program

Subpart B - Conservation Plan Schedule of Operation

517.10 General Program Requirements

A. Conservation Planning

- (1) Conservation planning for wildlife habitat will consider the aquatic and terrestrial environments required for wildlife to complete their life cycles, including air, food, water, and spatial requirements. The Customer Service Toolkit is the official required conservation planning software for NRCS. A conservation plan which at a minimum addresses wildlife habitat as the primary resource concern will be developed and serve as a Wildlife Habitat Development Plan (WHDP). The WHDP can serve either as:
 - (i) The sole conservation plan for the planning area and include other practices selected by the participant in addition to those addressing the primary resource concerns of wildlife habitat or,
 - (ii) A component of a comprehensive conservation plan that addresses the wildlife resource concerns of the planning area.
- (2) The WHDP may include relevant “partnership” arrangements needed to implement conservation treatment utilizing WHIP technical and financial assistance.
- (3) It is agency policy that technical assistance and the WHDP:
 - (i) Meet the [standards and specifications](#) developed for the local FOTG, including any interim standards recommended by the State Technical Committee and approved by the State Conservationist.
 - (ii) Comply with the National Environmental Policy Act (NEPA) [GM 190, Part 410](#) (Endangered Species), including procedures found in [GM 420, Part 401](#) for Cultural Resources.

B. WHIP Contracts

NRCS will enter into WHIP contracts with eligible applicants based on the WHDP portion of the conservation plan. WHIP contracts will:

- (i) Be entered into the Customer Service Toolkit as the official conservation planning software for NRCS.
- (ii) Follow procedures as set forth in [440-CPM, Part 512, Subpart E Establishing Conservation Program Contracts in ProTracts, Section 512.42](#). ProTracts is the official NRCS contracting software.

C. Forms – (See [440-CPM, Part 512, Subpart J, Exhibits, Section 512.90](#))

D. Technical Assistance Sources

In addition to NRCS, participants may utilize conservation planning, practice implementation, and practice certification services from NRCS approved sources, as determined by the Secretary ([see 440-CPM, Part 504](#)), including from:

- (i) Other Federal, State, or local government sources
- (ii) Private businesses
- (iii) Non-governmental organizations

E. Technical References to Assist in Wildlife Habitat Conservation Planning and WHDP Development

- (1) [NRCS Home Page: Technical Resources-Biology](http://www.nrcs.usda.gov/technical/biology.html)
<http://www.nrcs.usda.gov/technical/biology.html>
- (2) [Electronic Toolbox for Fish and Wildlife Habitat Management](http://www.whmi.nrcs.usda.gov/technical/etool.html)
<http://www.whmi.nrcs.usda.gov/technical/etool.html>
- (3) [National Biology Handbook: Aquatic and Terrestrial Habitat Resources](#)
- (4) [NRCS FOTG](#)
- (5) State Comprehensive Wildlife Conservation Strategies
- (6) [Stream Corridor Restoration Handbook](#)

F. Policy for Guiding Conservation Planning Includes, but is Not Limited to the following References

- (1) [National Planning Procedures Handbook \(GM-180, Part 600\)](#)
- (2) [Conservation Planning Policy \(GM-180, Part 409\)](#)
- (3) [Conservation Planning and Conservation Practices \(440-CPM, Part 505, Subpart A\)](#)
- (4) [NRCS National Biology Handbook Part 611, Conservation Planning for Integrating Biological Resources](#)
- (5) [Conservation Programs Contracts \(440-CPM Part 512, Subpart B\)](#)
- (6) [Compliance with NEPA \(GM-190, Part 410\)](#)
- (7) [Field Office Technical Guide \(FOTG and eFOTG\)](#)
- (8) [National Handbook of Conservation Practices \(NHCP\) \(GM 450, Part 406\)](#)
- (9) [National Food Security Act Manual \(NFSAM\) \(180, Part 510\)](#)
- (10) [Locally Led Conservation \(440-CPM, Part 500\)](#)
- (11) [Cultural Resources \(Title 420, Part 401\)](#)
- (12) [Technical Guides, Developing Interim Standards \(GM 450, Part 401\)](#)

G. Working with Multiple Participants

When appropriate, the WHDP portion of the conservation plan may be used to pool or group participants to accommodate resource conservation practices that overlay lands owned or controlled by more than one participant. Conservation plans with groups must be developed with the consent of all participants. Follow [440-CPM, Part 512, Subpart E, Sections 512.41 and 512.42](#) (See Section 517.22, Group Agreements).

517.11 Level of Natural Resource Treatment for the WHDP

A. Primary Focus: Resource Concerns

- (1) The Wildlife Habitat Development Plan (WHDP) portion of the conservation plan shall meet identified wildlife resource conservation needs. The WHDP may cover all or part of the participant's land base.
- (2) In many cases, the WHDP portion of the conservation plan may be a part of a complete conservation system. When participants agree, NRCS should help develop a conservation plan using practices and management systems, that meet criteria established in the FOTG for treating soil, water, air, plant, and animal resources and in addition to enhancing wildlife habitat.
- (3) Restoration of native habitats is encouraged.

B. WHDP Requirements

The WHDP portion of the conservation plan must meet the objective of WHIP. The designated conservationist, with the assistance of conservation partners as appropriate, will:

- (i) Consider the applicant's objectives and goals.
- (ii) Complete a benchmark wildlife habitat inventory and an assessment of wildlife biological requirements (food, cover, and water), identifying only essential needs efficiently.
- (iii) Verify the accuracy of existing wetland determinations and delineations for the acres under application. Any errors found shall be corrected with the applicant.
- (iv) Identify requirements for preservation of cultural resources where applicable.
- (v) Assist the applicant in determining the essential practices, extent, and schedule for applying the practices necessary to protect, restore, enhance, develop, and/or manage wildlife habitat on the acres under application. This information can be used in the cost-share agreement.
- (vi) Document how habitat will be protected, restored, enhanced, developed, and/or managed over the life of the cost-share agreement. The WHDP portion of the conservation plan must specify all essential treatment practices.
- (vii) Describe new technologies or interim practices that will be implemented (for example field tested) to protect, restore, enhance, develop, and/or manage the wildlife habitat over the life of the cost-share agreement. Implementation of new technologies not in the FOTG must have State Conservationist concurrence.
- (viii) List the estimated costs of installing the planned practices and the approximate cost-share amounts to be provided.
- (ix) Habitat for wildlife must be the primary purpose of WHIP projects. Education cannot be the primary purpose of WHIP projects. Education component especially in schools should be provided by partners.
- (x) Any other provisions or documentation determined necessary or required according to [Part 600.31 of the National Planning Procedures Handbook \(NPPH\)](#).

C. WHDP Map (See [NPPH 600](#) and [440-CPM, Part 512, Section 512.43, Components and Assembly of Contract File](#))

D. Signature Requirements (See [440-CPM, Part 512, Section 512.46, Signing and Approving Contract Documents](#).)

E. Definition of Conservation Practices ([440-CPM, Part 502](#))

- (i) Commonly used to meet specific natural resource needs.
- (ii) Science-based and field-tested over a number of years and for which standards and specifications have been developed.
- (iii) New information and technologies identified in the FOTG as interim standards and specifications.
- (iv) Part of a conservation system.

Note: New technologies not in the FOTG may be implemented with the concurrence of the State Conservationist and consistent with agency policy for establishing Interim Conservation Practices.

F. Practice Life (See [440-CPM, Part 512, Section 512.11](#))

G. Essential Practices

Essential practices are those that must be included in the WHDP portion of the conservation plan for the protection, restoration, development, enhancement, or management of identified wildlife habitat components. Essential practices must be:

- (i) Technically feasible, based on the site evaluation.
- (ii) Properly operated and maintained for the life of the practice, except for failure beyond the applicant's control.
- (iii) Identified in the WHDP portion of the conservation plan as numbered items.

Note: Recurring practices may be considered essential practices in the WHDP, but only on a very limited basis and where there is an identifiable cost to the participant.

Recurring practices are limited to those that must be applied on a regular, scheduled basis to maintain the ecological or serial stage of wildlife habitat vegetation. An example of this might be the various components of [Brush Management \(Practice Standard 314\)](#) in [Section IV of the FOTG](#).

H. Supplemental Practices

Supplemental treatment practices are not required for protecting, restoring, developing, enhancing, or managing identified wildlife habitat components. However, they may enhance habitat quality. Supplemental practices:

- (i) Are not eligible for WHIP financial assistance, but they may be financed by other partners.
- (ii) Are not required to be operated and maintained for the life of the agreement.
- (iii) Must be identified in the plan as non-cost-shared (NC).
- (iv) Must not adversely impact the functioning of essential practices.

Note: Annual food plots may be considered a supplemental practice, but they are not eligible for NRCS cost-share assistance under WHIP.

I. Ineligible Practices

Ineligible practices are those practices:

- (i) Whose primary purpose is to promote or enhance agricultural productivity or a goal other than wildlife habitat.
- (ii) That will not meet wildlife habitat needs.

J. Non-compatible Activities

Non-compatible activities are those determined by NRCS to be in conflict with the purpose and intent of WHIP and the WHDP. These activities may be prohibited or limited in timing, intensity, location, or frequency. These activities may include, but are not limited to, the following:

- (i) Haying
- (ii) Burning
- (iii) Grazing
- (iv) Cropping
- (v) Timber harvesting
- (vi) Construction
- (vii) Developed recreational uses, such as boardwalks or permanent blinds
- (viii) Vehicle traffic

517.12 Reserved

517.13 Reserved

Part 517 - Wildlife Habitat Incentives Program

Subpart C - Application for Assistance

517.20 General (See [440-CPM, Part 512, Section 512.20](#))

517.21 Signature Authority for Businesses (See [440-CPM, Part 512, Section 512.21](#))

517.22 Eligibility

A. Who May Be Eligible (See [440-CPM, Part 512, Section 512.22 A](#))

B. Acceptable Evidence of Control or Ownership (See [440-CPM, Part 512, Section 512.22](#))

- (1) Acceptable evidence of control or ownership includes, but is not limited to, the following:
 - (i) Title
 - (ii) Land contract or deed
 - (iii) County FSA land ownership records
 - (iv) Valid lease for the length of the cost-share agreement
 - (v) Notarized statement signed by the owner that the operator shall have control of the land for the length of the cost-share agreement
 - (vi) History of use that indicates that future control of the land is likely
 - (vii) Other special cases such as power of attorney, executorships, trusteeships, corporations, etc.
 - (viii) An applicant proposing to implement a structural practice on rented or leased land must sign the application and submit written concurrence by the landowner at time of application.
- (2) Special accommodations may be provided for enrollment of Tribal land, Bureau of Indian Affairs (BIA) allotted lands, or other special cases.
- (3) In special cases, such as land subject to multiple ownership, the designated conservationist will determine eligibility with concurrence of the State Conservationist.
- (4) Acceptable evidence of control of water or other surface and subsurface rights may be required.
- (5) The designated conservationist must document in writing how it is known that the applicant has control of the land and verify that the land is eligible, placing the documentation in the contract file. The designated conservationist will also determine if existing easements or rights held by entities other than the participant will place constraints on the proposed WHDP objectives.

C. Non-Government Organizations

Non-governmental organizations (NGOs) are eligible to participate in WHIP. If the organization owns the land, an authorized representative must sign all necessary forms. If the organization does not own or control the land, the landowner must provide written documentation signifying the acceptance of responsibility to comply with the WHIP cost-share agreement (see [440-CPM, Part 512, Section 512.22](#)).

D. Commercial Enterprises

Commercial hunting, fishing, recreation, and aquaculture enterprises are eligible to participate in WHIP. However, cost-share payments will be limited to essential practices installed to benefit free-ranging wildlife as determined by the State Conservationist.

E. Group Agreements

If the designated conservationist determines that benefits to wildlife habitat would be sufficiently greater if multiple applicants entered into cooperative efforts to install wildlife practices, then those applicants may develop a multi-tract or multi-farm WHDP to address the larger project. This multiple participant project may be assessed and ranked as one project although separate cost-share agreements must be developed with each applicant. This type of project may be appropriate where a number of adjacent tracts are under separate management (see [Section 517.10G](#)) (see [440-CPM, Part 512, Section 512.41 and 512.42](#)).

F. Participation by NRCS Employees (See [440-CPM Part 512, Section 512.22 B](#))

G. Eligible Land

Lands that are eligible for WHIP are:

- (i) Privately owned lands, including lands owned by NGOs.
- (ii) Indian Tribal lands.
- (iii) State, County, or local government owned lands if, on a case-by-case basis, the State Conservationist concurs with the designated conservationist that acceptance of such land and the habitat improvement accomplishments are of sufficiently high priority to merit use of WHIP resources.
- (iv) Federal lands in those limited circumstances where the benefit is primarily on private lands, but must include some Federal land to meet the objectives of the WHDP. The concurrence of the State Conservationist and the administering Federal agency is required.

Note: When land is suitable for wetland restoration, and the acreage is eligible for WHIP and for WRP, the wetland should be restored using WRP funds, unless WRP funds are not available.

H. Ineligible Land

- (1) Lands that are ineligible for WHIP are:
 - (i) Federal lands, except as identified above.
 - (ii) Land currently enrolled in the following:
 - Water Bank Program (WBP)
 - Emergency Watershed Protection Program (EWP) that are subject to floodplain easements
 - Conservation Reserve Program (CRP)
 - Wetland Reserve Program (WRP)
 - Grassland Reserve Program (GRP)

Exception: The State Conservationist may fund a WHIP contract along with a GRP contract if the following two requirements are met:

- (2) Wildlife habitat is the primary resource concern
- (3) The GRP contract is for an easement.

- (i) Lands where the expected impacts from offsite conditions make the success of habitat improvement unlikely, such as a nearby contaminant source that would degrade the area.
- (ii) Applications involving less than the minimum acreage if a minimum acreage has been established by the State Conservationist which may include advice from the State Technical Committee as indicated in the State plan (may consider prioritized habitat needs, connectivity of habitats, etc.).
- (iii) Applications that are not cost-effective, or do not sufficiently meet program requirements.

Note: Exceptions may be made by the Director of the Financial Assistance Programs Division.

Note: A WHIP participant may have more than one WHIP agreement though not on the same acreage. Multiple contracts may be allowed on the same acreage by the State Conservationist under special circumstances on a case by case basis.

517.23 WHIP Application Procedure

A. Applications

WHIP participation will be encouraged locally by the NRCS, in cooperation with the Conservation Districts, and other partners through announcements and news releases.

B. Application Process

The WHIP sign-up is conducted on a continuous basis. The NRCS State Conservationist, with advice from the State Technical Committee, will:

- (i) Develop and publicize a procedure for processing WHIP applications for funding.
- (ii) Develop a process and timeframe to:
- (iii) Review and compare applications.
- (iv) Determine which applications will be funded.

C. Who Can Apply

Applications will be accepted from any person or group wishing to apply. Applicants will be required to provide acceptable evidence of ownership or control of the land in accordance with [440-CPM, Part 517, Section 517.22](#), Eligibility.

D. Submitting Applications (See [440-CPM, Part 512, Section 512.23](#))

E. Required Information (See [440-CPM, Part 512, Section 512.23 A](#))

F. Beginning Practices

- (1) A practice initiated before contract approval is ineligible for financial assistance. However State Conservationists may waive this provision according to [440-CPM, Part 512, Section 512.23 C](#) and when the following requirements are met:
 - (i) Practice is included in the WHDP.
 - (ii) The practice was not started before the date the waiver is approved.
- (2) Applicants who request a waiver must be notified by NRCS that they may be ineligible to receive payment if any of the following occur:
 - (i) Contract is not approved.
 - (ii) Practice does not meet NRCS standards and specifications.
 - (iii) Requested practice is not included in the WHDP.
- (3) The waiver is approved when the applicant receives an approval letter as shown in [440-CPM, Part 512, Section 512.91 E](#) “Waiver to Begin a Conservation Practice”.

G. Additional Information

Additional information may be required by NRCS to complete the application evaluation.

- (i) This information may include:
- (ii) Wildlife species or habitat of concern.
- (iii) The participant's objective(s).
- (iv) The practice(s) desired.

H. Signature Requirement (See [440-CPM, Part 512, Section 512.23 B](#))**517.24 Processing Applications****A. Processing Applications (See [440-CPM, Part 512, Section 512.24](#))****B. Evaluation of Eligible Applications (See [440-CPM, Part 512, Section 512.25](#))**

NRCS and/or its designated partner(s), will work with eligible applicants gathering the information needed to evaluate and rank applications following the application process established by the State Conservationist (paragraph Section [517.23B](#)), using the approved State WHIP ranking criteria (paragraph Section [517.25D](#)) and agency approved Application Evaluation and Ranking Tool. Partners may be included in this process. See paragraph [440-CPM, Part 512, Section 512.24](#) for information about notifying applicants.

C. Partner Participation

NRCS will discuss other sources of technical and financial assistance with the eligible participant during the application process. Participants may accept or reject inclusion of partners in processing and implementing the participants' WHDP and WHIP cost-share agreement. Partner involvement may affect an applicant's ranking. The State policy regarding this provision must be clearly identified in the State ranking criteria.

D. Funding Approval of Eligible Applications

NRCS will review and rank applications. Once funds have been allocated to the State, NRCS may approve applications for funding provided the following conditions have been met:

If the application...	Then NRCS will...
Has the highest ranking or meets or exceeds the minimum ranking threshold established by the State Conservationist.	Approve the application, unless limited by available funding.
Is eligible under the provisions established for a wildlife emergency (paragraph Section 517.45 B.)	Approve the application, unless limited by available funding.
Exceeds or over obligates available funds.	Not approve the application.

517.25 Evaluating Applications (See [440-CPM, Part 512, Section 512.25](#))

A. Purpose

A ranking process will allow NRCS to prioritize WHIP applications at the local level based on ecological, economic, and social factors. Each State will develop a ranking process to ensure consistent and efficient WHIP implementation within the State and will use the agency approved Application Evaluation and Ranking Tool (AERT) to implement the process.

B. State Conservationist’s Role

The role of the State Conservationist, which may include advice from the State Technical Committee, will be to:

- (i) Coordinate development of ranking criteria based on locally developed conservation needs assessments and other information.
- (ii) Ensure that the ranking process is consistent with National and State wildlife priorities identified in the State WHIP plan.
- (iii) Establish a minimum ranking methodology to identify applications to be funded; i.e., applications that meet a minimum score or are in the top percentile of applications.
- (iv) Rank applications based on documentation received from field offices.
- (v) Develop and implement a quality assurance process to ensure that resources used are consistent with the established ranking process.
- (vi) Ensure use of the agency approved AERT.

C. Designated Conservationist’s Role

The role of the designated conservationist will be to:

- (i) Provide leadership for the USDA local work group to conduct and update a conservation needs assessment that considers area-wide wildlife habitat needs. Assessments are forwarded to the State Conservationist as they are completed or revised.
- (ii) Prepare applications for ranking based on a field visit, the ranking worksheet, and the draft WHDP portion of the conservation plan.

D. Ranking Criteria

The State Conservationist, which may include advice from the State Technical Committee, will identify appropriate ranking criteria and using the Agency-approved AERT will prioritize all eligible applications. Ranking priority shall be given to those applications that support the greatest improvement benefits and cost effectiveness to wildlife habitat. The point spread on the ranking system should be of sufficient size to differentiate among applications. At a minimum, the process will consider the guidelines provided in the following table.

Consideration	Factor
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<p>Ecological Considerations</p>	<p>Habitat improvement to be achieved</p> <p>Likelihood of success:</p> <p>Duration of benefits to be obtained</p> <p>Self-sustaining nature of development</p> <p>Location in relation to States’ wildlife habitat priority areas</p> <p>Restoration of native habitats</p> <p>Consistency with State WHIP wildlife habitat priorities</p> <p>At-risk species (Federal and State listed rare, sensitive, threatened and endangered, candidate and declining species according to State Conservationist which may include advice from the State Technical Committee)</p> <p>Contribution to resolving an identified habitat problem of national, regional, or state importance</p>
<p>Other Considerations</p>	<p>Availability of other partnership matching funds or reduced funding request by the person applying for participation</p> <p>Estimated cost (e.g., per acre)</p> <p>Operation and maintenance costs</p>
<p>Optional Considerations</p>	<p>Permanence of the practice(s)</p> <p>Length of the cost-share agreement</p> <p>Use of high priority practices</p> <p>Cost-share agreement contribution to an existing resource management system</p> <p>Location in relation to lands actively managed for wildlife</p> <p>Percentage of an operating unit to be placed under the cost-share agreement</p> <p>Acres in cost-share agreement</p> <p>Pooling or group agreements</p>

Note: The State Conservationist, who may seek advice from the State Technical Committee, may deny an application if it is not cost effective or does not sufficiently meet program requirements.

E. Maintaining Ranking Criteria Data

The State Conservationist will maintain the ranking criteria and the associated scores for each offer received for a minimum of one (1) year as provided in the [GM 120, Part 408](#), Subpart D, Exhibits. The filing code shall be Wildlife Habitat Incentives Program, Ranking Criteria, Fiscal Year XX (where XX equals year), 300–21–5.

F. Special Projects

- (1) The State Conservationist, who may seek advice from the State Technical Committee, may approve special projects requested through the local work groups or a similar locally led process.
- (2) Special projects may be approved by the State Conservationist in cases where the following applies:
The infrastructure for carrying out the local ranking process is not present, such as when there is no Conservation District or local work group.

517.26 Status of Applications (See [440-CPM, Part 512, Subpart 512.26](#))

517.27 Servicing Unfunded Applications (See [440-CPM, Part 512, Subpart 512.27](#))

517.28 Public Access to Data (See [440-CPM, Part 512, Subpart 512.28](#))

517.29 Appeals (See [440-CPM, Part 512, Subpart 512.24](#))

Appeals of an NRCS Determination

Any WHIP participant shall have the right to appeal final adverse technical determinations made by NRCS. WHIP is a Title XII Conservation Program and appeals of NRCS final adverse determinations shall be in accordance with [7 CFR Part 614](#) and [440-CPM, Part 510, Subpart B](#). See [440-CPM, Part 512, Subpart 512.91](#), letters.

Part 517 - Wildlife Habitat Incentives Program

Subpart D - Cost-Sharing and Incentive Payment

517.30 Cost-Share Method

A. Developing Cost Share

All cost-share methods, as described in [440-CPM, Part 512, Subpart D, Section 512.30](#) are authorized for use in WHIP. The State Conservationist determines which cost-share method(s) can be used.

B. Limitations

Cost-share assistance shall be limited to the minimum number of essential practices needed to obtain the desired habitat response.

517.31 Developing Average Cost Data (See [440-CPM, Part 512, Section 512.31](#))

Developing a Cost-Share Practices List

The State Conservationist, with advice from the State Technical Committee, will develop a list of practices eligible for WHIP cost-share assistance according to [440-CPM, Part 512, Section 512.30](#). Any eligible practice, including interim practices, must be included in the local FOTG prior to use of the practice.

517.32 Cost-Share Policies

A. Setting Cost-Share Levels and Rates

All cost-share rates will be set according to [440-CPM, Part 512, Section 512.32](#). The State Conservationist may consider the advice of the State Technical Committee when determining the levels commensurate with paragraph [440-CPM, Part 512, Section 512.32](#) and rates to use with National and State guidelines. In unique situations, the USDA local work group may recommend the levels and rates to use within its applicable wildlife priority area to the designated conservationist. The designated conservationist will take the local work group recommendations to the State Conservationist. The NRCS State Conservationist will make final determinations for cost-share levels and rates.

B. Payment

The cost-share payment (designated as Average Cost (AC), Actual, not to exceed an Average cost (AA), Actual, not to exceed a specified Maximum cost (AM), or Flat Rate (FR)) identified in the “cost/unit” column of the agreement support document shall be paid at the cost specified on the cost list in effect at the time the contract is signed.

C. Incentive Payments

[Section 1240N \(page 133\) of the Food Security Act of 1985, as amended by Section 2502 of the 2002 Farm Bill](#) (page 131), does not authorize incentive payments using Federal WHIP funds. However, participants may receive incentive payments from other partners, such as State, private, or non-profit sources.

517.33 Maintaining Eligible Practice and Cost Lists (See [440-CPM, Part 512, Section 512.33](#))

517.34 Use of Other Funds

A. Public or Private Fund Sources

Partners may provide financial assistance to support the WHDP. Although partner contributions may be reflected on the WHDP, these agreements are considered separate from the NRCS cost-share agreement. Participants will comply with the policies and provisions of the partnering agency as appropriate to meet the terms of these agreements. The policy regarding total Federal cost-share contributions continues to apply (see [440-CPM, Part 512, Section 512.34](#)).

B. Other Federal Funds

- (1) See [440-CPM, Part 512, Section 512.34](#) for use of other funds. WHIP, alone or in combination with other direct Federal sources, shall not exceed 75 percent of the cost for essential practices in habitat development. In special cases, as determined by the State Conservationist, where circumstances merit additional cost-share assistance to achieve the intended goals of the project, direct Federal sources may contribute to the cost of the practice above the 75 percent limit.
- (2) The determination to exceed the 75 percent Federal limitation should be made on a case-by-case basis when the State Conservationist determines that additional cost-share is needed to achieve the intended goals of the program. Reasons for exceeding the Federal limitation should be clearly documented.
- (3) Example: FWS, through the Partners for Fish and Wildlife Program, wants to contribute cost-share assistance above the 75 percent limit to encourage landowners to restore endangered species habitat identified in the WHIP State Plan as a priority.
- (4) The 25 percent contribution can be met from other sources, such as State, private or nonprofit entities, or the participant. Such arrangements must be worked out in development of the WHIP agreement, and must be appropriate in meeting the WHIP objectives.

C. Mitigation and Environmental Violations

WHIP is a voluntary wildlife habitat improvement program and mitigation and actions needed to correct violations of State, Federal, or local law are not voluntary activities. Therefore, WHIP funds cannot be used to mitigate an activity or to remedy an existing violation. Such activities may be included in the WHIP cost-share agreement; however, cost-share funds cannot be expended for mitigation or remediation. This includes wetland mitigation banking. Additionally, mitigation or remediation cannot be the basis for using matching WHIP funding.

Part 517 - Wildlife Habitat Incentives Program

Subpart E - Contracting

517.40 General Provisions

Policy

The administrative policy for WHIP contracts is set forth in the Conservation Program Contracting (CPC) Manual, [440-CPM, Part 512, Section 512.40](#). Only the unique aspects of the administration of WHIP contracts are presented in this section. ProTracts is the required contracting software for all WHIP contracts (see [440-CPM, Part 512, Section 512.0](#)). Some special provisions apply to WHIP agreements (See [440-CPM, Part 512, Section 512.44, Special Provisions for Conservation Program Contracts](#)).

517.41 Joint Agreements (See [440 CPM, Part 512, Section 512.41](#))

517.42 Establishing Conservation Program Contracts in ProTracts (See [440 CPM, Part 512, Section 512.42](#))

517.43 Components and Assembly of Contract File

Maintaining and Filing the Agreement

All WHIP contract files will be maintained and filed as per [440-CPM, Part 512, Section 512.43](#).

Note: The location of the official files will be readily available when required for any agency approved purpose.

517.44 Special Provisions for Conservation Program Contracts (See [440 CPM, Part 512, Section 512.44](#))

517.45 Contract Period and Limitations

A. Length

- (1) Contract length for WHIP is normally 5 to 10 years and can be found in [440-CPM, Part 512, Section 512.45](#). At least one essential practice must be commenced within the first 12 months of the contract approval (the State Conservationist may waive this requirement at the request of the participant). All essential practices will be implemented at least one (1) year before the contract expires.
- (2) The length of the contract should be determined based on the participant's desire and ability to complete the needed work, partner contributions, and other items determined appropriate by the State Conservationist.

B. Emergency Wildlife Provisions

- (1) The NRCS Chief or designee may allow a contract for less than 5 years in situations where a wildlife habitat is modified as a result of a catastrophic, natural, or man-made event and emergency measures are necessary to address the potential for dramatic declines in one or more wildlife populations.

- (2) The State Conservationist, who may seek advice from the State Technical Committee, will identify the existence of a wildlife emergency and its geographic extent, and will request authorization from the Chief or designee to enter into contracts of less than 5 years.
- (3) Wildlife emergencies cannot be declared for periods longer than six-months from the date of the event. If the wildlife emergency continues to exist, the State Conservationist, who may seek advice from the State Technical Committee, may request up to a six-month extension of the emergency authorization.

C. Essential Plant and Animal Habitat Contracts

- (1) Up to 15 percent of funds made available annually to a State may be used for increased cost-share payments to participants who restore and protect essential plant and animal habitat using a WHIP contract with duration of at least 15 years. The essential plant and animal habitats should be clearly documented in the State WHIP plan.
- (2) The State Conservationist, who may seek advice from the State Technical Committee, will identify specific plant and animal habitat within the State that is essential and therefore eligible for increased cost-share assistance under this provision. Plant and animal habitat can be considered essential if it is designated “critical habitat” by the Fish and Wildlife Service (FWS) or National Oceanic and Atmospheric Administration Fisheries Service (NOAAFS) as essential to the conservation of a Federally-listed species, similarly designated habitat by the State wildlife agency for State-designated species, known locations of listed or candidate species that can be improved with specific practices, or particularly rare and unique habitats that could support at-risk species.
- (3) Notwithstanding paragraph [440-CPM, Part 512, Section 512.34 A](#), Limitations, WHIP may pay up to 100 percent of the eligible costs associated with implementation of practices that develop, protect, enhance, or restore essential plant or animal habitat. The State Conservationist, who may seek advice from the State Technical Committee, will establish the actual cost-share rate that will be used within the State for practices that develop, protect, enhance, or restore essential plant or animal habitat. Any other practice under the 15-year agreement will be cost-shared at the standard rate as identified under paragraph [440-CPM, Part 512, Section 512.32](#).
- (4) Example: A WHIP participant wishes to remove a barrier to passage by a threatened species of salmon, plant a riparian buffer along the stream, and plant native grass in an adjacent pasture to benefit elk. The stream was designated by NOAAFS as critical habitat, and temperature is a limiting factor for that stream. Elk in the area are not considered an at-risk species. NRCS may pay up to 100 percent of the costs associated with the removal of the barrier to passage and the riparian buffer establishment to benefit salmon. NRCS may only pay up to 75 percent of the costs associated with the native grass seeding to benefit elk.
- (5) The State Conservationist, with advice from the State Technical Committee, will identify the appropriate ranking criteria and develop a separate ranking process to prioritize all eligible applications for 15-year or greater duration WHIP agreements. In addition to the criteria found in Section 517.25 D, the ranking priority will be given to those applications that help further the objectives of a recovery plan developed under the Endangered Species Act for the conservation and survival of an endangered or threatened species.
- (6) Where appropriate, NRCS may provide technical assistance to program participants who seek a Safe Harbor Agreement or a Candidate Conservation Agreements with Assurance for habitat developed under a WHIP agreement.

D. Invasive Species

- (1) WHIP is a habitat for wildlife program. Contracts may include conservation practices to address invasive species when the following criteria are met:
 - (i) The invasive species include:
 - Non-native or native plants that are affecting the habitat of a prioritized wildlife species; displacing plants that are the habitat of a prioritized wildlife species (e.g., Bog turtle) or,
 - Non-native or native wildlife that is affecting the habitats of prioritized wildlife species; displacing native habitat faster than it can be restored, affecting the prioritized wildlife species.
 - (ii) Eradication or control of the invasive species on the contracted acres, during the period of a contract (5 to 10 years) is highly probable.
- (2) Treatments ineligible for WHIP:

If a plant is a federally listed threatened and endangered species, but is not a habitat for a prioritized wildlife species it is ineligible for cost-share under WHIP.

517.46 Signing and Approving Contract Documents

A. Approval (See [440-CPM, Part 512, Section 512.46](#))

B. Reserved

C. Reserved

D. NRCS Approving Official

See [440-CPM, Part 512, Section 512.46 D](#). There is no national payment limitation for WHIP. State Conservationists, who may seek advice from the State Technical Committee, may establish a State-level payment limitation. Contract obligations in excess of an amount designated by the Chief annually through the NRCS Directives System (e.g. \$150,000), will be approved by the Regional Assistant Chief as outlined in [440-CPM, Part 517, Section 517.3 B](#).

517.47 Numbering and Distributing Contracts (See [440-CPM, Part 512, Section 512.47](#))

Part 517 - Wildlife Habitat Incentives Program

Subpart F - Contract Administration

517.50 Modifications (see [440-CPM, Part 512, Section 512.50](#))

A. Modification of Contracts

- (1) Modification of a WHIP contract requires approval by the authorized NRCS official. The policy for preparing modifications is set forth in [440-CPM, Part 512, Section 512.50, Subpart F](#).
- (2) A contract cannot be modified to extend beyond the maximum 10-year contract period.

B. Reserved

C. Reserved

D. Modifications Exceeding Limitations

Written approval by the State Conservationist prior to contract execution is required when modifications to the WHIP contract results in the payment of amounts that exceed the State-established per contract payment limitation.

517.51 Modification Procedures (See [440-CPM, Part 512, Section 512.51](#))

517.52 Destruction of Practices (See [440-CPM, Part 512, Section 512.52](#))

517.53 Reapplication of Conservation Treatment (See [440-CPM, Part 512, Section 512.53](#))

517.54 Transfer of Land (See [440-CPM, Part 512, Section 512.54](#))

517.55 Contract Reviews (See [440-CPM, Part 512, Section 512.55](#))

517.56 Quality Assurance (See [440-CPM, Part 512, Sections 512.55 and 512.56](#))

517.57 Canceling and Terminating Contracts

The Cancellation and Termination of Contracts (See [440-CPM, Part 512, Section 512.57](#))

517.58 Recovery of Costs (See [440-CPM, Part 512, Section 512.58](#))

Per WHIP [7 CFR 636.12\(2\)](#) NRCS may terminate a contract and require the participant to refund all or part of any assistance earned under that contract, plus interest, as well as require the participant to forfeit all rights for future payment under the contract, but not liquidated damages.

Part 517 - Wildlife Habitat Incentives Program

Subpart G - Conservation Program Payments

- 517.60 Cost-Share Payments (See [440-CPM, Part 512, Section 512.60](#))**
- 517.61 Reserved**
- 517.62 Payment Assignments (See [440-CPM, Part 512, Section 512.62](#))**
- 517.63 TSP Payments (See [440-CPM, Part 512, Section 512.63](#))**
- 517.64 Disapproval of Payments Applications (See [440-CPM, Part 512, Section 512.64](#))**
- 517.65 Payments Not Authorized (See [440-CPM, Part 512, Section 512.65](#))**
- 517.66 Designating Payment Shares (See [440-CPM, Part 512, Section 512.66](#))**
- 517.67 Partial Payments (See [440-CPM, Part 512, Section 512.67](#))**
- 517.68 Claims, Collections, and Offsets (See [440-CPM, Part 512, Section 512.68](#))**
- 517.69 Erroneous Payments(See [440-CPM, Part 512, Section 512.69](#))**

Part 517 - Wildlife Habitat Incentives Program

Subpart H - Violations

517.70 Handling Contract Violations (See [440-CPM, Part 512, Section 512.70](#))

Part 517 - Wildlife Habitat Incentives Program

Subpart I - Fund Management

517.80 General (See [440-CPM, Part 512, Section 512.80](#))

Part 517 - Wildlife Habitat Incentives Program

Subpart J - Exhibits

517.90 Forms (See [440-CPM, Part 512, Section 512.90](#))

Part 517 - Wildlife Habitat Incentives Program

Subpart K - [Program Delivery/Information/Outreach](#)

517.100 See [WHIP Webpage](#) on National NRCS Website for most up to date FACT sheets and other information

Part 517 - Wildlife Habitat Incentives Program

Subpart L - Program Evaluation

517.110 Evaluation

A. Information Collection

The State Conservationist shall develop a monitoring program that shall be part of the State quality assurance plan and may consider advice from the State Technical Committee. It may include the approved wildlife habitat assessment procedure for the State developed under the guidelines of [Section 511.04\(c\)](#) of the National Biology Manual and retained in Section III of the FOTG. The monitoring information shall be used to:

- (i) Assess workload conditions.
- (ii) Evaluate the effectiveness of the implemented plans.
- (iii) Monitor program implementation progress.
- (iv) Aid in the future allocation of funds.

B. Wildlife Habitat Evaluations

Benchmark wildlife habitat evaluations will be completed at the time the conservation plan is developed to determine the level of a wildlife habitat resource condition as compared to the quality criteria and what habitat elements can be improved by implementing the conservation plan. Follow-up evaluations shall be conducted:

- (i) As determined appropriate through the life of the WHIP contract.
- (ii) In the final year of the WHIP cost-share agreement.

C. Types of Information to be Collected

States are encouraged to partner with universities and other local, State and Federal agencies, and non-government organizations to assist with measuring the effectiveness of the habitat improvements and conservation practices implemented. At a minimum, the following information should be collected:

- (i) A measure of the conservation effects from systems applied under the WHIP contract through established reporting methods.
- (ii) A completion of the wildlife habitat assessments for benchmark, interim, and applied conditions.
- (iii) A measure of the effectiveness of the wildlife habitat improvement and partner participation in program implementation.