



DIRECTIVE 06-3

May 15, 2006

AGRICULTURAL LAND ENROLLED IN CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP)

Purpose. This Directive provides information to assessors regarding the classification and valuation of agricultural land, pursuant to Neb. Rev. Stat. §77-1359, when the agricultural land is enrolled in a United States Department of Agriculture (U.S.D.A.) environmental program.

Overview. Nebraska Platte-Republican Resources Area Conservation Reserve Enhancement Program (NPRRA CREP)

The purpose of the NPRRA CREP is to enhance the water quality and quantity of three major Nebraska watersheds (North Platte, Platte, and Republican River basins) by reducing the amount of nutrients, sediments, and chemical runoff from agriculture sources while increasing wildlife and wetland habit for birds, migrating waterfowl, and other aquatic organisms. The NPRRA plays a uniquely important water quality function in the United States because of the large number of separate rivers, streams, and lakes of national priority that receive water from Nebraska's watersheds.

The NPRRA CREP targets 100,000 acres (0.22 percent of the State's agricultural land and 2.9 percent of the proposed CREP project area) for the installation and maintenance of selected conservation practices (CPs). In order to maximize benefits, acreage will be split equally between the Republican and Platte River basins (including the North Platte River) (50,000 acres each). Land placed under CREP contracts would be retired from crop production and irrigation for 10-15 years. CREP would provide the financial and technical assistance necessary to assist eligible Nebraska farmers and ranchers in establishing CPs that would conserve soil and water; filter nutrients and pesticides; and enhance and restore wildlife habitat respectively.

Agricultural and horticultural land. (Neb. Rev. Stat. §77-1359) This section defines agricultural and horticultural land to include land that is enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production. Neb. Rev. Stat. §77-1361 further states that the land shall be classified by classes and subclasses based on soil classifications following the methods prescribed in Neb. Rev. Stat. §77-1362.

Classification. The assessor shall classify the land by its present land use...irrigated cropland, dry cropland, grass land, or waste land...based on the observed use of the land, pursuant to Neb. Rev. Stat. §77-1363. The program targets cropped land and especially irrigated crop land, but there may be a valuation effect on grass land and waste land. Since the use will be subject to the contract for participation there needs to be a way to discover the terms of the contract and whether the land has been enrolled for ten or fifteen years as defined by the contract. For this reason, the assessor should rely on the property owner to supply contract information or have signed permission to receive this information from the local Natural Resources Conservation Service (NRCS) office.

It is also recommended that the assessor identify this land as being enrolled in the CREP program so that the valuation can be applied equitably within the class of land enrolled in the government program subject to the terms and conditions of the contract.

Valuation. The actual value of property is defined in Neb. Rev. Stat. §77-112 as the market value of the property in the ordinary course of trade. Neb. Rev. Stat. §77-201(2) defines agricultural and horticultural land as a distinct class of property for purposes of property taxation to be valued at seventy-five percent (75%) of its actual value.

Procedure and Implementation Initially it is recommended that the land enrolled in CREP should be classified at its current use and valued as other land in the same classification. Sales of the property should be monitored so that if the market value for this land is indicated to be different from other similarly classified land, the value may reflect seventy-five percent (75%) of the market value for land subject to the contract for enrollment in CREP.

The taxable value of the land should reflect seventy-five percent (75%) of the market value as determined using professionally accepted mass appraisal methods including, but not limited to, the sales comparison approach, income approach or cost approach.

Example

Year 1—Assessor classifies the land as continued use in irrigation, but ‘flags’ the property record card for land enrolled in CREP (e.g. 3A1 land would be classified as 3A1CRE). Land is valued the same as other 3A1 land.

Year 2—Assessor reviews the land for continued use and value remains the same if same use continues.

Year 3—Assessor observes sale of other 3A1CRE land at a value less than 3A1 land, but more than 3D1 land. The value is adjusted to reflect the market indication and is assessed at 75% of the actual market value.

Years 4-10—Assessor continues to monitor the market for the ‘CRE’ land and annually makes the required adjustments to reflect 75% of actual value.

Special Valuation. (Neb. Rev. Stat. §77-1344) Enrollment in this program does not prohibit other non-agricultural uses on the property, only the right to crop the land. Because this land adjoins rivers and contributories in the targeted river basins, the market value may reflect the value the land has for uses other than agricultural, such as recreational activities and development. It is recommended that the county assessor accept applications for special valuation pursuant to Neb. Rev. Stat. §§77-1344 through 77-1348 to allow for the continued assessment of the land for agricultural purposes so long as the land continues to qualify, that is, as long as the contract for participation in the CREP program is in force.

Conclusion. State statutes provide for a valuation preference of agricultural and horticultural land including land enrolled in a state or federal program that encourages conservation of the state's land and water resources. The Department's recommendations are made to recognize these conservation efforts while maintaining compliance with the Constitutional and Statutory requirements to fairly and equitably assess agricultural and horticultural land for property tax purposes and preserving the property tax base for local government.

APPROVED

/s

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