

## Commodity Credit Corporation, USDA

## § 1467.12

United States. The easement shall require that the easement area be maintained in accordance with WRP goals and objectives for the duration of the term of the easement, including the restoration, protection, enhancement, maintenance, and management of wetland and other land functions and values.

(b) For the duration of its term, the easement shall require, at a minimum, that the landowner, and the landowner's heirs, successors and assigns, shall cooperate in the restoration, protection, enhancement, maintenance, and management of the land in accordance with the easement and with the terms of the WRPO. In addition, the easement shall grant to the United States, through the Department:

(1) A right of access to the easement area;

(2) The right to permit compatible uses of the easement area, including such activities as hunting and fishing, managed timber harvest, or periodic haying or grazing, if such use is consistent with the long-term protection and enhancement of the wetland resources for which the easement was established;

(3) All rights, title and interest in the easement area subject to compatible uses reserved to the landowner; and,

(4) The right to perform restoration, protection, enhancement, maintenance, and management activities on the easement area.

(c) The landowner shall convey title to the easement which is acceptable to the Department. The landowner shall warrant that the easement granted to the United States is superior to the rights of all others, except for exceptions to the title which are deemed acceptable by the Department.

(d) The landowner shall:

(1) Comply with the terms of the easement;

(2) Comply with all terms and conditions of any associated contract;

(3) Agree to the permanent retirement of any existing cropland base and allotment history for the easement area under any program administered by the Secretary, as determined by the Farm Service Agency;

(4) Agree to the long-term restoration, protection, enhancement, mainte-

nance, and management of the easement in accordance with the terms of the easement and related agreements;

(5) Have the option to enter into an agreement with governmental or private organizations to assist in carrying out any landowner responsibilities on the easement area;

(6) Agree that each person who is subject to the easement shall be jointly and severally responsible for compliance with the easement and the provisions of this part and for any refunds or payment adjustment which may be required for violation of any terms or conditions of the easement or the provisions of this part.

[60 FR 28514, June 1, 1995. Redesignated and amended at 61 FR 42141, 42142, Aug. 14, 1996]

### § 1467.11 The WRPO development.

(a) The development of the WRPO shall be made through the local Department representative, in consultation with the State Technical Committee, and with consideration of site specific technical input from the U.S. Fish and Wildlife Service and the Conservation District.

(b) The WRPO shall specify the manner in which the enrolled land shall be restored, protected, enhanced, maintained, and managed to accomplish the goals of the program. The WRPO shall be developed to ensure that cost-effective restoration and maximization of wildlife benefits and wetland functions and values will result.

[60 FR 28514, June 1, 1995. Redesignated and amended at 61 FR 42141, 42142, Aug. 14, 1996]

### § 1467.12 Modifications.

(a) *Easements.* (1) After an easement has been recorded, no modification will be made in the easement except by mutual agreement with the Chief and the landowner. The Chief will consult with the U.S. Fish and Wildlife Service and the Conservation District prior to making any modifications to easements.

(2) Approved modifications will be made only in an amended easement which is duly prepared and recorded in conformity with standard real estate practices, including requirements for title approval, subordination of liens, and recordation.

### § 1467.13

(3) The Chief may approve modifications to facilitate the practical administration and management of the easement area or the program so long as the modification will not adversely affect the wetland functions and values for which the easement was acquired.

(4) Modifications must result in equal or greater environmental and economic values to the United States.

(b) *WRPO*. Insofar as is consistent with the easement and applicable law, the State Conservationist may approve modifications to the WRPO that do not affect provisions of the easement in consultation with the landowner and the State Technical Committee and following consideration of site specific technical input from the U.S. Fish and Wildlife Service and the Conservation District. Any WRPO modification must meet WRP program objectives, and must result in equal or greater wildlife benefits, wetland functions and values, ecological and economic values to the United States. Modifications to the WRPO which are substantial and affect provisions of the easement will require agreement from the landowner and require execution of an amended easement.

[60 FR 28514, June 1, 1995; 60 FR 33034, June 26, 1995. Redesignated and amended at 61 FR 42141, 42142, Aug. 14, 1996]

### § 1467.13 Transfer of land.

(a) *Offers voided*. Any transfer of the property prior to the landowner acceptance into the program shall void the offer of enrollment. At the option of the State Conservationist, an offer can be extended to the new landowner if the new landowner agrees to the same or more restrictive easement and contract terms and conditions.

(b) *Payments to landowners*. (1) For easements with multiple annual payments, any remaining easement payments will be made to the original landowner unless the Department receives an assignment of proceeds.

(2) The new landowner or purchaser shall be held responsible for assuring completion of all measures and practices required by the contract. Eligible cost-share payments shall be made to the new landowner upon presentation of an assignment of rights or other evidence that title had passed.

### 7 CFR Ch. XIV (1-1-05 Edition)

(c) *Claims to payments*. With respect to any and all payments owed to landowners, the United States shall bear no responsibility for any full payments or partial distributions of funds between the original landowner and the landowner's successor. In the event of a dispute or claim on the distribution of cost-share payments, the Department may withhold payments without the accrual of interest pending an agreement or adjudication on the rights to the funds.

[60 FR 28514, June 1, 1995. Redesignated and amended at 61 FR 42141, 42142, Aug. 14, 1996]

### § 1467.14 Violations and remedies.

(a) In the event of a violation of the easement or any contract directly involving the landowner, the landowner shall be given reasonable notice and an opportunity to voluntarily correct the violation within 30 days of the date of the notice, or such additional time as the State Conservationist may allow.

(b) Notwithstanding paragraph (a) of this section, the Department reserves the right to enter upon the easement area at any time to remedy deficiencies or easement violations. Such entry may be made at the discretion of the Department when such actions are deemed necessary to protect important wetland functions and values or others rights of the United States under the easement. The landowner shall be liable for any costs incurred by the United States as a result of the landowner's negligence or failure to comply with easement or contractual obligations.

(c) In addition to any and all legal and equitable remedies as may be available to the United States under applicable law, the Department may withhold any easement and cost-share payments owing to landowners at any time there is a material breach of the easement covenants or any contract. Such withheld funds may be used to offset costs incurred by the United States in any remedial actions or retained as damages pursuant to court order or settlement agreement.