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Title 440 – Conservation Programs Manual

**Part 527 – Easement Common Provisions**

**Subpart P – Monitoring**

Amended April 2023

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**527.150 General**

A. Purpose

This part provides policy for monitoring easements and 30-year contracts which have been enrolled or acquired through the NRCS easement programs and under other USDA authorities. This subpart describes monitoring and identifies the enrollment types and the monitoring that must be conducted based on those enrollment types. This subpart also describes the roles and responsibilities for monitoring activities, along with the monitoring methods, schedules, reporting, and other requirements.

B. Background

1. NRCS monitors the easements it administers to ensure that the integrity of the easement is being maintained, to ensure that the goals and objectives for which the easement was purchased are being met, to identify actions needed, and to maintain a relationship with the landowner and, where applicable, other easement holders.
2. The objective of this subpart is to provide the instruction and policy for completing compliance monitoring on land enrolled under NRCS easement programs. Compliance monitoring, also referred to as “monitoring” in this subpart, is separate from the ecological monitoring that should also occur on NRCS easements and 30-year contracts as part of easement management and is included in other NRCS guidance (e.g., Title 190, National Biology Manual; Title 190, National Forestry Manual; or Title 430, National Soil Survey Handbook). Compliance monitoring ensures the terms and conditions of the easement deeds are being met and program objectives are being achieved in accordance with statutory and regulatory authorities and requirements. Additionally, the annual completion and reporting of the outcomes of compliance monitoring allows the easement condition status to be determined in the easement business tool and reported as appropriate in the agency’s annual financial accountability reporting. Policy regarding easement condition status is in Title 440 Conservation Programs Manual, Part 527, Subpart Q, “Condition.”

3. In general, easements and 30-year contracts are most successful when NRCS or the eligible entity has an active and engaged relationship with the landowner. There is no substitute for frequent and direct interaction with the landowner. This type of relationship ensures the easement or 30-year contract is functioning at its full potential and allows NRCS the opportunity to answer questions as they arise and address issues in a timely manner, reinforcing the provisions of the easement or 30-year contract. Communication with the landowner, or eligible entity, is also a key to minimizing violations, and States are encouraged to continue to prioritize this aspect of the monitoring protocol. In addition, monitoring easements and 30-year contracts at regular intervals provides NRCS the opportunity to ensure that every acre enrolled is able to achieve its maximum conservation value.

### 527.151 Terms, Applicability, Roles, and Responsibilities

- A. Terms. Stewardship land is land and land rights owned by the Federal government but not acquired for or in connection with items of general property, plant, and equipment. Under this definition, for NRCS, stewardship lands technically include easements that the agency (as NRCS, the Soil Conservation Service (SCS), or the Commodity Credit Corporation (CCC)) acquired on behalf of the United States and is identified in the easement deed as a grantee or holder of the easement or has other real property interests identified in the easement deed (see fig. 527-P1). Non-stewardship lands include easements held by eligible entities, where the United States is not identified as a grantee in the easement deed but does have a third-party or contingent right of enforcement. Non-stewardship lands also include lands enrolled under 30-year contracts (see fig. 527-P2).

**Figure 527-P1: NRCS Stewardship Lands**

Program	Enrollment Type
Agricultural Conservation Easement Program – Wetland Reserve Easement (ACEP-WRE)	All easements (including easements acquired under RCPP with ACEP-WRE identified as a covered program under the 2014 Farm Bill)
Emergency Wetlands Reserve Program (EWRP)	All easements
Emergency Watershed Protection Program – Floodplain Easements (EWPP-FPE)	All easements
Farm and Ranch Lands Protection Program (FRPP)	All easements enrolled in fiscal years 2006-2008 and any easements where the United States is identified as a grantee or co-holder
Grassland Reserve Program (GRP)	All easements held by the United States
Healthy Forests Reserve Program (HFRP)	All easements (including easements acquired under RCPP with HFRP identified as a covered program under the 2014 Farm Bill)
Other Stewardship Lands (OSL)	All easements – Any easements or real property interests held by the United States (by and through NRCS, SCS,

Program	Enrollment Type
	CCC, etc.) acquired outside of easement program authorities listed above and under the management or authority of NRCS. May include but is not limited to wetland mitigation easements (including those for conservation compliance) and Public Law 566 easements as identified in the individual deed.
Regional Conservation Partnership Program (RCPP)	All easements held by the United States
Wetlands Reserve Program (WRP)	All easements

**Figure 527-P2: NRCS Non-stewardship Lands**

Program	Enrollment Type
Agricultural Conservation Easement Program – Agricultural Land Easement (ACEP-ALE)	All easements (including easements acquired under RCPP with ACEP-ALE identified as a covered program under the 2014 Farm Bill)
Agricultural Conservation Easement Program – Wetland Reserve Easement (ACEP-WRE)	30-year contracts ** (including RCPP covered program)
Farm and Ranch Lands Protection Program (FRPP)*	All easements held by eligible entities where the United States is not a grantee or co-holder ***
Grassland Reserve Program (GRP)	All easements held by eligible entities
Healthy Forests Reserve Program (HFRP)	30-year contracts**
Regional Conservation Partnership Program (RCPP) – Farm Bill 2018	All easements held by eligible entities
Wetland Mitigation Banking Program (WMBP)	All easements held with US right of enforcement
Wetlands Reserve Program (WRP)	30-year contracts **
Other	All other easements with US right of enforcement

\***Note:** FRPP also includes the predecessor program Farmland Protection Program (FPP).

\*\***Note:** Non-stewardship lands to be monitored in accordance with the stewardship land requirements as identified below.

\*\*\***Note:** Regardless of specific deed language, all FRPP easements enrolled between 2006 - 2008 are considered stewardship land and must comply with stewardship land activities as identified in this subpart.

- B. Applicability. In general, the monitoring requirements, methods, and schedules outlined in this policy are to be applied based on the enrollment type and whether the land is stewardship land or non-stewardship land as identified in the figures above. The only exception is that the monitoring of 30-year contracts must follow the monitoring schedule and policy as if it was stewardship land, due to the NRCS responsibilities under the terms of the 30-year contract, the length of the contract, and the significance to NRCS in ensuring that maximum conservation value is achieved.

### C. Roles and Responsibilities.

1. Easement Programs Division (EPD). Provides monitoring policy, guidance, oversight, coordination, support, and training to states; acquires and makes available nationwide stewardship land imagery (SLI); conducts quality assurance reviews; and ensures the availability of the easement business tools for reporting and tracking monitoring data.
2. Regional Conservationists. Provide oversight to ensure adequate staff levels at the state level to monitor easements annually; and review periodic summary reports from states on various program implementation matters, including, but not limited to easement monitoring.
3. State Conservationists. Assign, train, and manage appropriately qualified staff resources to conduct monitoring pursuant to this and other applicable easement monitoring policies; ensure agreements or contracts contain all required provisions to ensure monitoring meets applicable policy; ensure non-NRCS personnel have appropriate training and access to necessary materials to conduct monitoring; ensure that all provided deliverables are compliant with all applicable regulations, policy, and guidance; ensure the state quality assurance plan or other established state-level quality assurance efforts include an easement monitoring component, which also includes provisions for monitoring conducted by non-NRCS personnel through agreements or contracts; assign and manage NRCS staff resources to conduct the easement component of the state quality assurance plan or other review; and follow up with the eligible entity regarding noncompliance actions in accordance with the applicable violations and enforcement policy.
4. Eligible Entities. Holders and grantees of easements (or their successors or assignees) acquired through FRPP (including FPP), GRP, ACEP-ALE, RCPP-ACEP-ALE, RCPP entity-held easements, or other easements with US right of enforcement have primary responsibility for conducting annual monitoring activities. These responsibilities are as set forth in the executed program, cooperative, or grant agreements under the specific program and in the individual easement deeds. Holders and grantees of easements confirm that the grantor (including successors, heirs, and assigns) is in compliance with the terms and conditions of the easement deed and easement plan, as applicable. Eligible entities must conduct monitoring at their own expense and provide a copy of their annual monitoring report with sufficient information to NRCS.

## 527.152 Monitoring Requirements and Methods

### A. Monitoring Requirements

1. Monitoring must be conducted every year after an easement closes or 30-year contract is executed. The findings of the monitoring must be documented and reported once each fiscal year for every closed easement and executed 30-year contract. The method, schedule, and specific monitoring questions to be asked and answered are based upon the enrollment type, whether the land being

monitored is stewardship or non-stewardship land, and other specific requirements in this subpart.

2. Monitoring Reports

- a. The “Annual Monitoring Worksheet” (AMW) must be completed every fiscal year (see Title 440 Conservation Programs Manual, Part 527, Subpart Y, “Exhibits,” Section 527.280(A) for the “Annual Monitoring Worksheet”) for NRCS monitoring events only. The AMW identifies the specific questions that must be answered based on easement program and the monitoring methodology. The AMW data can be collected on a hardcopy document or an approved mobile easement business tool. Regardless of the collection method, all information from the AMW must be transferred to and saved in the identified easement business tool of record (e.g., National Easement Staging Tool (NEST)) within the required timeframes identified in this subpart.
- b. Eligible entities may submit their own version of an annual monitoring report that contains information sufficient to meet the terms of the original agreement and easement deed. NRCS may provide the AMW to eligible entities as an example of minimum information to be collected during a review.

3. To determine compliance with terms and conditions, and to determine if program and site-specific objectives are being met, the person conducting the monitoring or reviewing the monitoring reports must first review the relevant documents governing that easement or 30-year contract. As applicable to the program under which the easement was procured, this review includes, but is not limited to, the following:

- a. Individual easement deed
- b. Active easement plans (conservation, management, restoration, etc.)
- c. Baseline reports
- d. Restoration designs or contracts
- e. Active or recently expired compatible use authorizations or long-term agreements
- f. Easement violation remediation plans
- g. Applicable monitoring agreements or contracts
- h. Cooperative, grant, or program agreements with entities
- i. Correspondence
- j. Easement administration actions
- k. Any other documents that will aid the person conducting the monitoring in answering the required monitoring questions

4. Annual verification of ownership is a required component of all monitoring methods. Documentation of current landownership is required in each electronic easement case file and recorded on the AMW or entity monitoring report. The party responsible for verification of the current land ownership is based on whether the land is stewardship or non-stewardship.

- a. Allowable verification methods include but are not limited to onsite visit, phone call, email, letter, or obtaining a copy of a public record (see 440 CPM §527.280(B) for a sample annual landowner reminder letter).
- b. Documentation of the verification may include but is not limited to conservation assistance notes of the in-person contact or phone call, or a copy of email, letter, or public record documents.

**Note:** Any changes in ownership shall be documented in the appropriate easement business tool and with proper documentation to document the ownership change.

- c. Stewardship Lands. States may use any methods listed in paragraph (4)(a) for annual ownership verification. Every 1 in 5 years, states must conduct an affirmative verification of current ownership through a search of public records. States must retain a copy of the public record document in the official electronic and hard copy easement case file. States may procure services of a third party to conduct a search of the public record through a contract or agreement or as part of a larger monitoring agreement. Online services will need to meet the following requirements:
    - (1) The date the attribute data was downloaded from public record source and the date of the parcel data must be provided.
    - (2) The data provided must include all owners on a subdivided easement, if applicable.
    - (3) Each individual record must be confirmed and electronically uploaded to the easement business tool of record; downloading and storing a statewide database outside the easement business tool will not meet the requirement; and placed in the hard copy easement case file.
  - d. Non-stewardship Lands. States may rely on the entity monitoring reports to document ownership every year and do not have to conduct an independent ownership verification under normal circumstances.
    - (1) For ACEP-ALE, FRPP, or RCPP entity-held easements, the entity monitoring report may be used for ownership verification annually (5 out of 5 years).
    - (2) When NRCS must exercise its contingent right of enforcement, the stewardship land ownership verification methods must be followed until enforcement is resumed by a qualified entity.
5. Timing of completing annual monitoring events.
- a. States should establish milestones for monitoring completion that are appropriate for the climate and workload of the state.
  - b. The best management practice for the monitoring process as outlined in this policy is for States to meet the following targets:
    - (1) Begin monitoring as early in each fiscal year as possible.
    - (2) Complete at least 30 percent of monitoring and enter required documentation into the appropriate easement business tool by March 31 each year.

(3) Complete at least 60 percent of monitoring and enter required documentation into the appropriate easement business tool by June 30 each year.

- c. States must complete all monitoring and enter all monitoring data into the appropriate easement business tool prior to the easement business tool shutdown date at the end of each fiscal year.

**Note:** Business tool systems often shut down prior to the end of the fiscal year for administrative purposes. The scheduled shutdown dates for all easement business tools will be published annually.

6. Stewardship Lands Imagery (to be used in completing annual monitoring). SLI is defined as direct digital, high-resolution, 15cm spatial resolution ground sample distance (GSD), 4 band data. The SLI will be used to complete each annual monitoring event for stewardship lands. The most recent SLI image date may be from the prior year due to the imagery acquisition cycle. If the most recent SLI is not available at the start of the monitoring fiscal year, occurred prior to an onsite monitoring event, or was used for a previous monitoring event, states are encouraged to use equivalent high-resolution surrogate imagery sources approved by EPD. These approved equivalent surrogate imagery sources must be more recent than the prior fiscal year's monitoring image date and be the best available high-resolution imagery (e.g., less than 1-meter spatial resolution). The image date used for the current monitoring fiscal year must not have been used for a previous monitoring event. If the most recent SLI or equivalent surrogate imagery is not available, the easement must be monitored using onsite methods.

#### B. Monitoring Methods for Stewardship Lands

1. Offsite. Offsite monitoring requires a review of the governing documents (e.g., conservation easement deed, conservation plans, easement plans, baseline reports, compatible use authorizations (CUA), or long-term agreements), an inspection of the most recent SLI or surrogate high-resolution equivalent (as outlined above) of the property, and verification of the current land ownership. The offsite monitoring questions as identified on the AMW must be answered.
- a. When completing offsite monitoring
- (1) Compare previous year SLIs or surrogate high-resolution imagery to detect potential unauthorized uses including, but not limited to:
- (a) burning,
  - (b) dumping,
  - (c) parked equipment,
  - (d) structures,
  - (e) infrastructure,
  - (f) trails and roads,
  - (g) encroachments,
  - (h) vegetation manipulation including potential grazing impacts, or
  - (i) other unauthorized uses.

- (2) Ensure maps or images used for the review are stored electronically in the appropriate easement business tool for use during investigations of potential violations.
  - (3) Review the prior year AMW.
  - (4) Review the conservation assistance notes and correspondence since the last monitoring event.
  - (5) Obtain information and input from other NRCS employees or partners that have been on the easement or 30-year contract area or in contact with the landowner since the last monitoring.
2. Onsite. Onsite monitoring requires review of the governing documents (e.g., conservation easement deed, conservation plans, easement plans, baseline reports, CUAs, or long-term agreements), an inspection of the most recent SLI or a surrogate high-resolution equivalent (as outlined above) of the property, contact with the current landowner, and an onsite inspection. NRCS will notify the landowner prior to the onsite inspection of the enrollment area and provide the landowner an opportunity to participate (see 440 CPM § 527.280(C) for a sample landowner notification of onsite monitoring). If the landowner cannot be reached or is not available, the onsite monitoring must still be conducted. When onsite monitoring is conducted, all questions on the AMW must be answered as applicable. Onsite monitoring is the only method used during the initial restoration phase of the easement.
- a. Prior to onsite monitoring:
    - (1) Contact the landowner at least one month prior to the scheduled visit. Contact the landowner a week prior to confirm visit.
    - (2) If unable to contact landowner by phone, send the landowner an email or letter asking him or her to contact your office and schedule the visit.
    - (3) Contact the eligible entity to schedule the onsite monitoring visit with the landowner and coordinate the visit with the entity monitoring, if applicable.
    - (4) Complete the ownership verification section of the AMW when the landowner is contacted.
    - (5) Compare previous year SLIs or surrogate high-resolution imagery for change detection in vegetation, structures, trails, boundary encroachment, etc.
    - (6) Review the prior year AMW.
    - (7) Review the conservation assistance notes and correspondence since the last monitoring.
    - (8) Obtain information and input from other NRCS employees or partners that have been on the easement or 30-year contract area or in contact with the landowner since the last monitoring.
    - (9) Review any prior violations and violation remediation plans.
  - b. When completing onsite monitoring:
    - (1) Walk the entire easement perimeter to check for boundary issues, such as encroachments or trespassing.
    - (2) Verify boundary signage. Note if signs are missing or need replacing.



- (3) Walk the interior of the easement property, focusing on roads, trails, or other easily accessed areas or other areas of concern (such as checking for dumping or other hazardous material concerns).
  - (4) Verify physical and legal access.
  - (5) Inspect any conservation practices, such as water control structures or other restoration infrastructure to determine if management, repairs, or replacement are needed.
  - (6) Determine if easement maintenance activities are required by NRCS (e.g., invasive species removal, pest management, repairs of water control structures).
  - (7) Determine if easement maintenance activities are required by landowner (e.g., noxious species removal).
  - (8) Confirm compliance with any existing CUAs or long-term agreements, as applicable.
  - (9) Review easement, restoration, and landowner objectives to determine if other CUAs or long-term agreements, as applicable, are needed to meet management objectives.
  - (10) Confirm current easement plan is current, if applicable.
  - (11) Determine if any potential violations exist.
  - (12) Ensure all fencing within or directly adjacent to the easement is wildlife friendly, if applicable.
  - (13) Delineate ownership on a map and any subdivisions, if applicable.
  - (14) Take photographs and GPS locations of items documented on worksheet.
- c. Employee Safety
- (1) If landowner or landowner representative prohibits NRCS from conducting an onsite visit or threatens an NRCS employee or contractor before, during, or after the onsite visit, the NRCS employee or contractor must take the following actions:
    - (a) Remove themselves from the situation.
    - (b) Report the threat to their supervisor, and, for contractors, to the designated NRCS contact.
    - (c) Thoroughly document the threat on the monitoring form and in the conservation assistance notes.
    - (d) Retain any recorded messages, emails, or written correspondence from the landowner or landowner representative in the official easement case file.
    - (e) Retain a copy of all pertinent information listed above, as well as any photographs, maps, or other documents in the official electronic and hard copy easement case file.
    - (f) Follow the steps outlined in 440 CPM § 527.280(E) for employee safety protocols.
  - (2) The prohibition or threat from a landowner or his or her representative does not prevent monitoring from being conducted. The monitoring schedule may need to be adjusted to an offsite monitoring type until the situation is resolved. The adjustment to the schedule must also be

documented in the conservation assistance notes and the easement business tool.

C. Eligible Entity Monitoring

1. Eligible entities who have entered into a cooperative, grant, or program agreement with NRCS for the acquisition of conservation easements through ACEP-ALE, FRPP, GRP, or RCPP entity-held easements are responsible for conducting the monitoring of the easement to ensure compliance with the terms and conditions of the easement deeds. The specific monitoring requirements are set forth in the cooperative, grant, or program agreements and in the terms of the individual easement deeds. At a minimum, eligible entities must conduct monitoring annually and must submit the annual monitoring report to NRCS each fiscal year (see 440 CPM § 527.280(D) for a sample annual reminder letter).

**Note:** For the WMBP, entities and partners must follow the monitoring procedures identified in the “Mitigation Banking Instrument” for each individual wetland mitigation bank.

2. Every fiscal year, NRCS will review the annual monitoring reports submitted by the eligible entities and enter the applicable information, answer the required questions, and provide other notes or observations from the entity report in the “Entity Monitoring” section of the easement business tool based on the entity’s annual monitoring report. A copy of the entity’s annual monitoring report must be uploaded into the easement business tool. NRCS will document any noncompliance or needed action items and follow up with the eligible entity in accordance with applicable program or violations and enforcement policy.

D. Observations. An observation on an easement is documenting something of concern that is reported or seen related to the easement area outside of the annual monitoring event. NRCS will document the observations in the conservation assistance notes. The observation can be of any type and can occur at any time during a fiscal year by any person within NRCS. Observations can result from a variety of ways, such as driving by the easement, a concern brought to NRCS by a third party (neighbor, landowner, or concerned citizen), or a site visit by the Field Office. If the observation requires further action, NRCS should contact the current landowner or for non-stewardship easements, the eligible entity that has primary monitoring and enforcement responsibility, to schedule an onsite monitoring of the enrollment area. An observation does not replace the annual monitoring methods.

E. Monitoring Outcome. Based on the outcome and findings of the monitoring event, states must conduct any needed next steps in accordance with the appropriate policy. If next steps include creating or updating easement plans in the appropriate easement business tool, or actions needed to address resource issues identified during the monitoring event, refer to the applicable individual program policy. If a potential or confirmed violation is identified during the monitoring, states must also follow the applicable program policy and 440 CPM 527 §527.180

to notify landowners in a timely manner. After landowners are notified of the potential or confirmed violation, the landowner will work with NRCS to plan steps towards a timely resolution of the identified violation. Policy related to the use of monitoring information to determine the easement condition status is provided in 440 CPM § 527.160.

## 527.153 Monitoring Schedules

A. In general, monitoring must occur at least once every fiscal year for every stewardship easement and 30-year contract. For monitoring of non-stewardship lands conducted by eligible entities, monitoring must occur annually, and a monitoring report must be submitted to NRCS. The following sections provide the standard monitoring schedules and identify circumstances that may require adjustments to the standard monitoring schedule (see 440 CPM § 527.280(F) for the standard monitoring schedule chart).

### B. Standard Stewardship Lands Monitoring Schedule

Onsite monitoring can occur every fiscal year; however, the following schedule provides the minimum requirements for onsite monitoring stewardship lands:

- a. Monitoring is not required in the fiscal year that the easement is closed or 30-year contract is executed as long as form NRCS LTP-22, “Final Certificate of Inspection and Possession” visit has been conducted that fiscal year. Entry into the easement business tool and ownership verification is also not required the fiscal year of closing or contract execution.
- b. Onsite monitoring must be conducted during the fiscal year immediately following easement closing.
- c. Onsite monitoring must be conducted each fiscal year thereafter until restoration is reported as complete in the easement business tool and for 3 fiscal years following the fiscal year that restoration is reported as complete in the easement business tool. If restoration was not required, the restoration completion date entered in the easement business tool should be the date of easement closing or 30-year contract execution, and onsite monitoring must be performed for 3 fiscal years following the fiscal year of easement closing or 30-year contract execution.
- d. In the fourth fiscal year after the completion of restoration as defined above, a repeating 5-year monitoring cycle begins. The 5-year cycle consists of 4 consecutive fiscal years of offsite monitoring followed by a fifth fiscal year of onsite monitoring.
- e. For stewardship FRPP (FRPP easements where the United States is listed as the grantee or co-holder and were generally but not exclusively enrolled in fiscal years 2006-2008), the eligible entity completes monitoring for 4 fiscal years after closing and then NRCS, with the eligible entity, completes onsite monitoring in the fifth fiscal year of the 5-year cycle. (See 440 CPM § 527.280 for the standard monitoring schedule chart). This will repeat into perpetuity.

### C. Adjustments to the Standard Stewardship Land Monitoring Schedule

1. In general, onsite monitoring is the best tool for maintaining relationships with the landowner, ensuring compliance with the terms and conditions of the easement or 30-year contract, and achieving best possible conservation outcomes. Therefore, at any time during the 5-year cycle described above, the state may elect to conduct an onsite monitoring instead of an offsite monitoring.
2. Because onsite monitoring is also a critical tool for managing the risk to the agency and preventing more serious issues, the following circumstances require onsite monitoring to be conducted more frequently than the one-in-five-year cycle, as follows:
  - a. If there is an ownership change and the new owner was not a part of the original easement or 30-year contract transaction, then onsite monitoring is required for two consecutive fiscal years following the ownership change, after which the state may resume the 5-year cycle.
  - b. If an easement has an active easement or management plan that requires NRCS oversight, then onsite monitoring is required for two consecutive fiscal years after new management recommendations have begun. If NRCS verifies that the prescribed management practices are being followed per NRCS standards during the two fiscal years of onsite monitoring, the state may resume the 5-year cycle.
  - c. If a CUA or long-term agreement is issued on an easement for a new compatible or long-term use, for a compatible or long-term use that requires NRCS oversight (i.e., grazing, haying, etc.), or for a previously issued CUA or long-term agreement that has changed prescriptions, then onsite monitoring is required for two consecutive fiscal years after the CUA or long-term agreement is approved. If NRCS verifies that the landowner is implementing the compatible use or long-term activities in accordance with the CUA or long-term agreement terms during the two fiscal years of onsite monitoring, the state may resume the 5-year cycle.
  - d. If an easement violation has occurred, onsite monitoring is required in the fiscal year of resolution and for two fiscal years following the fiscal year of violation resolution. When there is an unresolved violation, onsite monitoring is required during each of the fiscal years that the violation is unresolved and for two fiscal years following the violation resolution. If NRCS verifies that the violation has been resolved and there are no further issues identified during the two years of onsite monitoring following the cured violation, the state may resume the 5-year cycle described above.
  - e. For all stewardship easements within a Federally or state declared disaster area or where any other potentially damaging event has occurred (e.g., severe storm, hurricane, dam breach, etc.), onsite monitoring is required in the fiscal year of the potentially damaging event (to document the change in the baseline condition or to update the easement plan). If the easement plan is updated or a CUA or long-term agreement is issued to help with

clean up after a damaging event, follow steps identified above for onsite monitoring schedule outside of the standard schedule.

- f. A documented observation of an issue on or adjacent to the easement area may have further action by NRCS and require an onsite monitoring.

#### D. Standard Non-Stewardship Lands Monitoring Schedule

1. For all non-stewardship lands, the eligible entity is required to submit an annual monitoring report to NRCS every fiscal year.
2. For all non-stewardship GRP easements, NRCS is required to complete an onsite monitoring every 1 in 5 fiscal years. The eligible entity completes monitoring for four (4) fiscal years after closing and then NRCS, with the eligible entity, completes onsite monitoring in the fifth fiscal year of the 5-year cycle. (See 440 CPM § 527.280 for the standard monitoring schedule chart). This will repeat into perpetuity.
3. For all non-stewardship lands enrolled through ACEP-ALE, FRPP, RCPP-ACEP-ALE or RCPP entity-held easements, all annual monitoring will be conducted by the eligible entity. NRCS may accompany the eligible entity at their request during an onsite monitoring. NRCS does not conduct its own monitoring of these easements unless NRCS determines it must exercise the United States' right of enforcement or to review highly erodible cropland plans. States must contact the national program manager for additional guidance prior to NRCS conducting independent monitoring on these types of non-stewardship land easements.

### 527.154 Business Tools, Reporting, and Document Management Requirements

- A. All monitoring events, on stewardship and non-stewardship lands, including onsite, offsite, and landowner verification must be documented in the appropriate easement business tool within the same fiscal year the monitoring was performed to be compliant with this policy. The monitoring date is considered to be the date monitoring is completed. The monitoring methods are described in section 527.152(B).
- B. Easement business tool
  1. Timelines for Data Entry
    - a. For stewardship land monitoring performed by NRCS or contractor, the monitoring must be documented by NRCS in the easement business tool by the following timelines:
      - (1) For events with no suspected violations, within 60 calendar days of the monitoring event and/or prior to the end of the fiscal year that the monitoring event occurred in (either September 30 or the last date of the easement business tool access for that fiscal year).

- (2) For events with suspected violations, within 15 business days of the monitoring event and prior to the end of the quarter the monitoring event occurred.
  - b. For stewardship land monitoring performed by a partner, the monitoring must be documented by NRCS in the easement business tool by the following timelines:
    - (1) For events with no suspected violations, within 60 calendar days of receipt of the report and/or prior to the end of the fiscal year that the monitoring event occurred in (either September 30 or the last date of the easement business tool access for that fiscal year).
    - (2) For events with suspected violations, within 15 business days of receipt of the report and prior to the end of the quarter the monitoring event occurred, unless date received negates this possibility.
  - c. For non-stewardship land monitoring performed by eligible entity, the monitoring must be documented by NRCS in the easement business tool within 60 calendar days of receipt of the report and/or prior to the end of the fiscal year that the monitoring event occurred in (either September 30 or the last date of the easement business tool access for that fiscal year).
  - d. If data for the AMW is captured in an approved mobile tool, that data must still be entered into the approved system of record in accordance with these timelines to be considered complete.
2. Documentation in easement business tool includes the creation of a monitoring record, answering the required questions based on easement type and monitoring method, and uploading either the AMW and/or the entity report.
- a. Other information, including all ownership documentation records, notes that were taken during contact with the landowner or any public records, email correspondence, or letters sent to the landowner and any updated maps or observations, must be included in the electronic and hard copy easement case file.
  - b. Upon entry of the monitoring data into easement business tool, the condition status of the stewardship land easement will be automatically generated according to 440 CPM § 527.160 where applicable.

### C. Reporting

- 1. For stewardship lands, the monitoring information entered into the easement business tool and the resultant system-generated easement condition status will be used as the basis for complying with the financial reporting requirements under the Statement of Federal Financial Accounting Standards 29 (SFFAS 29).
- 2. The agency relies solely on the monitoring data entered by states in the easement business tool as the official source of data from which it queries and submits the required annual financial reports. If data is not entered in the easement business tool by the established timeline, the monitoring is not

completed. Each fiscal year the state conservationist, regional conservationist, and Chief are provided a list of the easements that were not assessed.

- D. Document Management. States must upload an electronic copy of the AMW and entity monitoring reports to the easement business tool. Additionally, states may keep a hard copy of these documents in their hard copy easement case files. Hard copies of the monitoring documentation should be stored in fireproof and waterproof safes or filing cabinets during remediation of violations, appeals, and potential litigation.

## 527.155 Quality Assurance

- A. AMWs, entity monitoring reports, and accompanying photos, maps, notes, or other documents, must be reviewed annually by an NRCS employee according to the state quality assurance plan or other established state-level quality assurance effort. The information in the monitoring documents should be compared with the data reported in the easement business tool for accuracy. Based on the state quality assurance plan or other review, this review may be conducted on all or a subset of the monitoring documents completed for the fiscal year being reviewed.
1. Monitoring for which NRCS is responsible may be conducted by non-NRCS personnel through agreements, contracts, or, under ACEP-WRE only, through formal delegations. These formal delegations are detailed in Title 440 Conservation Programs Manual, Part 528 “Agricultural Conservation Easement Program,” Section 528.100(D). For monitoring completed for NRCS by a third party through a contract or agreement, all of the monitoring documents, including the AMW must be reviewed by an NRCS employee as required in the terms of the contract or agreement and in addition to reviews conducted in accordance with the state quality assurance plan and then recorded into the easement business tool.
  2. NRCS employees must ensure potential or confirmed noncompliance activities identified in any AMW or entity monitoring reports are acted upon in a timely manner. Timeliness for notifying landowners of noncompliance with deed terms are detailed in 440 CPM § 527.180.
  3. States must ensure that an NRCS employee completes monitoring at least once in the 5-year cycle, with the exception of non-stewardship ACEP-ALE, FRPP and RCPP entity-held easements, which are monitored by the eligible entity.
  4. It is recommended that states utilize easement business tool monitoring reports to assist in tracking the completion of a monitoring by an NRCS employee if monitoring is otherwise being done by a third party on NRCS’ behalf.
  5. As part of the state quality assurance plan or other quality assurance effort, NRCS must review the monitoring schedule to ensure the proper monitoring method is completed.

- a. If the monitoring schedule is adjusted due to employee safety (see section 527.152(B)(2)(c)) or other valid reason, the adjustment must be documented in the official easement case file.
  - b. If the monitoring schedule is not followed due to choosing the wrong monitoring method or failure to complete a monitoring method, then a corrective action plan (CAP) is required for the state. Failure to follow the CAP may result in a state losing its authority to acquire new easements until compliance is achieved.
- B. Oversight and quality assurance of state monitoring activities will be completed by the EPD through onsite and offsite reviews both stand alone and as part of other EPD reviews. Data from the easement business tools will be utilized as part of these activities and may be periodically spot checked.