



United States Department of Agriculture

Compatible Use Authorizations



What is a Compatible Use Authorization (CUA)?

A compatible use authorization (CUA) is required for easement activity not reserved under the recorded Warranty Easement Deed. All rights not specifically reserved to the landowner under the warranty easement deed or 30-year contract require site-specific evaluation and specific authorization from NRCS prior to implementation. The rights reserved by the landowner on the easement area are listed in the Warranty Easement Deed and generally include title conveyance and transfer, quiet enjoyment (hiking, bird watching, horseback riding, etc.), control of public access, and undeveloped recreational uses (hunting, fishing, kayaking, etc.). CUAs are required for any landowner activities affecting the hydrology or vegetation of the enrollment area, even when the landowner is carrying out management activities determined necessary by NRCS that correlates to an approved Wetland Reserve Plan of Operations (WRPO).

What CUA activities are available for a U.S. held Easement?

All CUAs require site-specific evaluation and specific authorization from NRCS prior to landowner implementation. NRCS will evaluate whether any requested activity is consistent with the program purposes and restoration objectives of the easement. NRCS will only authorize landowner activities that further the long-term protection and enhancement of the wetland functions and other natural values of the easement area as determined by NRCS. When evaluating the effects an action will have on the enrolled area, a determination of “no adverse impact” is insufficient justification for authorizing an activity.



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How long is a CUA good for?

Since wetland and biological systems are dynamic and resource conditions change over time, NRCS will not determine that any use is permanently compatible with the project. CUAs will not exceed 10 years. Additionally, NRCS reserves the right to modify or rescind a CUA at any time if NRCS determines that such activities do not further the protection and enhancement objectives of the easement or that the landowner has failed to comply with specified terms and conditions. While landowners can realize economic returns from an activity authorized on the easement area, they will not be assured of any specific level or frequency of such use. CUAs do not vest any right of any kind to the Landowner, including transfer of CUA conditions to another individual.

When is a CUA complete and ready to be followed?

Only CUAs signed by the NRCS State Conservationist or by the Assistant State Conservationist for Programs and the current landowner are valid. All CUAs must be signed by all parties before beginning any activities. Management recommendations from organizations other than NRCS do not satisfy the need or approval for a CUA. Any management recommendations provided by outside organizations (conservation districts, salmon enhancement groups, tribes, or other government agencies such as United States Fish and Wildlife) must be submitted to NRCS for review and approval through a CUA before implementation on the easement area. NRCS will notify landowners in writing whether the requested use is approved, and of the terms and conditions of such approval, including timing, frequency, duration, extent, and location.

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Below are some examples of acceptable potential CUAs. Since all CUAs are site specific, NRCS determines which of these may not be allowed for all government held easements.



Semipermanent hunting or observation blinds

CUAs for hunting or observation blinds must be consistent with the long-term protection and enhancement of the wetland and other natural values of the easement. Unless otherwise stated in the Warranty Easement Deed, the CUA will describe the number, locations, and features of blinds. Semipermanent hunting or observation blinds may have external dimensions of no more than 80 square feet and 8 feet in height. Disturbance to wildlife from location, placement, installation, maintenance, and use, especially during critical periods such as night roosting and nesting season, must be kept to a minimum. The landowner is responsible for all costs associated with the removal of the blind and the repair of any impacts to the easement resulting from the removal.



Haying or Mowing Requirements

The United States possesses the right to prohibit all haying and mowing unless NRCS determines that such haying or mowing will further the protection and enhancement of the wildlife habitat and wetland functions and values. Haying or mowing must ensure maintenance of adequate wildlife habitat quality and other wetland functions and values. CUAs are limited to mowing for access to manage and maintain such structures as levee tops and nature trails, or as prescribed to restore and maintain native plant communities or manage succession for special-status species. Any haying or mowing must be scheduled to occur between July 15 and September 1 in order to protect nesting cover for ground nesting birds (for example, Savannah Sparrow, Towhee, Junco, Meadowlark, Mallard, Pheasant and Chukar). The CUA must ensure there is adequate regrowth of vegetation to provide winter cover and early spring nesting cover. Haying or mowing will not be allowed in areas where woody vegetation is being established or maintained. Exceptions to the timing and frequency of haying or mowing may be considered by the State Conservationist.



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Grazing Requirements

Grazing CUAs must contribute to establishment, maintenance, or improvement of wildlife habitat quality or other identified wetland functions and values for a CUA to be considered as outlined in the Washington State Wetland Restoration Criteria and Guidelines (WRCG) document. A required grazing management plan will be developed and followed to manage the vegetation to ensure the long-term functioning of the enrolled area or to restore and maintain the native plant communities on the enrolled area. CUAs will describe the intensity and timing of the grazing and will be terminated if necessary, to ensure that optimum functions and values are achieved on the enrolled area. As wetland hydrology and adjacent lands are restored and protected, the vegetation will change in composition and quality, which may necessitate modifying the

grazing management plan and associated CUAs from year to year. Grazing must be timed by NRCS and landowner(s) to ensure adequate regrowth of vegetation for winter and spring habitats, as appropriate. Grazing will not be permitted if restoration of woody vegetation is a component of the restoration plan, unless grazing can be prescribed so the timing and intensity will improve the overall habitat in the woody vegetation area and will not negatively impact establishment and survival of woody vegetation. Grazing will not be permitted if there are any adverse effects on ground-nesting birds and other wildlife. Grazing is not permitted in the same year and on the same acreage as haying and mowing unless authorized in writing by the national ACEP-WRE manager, in consultation with the NRCS national biologist.



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Forest Management

The United States possesses the right to prohibit all forest management activities on the easement, unless NRCS determines that forest management activities will further the wildlife habitat and wetland functions and values of the easement. A forest management plan is required to be developed with the primary goal to restore, protect, and enhance wildlife habitat and wetland functions and values within the forested portions of the easement before any forest management activities may be considered for a CUA. The completion of an NRCS-approved forest management plan alone does not guarantee that forest management activities will be authorized on the easement area. Maximization of timber harvest for economic gain is not a consideration in developing the forest management plan or authorizing a CUA. However, any proceeds derived from the sale of timber harvested in compliance with the forest management CUA, may be kept by the easement owner. In addition, NRCS must inspect any timber harvest operation during implementation to ensure the CUA is being implemented as written. Forest management activities must be implemented in a manner and during timeframes that will minimize impacts to forest-nesting birds (for example, Woodpecker, Owl, Chickadee, Thrush, Wood Duck and Merganser). NRCS will not authorize forest management activities that may negatively impact at-risk or listed species, or fragile or rare habitats found on the easement. Except where authorized by the national ACEP-WRE manager in consultation with the NRCS national biologist, clearcutting of forested habitat is not permitted. Clearcutting may only be considered in unique situations where NRCS wildlife and forestry professional agree that forest conditions or special wildlife habitat needs require such a measure.



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Wildlife Food Plot Requirements

The food plot is determined necessary by NRCS to complete the planned functions and values of the enrolled area. Location, configuration, spatial arrangement, and other details are required by NRCS for the specific site. Food plots must be limited to no more than 5 percent of the total

acreage of the enrolled area. Food plots will be located or configured to avoid or minimize habitat fragmentation. Wildlife food plots cannot be harvested as a commodity crop. Landowners are responsible for being aware of and in compliance with all applicable State and Federal wildlife baiting laws applicable to local and migratory wildlife species.



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Herbaceous Weed Control

Control of Class A and County B designates noxious weeds on an easement is a responsibility of the landowner as reflected in each easement deed. Vegetative pest prevention and control is considered an activity and therefore requires a CUA before the landowner may proceed with any type of treatment. Whether mechanical, chemical, cultural, or biological, treatment must comply with all Federal and State laws and all applicable NRCS National policy and State guidance, including General Manual, Title 190, Part 404. Avoidance or mitigation efforts must be taken to ensure the wetland and wildlife habitat resources present on the easement are not compromised.





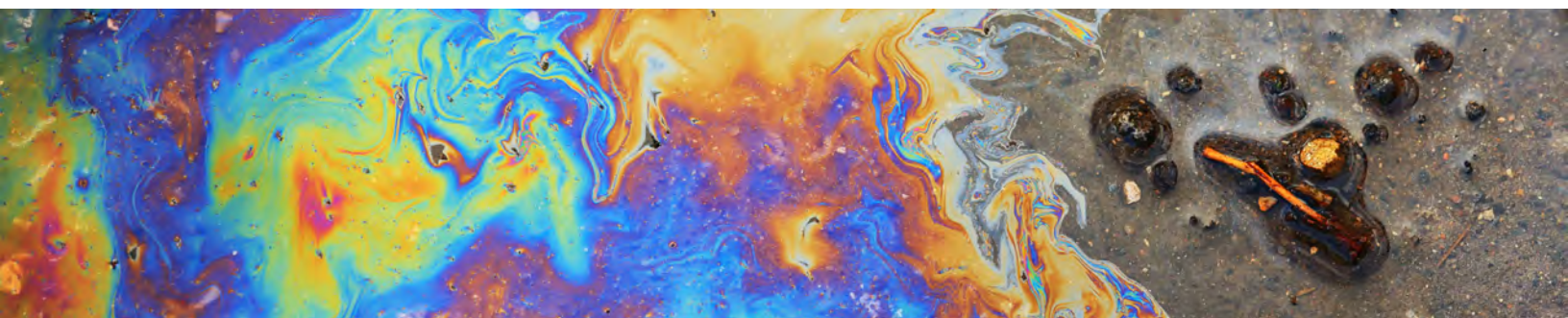
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Violations



Violations

The purposes of monitoring and enforcement activities are to ensure that all easements and 30-year contracts under NRCS jurisdiction achieve the purposes of the programs under which they were acquired and to ensure that the resources and taxpayer investment are adequately protected. Washington NRCS will not consider any CUA requests on any U.S. held easement that is in a current violation status until such violations are remedied in accordance with a Washington NRCS Violation Remediation Plan (VRP), or unless approved in writing for the official case file by ASTC-P or STC. In addition, if a CUA is not properly followed and results in a violation, existing CUA(s) will be terminated by NRCS at the discretion of the ASTC-P and STC. Significant and/or recurring violations will be handled by the Office of General Council (OGC).



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