



N.C. Department of Agriculture & Consumer Services
N.C. ADFP Trust Fund
Conservation Easement Monitoring Policy and Guidelines



I. Purpose

The N.C. Agricultural Development and Farmland Preservation (ADFP) Trust Fund, administered by the Farmland Preservation Division of the N.C. Department of Agriculture & Consumer Services, provides grants for agricultural conservation easements on family farms throughout the state of North Carolina.

The ADFP Trust Fund will “hold grantees accountable for the expenditure of State funds by performing monitoring and oversight functions,” in accordance with Administrative Code 09 NCAC 03M “Uniform Administration of State Grants” and Subsection .0400, pursuant to N.C.G.S. 143C-6-22 & 23. The ADFP Trust Fund will work with the grantee to ensure compliance with the terms and conditions of the easement. Monitoring is necessary to make certain the easements are maintained while ensuring a productive relationship between the funding source (ADFP Trust Fund), grantee (counties or private nonprofit conservation organizations, according to N.C.G.S. 106-744), and landowner.

II. Definition of Agricultural Conservation Easements

According to N.C.G.S. 106-744, an “agricultural conservation easement” means a negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Agricultural conservation easements may be perpetual or term-limited in duration. The agricultural conservation easement may permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations, provided it is allowed in the original recorded easement.

III. Involved Parties

The ADFP Trust Fund, administered by the Commissioner of Agriculture, is the funding source for purchasing conservation easements. The ADFP Trust Fund has full-time staff located in Raleigh, North Carolina. Part-time field staff members are located throughout the state. The ADFP Trust Fund Monitoring and Stewardship Coordinator is the monitoring program manager, unless otherwise designated by the Farmland Preservation Division Director. ADFP Trust Fund Field Staff and the Monitoring and Stewardship Coordinator will conduct on-site monitoring. On-site monitoring visits are assigned by the Monitoring and Stewardship Coordinator. In-office monitoring reviews are the responsibility of the Monitoring and Stewardship Coordinator.

The ADFP Trust Fund Advisory Committee is administratively located within the N.C. Department of Agriculture and Consumer Services. The Advisory Committee will advise the Commissioner on the prioritization and allocation of funds, the development of criteria for awarding funds, guidelines for monitoring easements and projects, program planning, and other areas where monies from the ADFP Trust Fund can be used to promote the growth and development of family farms in North Carolina.

Grantees are counties or private nonprofit conservation organizations. **Grantees are the first point of contact for monitoring conservation easements, discussing potential violations of contracts and/or recorded easements and enforcement of deed terms. Grantees are required to monitor the easement at least once a year and complete annual monitoring reports for the length of the term**

of the easement. Grantees shall invite all funding partners and easement co-holders to join the monitoring visit.

Landowners will work with grantees to ensure compliance with the terms and conditions of conservation easements and will be notified of site visits by the grantee.

IV. Grantee Monitoring Responsibilities and Expectations

After the approval of final budget and progress reports, and the closeout of the contract, Grantees will complete and submit the online “Grantee Monitoring Report – Perpetual or Term Easement” to ADFP Trust Fund office annually on or before December 31, beginning the year after the recording of the easement. The “Grantee Monitoring Report – Perpetual or Term Easement” is accessed through NC ADFP Trust Fund’s website. For the direct link to the portal, click [here](#). Grantees will be required to create a Formsite account to access the report portal. Grantees should follow the prompts in the online portal to complete and submit their report.

Failure to file annual monitoring reports on or before December 31 of each year shall constitute a violation of the easement and the grant contract.

- Each January, ADFP Trust Fund staff will inform grantees of the easements scheduled for a combined site visit with ADFP Trust Fund personnel during that calendar year. Grantees will coordinate these visits and promptly notify the relevant ADFP Trust Fund staff members to ensure simultaneous participation. The responsible entities will also ensure the landowner is informed about the site visit and the monitoring method to be employed. The use of unmanned aerial vehicles (UAVs), or drones, can supplement the in-person site visit with the landowner’s permission. If drones are involved, the entity will obtain the landowner’s consent. Regardless of the monitoring method, every effort will be made to thoroughly assess as much of the easement area as possible.
- Remote Monitoring Guidelines (third party satellite or commercial imagery): Entities must annually assess the suitability of remote monitoring for each conservation easement property. It is recommended that if entities conduct remote monitoring, they rotate between remote and in-person monitoring. At a minimum, in-person monitoring is required the year in which the following conditions occur: a change in landownership, the landowner indicates interest in land management changes, or a property has a violation within the last five years. If a potential violation is identified from remote monitoring, an in-person visit must occur within the same year.

NCDA&CS may request follow-up in-person monitoring visits when the imagery does not meet the criteria above or is insufficient to verify a property’s on-the-ground conditions. Remote imagery should be captured within the current calendar year and must have a spatial resolution no coarser than 1.5 meters.

V. ADFP Trust Fund Staff Monitoring Roles and Responsibilities

The ADFP Trust Fund staff monitoring methods include but are not limited to:

- In-person monitoring visit: ADFP Trust Fund staff are required to physically visit the easement the first year after the easement is recorded and every three years thereafter. These monitoring visits will be coordinated with the grantee’s annual monitoring visit. All interested parties will be invited.

- In-office: ADFP Trust Fund staff will review grantee monitoring reports and verify the information from the reports.

Site visit protocol for ADFP Trust Fund staff:

- Communicate with the grantee about the site visit. ADFP Trust Fund staff and grantee will coordinate annual monitoring visits to the extent possible.
- Prior to the site visit ADFP Trust Fund staff will review easement survey, BDR, and previous years' "Grantee Monitoring Report – Perpetual or Term Easement".
- Site visits can be conducted on foot, by vehicle or by drone as long as proper inspection of entire easement area is completed and necessary landowner permission is obtained.
- Compile documentation, including, but not limited to, photographs, including land condition, and current use data.
- Complete "ADFP Trust Fund Staff Monitoring Report – Perpetual or Term Easement."
- A site visit will occur the first year after the recording of the easement, and then every three (3) subsequent years unless otherwise directed.

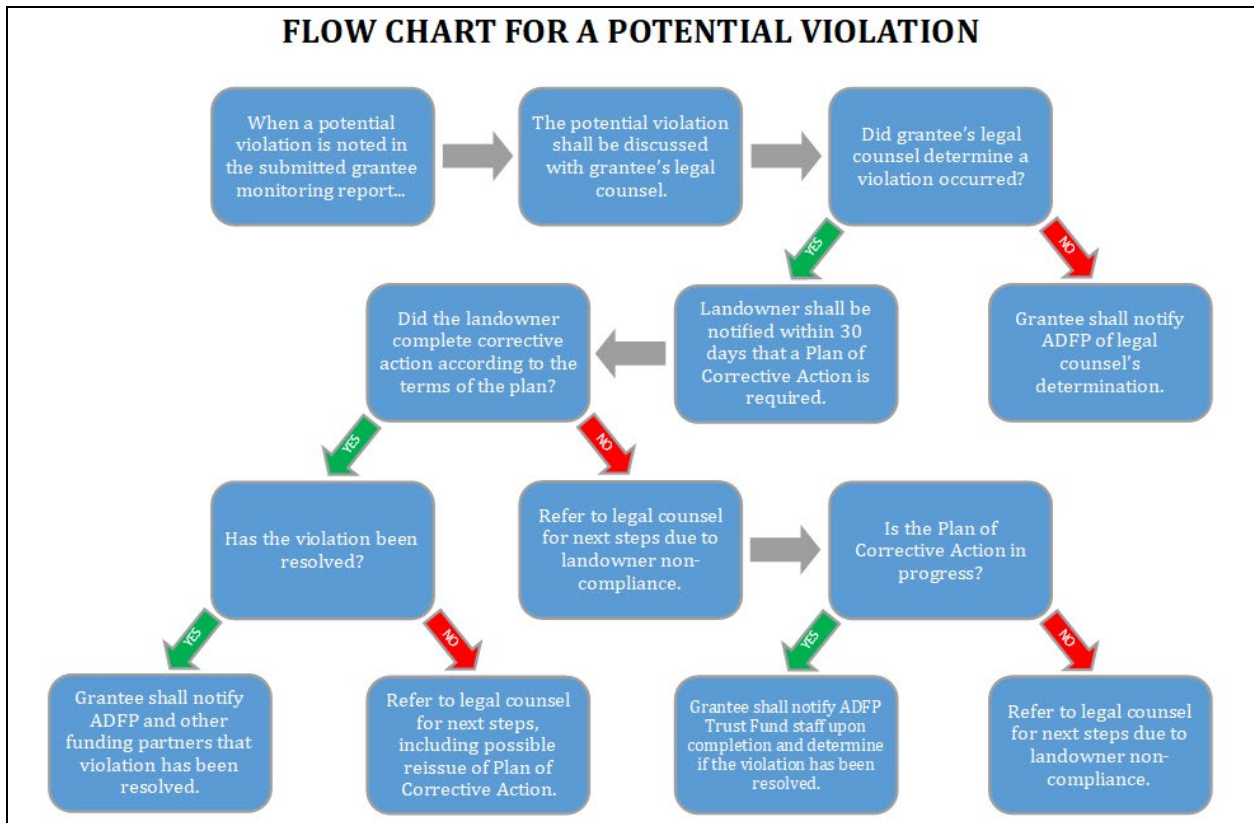
In-office monitoring protocol for ADFP Trust Fund staff:

- Review completed "Grantee Monitoring Report – Perpetual or Term Easement."
- Review the most current aerial photography data available (e.g. GIS via Multi-Hazard Threat Database (MHTD), Google Earth, etc.).
- Compare aerial photography with the Baseline Documentation Report and most recent ADFP Trust Fund Staff In-Office Monitoring Report.
- Complete "ADFP Trust Fund Staff In-Office Monitoring Report – Perpetual or Term Easement."
- In-office monitoring will be completed every three (3) years; the year prior to an ADFP TF staff monitoring site visit.

VI. Additional Guidance and Reference - Potential Violations

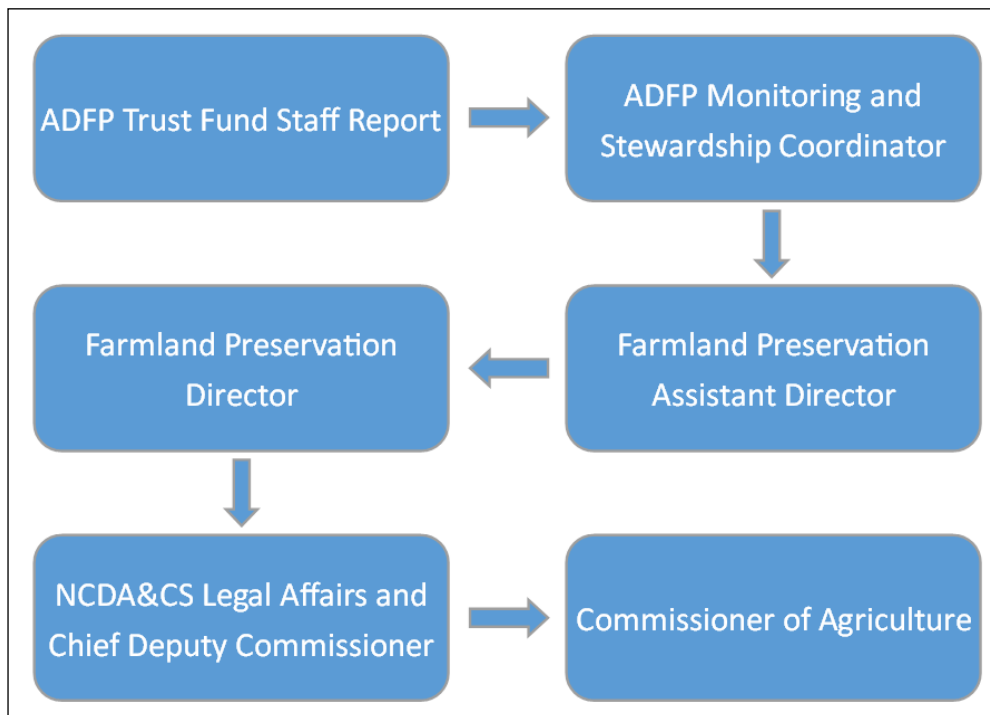
Grantees shall note any potential violation in their annual monitoring report and discuss with their organization's legal counsel. If the grantee's legal counsel determines a violation has occurred, the landowner shall be notified within 30 days that a Plan of Corrective Action is required (see chart below):

FLOW CHART FOR A POTENTIAL VIOLATION



The Plan of Corrective Action must be a comprehensive plan detailing the corrective action that will be taken to remedy all violations and bring the project back in compliance.

In the event the grantee is unwilling or unable to enforce the terms of the easement, ADFP TF staff will note the potential violation in their annual monitoring report and start the internal review process (see chart below):



ADFP Trust

Fund Staff are

to follow appropriate approved ADFP Trust Fund Policies and Guidelines as directed by the ADFP Trust Fund Advisory Committee and the Commissioner of Agriculture, i.e. ADFP Trust Fund Grantee Eligibility Status.

VII. Monitoring Documents

The following documents will be used for the monitoring of conservation easements:

- Grantee Monitoring Report – Perpetual or Term Easement
- ADFP Trust Fund Staff Monitoring Report – Perpetual or Term Easement
- ADFP Trust Fund Staff In-Office Monitoring Report – Perpetual or Term Easement
- Documents from the recorded conservation easement, including, but not limited to, recorded survey, baseline documentation report, previous monitoring reports, and the deed of conservation easement.

VIII. Document Filing, Retention, and Disposal

All completed reports, including maps from GIS and supplemental documentation from grantees, will be scanned for electronic storage and printed for paper files. The North Carolina State Property Office, Land Asset Maintenance database (<http://www.ncspo.com/fis/dbLandAsset.aspx>) lists all ADFP Trust Fund funded easements. Electronic copies of monitoring documents will be stored on the ADFP Trust Fund server and SharePoint page.

All monitoring documents will be filed, retained, and disposed of pursuant to the ADFP Trust Fund records retention schedule.