

the inland fresh areas corresponding to such types in any successor wetland classification system developed by the Department of the Interior), (2) artificially developed inland fresh areas that meet the description of the inland fresh areas described in clause (1) of this sentence, and (3) such other wetland types as the Secretary may designate. No agreement shall be entered into under this chapter concerning land with respect to which the ownership or control has changed in the two-year period preceding the first year of the agreement period unless the new ownership was acquired by will or succession as a result of the death of the previous owner, or unless the new ownership was acquired prior to July 1, 1971, under other circumstances which the Secretary determines, and specifies by regulation, will give adequate assurance that such land was not acquired for the purpose of placing it in the program, except that this sentence shall not be construed to prohibit the continuation of an agreement by a new owner or operator after an agreement has once been entered into under this chapter. A person who has operated the land to be covered by an agreement under this chapter for as long as two years preceding the date of the agreement and who controls the land for the agreement period shall not be required to own the land as a condition of eligibility for entering into the agreement. Nothing in this section shall prevent an owner or operator from placing land in the program if the land was acquired by the owner or operator to replace eligible land from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain. The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments or compensation under this program. No provision of this chapter shall prevent an owner or operator who is participating in the program under this chapter from participating in other Federal or State programs designed to conserve or protect wetlands.

(Pub. L. 91-559, §3, Dec. 19, 1970, 84 Stat. 1469; Pub. L. 96-182, §§1, 2, Jan. 2, 1980, 93 Stat. 1317.)

#### AMENDMENTS

1980—Pub. L. 96-182, in provisions relating to the re-examination of payment rates, substituted provisions requiring the Secretary to make such reexamination, beginning in 1980, at the beginning of the fifth year of any ten-year initial or renewal period and before the beginning of any renewal period, and make adjustments in accordance with section 1304 of this title, and in agreements in effect for five years or more, requiring the Secretary to make adjustments in the light of current land and crop values for provisions requiring reexamination and adjustment at the beginning of the ten-year renewal period only, and, in definition of "wetlands", designated existing provisions as cl. (1) and, among other changes, substituted types 1-7 for types 1-5, and added cls. (2) and (3).

#### § 1303. Terms of agreement; required provisions

In the agreement between the Secretary and an owner or operator, the owner or operator shall agree—

(1) to place in the program for the period of the agreement eligible wetland areas he des-

ignates, which areas may include wetlands covered by a Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary;

(2) not to drain, burn, fill, or otherwise destroy the wetland character of such areas, nor to use such areas for agricultural purposes, as determined by the Secretary;

(3) to effectuate the wetland conservation and development plan for his land in accordance with the terms of the agreement, unless any requirement thereof is waived or modified by the Secretary pursuant to section 1306 of this title;

(4) to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder upon his violation of the agreement at any stage during the time he has control of the land subject to the agreement if the Secretary determines that such violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the agreement;

(5) upon transfer of his right and interest in the lands subject to the agreement during the agreement period, to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder during the year of the transfer unless the transferee of any such land agrees with the Secretary to assume all obligations of the agreement;

(6) not to adopt any practice specified by the Secretary in the agreement as a practice which would tend to defeat the purposes of the agreement; and

(7) to such additional provisions as the Secretary determines are desirable and includes in the agreement to effectuate the purposes of the program or to facilitate its administration.

(Pub. L. 91-559, §4, Dec. 19, 1970, 84 Stat. 1470.)

#### § 1304. Annual payment; adjustment

In return for the agreement of the owner or operator, the Secretary shall (1) make an annual payment to the owner or operator for the period of the agreement at such rate or rates as the Secretary determines to be fair and reasonable in consideration of the obligations undertaken by the owner or operator; and (2) bear such part of the average cost of establishing and maintaining conservation and development practices on the wetlands and adjacent areas for the purposes of this chapter as the Secretary determines to be appropriate. In making his determination, the Secretary shall consider, among other things, the rate of compensation necessary to encourage owners or operators of wetlands to participate in the water bank program. The rate or rates of annual payments as determined hereunder shall be increased, by an amount determined by the Secretary to be appropriate, in relation to the benefit to the gen-