

maintenance or replacement of an eligible practice, but only if NRCS determines the practice is needed to meet the objectives of the program, or that the failure of the original practice was due to reasons beyond the control of the participant.

§ 636.7 The Wildlife Habitat Development Plan (WHDP).

(a) The participant develops a WHDP with the assistance of NRCS or other public or private natural resource professionals, and the WHDP is approved by the participant, NRCS, and the local conservation district. A WHDP encompasses the parcel of land that has the wildlife habitat conditions that are of concern to the participant.

(b) The WHDP forms the basis for the agreement and is incorporated therein. The WHDP includes a schedule for installation of the wildlife habitat development practices, maintenance, and related requirements to maintain the habitat for the life of the cost-share agreement.

(c) The WHDP may be modified in accordance with § 636.9.

§ 636.8 Cost-share agreements.

(a) To apply for WHIP cost-share assistance, a person must submit an application for participation in the WHIP at a USDA office or to an NRCS representative.

(b) A WHIP cost-share agreement shall:

(1) Incorporate all portions of a WHDP;

(2) Be for a period of 5 to 10 years, unless provisions of paragraph (c) of this section apply;

(3) Include all provisions as required by law or statute;

(4) Specify the requirements for operation and maintenance of applied wildlife habitat development practices;

(5) Include any participant reporting and recordkeeping requirements to determine compliance with the cost-share agreement and program;

(6) Be signed by the participant. When the participant is not the owner, concurrence from the owner is required; and,

(7) Include any other provision determined necessary or appropriate by the NRCS representative.

(c) The Chief may allow a cost-share agreement period for less than five years in situations where wildlife habitat is threatened as a result of a disaster and emergency measures are necessary to address the potential for dramatic declines in one or more wildlife populations.

§ 636.9 Modifications.

(a) NRCS, with the concurrence of the conservation district, may approve modifications to a WHDP where such modifications are acceptable to the parties.

(b) NRCS may approve modifications to the cost-share agreement where such modifications are acceptable to the parties.

(c) Any modifications made under this section must meet WHIP program objectives, and must be in compliance with this part.

§ 636.10 Transfer of interest in a cost-share agreement.

(a) (1) If the ownership or operation of the land changes during the term of the cost-share agreement, NRCS shall modify the cost-share agreement to reflect the new interested persons and new divisions of payments. NRCS shall make eligible cost-share payments upon presentation of an assignment of rights or other evidence that title had passed.

(2) With respect to any and all payments owed to participants who wish to transfer ownership or control of land subject to a cost-share agreement, the division of payment shall be determined by the original party and that party's successor. In the event of a dispute or claim on the distribution of cost-share payments, NRCS may withhold payments without the accrual of interest pending a settlement or adjudication on the rights to the funds.

(b) (1) If such new owners or operators are not willing to assume the responsibilities posed in an existing WHIP cost-share agreement, NRCS shall terminate the cost-share agreement and may require that all cost-share payments may be forfeited, refunded, or both.

(2) The signatories to the cost-share agreement shall be jointly and severally responsible for refunding the cost-