

NRCS will be voided. As such, the landowner will be responsible to FWS or NMFS for any violations of the ESA.

(2) *SHA or CCAA.* (i) NRCS will provide technical assistance to help participants design and use their HFRP restoration plan for the dual purposes of qualifying for HFRP financial assistance and as a basis for entering into a SHA or CCAA with FWS or NMFS and receiving an associated permit under section 10(a)(1)(a) of the ESA.

(ii) In exchange for a commitment to undertake conservation measures, the landowner may receive a permit under section 10 of the ESA from FWS or NMFS authorizing incidental take of species covered by the SHA or CCAA that may occur as a result of restoration actions, management activities, and for a listed species covered by a SHA, a return to baseline conditions at the end of the applicable period.

(iii) All SHAs and associated permits issued by FWS or NMFS are subject to the Safe Harbor Policy jointly adopted by FWS and NMFS according to the regulations at 64 FR 32717 or applicable subsequently adopted policy, and SHAs with FWS also are subject to regulations at 50 CFR 17.22(c) for endangered species or 50 CFR 17.32(c) for threatened species, or applicable subsequent regulations.

(iv) All CCAAs and associated permits issued by FWS or NMFS are subject to the CCAAs policy jointly adopted by FWS and NMFS according to the regulations at 64 FR 32706 or applicable subsequently adopted policy, and CCAAs with FWS also are subject to regulations at 50 CFR 17.22(d) for endangered species or 50 CFR 17.32(d) for threatened species, or applicable subsequent regulations.

(v) If the 30-year contract or 10-year restoration cost-share agreement is terminated, the landowner will be responsible to notify and coordinate with FWS and NMFS or any other relevant party to the specific SHA or CCAA, as appropriate, for any modifications related to the SHA or CCAA.

§ 625.14 Modification of the HFRP restoration plan.

The State Conservationist may approve modifications to the HFRP restoration plan that do not modify or

void provisions of the easement, contract, restoration agreement, or Landowner Protections, and are consistent with applicable law. NRCS may obtain and receive input from the landowner and coordinate with FWS and NMFS to determine whether a modification to the restoration plan is justified. Any HFRP restoration plan modification must meet HFRP program objectives, and must result in equal or greater wildlife benefits and ecological and economic values to the United States. Modifications to the HFRP restoration plan which are substantial and affect provisions of the contract, restoration cost-share agreement, or Landowner Protections will require agreement from the landowner, any relevant party to a specific SHA or CCAA, FWS, or NMFS, as appropriate, and may require execution of an amended contract or 10-year restoration cost-share agreement and modification to the Landowner Protection provisions.

§ 625.15 Transfer of land.

(a) *Offers voided prior to enrollment.* Any transfer of the property prior to the applicant's acceptance into the program will void the offer of enrollment. At the option of the State Conservationist, an offer can be extended to the new landowner if the new landowner agrees to the same or more restrictive easement, agreement, and contract terms and conditions.

(b) *Actions following transfer of land.*
 (1) For easements or 30-year contracts with multiple annual payments, any remaining payments will be made to the original landowner unless NRCS receives an assignment of proceeds.

(2) Eligible cost-share payments will be made to the new landowner upon presentation of an assignment of rights or other evidence that title has passed.

(3) Landowner protections will be available to the new landowner, and the new landowner will be held responsible for assuring completion of all measures and conservation practices required by the contract, deed, and incidental take permit.

(4) If a SHA or CCAA is involved, the previous and new landowner may coordinate with FWS or NMFS, as appropriate, to transfer the agreement and associated permits and assurances.

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(5) The landowner and NRCS may agree to transfer a 30-year contract. The transferee must be determined by NRCS to be eligible to participate in HFRP and must assume full responsibility under the contract, including operation and maintenance of all conservation practices and measures required by the contract.

(c) *Claims to payments.* With respect to any and all payments owed to a person, the United States will bear no responsibility for any full payments or partial distributions of funds between the original landowner and the landowner'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 an agreement or adjudication on the rights to the funds.

§ 625.16 Violations and remedies.

(a) *Easement violations.* (1) In the event of a violation of the easement or any associated agreement involving a landowner, the landowner will be given reasonable notice and an opportunity to voluntarily correct the violation within 30 days of the date of the notice, or such additional time as the State Conservationist determines is necessary to correct the violation.

(2) Notwithstanding paragraph (a)(1) of this section, NRCS reserves the right to enter upon the easement area at any time to remedy deficiencies or easement violations. Such entry may be made at the discretion of NRCS when such actions are deemed necessary to protect important listed species, candidate species, and forest ecosystem functions and values or other rights of the United States under the easement. The landowner will be liable for any costs incurred by the United States as a result of the landowner's negligence or failure to comply with easement or contractual obligations.

(3) In addition to any and all legal and equitable remedies as may be available to the United States under applicable law, NRCS may withhold any easement and cost-share payments owed to landowners at any time there is a material breach of the easement covenants, associated restoration agreement, or any associated contract. Such withheld funds may be used to

offset costs incurred by the United States in any remedial actions or retained as damages pursuant to court order or settlement agreement.

(4) The United States will be entitled to recover any and all administrative and legal costs, including attorney's fees or expenses, associated with any enforcement or remedial action.

(b) *30-year contract and 10-year cost-share agreement violations.* (1) If NRCS determines that a participant is in violation of the terms of a 30-year contract, or 10-year cost-share agreement, or documents incorporated by reference into the 30-year contract or 10-year cost-share agreement, the landowner will be given reasonable notice and an opportunity to voluntarily correct the violation within 30 days of the date of the notice, or such additional time as the State Conservationist determines is necessary to correct the violation. If the violation continues, the State Conservationist may terminate the 30-year contract or 10-year cost-share agreement.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, a 10-year cost-share agreement or 30-year contract termination is effective immediately upon a determination by the State Conservationist that the participant has: submitted false information; filed a false claim; engaged in any act for which a finding of ineligibility for payments is permitted under this part; or taken actions NRCS deems to be sufficiently purposeful or negligent to warrant a termination without delay.

(3) If NRCS terminates a 10-year cost-share agreement or 30-year contract, the participant will forfeit all rights for future payments under the 10-year cost-share agreement or 30-year contract, and must refund all or part of the payments received, plus interest, and liquidated damages.

(4) When making any 30-year contract or 10-year cost-share agreement termination decisions, the State Conservationist may provide equitable relief in accordance with 7 CFR part 635.

§ 625.17 Payments not subject to claims.

Any cost-share, contract, or easement payment or portion thereof due