

and values over time and measures that are needed to provide the Landowner Protections under section 7(b)(4) or section 10(a)(1) of the ESA, including the cost of any permit.

(b) Landowner Protections may be made available to landowners enrolled in the HFRP who agree, for a specified period, to restore, protect, enhance, maintain, and manage the habitat conditions on their land in a manner that is reasonably expected to result in a net conservation benefit that contributes to the recovery of listed species under the Endangered Species Act (ESA). These protections operate with lands enrolled in the HFRP and are valid for as long as the landowner is in compliance with the terms and conditions of such assurances, any associated permit, the easement, and the restoration agreement.

(c) If the Landowner Protections, or any associated permit, require the adoption of a practice or measure in addition to the practices and measures identified in the applicable HFRP restoration plan, NRCS and the landowner will incorporate the practice or measure into the HFRP restoration plan as an item eligible for cost-share assistance.

(d) Failure to perform planned management activities can result in violation of the easement, 10-year cost-share agreement, or the agreement under which Landowner Protections have been provided. NRCS will work with landowners to plan appropriate management activities.

(e) The amount and terms and conditions of the cost-share assistance shall be subject to the following restrictions on the costs of establishing or installing practices or implementing measures specified in the HFRP restoration plan:

(1) On enrolled land subject to an easement of not more than 99 years, NRCS shall offer to pay not less than 75 percent nor more than 100 percent of the average cost;

(2) On enrolled land subject to a 30-year easement, NRCS shall offer to pay not more than 75 percent of the average cost; and

(f) On enrolled land subject to a 10-year cost-share agreement without an associated easement, NRCS shall offer

to pay not more than 50 percent of the average costs.

(g) Cost-share payments may be made only upon a determination by the NRCS that an eligible practice or measure, or an identifiable component of the practice has been established in compliance with appropriate standards and specifications. Identified practices and measures may be implemented by the landowner or other designee.

(h) Cost-share payments may be made for the establishment and installation of additional eligible practices and measures, or the maintenance or replacement of an eligible practice or measure, but only if NRCS determines the practice or measure is needed to meet the objectives of HFRP, and the failure of the original practices or measures was due to reasons beyond the control of the landowner.

(i) A landowner may seek additional cost-share assistance from other public or private organizations as long as the activities funded are in compliance with this part. In no event shall the landowner receive an amount which exceeds 100 percent of the total actual cost of the restoration.

**§ 625.11 Easement participation requirements.**

(a) To enroll land in HFRP through the 99-year or 30-year enrollment option, a landowner shall grant an easement to the United States. The easement shall require that the easement area be maintained in accordance with HFRP goals and objectives for the duration of the term of the easement, including the restoration, protection, enhancement, maintenance, and management of habitat for listed species within a forest ecosystem's functions and values.

(b) For the duration of its term, the easement shall require, at a minimum, that the landowner, and the landowner's heirs, successors and assigns, shall cooperate in the restoration, protection, enhancement, maintenance, and management of the land in accordance with the easement and with the terms of the HFRP restoration plan. In addition, the easement shall grant to the United States, through the NRCS:

(1) A right of access to the easement area;

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(2) The right to permit compatible uses of the easement area, which may include such activities as hunting and fishing, managed timber harvest, or periodic haying or grazing, if such use is consistent with the long-term protection and enhancement of the purposes for which the easement was established;

(3) The right to determine compatible uses on the easement area and specify the amount, method, timing, intensity and duration of the compatible use;

(4) The rights, title and interest to the easement area as specified in the conservation easement deed; and

(5) The right to perform restoration, protection, enhancement, maintenance, and management activities on the easement area.

(c) The landowner shall convey title to the easement which is acceptable to the NRCS. The landowner shall warrant that the easement granted to the United States is superior to the rights of all others, except for exceptions to the title which are deemed acceptable by the NRCS.

(d) The landowner shall:

(1) Comply with the terms of the easement;

(2) Comply with all terms and conditions of any associated agreement or contract;

(3) Agree to the long-term restoration, protection, enhancement, maintenance, and management of the easement in accordance with the terms of the easement and related agreements;

(4) Have the option to enter into an agreement with governmental or private organizations to assist in carrying out any landowner responsibilities on the easement area; and

(5) Agree that each person who is subject to the easement shall be jointly and severally responsible for compliance with the easement and the provisions of this part and for any refunds or payment adjustment which may be required for violation of any terms or conditions of the easement or the provisions of this part.

**§ 625.12 The HFRP restoration plan development.**

(a) The development of the HFRP restoration plan shall be made through

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an NRCS representative, in consultation with the program participant and with coordination of input from the FWS and NMFS, where applicable.

(b) The HFRP restoration plan shall specify the manner in which the enrolled land under easement or 10-year cost-share agreement shall be restored, protected, enhanced, maintained, and managed to accomplish the goals of the program.

(c) Eligible restoration practices and measures may include land management, vegetative, and structural practices and measures that will restore and enhance habitat conditions for listed species, candidate, State-listed, and other species identified by the Chief for special funding consideration. To the extent practicable, eligible practices and measures will improve biodiversity and increase the sequestration of carbon. NRCS, in coordination with FWS, will determine the conservation practices and measures. NRCS will determine payment rates and cost-share percentages within statutory limits that will be available for restoration. A list of eligible practices will be available to the public.

**§ 625.13 Modification of the HFRP restoration plan.**

Consistent with the easement and applicable law, the State Conservationist may approve modifications to the HFRP restoration plan that do not modify or void provisions of the easement, restoration agreement, or Landowner Protections. NRCS may obtain and receive input from the landowner and coordination from FWS and NMFS to determine whether a modification 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 easement, restoration cost-share agreement, or Landowner Protections will require agreement from the landowner, FWS or NMFS, as appropriate, and may require execution of an amended easement and restoration cost-share