

the new owner agrees to accept the offer within 60 days of the perfection of the deed transferring the land to the new owner.

**§ 623.16 Monitoring and enforcement of easement terms and conditions.**

(a) NRCS or its representative shall be permitted to inspect each easement area at any and all times determined necessary by NRCS to ensure that:

(1) Structural and vegetative restoration work are properly maintained;

(2) The wetlands and adjacent upland habitat of the easement area is being managed as required in the WRPO and the terms of the easement; and

(3) Uses of the area are consistent with the terms and conditions of the easement and the WRPO.

(b) If an owner or other interested party is unwilling to voluntarily correct, in a timely manner, deficiencies in compliance with the terms of the WRPO, the EWRP easement, or any related agreements, NRCS may at the expense of any person who is subject to the EWRP easement correct such deficiency. Such NRCS action shall be in addition to other remedies available to NRCS.

(c) Monitoring and enforcement responsibilities may be delegated by NRCS at any time to other Federal or State agencies. Landowners may transfer management responsibilities only to Federal, State, or local agencies or private organizations that have been approved by NRCS in advance as having the appropriate authority, expertise, and resources necessary to carry out such delegated responsibilities.

**§ 623.17 Violations and remedies.**

(a) If a violation of the terms and conditions of the contract, the WRPO, or the recorded EWRP easement occurs, the easement shall remain in force and NRCS may:

(1) Require the owner to fully restore the easement area to fulfill the terms and conditions of the easement and WRPO; and

(2) Require the owner, who received payments from NRCS for any purpose under this part, to refund all or part of such payments received together with interest, as determined appropriate by NRCS.

(b) If an owner fails to carry out the terms and conditions of an easement, appropriate legal action may be initiated. The owner of the property shall reimburse NRCS for all costs incurred including, but not limited to, legal fees.

**§ 623.18 Access to land.**

In order to determine eligibility and compliance with respect to this part, representatives of the Department, or designee thereof, shall have the right of access to:

(a) Land which is the subject of an application made in accordance with this part,

(b) Land which is subject to an easement made in accordance with this part, and

(c) Records of the participant showing status of all ownership interest in lands subject to this part.

**§ 623.19 Assignments.**

Any participant entitled to any cash payment under this program may assign the right to receive such cash payments, in whole or in part.

**§ 623.20 Appeals.**

A participant in the EWRP may obtain a review of any administrative determination concerning land eligibility, development of a WRPO, or any adverse determination under this part in accordance with the administrative appeal regulations provided in part 614 of this title.

[60 FR 67316, Dec. 29, 1995]

**§ 623.21 Scheme and device.**

(a) If it is determined by NRCS that a landowner has employed a scheme or device to defeat the purposes of this part, any part of any program payment otherwise due or paid such landowner during the applicable period may be withheld or be required to be refunded with interest thereon, as determined appropriate by NRCS, and the contract with the landowner may be terminated. In such a case, NRCS may also continue to hold the easement interest acquired under this part.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other