



504 FW 1 **Inventory Property Disposal** **Program**

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1.1 What is the purpose of this chapter? This chapter describes our role, policy, and activities associated with the Inventory Property Disposal Program of the Farm Service Agency (FSA), U.S. Department of Agriculture (USDA). As used in this chapter, the terms "we," "our," and Service refer to the Fish and Wildlife Service.

1.2 What is the Inventory Property Disposal Program? The FSA provides direct and guaranteed farm ownership and farm operating loans to farmers who are temporarily unable to obtain private, commercial credit. FSA sometimes obtains title to real property when a borrower defaults on a loan secured by the property. FSA holds such properties in inventory until sale or other disposal.

1.3 What are the authorities for this chapter?

- A. The Consolidated Farm and Rural Development Act (CONACT).
- B. The Food, Agriculture, Conservation, and Trade Act of 1990.
- C. The Federal Agriculture Improvement and Reform Act of 1996 (FAIRA).
- D. Farm Security and Rural Investment Act of 2002.
- E. The Agricultural Credit Act of 1987 (ACA).
- F. [7 CFR 1955, Subpart C-Disposal of Inventory Property.](#)

1.4 Who is responsible for the Inventory Property Disposal Program within the Service?

A. Assistant Director - Fisheries and Habitat Conservation:

- (1) Oversees our role in the Inventory Property Disposal Program.
- (2) Acts for the Service in consultations with FSA and other USDA agencies regarding activities related to the Inventory Property Disposal Program.
- (3) Coordinates our activities related to the Inventory Property Disposal Program with the Assistant Director - National Wildlife Refuge System and appropriate Service offices.

B. Chief, Division of Fish and Wildlife Management and Habitat Restoration:

- (1) Plans, develops, and monitors Service policies and procedures relating to the Inventory Property Disposal Program.

(2) Prepares guidance, technical information, and training on the Inventory Property Disposal Program for Regional and State/Ecoregion Partners for Fish and Wildlife coordinators.

(3) Represents the Service in dealings with USDA agencies on matters relating to the Inventory Property Disposal Program and coordinates resolution of issues elevated to the Headquarters level from the field.

C. Assistant Director - National Wildlife Refuge System has:

(1) The expertise and authority to plan for, acquire, manage, and dispose of real property.

(2) The responsibility to provide technical assistance to, and coordinate with, the Division of Fish and Wildlife Management and Habitat Restoration and the Regional Partners for Fish and Wildlife coordinators in the Regional and field offices on matters relating to the Inventory Property Disposal Program.

D. Regional Directors will implement the Inventory Property Disposal Program within their Region. Each Regional Director will designate a **Regional Partners for Fish and Wildlife coordinator** who will:

(1) Provide technical guidance to field offices within the Region regarding assistance to FSA and maintain consistent program implementation.

(2) Maintain copies of current FSA policy, regulations, and guidance materials for additional distribution to field stations as necessary.

(3) Elevate issues to Headquarters that are unresolvable at the Regional level and that are nationally significant.

(4) Review, in close coordination with the Regional land surveyor, FSA real property and survey documents prior to transfer of FSA inventory properties to ensure that document language and boundaries reflect Service recommendations.

E. State/Ecoregion Partners for Fish and Wildlife coordinators will:

(1) Coordinate with FSA at the State and county level on matters dealing with Service involvement in the Inventory Property Disposal Program.

(2) Maintain copies of current FSA policy, regulations, and guidance material related to the Inventory Property Disposal Program.

(3) Serve as a member of the easement review team, when requested by FSA, to review FSA inventory properties containing wetlands and other important resources (see [paragraph 1.5A](#)).

(4) Develop recommendations on easement identification, terms and conditions, management actions, duration, fee title transfer requests, and identification of a management and enforcement authority.

(5) Review FSA documents prior to transfer of inventory properties or interests in such properties, to ensure that document language boundaries reflect our recommendations.

(6) Coordinate appropriate environmental reviews.

(7) Coordinate and conduct all feasible habitat restoration actions on FSA-granted easements and fee title transfers of FSA inventory properties where we are the management or enforcement authority.

(8) Monitor compliance with terms and conditions of transfer documents when we have rights of enforcement.

(9) Report program activities and accomplishments to the Regional Partners for Fish and Wildlife coordinator.

1.5 What is the Service's role in the Inventory Property Disposal Program? Our role in the Inventory Property Disposal Program is described in the following documents:

A. 1987 MOU. The Memorandum of Understanding, May 14, 1987, Establishing Procedures for Interagency Coordination on Fish and Wildlife Resource Issues Affecting Farmer Programs, sets forth consultation procedures to be followed by FSA and the Service on fish and wildlife resource issues affecting FSA properties, especially with regard to FSA's affirmative responsibilities to protect wetlands. We assist in identifying the presence of important resources and in recommending fish and wildlife conservation measures for inclusion in FSA's environmental analysis, suitable/surplus determination, and subsequent disposal actions. Attachment 1 to the 1987 MOU lists important resources to be protected, including wetlands, floodplains, riparian zones, coastal barriers, and threatened and endangered species and their habitats. We also act as a liaison between FSA and State fish and wildlife agencies and nongovernmental organizations to ensure that State and private concerns are fully considered.

B. 1992 MOU. The Memorandum of Understanding, July 23, 1992, Regarding the Establishment of Wetland Conservation Easements on FmHA Inventory Property, sets forth the procedure for establishing wetland conservation easements on FSA inventory property and describes the duties and responsibilities of each party to the MOU. Under this MOU, an easement review team comprised of representatives from each agency provides the FSA State executive director with a recommendation as to whether or not FSA inventory properties are marketable agricultural production units comparable to the properties as acquired, taking into consideration any wetland easements. We are required to delineate and provide to the team the locations, boundaries, terms, and conditions of any proposed wetland conservation easements, including delineations of both optimum and discretionary easements.

C. 2002 MOU. The Memorandum of Understanding, August 6, 2002, Regarding the Implementation of the 2002 Farm Bill Conservation Provisions, obligates USDA and the Department of the Interior to coordinate, to the extent practicable, on activities that complement USDA's efforts to implement the 2002 Farm Bill as it relates to conservation programs, including information sharing and exchange of valuable perspectives.

1.6 Are wetlands on FSA inventory property protected? Conservation easements and fee title transfers for conservation purposes are the two primary methods used to protect wetlands and other important resources on FSA inventory property.

A. Conservation Easements. USDA must establish perpetual wetland conservation easements to protect wetlands or converted wetlands located on FSA inventory properties prior to sale, except when the inventory property was cropland on the date the property entered the FSA inventory or if the property was used for farming at any time during the period beginning on the date 5 years before the property was acquired and ending on the date the property was acquired. FSA may establish conservation easements that identify easement managers. The following requirements apply to conservation easements:

(1) Easement management and administration responsibilities. USDA regulations state that in most cases the Service is responsible for easement management and administration, unless the wetland easement area is an inholding in Federal or State property and the applicable entity agrees to assume such responsibilities. Alternatively, a State fish and wildlife agency having counterpart responsibilities to the Service may agree to assume easement management and administration responsibilities. When the Service is named as the easement manager, all interests retained by the United States are transferred to us and are administered as part of the National Wildlife Refuge System. When other Federal agencies, States or their political subdivisions, or others are named as easement managers, only the rights of easement management and administration are assigned to us, and USDA retains the Federal interest in the property that is subject to the easement.

(2) Wetland easement limitations. FSA may not establish perpetual wetland conservation easements on FSA inventory property when the property was considered to be cropland on the date the property entered the inventory or if the property was used for farming at any time during the period beginning on the date 5 years before the property was acquired and ending on the date the property was acquired. However, FSA may transfer such properties or any interest in them to Federal and State agencies for conservation purposes. See paragraphs [1.6A\(3\)](#) and [B](#).

(3) Easements for conservation purposes. FSA is authorized to convey easements for conservation purposes to a State, a political subdivision of a State, a private nonprofit organization, or a Federal agency, with or without reimbursement. These easements differ from the easements described in paragraph [1.6A](#) because they can be placed on croplands and lands used for farming during the 5 years prior to a property entering into FSA inventory, if the purpose is for the conservation of important resources (see paragraph [1.6A](#)) and if the lands have marginal value for agricultural production; are environmentally sensitive; or have special management importance. This authority may be used to provide adequate protection to a wetland not fully protected because of the restrictions described in paragraph [1.5A](#); e.g., for a depressional semi-permanent wetland in which the central portion of the wetland is not considered cropland and was not used for farming during the 5 years prior to the property entering into the FSA inventory. By contrast, the outer temporarily and seasonally ponded portions are considered cropland. FSA has an affirmative responsibility to protect the central portion of the wetland; i.e., the area that has no crop or farming history. Because the wetland cannot be adequately protected from agricultural impacts and because easement enforcement on the central portion alone would be difficult or impossible, we could request a conservation easement on the croplands surrounding the central portion of the wetland. The request would be justified on the basis that the requested easement area has special management importance. Conservation purposes include, but are not limited to, the following environmental resources or land uses:

- (a)** Fish and wildlife habitats of local, regional, State, or Federal importance.
- (b)** Floodplain and wetland areas as defined in Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands.
- (c)** Highly erodible land identified as such by USDA's Natural Resources Conservation Service (NRCS).
- (d)** Important farmland, prime forest land, or prime rangeland as defined in [USDA Departmental Regulation 9500-3](#), Land Use Policy.
- (e)** Aquifer recharge areas of local, regional, or State importance.
- (f)** Areas of high water quality or scenic value.

(g) Historic and cultural properties.

B. Fee title transfers for conservation purposes. FSA is authorized to transfer to a Federal or State agency for conservation purposes FSA inventory property or any interest therein, meeting any one of the following three criteria and subject only to the homestead protection rights of all previous owners having been met:

(1) A predominance of the land being transferred has marginal value for agricultural production. This is land that NRCS has determined to be either highly erodible or generally not used for cultivation, such as soils in classes IV, V, VI, VII, or VIII of NRCS's Land Capability Classification.

(2) A predominance of the land is environmentally sensitive. This is land that meets any of the following criteria:

(a) Wetlands, as defined in Executive Order 11990 and [USDA Departmental Regulation 9500-3](#).

(b) Riparian zones and floodplains as they pertain to Executive Order 11988.

(c) Coastal barriers and zones as they pertain to the Coastal Barrier Resources Act or Coastal Zone Management Act.

(d) Areas supporting endangered and threatened wildlife or plants (including proposed and candidate species), critical habitat, or potential habitat for recovery pertaining to the Endangered Species Act.

(e) Fish and wildlife habitats of local, regional, State, or Federal importance on lands that provide or have the potential to provide habitat value to species of Federal trust responsibility (e.g., Migratory Bird Treaty Act, Anadromous Fish Conservation Act).

(f) Aquifer recharge areas of local, regional, State, or Federal importance.

(g) Areas of high water quality or scenic value.

(h) Areas containing historic or cultural property.

(3) A predominance of land with special management importance. This is land that meets the following criteria:

(a) Lands that are inholdings, lie adjacent to, or occur in proximity to, Federally or State-owned lands or interests in lands.

(b) Lands that would contribute to the regulation of ingress or egress of persons or equipment to existing Federal- or State-owned conservation lands.

(c) Lands that would provide a necessary buffer to development if such development would adversely affect the existing Federally or State-owned lands.

(d) Lands that would contribute to boundary identification and control of existing conservation lands.

1.7 Why is the Service involved in the Inventory Property Disposal Program? We are involved in the inventory property disposal program because some FSA inventory properties

contain or support significant fish and wildlife resources or have healthy or restorable wetlands and/or riparian, instream, or other unique habitats that provide significant benefits to Federal trust species. Through a cooperative arrangement, we provide FSA with biological and technical assistance to identify the important resources (see paragraph [1.5A](#) on FSA inventory properties and recommend options for their protection and restoration.

1.8 What are the Service's objectives in assisting the FSA?

- A.** To help FSA develop and implement policies related to the protection of Federal trust species and their habitats on FSA inventory properties.
- B.** To conserve important resources on FSA inventory properties by providing technical assistance regarding conservation easements and fee title transfers.
- C.** To identify opportunities and serve as a facilitator for fee title transfers of FSA inventory properties containing important resources to the Service or to other Federal or State agencies.
- D.** To restore where feasible, and to the maximum extent possible, all degraded fish and wildlife habitats protected by FSA easements or transferred in fee title to other agencies.
- E.** To help FSA, where appropriate, to manage and enforce conservation easements placed on FSA properties transferred out of inventory.

1.9 How are FSA inventory properties reviewed?

A. The Service. Upon request by FSA, we review FSA inventory properties prior to disposal. We also participate on an interagency easement review team to identify proposed easement areas and to make recommendations to the FSA State executive director. We identify the wetlands or converted wetlands that require protection by wetland conservation easements, and we may also make other recommendations for the protection of important resources, such as threatened or endangered species. The Partners for Fish and Wildlife Program coordinators work closely with the Regional land acquisition planners and the appropriate refuge managers during the process to make the most appropriate recommendations for the Service.

B. Easement Review Team. The easement review team consists of representatives of the Service, FSA, and NRCS, in accordance with the [1992 MOU](#) (paragraph [1.5B](#)). NRCS leads the easement review team, which assists in the development of conservation easements to be established on wetlands on FSA inventory property. The easement review team prepares a report detailing the team's evaluation and recommendations to submit to the FSA State executive director for final determination regarding establishment of easements on wetland property.

C. FSA County Committee. The FSA county committee reviews NRCS's wetland determinations and determines if wetlands or converted wetlands are ineligible (i.e., wetlands cropped or used for farming) for wetland conservation easement coverage.

D. Contaminants survey. When we identify important resources and when the Regional Director determines that the Service will recommend either a conservation easement or a fee title transfer to the Service, our field personnel (or Service contractors) must conduct the appropriate level contaminants survey before we request either type of interest in the property. We must follow contaminant survey and Departmental approval procedures in [341 FW 3](#) (Pre-Acquisition Environmental Site Assessments). FSA also conducts a similar survey and documents the presence of any hazardous materials. Service staff should request hazardous waste contamination information from FSA in order to assist with our contaminant survey efforts.

E. National Wildlife Refuge System. Only the Director can approve the establishment of a new unit or the significant expansion of an existing unit of the National Wildlife Refuge System. Refer to the [Director's memorandum](#) to the Regional Directors, August 11, 2000, subject: Changes to the Land Acquisition Planning Procedures. Therefore, the Director must approve all documents proposing expansion of the Refuge System. Note: Current exemptions regarding expansions under 10 percent or 40 acres (whichever is greater) still apply. The Regional Director is authorized to approve the acceptance of a conservation easement or a fee title transfer of property that constitutes less than 10 percent of the acreage of the refuge to which the easement or fee title property will be assigned, or up to 40 acres, whichever is greater. For example, if the parent refuge is 20 acres, the Regional Director may approve an expansion of up to 40 acres. If the parent refuge is 1,000 acres, the Regional Director may approve an expansion of up to 100 acres (see paragraph [1.11](#)).

1.10 What are the Service's policies for making recommendations for conservation easements and fee simple title transfers of FSA inventory property? Upon request, we assist in the development of any management plan required by FSA as a condition of transfer of any interest in FSA inventory property. The following guidelines reflect Service policy for making recommendations for conservation easements and fee title transfers:

A. Type of Conveyance.

(1) Conservation easements. Conservation easements are used when the Service or other Federal or State agency is identified as the easement manager. We will recommend that easements be administered by other Federal or State agencies only when the requirements of such administration have been agreed to in writing by the accepting agency prior to our recommendation.

(2) Fee title. FSA may transfer inventory property, or any interest therein, to a State or Federal agency, for conservation purposes. When a State or Federal agency requests title to inventory property, the State executive director makes a preliminary determination as to whether or not the property can be transferred. If a decision is made to deny a transfer request by a Federal or State agency, FSA will inform the requesting agency in writing that it may request a review of the decision by the FSA Administrator.

B. Federal trust species. We will request fee title and easement interests in FSA inventory lands that contain existing habitat value or habitat restoration opportunities for Federal trust species. Interests in FSA inventory properties that are transferred to the Service will be administered as part of the National Wildlife Refuge System under the National Wildlife Refuge System Administration Act, [16 U.S.C. 668dd](#).

C. Important resources. We will recommend the appropriate level of protection (easement or fee title) for important resources defined in Attachment 1 to the 1987 MOU. When making recommendations concerning conservation easements and fee title transfers to the Service, we will give priority to wetlands, floodplains, riparian corridors, streams, endangered species habitats, and other existing or restorable Federal trust species habitats.

D. Exceptions. We may make exceptions to subparagraphs [B](#) and [C](#) above in cases where eligible wetlands have been so severely degraded that restoration is no longer feasible; where contaminant problems may be incurred by the Service; where unresolvable title problems exist; or where other FSA program restrictions could result in easements that are either unenforceable or inadequate to fully protect the wetland(s). See [341 FW 3](#).

E. Wetland easements. For wetland easements, our recommendations will identify wetland easement boundaries within the limits established by USDA regulations, as well as expanded

easement coverage authorized by the USDA regulations, as appropriate and necessary to provide easements that are both enforceable and fully protect the wetland(s).

F. Easement restrictions and conditions. Our wetland easement recommendations must include proposed locations, boundaries, terms, and conditions, using FSA easement language formats coordinated with FSA State offices. (See paragraph [1.6B](#).)

G. Justifications. Our requests for fee title transfer must include justifications that address FSA criteria, which may be found in paragraph [1.5B](#) and in 7 CFR 1955.139.

H. State fish and wildlife agencies. We will encourage State fish and wildlife agency involvement in the FSA inventory property review process to facilitate State requests for easement management roles or for fee title transfers of FSA inventory properties where feasible and where management by the State agency is technically preferable.

1.11 What are the criteria for selecting FSA inventory properties for inclusion in the National Wildlife Refuge System?

A. National guidelines and selection criteria. We use broad national guidelines and selection criteria to screen FSA inventory properties or interests in such properties for inclusion in the National Wildlife Refuge System. Any wetlands, floodplains, riparian corridors, endangered species habitats, or other potential Federal trust species habitats qualify for consideration. Properties that are valuable for migratory birds, aquatic species, or endangered species warrant special consideration. We must make a determination that the site in its present or its potentially restored condition supports important resources listed in Attachment 1 to the 1987 MOU.

B. Nonqualifying property. Some wetlands and other potential sites may not qualify for easement or fee title transfer to the Service and subsequent inclusion in the National Wildlife Refuge System. Such sites may have potential contaminant problems, unresolvable title problems, indefensible property boundaries, or may be so degraded that restoration is no longer feasible. The key to selection and protection of FSA inventory properties is adequate screening at the field level and a consensus that the habitat area is worthy of inclusion in the National Wildlife Refuge System.

C. Wetland diversity. Wetland size, classification, and location are not limiting factors. A wetland must not be rejected merely because it is small; is located on a property in a remote location; or is not presently needed for management or restoration. FSA has affirmative responsibilities to protect and enhance wetland resources under the requirements of Executive Order 11990, Protection of Wetlands, and under [7 CFR 1940, Subpart G, Environmental Programs](#). One of the purposes of the Inventory Property Disposal Program is to restore and protect the diversity of wetlands that exist across the landscape for the full range of functions they provide.

D. Easement or fee interest. In most cases, our interests will be served by acquiring easements, and we will recommend the acquisition of easements, where appropriate, as the means of protecting important resources on FSA inventory properties. We do not recommend deed restrictions or any other lesser measures designed to restrict uses on wetlands occurring on FSA inventory properties. Where FSA inventory property is proposed to be added to the National Wildlife Refuge System and is located within or adjacent to the boundaries of an existing refuge, a fee title transfer from FSA may be more appropriate. With every request for fee title, we will also identify and recommend the extent of easement coverage that will apply if FSA is unable or unwilling to transfer the property in fee.

1.12 What are the Service's realty responsibilities and procedures for fee title transfers and easement properties? We accept fee title and easement interests in properties transferred from

FSA inventory for management and administration in the National Wildlife Refuge System. We must take certain steps to facilitate the acceptance of such transfers into the National Wildlife Refuge System.

A. Acquisition policy. The Service's policies, authorities, and responsibilities for ownership and management of its interests in real property, including acquiring properties to be added to the National Wildlife Refuge System such as FSA inventory properties and other easements and fee title transfers, is set forth in [Parts 340 - 343](#) of the Service Manual. Regional Partners for Fish and Wildlife coordinators must work with Regional realty officers to ensure that Service policies are adhered to, in order to facilitate acceptance of FSA inventory properties or interests in such properties into the National Wildlife Refuge System.

B. Surveys. We will offer assistance to FSA in surveying easement areas and/or fee title transfer areas by delineating and flagging recommended boundaries. Service staff will also offer to assist FSA and its contractors in locating flagged boundaries in the field to minimize surveying errors, when we expect to receive either easement or fee title interests in FSA inventory properties.

C. Document review. We must review and approve surveys and all proposed conveyance documents prior to accepting any interest in FSA inventory properties, to ensure that the language in the documents as well as the described boundaries of the property reflect Service recommendations and comply with established Service policy. (See paragraph [1.11D](#).) Partners for Fish and Wildlife coordinators should work closely with the Regional realty officers to complete these reviews.

1.13 How will the Service manage property acquired from FSA?

A. Habitat restoration. Where possible, we will restore degraded habitat of Federal trust species on properties acquired from FSA as well as properties administered by other Federal and State agencies. 1121-HR funds may be used for the initial costs of restoration, but may not be used for long-term management of such properties.

B. Easement management. The language in the easement document governs management of the easement area. The easement manager may authorize landowners to engage in certain compatible uses of the easement area; however, the maintenance and enhancement of the biological integrity of the area is the easement manager's overriding responsibility. Use of the easement area for continued crop production is not appropriate unless expressly permitted by the easement document. Farming operations may be permitted in limited circumstances associated with site preparation for habitat restoration or to resolve specific natural resource emergencies such as an outbreak of wildlife disease.

C. FSA inventory property easements. When we acquire easement interests in FSA inventory properties, we are responsible for any restoration, monitoring, management, enforcement, and general administration of the easement areas under the terms of the easement documents. A Service entity designated by the Regional Director (e.g., a refuge, wetland management district, or other Service field station) is responsible for overseeing such easement interests.

D. Local entities. Because of administrative and resource demands that FSA inventory property easements may place on field staff and resources, Service field staff may develop partnerships and agreements with local entities who are interested in and able to manage such easements. However, when a third party assumes management responsibilities for FSA inventory properties incorporated into the National Wildlife Refuge System, it must first enter into a cooperative agreement that outlines its management responsibilities, with the Regional Director. The Service cannot delegate all of its management responsibilities to third parties, nor can it absolve itself from accountability for lands that are a part of the National Wildlife Refuge System.

1.14 Does the Service have any responsibilities related to FSA inventory properties transferred to State agencies? When a State or Federal agency requests title to FSA inventory property for conservation purposes, the FSA State executive director makes a preliminary determination as to whether or not the property can be transferred. If the FSA State executive director decides to deny the request for transfer of the property, FSA informs the requesting agency of the decision in writing and also informs the agency that it may request a review of the decision by the FSA Administrator. When FSA agrees to transfer a fee title interest in FSA inventory property to a State or Federal agency, FSA may require the development of a management plan to ensure that all wetlands and other important resources on the property are identified, restored, protected, and managed. The management plan may be included as an exhibit to the deed of conveyance. FSA may consult with the Service in the development of a management plan; upon request, we should assist FSA with the development of management plans, particularly when properties provide significant habitat benefits for Federal trust species.

1.15 What kinds of recommendations does the Service make regarding FSA inventory properties? The 1987 MOU gives the Service the opportunity to provide input and recommendations regarding important resources on FSA inventory properties, formulating the terms and conditions of easements, and enforcing such easements. When we identify high priority areas for threatened/endangered species and/or migratory birds, especially waterfowl, the MOU requires FSA to give full consideration to our comments in developing environmental mitigation measures for individual farmer program applications. The 1987 MOU includes the requirement that we address, as appropriate:

- A.** Existing and potential occurrences and conditions of important resources.
- B.** Emergency fish and wildlife conservation measures needed to protect or conserve environmental values.
- C.** Additional long-term fish and wildlife conservation measures needed to meet FSA mandates to conserve, protect, and enhance important resources and land uses such as:
 - (1)** The need for wetland protection and enhancement actions, including our identification of important wetland protection opportunities and the formulation or implementation or sponsorship of the implementation by a third party (e.g., Ducks Unlimited) of mutually acceptable plans for wetland restoration/enhancement.
 - (2)** Recommended deed or lease restrictions needed to protect important resources and land uses (e.g., prior to sale the deed would contain restrictions to protect wetlands or floodplain habitats from conversion to other land uses).
 - (3)** Easements, restrictions, or the equivalent to be considered for grants or sales to units of local or State government or private nonprofit organizations for conservation purposes.

1.16 Can interests in FSA inventory properties be sold, exchanged, or modified?

A. Service acquisition. We may request that interests in FSA inventory properties that contain important resources, including areas that contain existing habitat value or habitat restoration opportunities for Federal trust species, be transferred to the Service for inclusion in the National Wildlife Refuge System.

B. Requests to transfer interests in FSA inventory properties. When the FSA transfers interests in FSA inventory properties to the Service, it does so with the expectation that the properties will be protected and managed for conservation purposes. For this reason, proposals that would result in FSA inventory properties being sold, exchanged, or modified must be

carefully reviewed. Such proposals are handled by the Regional Division of Realty; are reviewed in the same manner as other units of the National Wildlife Refuge System; and must comply with [Parts 340-343](#) of the Service Manual as well as [Director's Order No. 124](#).

C. Biological assessments. The office proposing a transfer of Service interests in FSA inventory property must conduct a detailed biological assessment of the property to be transferred. This assessment must provide biological information with respect to Federal trust species that supports the proposal and documents the reasons why the proposal is in the public interest and is in the best interests of the National Wildlife Refuge System.

D. Dispositions of fee interests without conservation easements. Any proposal to dispose of Service fee title interests in FSA inventory properties must contain the following:

(1) A copy of the original Service recommendations to FSA regarding the important resources on the property and the restoration potential.

(2) An explanation of why the site is not restorable (if this is the reason for the proposal).

(3) Appropriate documentation that justifies the proposal as being in the public interest and in the best interests of the National Wildlife Refuge System.

(4) A statement that the Regional Realty Officer has notified the State FSA Executive Director of the Service's intent to dispose of the former FSA fee tract without retaining a conservation easement. The Realty Officer must notify the Executive Director in writing at least 21 calendar days before the disposition and include a Service point of contact. Although we do not need to obtain concurrence from the FSA State Executive Director, we must satisfy all other Service rules and regulations governing exchanges (see [342 FW 5.7](#) (Non-Purchase Acquisition, Exchanges)).

(5) The comments of the Chief, Division of Fish and Wildlife Management and Habitat Restoration, on the proposal.

E. FSA conservation easements granted to Federal agencies other than the Service and to States. FSA conservation easements granted to Federal agencies other than the Service and to States prohibit modifications of, or releases from, the terms of the easement except by express written authority from USDA.

F. Fee title transfers of FSA inventory property with Federal trust species to Federal agencies other than the Service. FSA transfers of fee title to FSA inventory property with Federal trust species to Federal agencies other than the Service should prohibit modifications of, or releases from, the terms of the deed of conveyance except by express written authority from USDA. In the absence of such language, we may enter into a cooperative agreement that secures the long-term protection and management of the site, with the other Federal agency.

G. Fee title transfers of FSA inventory property with Federal trust species to State agencies.

(1) **Enforcement rights.** When FSA transfers fee title for FSA inventory properties with Federal trust species on them to State agencies, the deeds should contain language designating the Service as an entity with rights of enforcement and entry or reentry. In order to ensure the protection and conservation of Federal trust species, we have agreed to accept these rights. The Service has no inherent authority to take enforcement action.

(2) Cooperative agreements. We may request that FSA transfer fee title to FSA inventory properties to the Service. The Service would then designate the area conveyed as a Coordination Area, which is an area that is administered as part of the National Wildlife Refuge System. The area may be managed by a State under a cooperative agreement between the Service and the State fish and wildlife agency.

H. Fee title transfers of FSA inventory properties with no significant benefits to Federal trust species, to State agencies. If a State requests fee title interest in FSA inventory properties with no significant benefit to Federal trust species, we may act to facilitate the transfer of the requested properties from FSA to the State but need not be designated as an entity with rights of enforcement or entry or reentry.

For information on the content of this chapter, contact the Division of Fish and Wildlife Management and Habitat Restoration. For additional information about this Web page, contact [Krista Holloway](#), in the Division of Policy and Directives Management.

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