



522 FW 20

Loss of Control and Disposal of Real Property

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20.1 What is the purpose of this chapter?

A. This chapter describes the role of the Service and the State in either:

(1) Identifying and remedying a loss of control, or

(2) Seeking to dispose of real property.

B. It also provides guidance on whether or not such actions constitute "Federal actions" under the National Environmental compliance purposes.

20.2 What is the scope of this chapter? This chapter applies to all Service personnel who administer grants funded through Restoration Programs.

20.3 What are the authorities for this chapter?

A. Federal Aid in Sport Fish Restoration Act ([16 U.S.C. 777](#)).

B. Pittman-Robertson Wildlife Restoration Act ([16 U.S.C. 669](#)).

C. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Real Property

D. Administrative Requirements for Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts, Diversion of License Fees

E. Administrative Requirements for Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts, Application of Federal

20.4 What happens when the State fish and wildlife agency loses control of real property acquired with Sport Fish and Wildlife Restoration Program funds (for example, through a State taking, State Department of Transportation condemnation, etc.)?

A. When such property passes from management control of the State fish and wildlife agency, the control must be fully replaced by the State fish and wildlife agency or the real property must be replaced using non-Federal Assistance funds. Replacement property must be purchased at market prices and have equal benefits as the original property. The State may have a reasonable time, up to 3 years from the date of loss, to acquire replacement property before becoming ineligible to participate in the Sport Fish and Wildlife Restoration Program ([50 CFR 80.14\(b\)\(1\)](#)).

B. Replacement of real property cannot be funded with license revenues.

C. We require written documentation that the State replaced real property as described in section 20.4A. We must keep the documentation in an administrative record to demonstrate compliance with the Federal regulations applicable to the Wildlife and Sport Fish Restoration Program.

D. Except as noted in section 20.4E below, any action we take under this section is not a Federal action under the National Environmental Policy Act (NEPA) or for other Federal compliance purposes.

E. If a grant used to acquire the real property is still open and replacement of the real property requires an amendment to the grant, the replacement is a Federal action.

20.5 What happens when the State fish and wildlife agency wants to dispose of real property acquired with Sport Fish and Wildlife Restoration Program funds?

Program funds? Prior to disposing of real property, we require the following:

- A.** The State fish and wildlife agency must determine that it no longer needs the real property or find that the real property is no longer needed for its original purpose.
- B.** The Service Regional Director must approve this determination and the State fish and wildlife agency and Service Regional Director must approve one of the three disposal methods described in [43 CFR 12.71\(c\)](#).
- C.** The approval of the Service Regional Director to dispose of such real property and the method for disposing of the real property is a Federal action under NEPA or for other Federal compliance purposes.

20.6 What happens when the State fish and wildlife agency loses control or disposes of real property acquired with Federal funding involved)?

- A.** The State fish and wildlife agency is required either to regain management control of the lands or replace such lands with lands that provide equal benefits as those originally acquired, or the license revenues must be restored to the State agency.
- B.** To avoid diversion, replacement of real property cannot be funded with license revenues.
- C.** The State is required to document in writing and enter into State records the replacement of real property or restoration described in section 20.6A to demonstrate that there has been no diversion of license revenues.
- D.** Any action we take under this section is not a Federal action under NEPA or for other Federal compliance purposes.

For information on the specific content of this chapter, contact the Division of Federal Assistance. For information about this website, contact Krista Holloway in the Division of Policy and Directives Management, at Krista.Holloway@fws.gov.

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