

§ 623.16

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

person of payments for cost-share practices or easements for the purpose of obtaining a payment to which a person would otherwise not be entitled.

(c) An owner of land subject to this part who succeeds to the responsibilities under this part shall report in writing to NRCS any interest of any kind in the land subject to this part that is retained by a previous participant. Such interest includes a present, future or conditional interest, reversionary interest or any option, future or present, with respect to such land and any interest of any lender in such land where the lender has, will, or can obtain, a right of occupancy to such land or an interest in the equity in such land other than an interest in the appreciation in the value of such land occurring after the loan was made. A failure of full disclosure will be considered a scheme or device under this section.

**§ 623.22 Filing of false claims.**

If it is determined by NRCS that any participant has knowingly supplied false information or has knowingly filed a false claim, such participant shall be ineligible for any payment under this part. False information or false claims include claims for payment for practices which do not meet the specifications of the applicable WRPO. Any amounts paid under these circumstances shall be refunded, together with interest as determined by NRCS, and any amounts otherwise due such participant shall be withheld.

**PART 624—EMERGENCY WATERSHED PROTECTION**

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AUTHORITY: Sec. 216, Pub. L. 81-516, 33 U.S.C. 701b-1; and sec. 403, Pub. L. 95-334, 16 U.S.C. 2203, 5 U.S.C. 301.

SOURCE: 46 FR 56577, Nov. 17, 1981, unless otherwise noted.

**§ 624.1 Purpose.**

This part sets forth the requirements and procedures for Federal assistance administered by the Natural Resources Conservation Service (NRCS) under section 216, Pub. L. 81-516 and section 403 of Title IV of the Agricultural Credit Act of 1978, Pub. L. 95-334.

**§ 624.2 Objective.**

The objective of the Emergency Watershed Protection (EWP) program is to assist in relieving imminent hazards to life and property from floods and the products of erosion created by natural disasters that cause a sudden impairment of a watershed.

**§ 624.3 Scope.**

(a) Authorized EWP technical and financial assistance may be made available when an emergency exists. Emergency watershed protection consists of emergency measures for runoff retardation and soil erosion prevention as needed to reduce hazards to life and property from floods, drought, and the products of erosion on any watershed impaired by a natural disaster.

(b) Technical assistance includes engineering and other technical expertise necessary for planning and installing emergency measures. Emergency watershed protection is authorized in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

**§ 624.4 Administration.**

NRCS shall provide overall administrative directive and guidance for EWP. NRCS will transfer funds to the Forest Service (FS) of the U.S. Department of Agriculture (USDA) at the national level for work to be installed by FS or its cooperators. Under general program criteria and procedures established by NRCS, FS is responsible for administering EWP measures on National Forests and National Grasslands. FS is also responsible for emergency measures on all forested lands or rangelands within the National Forests, on adjacent rangelands that are administered under formal agreement with FS, and on other forest lands. On