

§ 624.11

as determined by the Chief of NRCS and when in the best interest of the Government, land exchanges may be authorized pursuant to (7 U.S.C. 428a) and other applicable authorities.

(d) *Enforcement.* (1) In the event of a violation of an easement, the violator will be given reasonable notice and an opportunity to correct the violation within 30 days of the date of the notice, or such additional time as NRCS may allow.

(2) NRCS reserves the right to enter upon the easement area at any time to remedy deficiencies or easement violations. Such entry may be made at the discretion of NRCS when such actions are deemed necessary to protect important floodplain functions and values or other rights of the United States under the easement. The landowner will be liable for any costs incurred by the United States as a result of the landowner's negligence or failure to comply with easement or agreement obligations.

(3) In addition to any and all legal and equitable remedies as may be available to the United States under applicable law, NRCS may withhold any easement and cost-share payments owing to landowners at any time there is a material breach of the easement covenants or any associated agreements. Such withheld funds may be used to offset costs incurred by the United States, in any remedial actions, or retained as damages pursuant to court order or settlement agreement.

(4) NRCS will be entitled to recover any and all administrative and legal costs, including attorney's fees or expenses, associated with any enforcement or remedial action.

(5) On the violation of the terms or conditions of the easement or related agreement, the easement shall remain in force, and NRCS may require the landowner to refund all or part of any payments received by the landowner under this Part, together with interest thereon as determined appropriate by NRCS.

(6) All the general penal statutes relating to crimes and offenses against the United States shall apply in the administration of floodplain easements acquired under this part.

7 CFR Ch. VI (1-1-10 Edition)

§ 624.11 Waivers.

To the extent allowed by law, the NRCS Deputy Chief for Programs may waive any provision of these regulations when the agency makes a written determination that such waiver is in the best interest of the Federal government.

PART 625—HEALTHY FORESTS RESERVE PROGRAM

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AUTHORITY: 16 U.S.C. 6571-6578.

SOURCE: 71 FR 28556, May 17, 2006, unless otherwise noted.

§ 625.1 Purpose and scope.

(a) The purpose of the Health Forests Reserve Program (HFRP) is to assist landowners, on a voluntary basis, in restoring, enhancing, and protecting forestland resources on private lands through easements and 10-year cost-share agreements.

(b) The objectives of HFRP are to:

(1) Promote the recovery of endangered and threatened species under the ESA;

(2) Improve plant and animal biodiversity; and

(3) Enhance carbon sequestration.

(c) The regulations in this part set forth the policies, procedures, and requirements for the HFRP as administered by the Natural Resources Conservation Service (NRCS) for program

implementation and processing applications for enrollment.

(d) The Chief of NRCS may implement HFRP in any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 625.2 Definitions.

The following definitions shall be applicable to this part:

Activity means an action other than a conservation practice that is included as a part of a restoration agreement; such as a measure, incremental movement on a conservation index or scale, or a pilot or assessment.

Biological diversity (biodiversity) means the variety and variability among living organisms and the ecological complexes in which they live.

Carbon sequestration means the long term storage of carbon in soil (as soil organic matter) or in plant material (such as in trees).

Chief means the Chief of the Natural Resources Conservation Service or the person delegated authority to act on behalf of the Chief.

Conservation treatment means any and all conservation practices, measures, activities, and works of improvement that have the purpose of alleviating resource concerns, solving or reducing the severity of natural resource use problems, or taking advantage of resource opportunities, including the restoration, enhancement, maintenance, or management of habitat conditions for HFRP purposes.

Consultation or "consult with" means to talk things over for the purpose of providing information; to offer an opinion for consideration; and/or to meet for discussion or to confer, while reserving final decision-making authority with NRCS.

Contract means the document that specifies the obligations and rights of any individual or entity who has been accepted for participation in the program.

Coordination means to obtain input and involvement from others while reserving final decision-making authority with NRCS.

Cost-share payment means the payment made by NRCS to a program participant or vendor to achieve the restoration, enhancement, and protection goals of enrolled land in accordance with the HFRP restoration plan.

Easement means a conservation easement, which is an interest in land defined and delineated in a deed whereby the landowner conveys certain rights, title, and interests in a property to the United States for the purpose of protecting the forestland and the conservation values of the property.

Easement area means the land encumbered by an easement.

Easement payment means the consideration paid to a landowner for an easement conveyed to the United States under the HFRP.

Fish and Wildlife Service (FWS) is an agency of the United States Department of the Interior.

Forest Service is an agency of the United States Department of Agriculture.

HFRP means the Healthy Forests Reserve Program authorized by Title V of the Healthy Forests Restoration Act of 2003.

HFRP restoration plan means the Health Forests Reserve Program restoration plan that identifies the conservation treatments that are scheduled for application to land enrolled in HFRP in accordance with NRCS standards and specifications.

Indian trust lands means real property in which:

(1) The United States holds title as trustee for an Indian or Tribal beneficiary; or

(2) An Indian or Tribal beneficiary holds title and the United States maintains a trust relationship.

Landowner means an individual or entity having legal ownership of land, including those who may be buying land under a purchase agreement or who have legal control of the land for the term of the HFRP enrollment period for which enrollment is sought. Landowner may include all forms of collective ownership including joint tenants, tenants in common, and life tenants and remaindermen in a property.

Landowner Protections means protections and assurances made available to