

Natural Resources Conservation Service, USDA

§ 625.2

- 625.15 Transfer of land.
- 625.16 Violations and remedies.
- 625.17 Payments not subject to claims.
- 625.18 Assignments.
- 625.19 Appeals.
- 625.20 Scheme and device.

AUTHORITY: 16 U.S.C. 6571–6578.

SOURCE: 75 FR 6546, Feb. 10, 2010, unless otherwise noted.

§ 625.1 Purpose and scope.

(a) The purpose of the Healthy Forests Reserve Program (HFRP) is to assist landowners, on a voluntary basis, in restoring, enhancing, and protecting forestland resources on private lands through easements, 30-year contracts, and 10-year cost-share agreements.

(b) The objectives of HFRP are to:

(1) Promote the recovery of endangered and threatened species under the Endangered Species Act of 1973 (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 may implement HFRP in any of the 50 States, District of Columbia, Commonwealth of Puerto Rico, Guam, Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 625.2 Definitions.

The following definitions will be applicable to this part:

30-year Contract means a contract that is limited to acreage owned by Indian tribes. The 30-year contract is not eligible for use on tribal lands held in trust or subject to Federal restrictions against alienation.

Acreage Owned by Indian Tribes means lands to which the title is held by individual Indians and Indian tribes. This term does not include land held in trust by the United States or lands where the fee title contains restraints against alienation.

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

Candidate Conservation Agreement with Assurances (CCAA) means a voluntary arrangement between the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), and cooperating non-Federal landowners under the authority of section 10(a)(1) of the Endangered Species Act of 1973, 16 U.S.C. 1539(a)(1). Under the CCAA and an associated enhancement of survival permit, the non-Federal landowner implements actions that are consistent with the conditions of the permit. CCAA with FWS are also subject to regulations at 50 CFR 17.22(d) for endangered species or 50 CFR 17.32(d) for threatened species, or applicable subsequent regulations.

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 Department of Agriculture (USDA) NRCS, or designee.

Confer means to discuss for the purpose of providing information; to offer an opinion for consideration; or to meet for discussion, while reserving final decision-making authority with NRCS.

Conservation practice means one or more conservation improvements and activities, including structural practices, land management practices, vegetative practices, forest management, and other improvements that benefit the eligible land and optimize environmental benefits, planned and applied according to NRCS standards and specifications.

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.

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

Cost-share agreement means a legal document that specifies the rights and obligations of any participant accepted

into the program. A HFRP cost-share agreement is a binding agreement for the transfer of assistance from USDA to the participant to share in the costs of applying conservation. A cost-share agreement under HFRP has a duration of 10-years.

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 forest ecosystem 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 is an agency of the Department of Interior.

Forest Service is an agency of USDA.

Forest ecosystem means a dynamic set of living organisms, including plants, animals, and microorganisms interacting among themselves and with the environment in which they live. A forest ecosystem is characterized by predominance of trees, and by the fauna, flora, and ecological cycles (energy, water, carbon, and nutrients).

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

Indian tribe means any Indian tribe, band, Nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Landowner means an individual or entity having legal ownership of land.

The term landowner may also include all forms of collective ownership including joint tenants, tenants in common, and life tenants.

Landowner protections means protections and assurances made available by NRCS to HFRP participants, when requested, and whose voluntary conservation activities result in a net conservation benefit for listed, candidate, or other species and meet other requirements of the program. These Landowner Protections are subject to a HFRP restoration plan and associated cost-share agreement, 30-year contract, or easement being properly implemented. Landowner protections made available by the Secretary of Agriculture to HFRP participants may include an incidental take authorization received by NRCS from FWS or NMFS, or may be provided by a Safe Harbor Agreement (SHA) or CCAA directly between the HFRP participant and FWS or NMFS, as appropriate.

Liquidated damages means a sum of money stipulated in the HFRP restoration agreement that the participant agrees to pay NRCS if the participant fails to adequately complete the terms of the restoration agreement. The sum represents an estimate of the expenses incurred by NRCS to service the restoration agreement, and reflects the difficulties of proof of loss and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy.

Maintenance means work performed to keep the applied conservation practice functioning for the intended purpose during its life span. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail.

Measure means one or more specific actions that is not a conservation practice, but has the effect of alleviating problems or improving the treatment of the resources.

National Marine Fisheries Service is an agency of the United States Department of Commerce.

Natural Resources Conservation Service is an agency of USDA which has the responsibility for administering HFRP.

Participant means a person, entity, or Indian tribe who is a party to a 10-year

cost share agreement, 30-year contract, or an agreement to purchase an easement.

Private land means land that is not owned by a local, State, or Federal governmental entity, and includes land that meets the definition of “acreage owned by Indian tribes.”

Restoration means implementing any conservation practice (vegetative, management, or structural) or measure that improves forest ecosystem values and functions (native and natural plant communities).

Restoration agreement means a cost-share agreement between the program participant and NRCS to restore, enhance, and protect the functions and values of a forest ecosystem for the purposes of HFRP under either an easement, 30-year contract, or a 10-year cost-share agreement enrollment option.

Safe Harbor Agreement means a voluntary arrangement between FWS or NMFS and cooperating non-Federal landowners under the authority of section 10(a)(1) of the Endangered Species Act of 1973, 16 U.S.C. 1539(a)(1). Under the SHA and an associated enhancement of survival permit, the private property owner implements actions that are consistent with the conditions of the permit. SHAs with FWS are also subject to regulations at 50 CFR 17.22(c) for endangered species or 50 CFR 17.32(c) for threatened species, or applicable subsequent regulations.

State-listed species means a species listed as threatened or endangered under State endangered species laws, a candidate for such listing, or a species listed in a State Wildlife Action Plan as a Species of Greatest Conservation Need.

Sign-up notice means the public notification document that NRCS provides to describe the particular requirements for a specific HFRP sign-up.

State Conservationist means the NRCS employee authorized to implement HFRP and direct and supervise NRCS activities in a State, Caribbean Area, or Pacific Islands Area.

Technical service provider means an individual, private-sector entity, or public agency certified by NRCS to provide technical services to program participants in lieu of or on behalf of NRCS.

§ 625.3 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Chief.

(b) The Chief may modify or waive a provision of this part if the Chief determines that the application of such provision to a particular limited situation is inappropriate and inconsistent with the goals of the program. This authority cannot be further delegated. The Chief may not modify or waive any provision of this part which is required by applicable law.

(c) No delegation in this part to lower organizational levels will preclude the Chief from determining any issue arising under this part or from reversing or modifying any determination arising from this part.

(d) The State Conservationist will develop a list of eligible restoration practices, payment rates and cost-share percentages, a priority ranking process, and any related technical matters.

(e) NRCS will coordinate with FWS and NMFS in the implementation of the program and in establishing program policies. In carrying out this program, NRCS may confer with private forest landowners, including Indian tribes, the Forest Service and other Federal agencies, State fish and wildlife agencies, State forestry agencies, State environmental quality agencies, other State conservation agencies, and nonprofit conservation organizations. No determination by the FWS, NMFS, Forest Service, any Federal, State, or tribal agency, conservation district, or other organization will compel NRCS to take any action which NRCS determines will not serve the purposes of the program established by this part.

§ 625.4 Program requirements.

(a) *General.* Under the HFRP, NRCS will purchase conservation easements from, or enter into 30-year contracts or 10-year cost-share agreements with, eligible landowners who voluntarily cooperate in the restoration and protection of forestlands and associated lands. To participate in HFRP, a landowner will agree to the implementation of a HFRP restoration plan, the effect of which is to restore, protect, enhance, maintain, and manage the