

Forest Service, USDA

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thereto, in whole or in part, under the following terms:

(1) Payments may be assigned only for performance of a Program practice.

(2) A payment which is made to a landowner may not be assigned to pay or secure any preexisting debt.

(3) Neither the United States, the Forest Service, the Secretary of Agriculture, nor any disbursing agent shall be liable in any suit if payment is made to an assignor rather than to an assignee, and nothing in this section shall be construed to authorize any suit against the United States, the Forest Service, the Secretary or any disbursing agent if payment is not made to the assignee, or if payment is made to only one of several assignees.

(k) No cost-share payment or portion thereof due and owing any landowner shall be subject to any claim arising under State law by any creditor, except agencies of the United States Government.

§ 230.10 Prohibitions.

(a) No cost-share funds shall be paid for the following:

(1) Costs incurred before an application for cost-share assistance is approved;

(2) The implementation of any practice(s) already required by law, regulation, or other authority; and

(3) Repairs or normal upkeep or maintenance of any practice.

(b) No cost-share assistance shall be paid for repeating practices on the same site by the same landowner which have been implemented under the Forestry Incentives Program (16 U.S.C. 2104) or any other Federal, State, or local government programs, or private sector programs, except where such practices are repeated due to a failure of a prior practice without fault of the landowner.

§ 230.11 Recapture of payment.

(a) If any landowner, successor, or assignee uses any scheme or device to unjustly benefit from this program, the cost-share funds shall be withheld or a refund of all or part of any Program payments otherwise due or paid that person shall be secured. A scheme or device includes, but is not limited to, coercion, fraud or misrepresentation,

false claims, or any business dissolution, reorganization, revival, or other legal mechanism designed for or having the effect of evading the requirements of this subpart.

(b) If any landowner or successor takes any action or fails to take action which results in the destruction or impairment of a prescribed practice for the duration of the practice, cost-share funds shall be withheld or a recapture of all or part of any Program payments otherwise due or paid shall be secured based on the extent and effect of destruction and impairment.

(c) Nothing in this section requiring the withholding or refunding of cost-share funds shall preclude any penalty or liability otherwise imposed by law.

§ 230.12 Reconsideration.

Any landowner, successor, or assignee who is dissatisfied with any determination made under the Program may request reconsideration by the State Forester and, if the matter is still not resolved, by the Regional Forester. All requests for reconsideration shall be in writing and shall contain factual information explaining the basis for requesting reconsideration. All decisions upon reconsideration shall be issued in writing.

§ 230.13 Information requirements.

The requirements governing the preparation of a State forest stewardship plan in § 230.4(d) of this subpart, the landowner forest stewardship plan in § 230.6 of this subpart, and the application requirements of § 230.8 constitute information requirements as defined by the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and have been approved for use pursuant to 5 CFR part 1320 and assigned OMB Control Number 0596-0120.

Subpart B—Urban and Community Forestry Assistance Program

SOURCE: 65 FR 57549, Sept. 25, 2000, unless otherwise noted.

§ 230.20 Scope and authority.

The Urban and Community Forestry Assistance Program is authorized by Section 9 of the Cooperative Forestry

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Assistance Act of 1978, as amended (16 U.S.C. 2105). The scope of this authority includes the provision of technical, financial, and related assistance to State and local governments, non-profits, and other members of the public to: maintain, expand, and preserve forest and tree cover; expand research and education efforts related to trees and forest cover; enhance technical skills and understanding of tree maintenance and practices involving cultivation of trees, shrubs and complementary ground covers; and implementing a tree planting program to complement urban tree maintenance and open space programs. The Secretary has delegated the authority for implementing the program to the Chief of the Forest Service under 7 CFR 2.60(a)(16).

§ 230.21 Implementation of the program.

(a) The Urban and Community Forestry Assistance Program is implemented through the Forest Service Grants, Cooperative Agreements, and Other Agreements Program (FSM 1580) and the Grants, Cooperative Agreements, and Other Agreements Handbook (FSH 1509.11). The Forest Service Manual and Handbook are available from the Forest Service internet homepage or at National Forest offices.

(b) The Forest Service, under the authority of the Cooperative Forestry Assistance Act of 1978 and through the Urban and Community Forestry Assistance Program, coordinates financial, technical, and related assistance with the Natural Resources Conservation Service for the Urban Resources Partnership initiative. The Natural Resources Conservation Service provides similar assistance through the Urban Resources Partnership initiative under the authority of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a-590f). The Urban Resources Partnership is an initiative in which Federal agencies, in cooperation with State and local agencies, community groups, and non-governmental organizations endeavor to be more effective, responsive, and efficient in working together to protect, improve, and rehabilitate the environment in urban areas of the Nation. The Forest Service and Natural Resources Conservation

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Service implement the Urban Resources Partnership initiative under the "Urban Resources Partnership National Guidance for U.S. Department of Agriculture Personnel" and applicable agency and departmental procedures for Federal grants and cooperative agreements. Copies of the Guidance may be obtained from the Cooperative Forestry Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

Subpart C—Forest Land Enhancement Program

SOURCE: 68 FR 34314, June 9, 2003, unless otherwise noted.

§ 230.30 Purpose and scope.

(a) The regulations in this subpart govern the operation of the Forest Land Enhancement Program (hereafter, FLEP) as provided in Section 4 of the Cooperative Forestry Assistance Act (16 U.S.C. 2101 *et seq.*), as amended by title VIII of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171). The purpose of FLEP is to provide a coordinated and cooperative Federal, State, and local sustainable forestry program for the establishment, management, maintenance, enhancement, and restoration of forests on nonindustrial private forest land.

(b) The educational assistance, resource management expertise, and financial assistance provided under FLEP shall complement any existing Federal or State programs or programs offered through institutions of higher learning providing assistance to nonindustrial private forest landowners. FLEP promotes improved coordination and cooperation among Federal, State, and local programs regarding the establishment, maintenance, enhancement, and restoration of nonindustrial private forestlands.

(c) Participation in FLEP is voluntary on the part of both the State and the nonindustrial forest landowner. To participate, each State must have nonindustrial private forest lands, a State Forester or equivalent, and a State Forest Stewardship Coordinating Committee.