

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

HFRP participants whose voluntary conservation activities result in a net conservation benefit for listed, candidate, or other species. Landowner Protections made available by the Secretary of Agriculture to HFRP participants may be provided under section 7(b)(4) or section 10(a)(1) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1536(b)(4), 1539(a)(1)). These Landowner Protections may be provided by NRCS in conjunction with meeting its responsibilities under section 7 of the ESA, and/or by FWS or NFMS through section 10 of the ESA. These Landowner Protections include a permit providing coverage for incidental take of species listed under the ESA. Landowner Protections also include assurances related to potential modifications of HFRP restoration plans and assurances related to the potential (unlikely) termination of Landowner Protections and any 10-year cost share agreement.

Liquidated damages means a sum of money stipulated in a restoration agreement which the participant agrees to pay NRCS if the participant fails to adequately complete the restoration agreement. The sum represents an estimate of the anticipated or actual harm caused by the failure, 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 (NMFS) is an agency of the United States Department of Commerce.

Natural Resources Conservation Service (NRCS) is an agency of the United States Department of Agriculture.

Participant means an applicant who is a party to a 10-year cost share agree-

ment or an option agreement to purchase.

Practice means a specified treatment, such as a structural or land management practice, that is planned and applied according to NRCS standards and specifications.

Private land means land that is not owned by a governmental entity, and includes land that is considered Indian trust lands.

Restoration means implementing any conservation practice (vegetative, management, or structural) or measure that improves the values and functions of forestland (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 forestland for the purposes of HFRP under either an easement 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. 1536(b)(4), 1539(a)(1). Under the Safe Harbor Agreement and an associated enhancement of survival permit, the non-federal property owner implements actions that will result in a net conservation benefit for species listed under the Act without the risk of further restrictions pursuant to section 9 of the Act, which prohibits take of listed species. The property owner also receives assurances related to modifications of the SHA or termination of the permit. (See "Landowner Protections," above.)

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 direct and supervise NRCS activities within a specified State, the Pacific Basin, or the Caribbean Area.

Technical service provider means an individual, private-sector entity, or public agency certified or approved by NRCS to provide technical services through NRCS or directly to program

participants, as defined in 7 CFR part 652.

§ 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.

(c) No delegation in this part to lower organizational levels shall 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 the rates of compensation for an easement, a priority ranking process, and any related technical matters.

(e) The NRCS shall coordinate with FWS and NMFS in the implementation of the program and in establishing program policies. In carrying out this program, NRCS may consult with non-industrial private forest landowners, the Forest Service and other Federal agencies, State fish and wildlife agencies, State forestry agencies, State environmental quality agencies, other State conservation agencies; and non-profit conservation organizations. No determination by FWS, NMFS, the Forest Service, any Federal or State agency, conservation district, or other organization shall compel the NRCS to take any action which the 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 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 habitat conditions necessary to increase the likelihood of recovery of listed species under the Endangered Species Act (ESA), or measurably im-

prove the well-being of species that are not listed as endangered or threatened under the ESA but are candidates for such listing, State-listed species, or species identified by the Chief for special consideration for funding. NRCS may provide cost-share assistance for the activities that promote the restoration, protection, enhancement, maintenance, and management of forestland functions and values. Specific restoration, protection, enhancement, maintenance, and management activities may be undertaken by the landowner or other NRCS designee.

(b) *Landowner eligibility.* To be eligible to enroll an easement in the HFRP, a person must:

(1) Be the landowner of eligible land for which enrollment is sought; and

(2) Agree to provide such information to NRCS as the agency deems necessary or desirable to assist in its determination of eligibility for program benefits and for other program implementation purposes.

(c) *Eligible land.* (1) The NRCS, in coordination with FWS or NMFS, shall determine whether land is eligible for enrollment and whether, once found eligible, the lands may be included in the program based on the likelihood of successful restoration, enhancement, and protection of forest ecosystem functions and values when considering the cost of acquiring the easement and the restoration, protection, enhancement, maintenance, and management costs.

(2) Land shall be considered eligible for enrollment in the HFRP only if the NRCS determines that:

(i) Such private land is capable of supporting habitat for a selected species listed under Section 4 of the ESA; and

(ii) Such private land is capable of supporting habitat for a selected species not listed under Section 4 of the ESA but is candidate for such listing, or the selected species is State-listed species, or is a species identified by the Chief for special consideration for funding.

(3) NRCS may also enroll land adjacent to the restored forestland if the enrollment of such adjacent land would contribute significantly to the practical administration of the easement