

## § 625.5

## 7 CFR Ch. VI (1–1–11 Edition)

cost-share agreements, and not more than 60 percent will be used for easements.

(2) The Chief may use any funds that are not obligated by April 1 of the fiscal year for which the funds are made available to carry out a different method of enrollment during that fiscal year.

(b) *Landowner eligibility.* To be eligible to enroll an easement in the HFRP, an individual or entity 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) NRCS, in coordination with FWS or NMFS, will 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, 30-year contract, or 10-year cost share agreement, and the restoration, protection, enhancement, maintenance, and management costs.

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

(i) Such private land will contribute to the restoration or enhancement of the habitat or otherwise measurably increase the likelihood of recovery for a selected species listed under section 4 of the ESA; and

(ii) Such private land will contribute to the restoration or enhancement of the habitat or otherwise measurably improve the well-being of a selected species not listed under section 4 of the ESA but is a candidate for such listing, or the selected species is a State-listed species, or is a species identified by the Chief for special consideration for funding.

(3) NRCS may also enroll land adjacent to eligible land if the enrollment of such adjacent land would contribute significantly to the practical administration of the easement area, but not

more than it determines is necessary for such contribution.

(4) To be enrolled in the program, eligible land must be configured in a size and with boundaries that allow for the efficient management of the area for easement purposes and otherwise promote and enhance program objectives.

(5) In the case of acreage owned by an Indian tribe, NRCS may enroll acreage into the HFRP which is privately owned by either the tribe or an individual.

(d) *Ineligible land.* The following land is not eligible for enrollment in the HFRP:

(1) Land owned by the United States, States, or units of local government;

(2) Land subject to an easement or deed restriction that already provides for the protection of fish and wildlife habitat or that would interfere with HFRP purposes, as determined by NRCS; and

(3) Land that would not be eligible for HFRP under paragraphs (c)(1) through (c)(5).

### § 625.5 Application procedures.

(a) *Sign-up process.* As funds are available, the Chief will solicit project proposals from the State Conservationist. The State Conservationist may consult with other agencies at the State, Federal, and local levels to develop proposals. The State Conservationist will submit the proposal(s) to the Chief for funding selection. Upon selection for funding, the State Conservationist will issue a public sign-up notice which will announce and explain the rationale for decisions based on the following information:

(1) The geographic scope of the sign-up;

(2) Any additional program eligibility criteria that are not specifically listed in this part;

(3) Any additional requirements that participants must include in their HFRP applications that are not specifically identified in this part;

(4) Information on the priority order of enrollment for funding;

(5) An estimate of the total funds NRCS expects to obligate during a given sign-up; and

(6) The schedule for the sign-up process, including the deadline(s) for applying.

(b) *Application for participation.* To apply for enrollment through an easement, 30-year contract, or 10-year cost-share agreement, a landowner must submit an application for participation in the HFRP during an announced period for such sign-up.

(c) *Preliminary agency actions.* By filing an application for participation, the applicant consents to an NRCS representative entering upon the land for purposes of determining land eligibility, and for other activities that are necessary or desirable for NRCS to make offers of enrollment. The applicant is entitled to accompany an NRCS representative on any site visits.

(d) *Voluntary reduction in compensation.* In order to enhance the probability of enrollment in HFRP, an applicant may voluntarily offer to accept a lesser payment than is being offered by NRCS. Such offer and subsequent payments may not be less than those rates set forth in § 625.8 and § 625.10 of this part.

#### § 625.6 Establishing priority for enrollment in HFRP.

(a) *Ranking considerations.* Based on the specific criteria set forth in a sign-up announcement and the applications for participation, NRCS, in coordination FWS and NMFS, may consider the following factors to rank properties:

(1) Estimated conservation benefit to habitat required by threatened or endangered species listed under section 4 of the ESA;

(2) Estimated conservation benefit to habitat required by species not listed as endangered or threatened under section 4 of the ESA but that are candidates for such listing, State-listed species, or species identified by the Chief for special consideration for funding;

(3) Estimated improvement of biological diversity, if enrolled;

(4) Potential for increased capability of carbon sequestration, if enrolled;

(5) Availability of contribution of non-Federal funds;

(6) Significance of forest ecosystem functions and values;

(7) Estimated cost-effectiveness of the particular restoration cost-share agreement, contract, or easement, and associated HFRP restoration plan; and

(8) Other factors identified in a HFRP sign-up notice.

(b) NRCS may place higher priority on certain forest ecosystems based regions of the State or multi-State area where restoration of forestland may better achieve NRCS programmatic and sign-up goals and objectives.

(c) Notwithstanding any limitation of this part, NRCS may enroll eligible lands at any time in order to encompass project areas subject to multiple land ownership or otherwise to achieve program objectives. Similarly, NRCS may, at any time, exclude otherwise eligible lands if the participation of the adjacent landowners is essential to the successful restoration of the forest ecosystem and those adjacent landowners are unwilling to participate.

(d) If available funds are insufficient to accept the highest ranked application, and the applicant is not interested in reducing the acres offered to match available funding, NRCS may select a lower ranked application that can be fully funded. In cases where HFRP funds are not sufficient to cover the costs of an application selected for funding, the applicant may lower the cost of the application by changing the duration of the easement or agreement or reducing the acreage offered, unless these changes result in a reduction of the application ranking score below that of the score of the next available application on the ranking list.

#### § 625.7 Enrollment of easements, contracts, and agreements.

(a) *Offers of enrollment.* Based on the priority ranking, NRCS will notify an affected landowner of tentative acceptance into the program. This notice of tentative acceptance into the program does not bind NRCS or the United States to enroll the proposed project in HFRP, nor does it bind the landowner to convey an easement, or to contract or agree to HFRP activities. The letter notifies the landowner that NRCS intends to continue the enrollment process on their land unless otherwise notified by the landowner.