

§ 767.202

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

(ii) Were not used for farming at any time during the 5 years prior to the date of acquisition by the Agency.

(A) The Agency will consider property to have been used for farming if it was used for agricultural purposes including, but not limited to, cropland, pastures, hayland, orchards, vineyards, and tree farming.

(B) In the case of cropland, hayland, orchards, vineyards, or tree farms, the Agency must be able to demonstrate that the property was harvested for crops.

(C) In the case of pastures, the Agency must be able to demonstrate that the property was actively managed for grazing by documenting practices such as fencing, fertilization, and weed control.

(2) The wetland conservation easement will provide for access to other portions of the property as necessary for farming or other uses.

(b) *Mandatory conservation easements.* The Agency will establish conservation easements to protect 100-year floodplains and other Federally-designated important resources. Federally-designated important resources include, but are not limited to:

(1) Listed or proposed endangered or threatened species;

(2) Listed or proposed critical habitats for endangered or threatened species;

(3) Designated or proposed wilderness areas;

(4) Designated or proposed wild or scenic rivers;

(5) Historic or archeological sites listed or eligible for listing on the National Register of Historic Places;

(6) Coastal barriers included in Coastal Barrier Resource Systems;

(7) Natural landmarks listed on National Registry of Natural Landmarks; and

(8) Sole source aquifer recharge areas as designated by EPA.

(c) *Discretionary easements.* The Agency may grant or sell an easement, restriction, development right, or similar legal right to real property for conservation purposes to a State government, a political subdivision of a State government, or a private non-profit organization.

(1) The Agency may grant or sell discretionary easements separate from the underlying fee or property rights.

(2) The Agency may convey property interests under this paragraph by negotiation to any eligible recipient without giving public notice if the conveyance does not change the intended use of the property.

(d) *Conservation transfers.* The Agency may transfer real estate inventory property to a Federal or State agency provided the following conditions are met:

(1) The transfer of title must serve a conservation purpose;

(2) A predominance of the property must:

(i) Have marginal value for agricultural production;

(ii) Be environmentally sensitive; or

(iii) Have special management importance;

(3) The homestead protection rights of the previous owner have been exhausted;

(4) The Agency will notify the public of the proposed transfer; and

(5) The transfer is in the Agency's financial interest.

(e) *Use restrictions on real estate inventory property with important resources.*

(1) Lessees and purchasers receiving Agency credit must follow a conservation plan developed with assistance from NRCS.

(2) Lessees and purchasers of property with important resources or real property interests must allow the Agency or its representative to periodically inspect the property to determine if it is being used for conservation purposes.

§ 767.202 Real estate inventory property located in special hazard areas.

(a) The Agency considers the following to be special hazard areas:

(1) Mudslide hazard areas;

(2) Special flood areas; and

(3) Earthquake areas.

(b) The Agency will use deed restrictions to prohibit residential use of properties determined to be unsafe in special hazard areas.

(c) The Agency will incorporate use restrictions in its leases of property in special hazard areas.