

Subpart D—Planning

§ 622.30 General.

(a) Watershed projects are to be planned and carried out in a way that will (1) minimize all adverse impacts, and (2) mitigate unavoidable losses to the maximum practicable degree. Projects must comply with the requirements of the National Environmental Policy Act of 1969 (Pub. L. 91–190, 83 Stat. 852) (42 U.S.C. 4321 *et seq.*).

(b) Fish and Wildlife enhancement measures proposed by Federal or State fish and wildlife agencies will be included if they are technically and economically feasible and are acceptable to the sponsors and the NRCS. If additional sponsors are needed to carry out the recommended fish and wildlife measures, NRCS will assist fish and wildlife agencies in attempting to obtain such sponsors.

(c) All planning efforts by NRCS and the sponsors must include well publicized public meetings to obtain public input and views on the project.

(d) Sponsors who receive financial assistance awarded after October 1, 2010, must comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282, as amended), and 2 CFR parts 25 and 170.

[49 FR 6078, Feb. 17, 1984, as amended at 76 FR 19684, Apr. 8, 2011]

§ 622.31 Basic planning efforts.

(a) Upon receipt of an application, the NRCS will make any necessary field studies and develop a report to justify the need for planning effort. Once planning is authorized by the Chief of NRCS, a watershed plan-environmental impact statement (plan-EIS) or a watershed plan-environmental assessment (plan-EA) will be prepared by NRCS to request funding. This effort must be coordinated with other State and Federal agencies.

(b) The Chief of NRCS may waive the watershed plan for works of improvement if the Chief determines that—

(1) The watershed plan is unnecessary or duplicative; and

(2) The works of improvement are otherwise consistent with applicable requirements under this part.

[49 FR 6078, Feb. 17, 1984, as amended at 84 FR 19702, May 6, 2019]

§ 622.32 Reviews and approvals.

(a) The watershed plan-environmental impact statement (or assessment) will be subject to internal technical reviews, sponsor and other local party review, interagency review by other Federal, state, and concerned groups, and a final review as stated in NRCS’s National Watersheds Manual.

(b) After thorough review by NRCS and other agencies, the NRCS and the sponsors shall accept the plan-EIS or plan-EA by signing the watershed agreement. The watershed plan must be approved by the Committees of Congress or the Chief of NRCS. Funding for installation can then be granted by the Chief of NRCS.

PART 623—EMERGENCY WETLANDS RESERVE PROGRAM

- Sec.
- 623.1 Purpose and scope.
- 623.2 Definitions.
- 623.3 Eligible person.
- 623.4 Eligible land.
- 623.5 Ineligible land.
- 623.6 Transfer of lands from the CRP to the EWRP.
- 623.7 Terms of the easement.
- 623.8 Easement value.
- 623.9 Easement priority.
- 623.10 Application to participate.
- 623.11 Obligations of the landowner.
- 623.12 Payments to landowners by NRCS.
- 623.13 Wetland Reserve Plan of Operations.
- 623.14 Easement modifications.
- 623.15 Transfer of land.
- 623.16 Monitoring and enforcement of easement terms and conditions.
- 623.17 Violations and Remedies.
- 623.18 Access to land.
- 623.19 Assignments.
- 623.20 Appeals.
- 623.21 Scheme and device.
- 623.22 Filing of false claims.

AUTHORITY: 16 U.S.C. 3837–3837f; Pub. L. 103–75, Chapter 1, 107 Stat. 739, 742.

SOURCE: 58 FR 62497, Nov. 29, 1993, unless otherwise noted.

§ 623.1 Purpose and scope.

(a) The regulations in this part set forth the policies, procedures, and requirements for the Emergency Wetlands Reserve Program (EWRP). Under the EWRP, NRCS will make offers to purchase wetland conservation easements from persons owning croplands that were damaged by the 1993 Midwest floods if those lands have the potential for restoration to wetland conditions and if the owner voluntarily agrees to restore and maintain those conditions. The easements are to be purchased to promote the restoration and maintenance of wetland characteristics, such as hydrologic conditions of inundation or saturation of the soil and hydrophytic vegetation. The functions and values of the wetlands for wildlife habitat, water quality improvement, flood water retention, floodway enhancement, ground water recharge, open space, aesthetic values, and environmental education will thus be promoted. The wetland conservation easements will permanently prohibit use of the affected land as cropland. Additionally, the easement shall require permanent maintenance of the wetland conditions, except in the case of natural disaster.

(b) The EWRP is available only in the following States: Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin. Certain cropland areas within these States have been determined to have been inundated by the Midwest floods of 1993. As more fully defined and described in this part, eligible land may include farmed wetlands or prior converted wetlands (wetlands converted prior to December 23, 1985), together with adjacent lands on which the wetlands are functionally dependent so long as the likelihood of successful restoration of such land and the potential wetland values merit inclusion in the program with reasonable costs.

§ 623.2 Definitions.

The following definitions shall be applicable for the purposes of this part:

(a) *Agricultural commodity*—means any crop planted and produced by annual tilling of the soil, or on an annual basis by one trip planters, or alfalfa and other multiyear grasses and leg-

umes in rotation as approved by the Secretary. For purposes of determining crop history, as relevant to eligibility to enroll land in the program, land shall be “considered planted to an agricultural commodity” during a crop year if, as determined by ASCS, as action of the Secretary prevented land from being planted to the commodity during the crop year.

(b) *Applicant*—means a person who submits to NRCS an application to participate in the EWRP.

(c) *Commodity Credit Corporation*—a wholly owned government corporation within the U.S. Department of Agriculture.

(d) *Conservation District (CD)*—means a subdivision of a State or local government organized pursuant to applicable State law to promote soil and water conservation practices.

(e) *Conservation Reserve Program*—means the program under which long-term payments and cost-share assistance is provided to individuals to establish permanent vegetative cover on cropland that is highly erodible or environmentally sensitive.

(f) *Prior converted wetland*—means wetland that has been drained, dredged, filled, leveled, or otherwise manipulated (including any activity that results in impairing or reducing the flow, circulation, or reach of water) prior to December 23, 1985, for the purpose, or that has the effect, of making the production of agricultural commodities possible if such production would not have been possible but for such action.

(g) *Cost-share payment*—means the payment made by NRCS to assist program participants in establishing the practices required in a WRPO.

(h) *Chief*—means the Chief of the Natural Resources Conservation Service, or the Chief's designee.

(i) *Easement*—means the real property interest acquired by NRCS under this part for wetland restoration and maintenance and which is properly filed with the appropriate local or State government official.

(j) *Easement area*—means the land to which the approved wetland restoration practices and wetland conservation restrictions are to be applied.

§ 623.3

(k) *Fair market value (FMV)*—means the price that a willing seller would accept and a willing buyer would pay in an open, informed transaction.

(l) *Farmed wetland*—means wetland that was drained, dredged, filled, or otherwise manipulated prior to December 23, 1985 to the extent that the production of agricultural commodities was made possible, but which continues to meet wetland criteria [refer to 7 CFR 12.32(a)(3) for descriptions of farmed wetlands].

(m) *Floodwater control systems*—means dikes, levees, or other similar structural measures for the protection of cropland from flooding.

(n) *FWS*—means the Fish and Wildlife Service of the United States Department of the Interior.

(o) *Local NRCS office*—means the office of the Natural Resources Conservation Service serving the county or combination of counties in which the landowner's farm or ranch is located.

(p) *Participant*—means a person(s) owning land subject to a perfected easement purchased by the Natural Resources Conservation Service under this part.

(q) *Offer*—means the total payment NRCS will make to a landowner to purchase an easement.

(r) *Permanent easement*—means an easement in perpetuity.

(s) *Substantially altered lands*—means lands which have not been and are not now wetlands but could likely develop wetland characteristics in the future, as a result of the Midwest floods of 1993.

(t) *Practice*—means the wetland and easement area development restoration measures agreed to in the WRPO to accomplish the desired program objectives.

(u) *Technical assistance*—means the assistance provided to land owners to facilitate implementation of the WRPO.

(v) *Wetland*—means land that (1) has a predominance of hydric soils; (2) is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (3) does support a prevalence

7 CFR Ch. VI (1–1–25 Edition)

of such vegetation under normal circumstances.

§ 623.3 Eligible person.

To be eligible to participate in the EWRP, a person must be the owner of eligible land for which enrollment is sought and must have been the owner of such land for at least the preceding 12 months prior to the time the enrollment offer is declared by NRCS, as provided in this part. The person shall provide to NRCS adequate proof of ownership of the land. NRCS may waive the 12 month ownership requirement if:

(a) The land was acquired by will or succession as a result of the death of the previous owner; or

(b) Adequate assurances have been presented that the new owner of such land did not acquire such land for the purpose of placing it in the EWRP.

§ 623.4 Eligible land.

(a) Except as otherwise provided in this section, land is eligible for enrollment in the EWRP only if NRCS determines that the land:

(1) Was inundated by the Midwest floods of 1993;

(2) If restored to productive condition, would have a fair market value that is less than the estimated costs of restoring the land to productive condition and repairing related floodwater control systems;

(3) Is likely to have its wetland value restored with minimal costs; and

(4) Is wetland farmed under natural conditions, a farmed wetland or prior converted wetland, or substantially altered lands which are cropland; or

(5) Is wetland that has been restored on the land under a CRP contract, or under a Federal or State wetland restoration program with an easement for a period of less than 30 years.

(b) To be eligible for enrollment in the EWRP, land must also:

(1) Be determined by ASCS to have been annually planted or considered planted to an agricultural commodity in at least 1 of the 5 previous crop years; or

(2) Be land under a CRP contract, in which case, the land need only to have been planted to an agricultural commodity during 2 of the 1981 through 1985 crop years.

(c) Other lands may be considered eligible if the inclusion of such lands in the EWRP easement would significantly add to the functions and values of the wetlands to be restored under this part, as determined by NRCS.

(d) The criteria and procedures contained in 7 CFR part 12 will be used to identify wetlands, converted wetlands, and farmed wetlands.

§ 623.5 Ineligible land.

Notwithstanding any other provisions of this part, the following land is not eligible for enrollment in the EWRP:

(a) Land that contains either timber stands or trees established in connection with a CRP contract;

(b) Lands owned or acquired by an agency of the Federal Government;

(c) Land already subject to a deed restriction prohibiting the production of agricultural commodities or the alteration of existing wetland hydrologic conditions;

(d) Land located between the pre-flood mainstem levees and the river; or

(e) Land that was restored to wetland conditions, as required under Part 12 of this title, to mitigate the conversion of wetland to cropland use.

§ 623.6 Transfer of lands from the CRP to the EWRP.

Land that is subject to an existing CRP contract administered under 7 CFR parts 704 and 1410 may be transferred into the EWRP only if:

(a) The land and landowner(s) meet the requirements of this part; and

(b) The application for transfer into the EWRP is approved by Commodity Credit Corporation (CCC), if found to be in the interest of the program. If such transfer is requested by the owner and approved by CCC, the CRP contract for the property will be terminated or otherwise modified subject to such terms and conditions as are mutually agreed by the landowner, CCC, and NRCS.

§ 623.7 Terms of the easement.

Landowners will grant to NRCS an easement which shall run with the land and be in favor of NRCS and its assigns or delegates. The easement shall require the land to be monitored as specified by the WRPO to promote the pur-

poses of this part, including but not limited to maintenance of the restored wetland for entire length of the easement. Such easement shall: (a) be a permanent reserve interest easement; (b) require that the maintenance of the land be in accordance with the terms of the easement and with the terms of the WRPO and shall be the responsibility of the owners of the property and their successors of any kind, including, but not limited to, the owners' heirs and assigns; (c) grant to NRCS a right of access in favor of NRCS and its delegates, assigns and successors of any kind, to the portion of the property which is subject to the provisions of the easement. Maintenance of such access shall be the responsibility of the owner and their successors of any kind; (d) reserve to NRCS the right to permit such compatible uses of the easement area as may be identified in the WRPO; (e) reserve to the landowner those compatible uses identified in the WRPO that are permitted to be pursued by the landowner; (f) be signed by each person with an interest of any kind in the land covered by the easement; (g) permanently prohibit use of the easement area for cropland, except to harvest an agricultural commodity planted before the easement is perfected; and (h) require permanent maintenance of the wetland conditions, except in the case of natural disaster.

§ 623.8 Easement value.

NRCS offers for easements will be based on the fair market value, as determined by the NRCS State Conservationist, of the land covered by the easements. Fair market value will be based on post-flood conditions as if reclaimed. Land easement values will be determined by the State Conservationist in consultation with a technical committee. A technical committee shall include representatives of: ASCS, Extension Service, and FWS. Additionally, the State Conservationist may collect information from other sources as he deems necessary. Coordination between States will be provided by the Chief, NRCS.

§ 623.9 Easement priority.

The State Conservationist, in consultation with the FWS and with input

§ 623.10

from a technical committee and other interested Federal agencies, will establish a ranking process to establish the priority of parcels offered into the EWRP. This process will rank the floodway enhancement and environmental benefits per dollar of government expenditure on restoration and easement purchase. The factors for determining the priority for selection will consider the following:

- (a) Protection and enhancement of habitat for migratory birds and wildlife, including the contribution the restoration may make to the recovery of threatened and endangered species,
- (b) Floodway expansion,
- (c) Proximity to other protected wetlands,
- (d) Level of hydrology restored,
- (e) Wetland function or values,
- (f) Likelihood of successful restoration of wetland values,
- (g) Cost of restoration and easement purchase, and
- (h) Other factors as determined appropriate by NRCS.

§ 623.10 Application to participate.

- (a) A person seeking to enroll land in the EWRP must apply for enrollment on an approved NRCS form. The application to participate must be filed with the local NRCS field office during an announced period for such submissions.
- (b) A person submitting an application to participate shall not be obligated to accept an NRCS offer to purchase an easement if one is forthcoming.
- (c) An application to participate must be signed by all owners of the property or their duly authorized representative(s).

§ 623.11 Obligations of the landowner.

- (a) All owners of land who accept an EWRP offer from NRCS shall:
 - (1) Comply with the terms of the easement.
 - (2) Comply with all terms and conditions of the WRPO for the full life of the easement.
 - (3) Ensure that the easement granted to NRCS is superior to the interest of all other parties who may have an interest in the easement area, except as authorized by NRCS. Such action shall include, but not be limited to, obtain-

7 CFR Ch. VI (1-1-25 Edition)

ing a written statement of consent to such a superior easement from those holding a security interest or any other encumbrance or the land covered by the easement. Additionally, the landowner shall perfect the easement with superior NRCS interest in accordance with State law.

- (4) Agree to the permanent retirement of the aggregate total of crop acreage bases, and allotment and mandatory quota on the farm or ranch in order to maintain the base allotment on quota acres at or below the number of acres of cropland after the easement has been perfected.

- (5) Not allow grazing or commercial use of the land covered by an easement except as provided for in the WRPO, or harvesting of any agricultural commodity produced on the land subject to the EWRP easement.

- (6) Comply with Federal or State noxious weed laws in the manner specified in the WRPO.

- (7) Control other identified weed and pest species, in the manner specified in the WRPO.

- (8) Be responsible for repairs, improvements, and inspections of the WRPO practices as necessary to maintain existing public drainage systems when the land is restored to the condition required by the terms of the easement, the contract, and the easement.

- (9) Be permitted to control public access, in accordance with the WRPO, on the land enrolled in the program.

- (10) Implement any additional provisions that are required by NRCS in consultation with FWS in the contract, WRPO, or easement, in order to, as determined by NRCS, facilitate the administration of the EWRP.

- (11) Not alter the vegetation, except to harvest already planted crops or forage, or hydrology on such acres subsequent to perfection of the easement by the landowner, except as provided for in the easement or WRPO.

- (12) Be responsible for the long-term management of the easement in accordance with the terms of the easement and related agreements including the WRPO. Owners may enter into agreements with Federal or State

agencies or private organizations to assist in the management of the easement area. No NRCS funds will be provided to these agencies or organizations for management expenses. Responsibility for management of the easement shall in all cases remain with the owner and the owner's successors of any kind regardless of whether arrangements are made for third-party management.

(13) Agree that each person with an interest in the land covered by an easement under EWRP shall be jointly and severally responsible for compliance with the WRPO, the easement, the provisions of this part, and for any refunds or payment adjustment which may be required for violation of any terms or conditions of the WRPO, the easement, or provisions of this part.

(14) Refrain from taking any action on the easement area unless specifically authorized in the reserve interest easement or the WRPO; and

(15) Secure any necessary local, State and Federal permits prior to commencing restoration of the designated area.

(b) In addition, program participants and their successors of any kind may:

(1) Not alter wildlife habitat and other natural land features of the enrolled land unless authorized by the WRPO.

(2) Apply pesticides or fertilizers on enrolled land or mow such land, only as provided for in the WRPO.

(3) Not engage in any activities on other land on the farm on which the easement exists that will, as determined by NRCS; (i) alter the flow of surface or subsurface water into or out of the easement area except as specified in the WRPO; or (ii) be otherwise inconsistent with the terms of the easement.

(c) The activities of any person on the property shall be considered for purposes of this section to be the actions of the program participant. However, if the NRCS determines that the activities of the person were beyond the control of the program participants, NRCS may adjust the remedies provided for in this part to the extent determined consistent with program goals. Obligations created by the easement shall run with the land and shall

bind all persons having an interest in the property at any time whether such interest is created by death of the owner, sale, assignment, or otherwise.

§ 623.12 Payments to landowners by NRCS.

(a) NRCS will share the cost with landowners of rehabilitating the enrolled land in the EWRP as provided in the WRPO. The amount of the cost-share assistance shall be specified in the contract. Eligible costs for such cost-share assistance by NRCS shall only include those costs which NRCS determines are appropriate and shall be subject to the following restrictions:

(1) The State Conservationist will establish cost-share rates of between 75 to 100 percent of the historical cost of establishing or installing the practices specified in the WRPO; or pay the average cost of establishing the practices specified in the WRPO, based on the historical cost of establishing the practices in the State;

(2) Cost-share payments may be made only upon a determination that an approved practice or an identifiable unit of the practice has been completed in compliance with NRCS approved standards and specifications; and

(3) Cost-share payments may not be made for the maintenance of the practice except as specifically permitted in writing by the State Conservationist.

(b) Notwithstanding paragraph (a)(3) of this section, cost share payments may be authorized for the replacement or restoration of practices for which cost share assistance has been previously allowed under the EWRP, but only if:

(1) Replacement or restoration of the practice is needed to meet the objectives for which the easement was established; and

(2) The failure of the original practice was due to reasons beyond the control of the participant.

(c)(1) NRCS shall pay the amount agreed upon by NRCS and the landowner for the purchase of the easement in a lump-sum amount after the easement is perfected in compliance with State law, except in the case of paragraph (c)(2) of this section.

(2) For all easements, NRCS shall pay no more than 75 percent of the total

easement price pending completion of the practices to restore the wetlands as provided under the WRPO. The remaining amount shall be paid when NRCS determines the restoration is complete.

(d) After an easement is perfected, NRCS will reimburse landowners for fair and reasonable expenses incurred for title searches, filing expenses, and related costs, as determined by NRCS.

§ 623.13 Wetlands reserve plan of operations.

(a) After NRCS has accepted the applicant for enrollment in the program, a WRPO will be developed by the landowner and NRCS, in consultation with FWS.

(b) The WRPO shall:

(1) Include an aerial photo displaying the land offered for enrollment;

(2) Specify the manner in which the eligible land shall be restored, operated, and maintained to accomplish the goal of the program, including, but not limited to: (i) measures to control noxious weeds and insect pests in order to comply with applicable Federal, or State noxious weed and pest control laws; and (ii) measures to control other specified species of weeds, insects or pests;

(3) Specify compatible land uses for personal enjoyment for which the landowner may be compensated. These compatible land uses shall be reserved to the landowner in the easement. Such uses may include, among others: (1) recreational use, hunting and fishing; (ii) manage timber production including harvesting; and (iii) managed haying or grazing consistent with the goals of the program;

(4) Set out cost estimates of the practices required by the WRPO, the offer for the easement, and other reimbursement costs;

(5) Identify access routes to be maintained for wetland restoration activities and future management and easement monitoring in connection with the land to be enrolled;

(6) Make provisions deemed necessary for maintaining public drainage systems if present on lands subject to the WRPO;

(7) Contain scheduled implementation dates for restoration practices;

(8) Contain other provisions or limitations as NRCS, in consultation with the FWS, determines to be necessary.

(c) NRCS in consultation with FWS will collect from State or Federal agencies whatever additional information is deemed necessary for the development of the WRPO with the landowner.

(d) The WRPO must be signed by NRCS, FWS, Conservation District (CD), and the landowner(s). However, if agreement between NRCS and FWS, or CD at the local level is not reached within 20 calendar days, the WRPO shall be developed by the State Conservationist of NRCS in consultation with FWS or CD.

(e) The WRPO may require that a temporary vegetative or water cover be established on the property if immediate establishment of a permanent cover is not practicable or otherwise desirable.

(f) The terms of an approved WRPO shall not relieve the program participant of any obligation or term imposed or provided for in the contract, the easement, or this part.

(g) WRPO, where appropriate, will provide for the development of a tree planting plan with the assistance of the FS or State forestry agency.

(h) The WRPO, where appropriate, will provide for the development by NRCS of detailed plans for weed control, structural measures and their operation, vegetation establishment and management, and other measures as needed.

(i) Revisions of the WRPO to enhance or protect the value for which the easement was established may be made at any time at the request of either NRCS, FWS, the owner and upon the concurrence of all three parties.

§ 623.14 Easement modifications.

After the easement has been perfected, no change will be made in the easement without a written request by the participant and the written consent of the Chief. Approval may be granted to achieve the goals of EWRP or facilitate the practical administration and management of the easement area or the program and the approval will not adversely affect the functions and values for which the easement was

established. A modified easement shall be perfected in accordance with State law and NRCS superior interest shall be reserved by the landowner in accordance with §§ 623.7 and 623.11(a)(3).

§ 623.15 Transfer of land.

(a) If a new owner purchases or obtains the right and interest in, or right to occupancy of, the land subject to a EWRP easement, such new owner shall be subject to the terms and conditions of the easement. The participant who is the signatory to the easement shall be entitled to receive all remaining payments, if any, for the purchase of the easement. Eligible cost-share payments shall be made to the participants, with respect to costs actually incurred.

(b) Upon the transfer of the property subject to an EWRP easement, any remaining cost-share payments shall be paid to the new owner or purchaser only if the new owner or purchaser becomes a party to the WRPO within 60 days of the perfection of the deed transferring title to the new owner. Such payments shall be paid in the manner agreed to by the participant and the buyer. The new owner or purchaser shall be responsible for assuring completion of all measures and practices required by the contract and the WRPO.

(c) Any transfer of the property prior to the perfection of the easement shall void any NRCS offer or WRPO unless the new owner agrees to accept the offer within 60 days of the perfection of the deed transferring the land to the new owner.

§ 623.16 Monitoring and enforcement of easement terms and conditions.

(a) NRCS or its representative shall be permitted to inspect each easement area at any and all times determined necessary by NRCS to ensure that:

- (1) Structural and vegetative restoration work are properly maintained;
- (2) The wetlands and adjacent upland habitat of the easement area is being managed as required in the WRPO and the terms of the easement; and
- (3) Uses of the area are consistent with the terms and conditions of the easement and the WRPO.

(b) If an owner or other interested party is unwilling to voluntarily correct, in a timely manner, deficiencies in compliance with the terms of the WRPO, the EWRP easement, or any related agreements, NRCS may at the expense of any person who is subject to the EWRP easement correct such deficiency. Such NRCS action shall be in addition to other remedies available to NRCS.

(c) Monitoring and enforcement responsibilities may be delegated by NRCS at any time to other Federal or State agencies. Landowners may transfer management responsibilities only to Federal, State, or local agencies or private organizations that have been approved by NRCS in advance as having the appropriate authority, expertise, and resources necessary to carry out such delegated responsibilities.

§ 623.17 Violations and remedies.

(a) If a violation of the terms and conditions of the contract, the WRPO, or the recorded EWRP easement occurs, the easement shall remain in force and NRCS may:

- (1) Require the owner to fully restore the easement area to fulfill the terms and conditions of the easement and WRPO; and
- (2) Require the owner, who received payments from NRCS for any purpose under this part, to refund all or part of such payments received together with interest, as determined appropriate by NRCS.

(b) If an owner fails to carry out the terms and conditions of an easement, appropriate legal action may be initiated. The owner of the property shall reimburse NRCS for all costs incurred including, but not limited to, legal fees.

§ 623.18 Access to land.

In order to determine eligibility and compliance with respect to this part, representatives of the Department, or designee thereof, shall have the right of access to:

- (a) Land which is the subject of an application made in accordance with this part,
- (b) Land which is subject to an easement made in accordance with this part, and

§ 623.19

(c) Records of the participant showing status of all ownership interest in lands subject to this part.

§ 623.19 Assignments.

Any participant entitled to any cash payment under this program may assign the right to receive such cash payments, in whole or in part.

§ 623.20 Appeals.

A participant in the EWRP may obtain a review of any administrative determination concerning land eligibility, development of a WRPO, or any adverse determination under this part in accordance with the administrative appeal regulations provided in part 614 of this title.

[60 FR 67316, Dec. 29, 1995]

§ 623.21 Scheme and device.

(a) If it is determined by NRCS that a landowner has employed a scheme or device to defeat the purposes of this part, any part of any program payment otherwise due or paid such landowner during the applicable period may be withheld or be required to be refunded with interest thereon, as determined appropriate by NRCS, and the contract with the landowner may be terminated. In such a case, NRCS may also continue to hold the easement interest acquired under this part.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person of payments for cost-share practices or easements for the purpose of obtaining a payment to which a person would otherwise not be entitled.

(c) An owner of land subject to this part who succeeds to the responsibilities under this part shall report in writing to NRCS any interest of any kind in the land subject to this part that is retained by a previous participant. Such interest includes a present, future or conditional interest, reversionary interest or any option, future or present, with respect to such land and any interest of any lender in such land where the lender has, will, or can obtain, a right of occupancy to such land or an interest in the equity in such land other than an interest in the appreciation in the value of such land

7 CFR Ch. VI (1-1-25 Edition)

occurring after the loan was made. A failure of full disclosure will be considered a scheme or device under this section.

§ 623.22 Filing of false claims.

If it is determined by NRCS that any participant has knowingly supplied false information or has knowingly filed a false claim, such participant shall be ineligible for any payment under this part. False information or false claims include claims for payment for practices which do not meet the specifications of the applicable WRPO. Any amounts paid under these circumstances shall be refunded, together with interest as determined by NRCS, and any amounts otherwise due such participant shall be withheld.

PART 624—EMERGENCY WATERSHED PROTECTION

Sec.

- 624.1 Purpose.
- 624.2 Objective.
- 624.3 Scope.
- 624.4 Definitions.
- 624.5 Coordination.
- 624.6 Program administration.
- 624.7 Cost-sharing.
- 624.8 Assistance.
- 624.9 Time limits.
- 624.10 Floodplain easements.
- 624.11 Waivers.

AUTHORITY: Sec. 216, P.L. 81-516, 33 U.S.C. 701b-1; Sec. 403, P.L. 95-334, as amended, 16 U.S.C. 2203; 5 U.S.C. 301.

SOURCE: 70 FR 16926, Apr. 4, 2005, unless otherwise noted.

§ 624.1 Purpose.

The Natural Resources Conservation Service (NRCS) and United States Forest Service (FS) are responsible for administering the Emergency Watershed Protection (EWP) Program. This part sets forth the requirements and procedures for Federal assistance, administered by NRCS, under Section 216, Public Law 81-516, 33 U.S.C. 701b-1; and Section 403 of the Agricultural Credit Act of 1978, Public Law 95-334, as amended by Section 382, of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104-127, 16 U.S.C. 2203. The Secretary of Agriculture has delegated the administration of the EWP Program to the Chief