

Total Color Defect (Major & Minor) .....	13.8	16.0	19	51	96	200	316	430
Core Material .....	2.17	3.0	4	11	19	37	56	76
Fragments .....	3.8	5.0	7	17	31	61	94	127
Mechanical Damage .....	17.6	20.0	24	63	121	251	398	544
Loose Leaves (each piece) .....	6.4	8.0	10	26	48	98	153	208

**§ 52.728 Sample size.**

The sample size used to determine whether the requirements of these standards are met shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Products" (7 CFR 52.1 through 52.83).

**§ 52.729 Acceptance criteria.**

(a) *Style*. A lot of frozen cauliflower, is considered as meeting the requirements for style if the requirements in § 52.723, as applicable, are not exceeded.

(b) *Quality Factors*. A lot of frozen cauliflower is considered as meeting the requirements for quality if:

(1) The prerequisites specified in § 52.726 are met; and

(2) The Acceptance Numbers in Table I or II in § 52.727, as applicable, are not exceeded.

(c) *Single Sample Unit*. Each unofficial sample unit submitted for quality evaluation will be treated individually and is considered as meeting requirements for quality and style if:

(1) The prerequisites specified in § 52.726 are met; and

(2) The requirements for style in § 52.723 and the Acceptable Quality Levels (AQL's) in Tables I & II in § 52.727, as applicable, are not exceeded.

Dated: August 21, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

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BILLING CODE 3410-02-P

**Farm Service Agency****Commodity Credit Corporation****7 CFR Parts 704 and 1410**

RIN 0560-AE84

**1986-1990 Conservation Reserve Program; 1991-2002 Conservation Reserve Program**

**AGENCY:** Farm Service Agency and Commodity Credit Corporation, USDA.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule modifies provisions for the Conservation Reserve

Program (CRP) which were addressed in rules published on May 8, 1995 (60 FR 22456) and March 15, 1996 (61 FR 10671) concerning the opportunity for early release of certain acreage from the CRP. The modifications reflect new provisions enacted in the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act). This rule also sets out other modifications to reflect new provisions in the 1996 Act and to make technical corrections and other minor modifications to the rule. These additional modifications include: revisions of the "contour grass strip" and "filterstrip" definitions to remove size limitations; a correction of a landlord-tenant reference in the rule; a reassignment of provisions dealing with the preservation of cropland bases; and technical changes to reflect a Department of Agriculture (USDA) reorganization. Further, this rule also updates the base period for the cropping history needed to enter cropland into the CRP.

**DATES:** This rule is effective August 27, 1996. Comments concerning this rule should be received by October 28, 1996, to be assured consideration.

**ADDRESSES:** Comments and requests for additional information should be directed to Cheryl Zavodny, Conservation and Environmental Protection Division, FSA, P.O. Box 2415, STOP Box 0513, Room 4768-S, Washington, DC 20013-2415, telephone 202-720-7333.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Zavodny, (202) 720-7333.

**SUPPLEMENTARY INFORMATION:**

Executive Order 12866

This interim rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

**Regulatory Flexibility Act**

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule because neither FSA nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

**Environmental Evaluation**

It has been determined by an environmental evaluation that this rule

does not have a significant impact on the environmental, historical, social or economic resources of the Nation. Therefore, it has been determined that these actions will not require an Environmental Assessment or an Environmental Impact Statement.

**Executive Order 12372**

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

**Federal Domestic Assistance Program**

The title and number of the Federal Domestic Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, is the Conservation Program-10.069.

**Paperwork Reduction Act**

The previous information collection under OMB control number 0560-0125 has been reinstated with changes and has received emergency clearance. A regular information collection submission will be submitted pursuant to the Paperwork Reduction Act of 1995.

**Executive Order 12778**

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of this rule are not retroactive and preempt State and local laws to the extent such laws are inconsistent with the provisions of this rule. Before any action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded program participants at 7 CFR parts 11, 624, and 780 must be exhausted.

**Background**

Current regulations in 7 CFR part 704 and 7 CFR part 1410 implement the CRP, which was first authorized by Title XII of the Food Security Act of 1985 (1985 Act). Acreage enrolled in signups held from 1986 through 1990 are controlled by regulations in 7 CFR part 704 whereas acreage enrolled in subsequent signups is controlled under part 1410. In the CRP, the CCC pays owners and operators of highly erodible and other environmentally sensitive cropland to convert the land to a

conserving use cover for a period of at least 10 years. Because of a desire to redirect CRP to more sensitive land, interim rules published May 8, 1995, and March 15, 1996, allowed for an early release of some acreage from some contracts. Subsequently, in the 1996 Act, enacted on April 4, 1996, CRP enrollments were re-authorized through 2002, and with respect to existing contracts it was provided that certain CRP participants could unilaterally obtain an early release of contracts entered into before January 1, 1995, if the contract had been in effect for at least 5 years. Under the statute, there is a 60 day waiting period before the application to terminate is effective. That termination will not relieve the participant of liability for a pre-existing contract violation. The 1996 Act provides that land which is not eligible for the early termination includes filterstrips, grass waterways, riparian areas, field windbreaks, shelterbelts, shallow water areas, acreage with an erodibility index of more than 15, and other lands of high environmental value (including wetlands), as may be determined by the Secretary. This rule implements those provisions and modifies the May 1995, and March 1996, interim rules accordingly. In addition, Title III of the 1996 Act (which covers a number of conservation issues for the CRP and other programs) allows for the Secretary to permit technical assistance in connection with the creation of new enrollments to be obtained from private sources. That provision has also been incorporated into the regulations. Other changes to reflect the new legislation include modifications in the 1996 rule which change the CRP statute to reduce from 3 to 1 the number of years which an owner or operator of cropland must have that status prior to offering land for enrollment in the CRP.

In addition, this rule makes certain technical changes to the rule. These include: (1) Affording more flexibility in enrollments by removing size limits in the definitions of filterstrip and contour grass strip; (2) correcting the reference to the general regulations governing landlord-tenant matters and assignments and moving the reference concerning the preservation of cropland bases from its former position in part 719, and; (3) changing references from SCS to Natural Resources Conservation Service.

Further, the rule is amended to change the 1986–1990 base period previously used to determine whether land qualifies as cropland for CRP purposes. The new base period will be a 1992–1996 base period. This is to

insure that the limitations of the program to cropland are applied as fully as possible consistent with the goals of the program.

The Department seeks public comment regarding the acreage determined ineligible for early release. The Secretary determined, in addition to the acreage excluded by statute, acreage enrolled under wetland criteria during signup periods 8 and 9 and acreage on which a CRP useful life easement is filed will not be eligible. A cost/benefit analysis was conducted to evaluate two options concerning the types of enrolled acreage that would not be eligible for early release under this rule. The first (selected) option included the acreage and cover types listed in sections 704.20 and 1410.116. The second option added wetland not enrolled in the eighth and ninth signups, buffer acreage for all wetland, wellhead protection acres, and acres affected by scour erosion to the list. About 1.7 million fewer acres would be eligible for early release under the second option and almost 110,000 fewer acres would have been released early. The increased plantings from the higher amount of early release acreage under the first option would have minimal impacts on farm prices and income. CRP payments would be \$6 million lower under the second option, if none of the withdrawn acres are replaced with new enrollments until after they would have normally expired. The loss of environmental benefits under the first option would be only slightly larger than under the second option. For additional information or to obtain a copy of the cost/benefit analysis, contact Tom Browning, USDA/FSA/EPAS, P.O. Box 2415 STOP 0519, Washington, D.C. 20013–2415.

This interim rule had a statutory requirement to be issued within 90 days following enactment of the Federal Agriculture Improvement and Reform Act of 1996 on April 4, 1996, as required by Section 1243(c) of the 1985 Act, as amended by the 1996 Act. Because the modifications in this rule are required by law, technical in nature, do not limit any entitlement, and/or involve the provisions of immediate benefits provided for in the 1996 Act, it has been determined that the delay of this rule pending comment would be contrary to both the law and the public interest.

#### List of Subjects

#### 7 CFR Part 704

Administrative practices and procedures, Base protection, Conservation plan, Contracts,

Environmental indicators, Natural resources, and Technical assistance.

#### 7 CFR Part 1410

Administrative practices and procedures, Base protection, Conservation plan, Contracts, Environmental indicators, Natural resources, and Technical assistance.

Accordingly, 7 CFR parts 704 and 1410 are amended as follows:

### **PART 704—1986–1990 CONSERVATION RESERVE PROGRAM**

1. The authority citation for 7 CFR Part 704 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3801–3847.

#### **§ 704.1 [Amended]**

2. Section 704.1 is amended by adding “, as amended” after “(Pub. L. 99–198).”

#### **§ 704.2 [Amended]**

3. Section 704.2(a)(23) is amended by adding the words “or as otherwise authorized by the Secretary” after the word “Department.”

#### **§ 704.3 [Amended]**

4. Section 704.3 is amended in paragraph (a) by removing the words “State ASC Committees (STC) and County ASC Committees (COC)” and adding in their place the words “State FSA committees (STC) and county FSA committees (COC)”; in paragraph (b) by removing the words “Soil Conservation Service (SCS)” and adding in their place the words “Natural Resources Conservation Service (NRCS)”; in paragraph (d) by removing the words “Extension Service (ES)” and adding in their place “Cooperative State Research, Education and Extension Service”.

#### **§ 704.7 [Amended]**

5. Section 704.7 is amended in paragraph (a)(3)(ii) by removing “SCS” and adding in its place “NRCS”; in paragraph (d)(4) by removing the word “exceeded” and adding the word “adjusted” in its place and by removing “SCS” and adding “NRCS” in its place; in paragraphs (e)(1) and (e)(8) by removing “SCS” and adding “NRCS” in its place.

#### **§ 704.9 [Amended]**

6. Section 704.9 is amended in paragraph (a) by removing the words “Soil Conservation Service (SCS)” and adding the words “NRCS or another source as approved by the NRCS, in consultation with FSA” in its place; in paragraphs (b) and (d) by removing “SCS” and adding in its place “NRCS.”

**§ 704.18 [Amended]**

7. Section 704.18 is amended by removing the words "part 709, Assignment of Payment" and adding in their place the words "part 1404, Assignment of Payments."

8. Section 704.20 is amended in paragraph (b) by removing "SCS" and adding in its place "NRCS", and paragraph (a)(4) is revised to read as follows:

**§ 704.20 Contract modifications.**

(a) \* \* \*

(4) Terminate contracts enrolled in CRP before January 1, 1995, which have been in effect for at least 5 years as determined by CCC. Contract acreage located within an average of 100 feet of a perennial stream or other permanent waterbody, on which a CRP easement is filed, that was enrolled under the wetland eligibility criteria established in signup periods eight and nine, and contract acreage on which there exist the following practices installed or developed as a result of participation in the CRP or are otherwise required by the NRCS local Field Office Technical Guide are not eligible for termination prior to the expiration date of the contract as provided in this paragraph: grass waterways; filter strips; shallow water areas for wildlife; bottomland timber established on wetlands; field windbreaks; and, shelterbelts. In addition, for any land for which an early termination is sought, the land must have an EI of 15 or less. With respect to any terminations made under this paragraph (a)(4):

(i) The termination shall become effective 60 days from the date the participant(s) submits notification to CCC of the participant's desire to terminate the contract;

(ii) Acreage terminated under this provision is eligible to be re-offered for CRP during future signup periods providing the acreage otherwise meets the eligibility criteria established for that signup; and,

(iii) Participants shall be required to meet conservation compliance requirements of 7 CFR part 12 to the extent applicable to other land.

\* \* \* \* \*

**§ 704.24 [Amended]**

9. Section 704.24 is amended by removing all references therein to "SCS" and adding in their place "NRCS."

**§ 704.26 [Amended]**

10. Section 704.26 is amended by removing "713.109 and 713.150" and adding in its place "1413.150."

**§ 704.27 [Amended]**

11. Section 704.27 is amended in paragraph (b) by removing "SCS" and adding in its place "NRCS."

12. Section 704.30 is amended by adding paragraph (c) as follows:

**§ 704.30 Miscellaneous.**

\* \* \* \* \*

(c) Cropland acreage established and maintained in vegetative cover under CRP, including approved volunteer cover, shall retain its cropland classification for the period of time that the cover is maintained or as otherwise established by the Deputy Administrator.

**PART 1410—1991–1995  
CONSERVATION RESERVE PROGRAM**

13. The authority citation for 7 CFR Part 1410 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3831–3847.

14. The title of Part 1410 is amended by removing "1991–95" and adding "1991–2002" in its place.

**§ 1410.1 [Amended]**

15. Section 1410.1 is amended by adding, "as amended" after "Food Security Act of 1985."

**§ 1410.2 [Amended]**

16. Section 1410.2 is amended by: removing the words "Soil Conservation Service (SCS)" in paragraph (f)(2) and adding "NRCS" in their place; in paragraph (h) removing the words "Extension Service (ES)" and adding in their place the words "Cooperative State Research, Education, and Extension Service (CSREES)"; and redesignating paragraphs (g) and (h) as (h) and (i) respectively.

17. Section 1410.2 is further amended by revising paragraphs (a) and (f)(1) and adding a new paragraph (g), to read as follows:

**§ 1410.2 Administration.**

(a) The regulations in this part will be administered under the general supervision and direction of the Executive Vice President, Commodity Credit Corporation (CCC), and the Administrator, Farm Service Agency (FSA), through the Deputy Administrator for Farm Programs, FSA. In the field, the regulations in this part will be administered by the State and county FSA committees ("State committees" and "county committees," respectively).

\* \* \* \* \*

(f)(1) The erosion index (EI), suitability of land for permanent vegetative or water cover, factors for

determining the likelihood of improved water quality, and adequacy of the planned practice to achieve desired objectives, shall be determined by the Natural Resource Conservation Service (NRCS) in accordance with the local field office technical guide or other guidelines deemed appropriate by the NRCS, except that no such determination by the NRCS shall compel CCC to execute a contract which CCC does not believe will serve the purposes of the program established by this part.

\* \* \* \* \*

(g) State FSA committees, with NRCS, may develop a State ranking process to evaluate acreage based on State specific goals and objectives. Such STC's may choose between developing a State ranking process or utilizing a national ranking process. States' ranking processes shall be developed based on recommendations from State Technical committees, follow national guidelines, and be approved by the Deputy Administrator."

\* \* \* \* \*

**§ 1410.3 [Amended]**

18. Section 1410.3(b) is amended by: removing the definition of "SCS"; placing the definition of "FSA" in its correct alphabetical position; and in the definition of "Highly erodible land" removing "SCS" and adding "NRCS" in its place.

19. Section 1410.3(b) is further amended by adding, at its appropriate alphabetical location, a new definition for "NRCS" and by revising the definitions of "Contour grass strip", "Filterstrip", and "FSA", to read as follows:

\* \* \* \* \*

"*Contour grass strip* means a vegetation area that follows the contour of the land, whose width is determined by the NRCS local office Field Office Technical Guide and whose designation is included as a contour grass strip by a conservation plan required under this part;"

\* \* \* \* \*

"*Filterstrip* means a strip or area of vegetation of a width determined appropriate for the purpose by the NRCS local office Field Office Technical Guide;"

"*FSA* means the Farm Service Agency of the United States Department of Agriculture;"

\* \* \* \* \*

"*NRCS* means the Natural Resources Conservation Service of the United States Department of Agriculture;"

\* \* \* \* \*

20. Section 1410.13 is amended by adding paragraph (d) to read as follows:

**§ 1410.13 Miscellaneous.**

\* \* \* \* \*

(d) Cropland acreage established and maintained in vegetative cover under CRP, including approved volunteer cover, shall retain its cropland classification for the period of time that the cover is maintained or as otherwise established by the Deputy Administrator.

**§ 1410.102 [Amended]**

21. Section 1410.102 is amended in paragraphs (a) and (b) by removing "3 years" and adding in its place "1 year."

**§ 1410.103 [Amended]**

22. Section 1410.103 is amended: In paragraph (a)(1) by removing "1986 through 1990" and adding in its place "1992 through 1996";

In paragraph (b)(4) by removing the word "exceeded" and adding in its place the word "adjusted" and by removing "SCS" and adding in its place "NRCS";

In paragraph (c) by removing "SCS" wherever it appears and adding in its place "NRCS"; and

In paragraph (f)(2) by removing "part 703" and adding in its place "part 620".

**§ 1410.111 [Amended]**

23. Section 1410.111 is amended: In paragraph (a) by adding after the words "conservation district," the words "or another source as approved by the NRCS," and

In paragraph (a) removing "SCS" and adding in its place "NRCS".

24. Section 1410.116 is amended by revising paragraph (a)(5) to read as follows:

**§ 1410.116 Contract modifications.**

(a) \* \* \*

(5) Terminate contracts enrolled in CRP before January 1, 1995, which have been in effect for at least 5 years. Contract acreage located within an average of 100 feet of a perennial stream or other permanent waterbody, on which a CRP easement is filed, that was enrolled under the wetland eligibility criteria established in signup periods 8 and 9, and contract acreage on which there exist the following practices, installed or developed as a result of participation in the CRP or as otherwise required by the NRCS local Field Office Technical Guide, are not eligible for termination prior to the expiration date of the contract as provided in this paragraph: grass waterways; filter strips; shallow water areas for wildlife; bottomland timber established on wetlands; field windbreaks; and, shelterbelts. In addition, for any land for

which an early termination is sought, the land must have an EI of 15 or less. With respect to terminations under this paragraph:

(i) The termination shall become effective 60 days from the date the participant(s) submit notification to CCC of the participant's desire to terminate the contract;

(ii) Acreage terminated under this provision is eligible to be re-offered for CRP during future signup periods providing the acreage otherwise meets the eligibility criteria established for that signup; and,

(iii) Participants shall be required to meet conservation compliance requirements of 7 CFR part 12 to the extent applicable to other land.

\* \* \* \* \*

Signed at Washington, DC, on August 19, 1996.

Bruce R. Weber,

*Acting Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 96-21624 Filed 8-26-96; 8:45 am]

BILLING CODE 3410-05-P

## Agricultural Marketing Service

### 7 CFR Part 948

[Docket No. FV96-948-1 FIR]

#### Irish Potatoes Grown in Colorado; Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, with a correction, the provisions of an interim final rule that established an assessment rate for the Colorado Potato Administrative Committee, Northern Colorado Office (Area III) (Committee) under Marketing Order No. 948 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of Irish potatoes grown in Colorado. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. **EFFECTIVE DATE:** Effective on July 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, FAX 202-720-5698, or Dennis L. West, Marketing

Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503-326-2724, FAX 503-326-7440. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-2491, FAX 202-720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 97 and Order No. 948, both as amended regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Colorado potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning July 1, 1996, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the