

Proposed Rules

Federal Register

Vol. 61, No. 185

Monday, September 23, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 704

Commodity Credit Corporation

7 CFR Part 1410

RIN 0560-AE95

Conservation Reserve Program—Long-Term Policy

AGENCY: Farm Service Agency and Commodity Credit Corporation, USDA.
ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (CCC) and the Farm Service Agency (FSA) propose to amend the Conservation Reserve Program (CRP) regulations to: set forth the terms and conditions of enrolling acreage in the CRP; update program eligibility requirements; consolidate and reorganize all CRP regulations into one regulation to cover all existing contracts; and eliminate unnecessary regulations. This action is being taken to cost effectively target the CRP to more environmentally sensitive acreage and because The Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) authorized the use of CCC funds to implement the CRP.

These actions will: Update program eligibility requirements; eliminate unnecessary regulations; improve remaining regulations; and complete some of the actions being taken by FSA as part of the National Performance Review Initiative to eliminate unnecessary regulations and improve those that remain in force.

DATES: Comments must be received on or before November 7, 1996 to be assured of 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 0513, Washington, DC 20250-0513, telephone 202-720-7333.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be Economically Significant and was reviewed by Office of Management and Budget (OMB) under Executive Order 12866.

Cost-Benefit Assessment

A cost-benefit assessment was prepared to assist in implementing provisions of the 1996 Act amendments to the Food Security Act of 1985, as amended, and setting forth long-term CRP policy relating to extension of enrollment authority, changes in eligibility, and related adjustments in CRP. Key environmental impacts are considered in the cost-benefit assessment.

Although the proposed rule does not specify an acreage target for future enrollment, enrolled acres are projected in the cost-benefit assessment to decline to 28.1 million acres by 2002. However, while instructive, the analysis should not be viewed as an indication of future enrollment policy. Without the authority to extend or enroll acreage the expiration of the existing contracts would result in an estimated decline in enrolled acreage to 1.7 million acres by 2002.

As noted in the cost-benefit assessment, which was based on the issues that are discussed in the Background section, continued enrollment would generate an estimated \$17 billion in added income to program crop producers during the period 1997 to 2002 as a result of higher crop prices and CRP rental payments. Government outlays with continued enrollment would be about \$7 billion higher during the period compared to outlays without continued enrollment. Additional expenditures by domestic and foreign purchasers of the commodities would total about \$19 billion over the 1997 to 2002 period. This exceeds net farm income adjusted for CRP payments by \$8.4 billion. However, this assessment is incomplete because it does not include any measure of the value of the benefits gained from enrolling the environmentally sensitive cropland in CRP which is the primary purpose of the program. Total funds available for production flexibility contracts do not vary with CRP enrollment, although payment rates for participating producers will decline as additional

acreage is removed from CRP and becomes eligible for contract payments.

Also evaluated in the cost-benefit assessment are the impacts from changes in acreage eligible for early release, incentive payments for enrollment of high-valued environmental practices, enrollment of wetlands, designation criteria for priority areas, and potential provisions for limited haying and grazing on enrolled acres. The impacts of these changes are modest, although the general thrust is to enhance the environmental benefits from the program with little effect on outlays or farm income.

Risk Assessment

A risk assessment and related cost-benefit analysis are required to accompany proposed major rules, as defined under Section 304 of Public Law (P.L.) 103-354. Because agricultural producers need to know long-term objectives of the CRP as soon as possible in order to formulate production plans for 1997 and because completion of the regulatory analysis required by Section 304 of P.L. 103-354 to accompany a proposed regulation is not practicable in the time available, the Director, Office of Risk Assessment and Cost-Benefit Analysis (ORACBA), has concluded that it is appropriate to extend the time allowed for completion of the required analyses. A general time line for conducting the required analyses developed by the Director and the FSA involves a three-phase approach.

Phase 1. Available upon request will be: (a) an environmental assessment and (b) an acceptable outline to guide the development of the required risk assessment.

Phase 2. Accompanying the final rule will be: (a) the completed environmental risk assessment, as described in this proposed rule; (b) an outline of a cost-benefit analysis of mitigation measures; (c) a comparison of the relative risks managed by CRP and by other programs in the Department which address similar risks resulting from comparable activities; and (d) a plan for monitoring of the risk reduction expected to occur as a result of the CRP (as called for in P.L. 104-127). Evaluation and monitoring will allow completion of a meaningful cost-benefit analysis of the current and potential

enrollment practices compared to measured environmental benefits.

Phase 3. One year after the final rule has been promulgated, the cost-benefit analysis of mitigation measures will be completed. This cost-benefit analysis will address the costs associated with implementation and compliance with the regulation and the qualitative and quantitative benefits of the regulation.

After the final rule has been promulgated, FSA, in consultation with ORACBA, will conduct the comprehensive risk management assessment which will evaluate the effectiveness of the program in protecting the environmental attributes managed by this program.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule because neither the FSA nor the 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 assessment that this rule does not have a significant adverse 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 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).

Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, CCC generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires CCC to identify and consider a reasonable number of regulatory

alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

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 CRP is a voluntary program in which landowners and operators can enter into long-term contracts with the CCC to establish permanent vegetation cover for land that is highly erodible or is contributing to a serious water quality or other environmental problem. Landowners and operators interested in participating in the program submit offers which, if accepted, result in contracts. The CCC provides contract participants with cost-share assistance for cover establishment and annual rental payments for the term of the contract.

Information collections are used by interested parties in submitting offers and enrolling in the program, and by participants in documenting requests for program payments, reporting annual program compliance, and documenting other actions relating to program administration.

Title: 7 CFR Part 704, 1986–1990 Conservation Reserve Program and 7 CFR Part 1410, 1991–1995 Conservation Reserve Program.

OMB Number: 0560–0125.

Approval Date of Expiration: February 28, 1997.

Type of Request: Revision of a previously approved information collection.

Abstract: It is proposed that all CRP information collections will be consolidated in 7 CFR Part 1410 and cease under 7 CFR Part 704. Total public burden hours are based on the following assumptions:

1. CRP contracts average 100 acres per contract.

2. CRP contracts for approximately 23 million acres are scheduled to expire on September 30, 1997. The Secretary has the authority to maintain up to 36.4 million acres in the program through 2002. The agency assumed for purposes of this notice that approximately 4.0 million acres will be newly enrolled or

re-enrolled in each of the years 1997 through 2002.

3. Twenty-five percent of the producers requesting early releases will not release all of their contract acreage.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .126132 hours per response.

Respondents: Owners, operators, and other producers on eligible cropland.

Estimated Number of Respondents: 272,500

Estimated Number of Responses per Respondent: 1

Estimated Total Annual Burden

Hours on Respondents: 34,371

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503 and to Cheryl Zavodny, Chief, Conservation Programs Branch, Conservation and Environmental Protection Division, USDA, FSA, P.O. Box 2415, STOP 0513, Washington, D.C. 20013, (202) 720–7333.

Copies of information collection may be obtained from Cheryl Zavodny, Chief, Conservation Programs Branch, Conservation and Environmental Protection Division, USDA, FSA, P.O. Box 2415, STOP 0513, Washington, D.C. 20013, (202) 720–7333.

OMB is required to make a decision concerning the collection(s) of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department of Agriculture on any substantive CRP regulations that may be the subject of other notices.

All responses will be summarized and included in the request for OMB

approval. All comments will also become a matter of public record.

Executive Order 12778

This proposed 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

The CRP was authorized by the Food Security Act of 1985 (1985 Act), and amended by the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 Act). The Code of Federal Regulations contains two parts established for the CRP. An agency regulation, 7 CFR Part 704, contains provisions regarding the CRP acreage enrolled under the 1985 Act from 1986 through 1990. A Commodity Credit Corporation regulation, 7 CFR Part 1410, contains provisions regarding the CRP acreage enrolled under the 1990 Act from 1991 through 1995.

The 1985 Act was further amended by the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act) which provided the Secretary the authority to maintain up to 36.4 million acres in the CRP.

The purpose of CRP is to cost effectively assist owners and operators in conserving and improving soil, water, and wildlife resources by converting highly erodible and other environmentally sensitive acreage normally devoted to the production of agricultural commodities to a long term vegetative cover. CRP participants enroll contracts for 10 to 15 years and, in some cases, easements, in exchange for annual rental payments and cost share assistance for installing certain conservation practices. In determining the amount of annual rental payments to be paid, CCC considers, among other things, the amount necessary to encourage owners or operators of eligible cropland to participate in the CRP. Applicants submit bids in such a manner as the Secretary prescribes. The maximum rental payments CCC will pay reflect site-based soil productivity, prevailing local cash equivalent rental rates and maintenance cost. Bids offered by producers who request rental payments greater than the amount which CCC is willing to pay for their soil type are automatically rejected by CCC. Except for the continuous sign-up

process implemented in September 1996, remaining bids are evaluated for possible acceptance based on a comparison of environmental benefits indicators with the rental payment cost. The continuous sign-up process does not include an evaluation based on environmental benefits indicators because only those practices designed to obtain high environmental benefits will be eligible to be offered during the continuous sign-up. Acreage determined eligible for continuous sign-up by the Secretary is automatically accepted in the program providing all other eligibility requirements are met.

Program Changes

The Department proposes to remove 7 CFR Part 704 and combine those remaining regulations still in effect into 7 CFR Part 1410. It is proposed that Part 1410 be reissued in its entirety.

The 1996 Act provides guidance regarding conservation priority areas under Environmental Conservation Acreage Reserve Program. Section 1410.3 has been amended accordingly to reflect the new provisions.

With respect to land eligibility, CCC proposes to change, in Section 1410.6, the existing criteria to include wetlands and certain acreage enrolled in the Water Bank Program (WBP) administered by the Natural Resource Conservation Service. Wetlands are intrinsically valuable natural resources that provide important benefits to people and the environment. Wetlands improve water quality, reduce flood and storm damage, help control soil erosion, and provide important fish and wildlife habitat. Certain wetlands provide particularly important filtering functions because of their location between land and water. WBP acreage to the extent it otherwise meets statutory CRP criteria would only be eligible to be enrolled in the CRP during the final year of the WBP agreement. Further, only those WBP acres that are not classified as naturally occurring types 3 through 7 wetlands would be eligible to be enrolled in the CRP. Naturally occurring types 3 through 7 wetlands are considered permanently under water and, therefore, would continue to be ineligible.

The 1985 Act authorized the watershed areas of the Chesapeake Bay Region, the Great Lakes Region, the Long Island Sound Region, and other areas of special environmental sensitivity to be designated as conservation priority areas for a period of 5 years subject to redesignation. A number of these areas are approaching the expiration of their initial designation.

Prior to the 1996 amendments to the 1985 Act, the conservation priority area authority applied only to CRP's conservation priority area authority includes addressing "actual and significant adverse water quality or habitat impacts related to agricultural production activities." The 1996 Act amendments also authorized conservation priority areas applied to the CRP, the Wetlands Reserve Program (WRP), and the Environmental Quality Incentives Program (EQIP) to "assist * * * agricultural producers * * * to comply with nonpoint source pollution requirements * * * and other Federal and State environmental laws and to meet other conservation needs."

In Section 1410.8, CCC proposes to restrict the total area in a State that may be designated as a conservation priority area to no more than 10 percent of the cropland in the State. When submitting requests for conservation priority designation, State FSA committees will be required to develop an evaluation and monitoring system to determine the effectiveness of designating a particular area a priority.

With respect to wetland enrollment, CCC proposes, in Section 1410.11, to provide CRP cost-share assistance under certain conditions. The decision to restore wetlands enrolled in the CRP is voluntary; however, offers for enrollment will be evaluated based on the level of restoration a producer is willing to install. CCC proposes to offer a financial incentive of up to 25 percent of the cost of restoring the hydrology in order to encourage participants to restore wetland acreage. This incentive is in addition to any applicable annual rental or cost share payments, not to exceed 50 percent of the land value. Producers who want to restore wetlands enrolled in the CRP may also elect to transfer acreage from the CRP to the Wetlands Reserve Program (WRP) if the acreage is suitable and approved by CCC. Transferred acreage shall be removed from the CRP, without penalty, effective the day an easement is filed.

To encourage producers to enroll certain acreage in the CRP, CCC proposes to offer financial incentives, in addition to the normal annual rental payment and cost-share assistance, to enroll filter strips, riparian buffers, field windbreaks, grass waterways, and acreage located in Environmental Protection Agency (EPA) designated wellhead protection areas. These acres offer an environmental targeting tool for water quality, wildlife habitat, soil erosion and have positive environmental impacts to much larger acreage. Accepting acreage suitable for these practices into the CRP results in

converting cropland acreage to areas of grass or trees that primarily: (1) reduce sedimentation, organic matter, and pollutants from subsurface runoff and subsurface flow; (2) reduce wind and water erosion; and, (3) enhance wildlife habitat. Therefore, the regulation at Section 1410.42 provides for a special monetary incentive to encourage enrolling such acreage in the CRP.

The 1985 Act, as amended, generally provided that no commercial use can be made of the enrolled CRP acreage but permits haying or grazing during droughts or similar emergencies. Accordingly, CCC proposes to limit haying and grazing of acreage enrolled in the CRP to these instances. As explained later, CCC seeks comments on development of periodic managed haying or grazing provisions.

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 1997 (Public Law 104-180), provides that, for fiscal year 1997, none of the funds made available by that Act can be used to extend any existing or expiring contract in the CRP. Any acreage which a participant currently has in the program for which the participant is seeking continued enrollment shall compete for enrollment based on its environmental benefits relative to the cost of enrolling acreage in the program and shall be subject to the maximum payment rates, as determined by CCC, based on soil productivity and prevailing local cash or cash equivalent rental rates. Under the terms of the proposed rule, eligibility for new enrollment of acreage already enrolled in the CRP will be based on the same criteria for enrolling new acreage.

With respect to the unilateral early contract termination provisions for certain acreage authorized by the 1996 Act, CCC proposes to expand the list of ineligible acreage to include: (1) all wetlands, not just those enrolled under signup 8 and 9 criteria; (2) land subject to frequent flooding, as determined by CCC; (3) EPA designated wellhead protection areas; and (4) any wetland buffers that may be required according to the conservation plan to protect the functions and values of wetland acreage.

Interim rules published on May 8, 1995, and March 15, 1996, allowed for the early termination of some acreage from certain contracts. The 1996 Act amendments to the 1985 Act provided that for certain existing contracts CRP participants could unilaterally obtain an early release from contract obligations. Since the initial interim rule published in the Federal Register, CCC has modified ineligible land categories. In all cases, however, USDA has based its

determinations on two factors: (1) redirecting CRP enrollment from productive, less erodible land to more environmentally sensitive acreage; and (2) weighing its responsibility of ensuring a grain supply that meets market demand. In comparison, CCC offers incentive payments for the enrollment of land to be devoted to certain environmental practices. In addition to the factors described above, in designating which practices are eligible for incentive payments, USDA also considers such other factors as necessary, including, but not limited to: (1) whether to encourage the adoption of a particular environmentally related management practice; (2) what rate is complementary to the adoption of such practice; and (3) any budget impacts.

The CRP will be carried out by CCC through the FSA using FSA State and county offices. State technical committees and local conservation districts will also be involved in the operation of the CRP. In order to maximize the environmental and conservation benefit for funds to be expended, conservation practices and the land for which offers may be accepted may vary as conditions change. However, CCC intends to rank competitively all offers based on the environmental benefits index taking into account the Government cost of the contract except for those contracts the acceptance of which would provide especially high environmental benefits. In those cases, CCC would accept those offers without additional evaluation when the requested rental rate is less than or equal to the maximum rental rate CCC is prepared to pay.

The proposed regulation provides, in Section 1410.31, that in determining acceptability of offers, the Secretary may use a formula based upon a number of environmental factors to help determine an environmental benefits index value for the management practice or practices offered for the program. Along with Government cost of enrolling the acreage, these environmental factors are used to construct an environmental benefits index value to compare offers of acreage providing multiple environmental benefits. CCC proposes to use a system that considers soil erosion, water quality, wildlife habitat, and cost while also considering other technical factors such as, but not limited to, recommendations of State technical committee, conservation priority areas, permanent wildlife habitat, tree plantings, wetlands functions and values, and conservation compliance requirements.

Section 1410.64 is proposed to comply with Section 226(c) of the

Department of Agriculture Reorganization Act of 1994 that requires FSA, in establishing policies, priorities, and guidelines, to obtain the concurrence of the Natural Resources Conservation Service at national, State and, local levels.

Additionally, there are four issues for which CCC is seeking comment but which are not in the proposed rule. The first issue is in regard to whether and in what manner CRP acreage could be devoted to the production of biomass crops and whether such use would be consistent with the policy and provisions of the authorizing legislation. The Conference Report accompanying the 1996 Act indicated that "the Managers recommend that the Secretary consider allowing biomass production as an acceptable cover crop practice during the period of a contract, provided that no harvesting is allowed until after the contract is completed or terminated." The purpose of such use of CRP acreage would be to pursue the cost-effective development and commercialization of integrated biomass energy systems to positively impact global climate change and to promote rural development.

The second issue is in regard to periodic nonemergency haying or grazing of CRP acreage. According to reports from various conservation and environmental groups, haying or grazing of CRP grass acreage every three years, if performed according to a plan, could benefit wildlife habitat and improve cover quality. However, several States have received approval to hay and graze CRP more often under emergency provisions. If managed haying or grazing is essential to the conservation benefit of a particular site and if such activity does not negatively affect the local livestock and forage markets, periodic nonemergency haying and grazing could possibly be authorized under the authority that the Secretary has to modify contracts to accomplish the goals of the program without interfering with the policy underlying the provision of the statute forbidding, generally, the commercial use of the CRP forage. Within those parameters, examples of periodic managed haying and grazing include, but are not limited to: (1) allowing haying and grazing once every 3 years as a management tool for wildlife habitat and for other purposes for certain CRP practices according to a plan with an associated payment reduction based on the value of the forage provided the applicant agrees to forego emergency haying and grazing provisions; (2) allowing haying and grazing once every 3 years as a management tool for wildlife habitat

and for other purposes for certain CRP practices according to a plan with an associated payment reduction equal to a percent of the annual CRP rental rate for haying and for grazing equal to an appropriate animal unit per month charge, provided the applicant agrees to forego "emergency" haying and grazing provisions if allowed thereafter for other participants; (3) allowing haying and grazing once every 3 years as a management tool for wildlife habitat and for other purposes for certain CRP practices according to a conservation plan without an associated payment reduction provided the applicant agrees to forego emergency haying and grazing provisions; or, (4) allowing haying every year of small amounts of acreage enrolled in CRP and devoted to specific uses such as filter strips or grass waterways under a conservation plan. Further, within the context of providing an essential conservation benefit of a particular site provided such activity does not negatively affect the local livestock and forage markets, public comment is sought regarding the utility and, if authorized, terms and frequency upon which periodic nonemergency haying and grazing would be conducted.

The third issue is in regard to whether and in what manner CCC should implement the conservation priority area authority applicable to CRP, WRP, and EQIP. It is recognized that the identified environmental problem in a geographic area may be best served by only one of the programs. However, in some cases, the coordinated efforts of two programs or all three programs may be desirable to address the identified environmental problem. Accordingly, CCC seeks comment on practical, cost-effective, suggestions to implement the conservation priority area authority, when needed, in a coordinated manner.

The fourth issue also is in regard to conservation priority areas. As previously indicated, a number of the conservation priority area designations are scheduled to expire in the near future. Among these are the Chesapeake Bay Region, the Great Lakes Region, and the Long Island Sound Region. CCC seeks comment on the most appropriate, cost-effective manner in which to consider redesignation of these and other conservation priority areas.

It has been determined that the comment period for this proposed rule will be 45 days as it was determined that a longer period would be contrary to the public interest. Limiting the period to 45 days will allow for the consideration of comments and publication of a final rule in time to hold a sign-up for the program in advance of the next spring planting

season. Delay of the sign-up beyond that time would unduly inhibit the ability of the program to achieve the important public benefits which were the purpose of the recent amendments to the CRP and the other provisions of the 1996 Act dealing with conservation.

Comments on the proposed rule are solicited from interested parties and will be considered for a period of 45 days after the date of publication of this proposed rule in the Federal Register. Any comments that are offered during the public comment period will be evaluated in the development of the final rule.

List of Subjects in 7 CFR Parts 704 and 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 proposed to be amended as follows:

PART 704—[REMOVED]

1. Part 704 is removed.
2. Part 1410 is revised to read as follows:

PART 1410—CONSERVATION RESERVE PROGRAM

Sec.

- 1410.1 Administration.
- 1410.2 Definitions.
- 1410.3 General Description.
- 1410.4 Maximum county average.
- 1410.5 Eligible persons.
- 1410.6 Eligible land.
- 1410.7 Duration of contracts.
- 1410.8 Conservation priority areas.
- 1410.9 Alley-cropping.
- 1410.10 Conversion to trees.
- 1410.11 Restoration of wetlands.
- 1410.12–1410.19 [Reserved]
- 1410.20 Obligations of participant.
- 1410.21 Obligations of the Commodity Credit Corporation.
- 1410.22 Conservation plan.
- 1410.23 Eligible practices.
- 1410.24–1410.29 [Reserved]
- 1410.30 Signup.
- 1410.31 Acceptability of offers.
- 1410.32 CRP contract.
- 1410.33 Contract modifications.
- 1410.34 Extended base protection.
- 1410.35–1410.39 [Reserved]
- 1410.40 Cost-share payments.
- 1410.41 Levels and rates for cost-share payments.
- 1410.42 Annual rental payments.
- 1410.43 Method of payment.
- 1410.44–1410.49 [Reserved]
- 1410.50 State enhancement program.
- 1410.51 Transfer of land.
- 1410.52 Violations.
- 1410.53 Executed CRP contract not in conformity with regulations.

1410.54 Performance based upon advice or action of the Department.

1410.55 Access to land under contract.

1410.56 Division of program payments and provisions relating to tenants and sharecroppers.

1410.57 Payments not subject to claims.

1410.58 Assignments.

1410.59 Appeals.

1410.60 Scheme or device.

1410.61 Filing of false claims.

1410.62 Miscellaneous.

1410.63 Permissive uses.

1410.64 Special concurrence requirements for certain functions.

1410.65 Paperwork Reduction Act assigned numbers.

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

§ 1410.1 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. In the field, the regulations in this part will be administered by the State and county FSA committees ("State committees" and "county committees", respectively).

(b) State executive directors, county executive directors, and State and county committees do not have the authority to modify or waive any of the provisions in this part unless specifically authorized by the Deputy Administrator.

(c) The State committee may take any action authorized or required by this part to be taken by the county committee which has not been taken by such committee, such as:

(1) Correct or require a county committee to correct any action taken by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, and the Administrator, FSA, or a designee, or the Deputy Administrator from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee.

(e) Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without it, program benefits will not be provided.

(f) Notwithstanding other provisions of the preceding paragraphs of this section, the 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) or any other non-USDA source approved by NRCS, in accordance with the Field Office Technical Guide or other guidelines deemed appropriate by the NRCS, except that no such determination by 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 committees, with NRCS, may develop a State evaluation process to rank acreage based on State specific goals and objectives. Such State committees may choose between developing a State ranking process or utilizing the 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.

(h) CCC may consult with the Forest Service (FS) or the State forestry agency for such assistance as is determined by CCC to be necessary for developing and implementing conservation plans which include tree planting as the appropriate practice or as a component of a practice.

(i) CCC may consult with the Cooperative State Research, Education, and Extension Service to coordinate a related information and education program as deemed appropriate to implement the Conservation Reserve Program (CRP).

§ 1410.2 Definitions.

The following definitions shall be applicable to this part:

Agricultural commodity means any crop planted and produced by annual tilling of the soil or on an annual basis by one trip planters or sugar cane planted or produced in a state or alfalfa and other multi year grasses and legumes 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 CCC, an action of the Secretary prevented land from being planted to the commodity during the crop year.

Alley-cropping means the practice of planting rows of trees surrounded by a strip of vegetative cover, alternated with wider strips of agricultural commodities planted in accordance with a conservation plan of operation approved by the local Conservation District and CCC.

Allotment means an acreage for a commodity allocated to a farm in

accordance with the Agricultural Adjustment Act of 1938, as amended, and applicable commodity regulations.

Alternative perennials means woody species of plants grown on certain CRP acres, including, but not limited to shrubs, bushes, and vines.

Annual rental payment means, unless the context indicates otherwise, the annual payment specified in the CRP contract which, subject to the availability of funds, is made to a participant to compensate such participant for placing eligible land in the CRP.

Applicant means a person who submits an offer to CCC to enter into a CRP contract.

Arid area means acreage located west of the 100th meridian that receives less than 25 inches of average annual precipitation.

Bid or offer means, unless the context indicates otherwise, if required by CCC, the per acre rental payment requested by the owner or operator in such owner's or operator's offer to participate in the CRP.

Conservation District means a political subdivision of a State, Native American Tribe, or territory, organized pursuant to the State or territorial soil conservation district law, or Tribal law. The subdivision may be a conservation district, soil conservation district, soil and water conservation district, resource conservation district, natural resource district, land conservation committee, or similar legally constituted body.

Conservation plan means a record of the participant's decisions, and supporting information, for treatment of a unit of land or water, and includes a schedule of operations, activities, and estimated expenditures needed to solve identified natural resource problems by devoting eligible land to permanent vegetative cover or other comparable measures.

Contour grass strip means a vegetation area that follows the contour of the land the width of which is determined by the appropriate Field Office Technical Guide and the designation of which is included as a contour grass strip by a conservation plan required under this part.

Contract Period means the period of time, of not less than 10 nor more than 15 years, the CRP contract is in effect.

Cost-share payment means the payment made by CCC to assist program participants in establishing the practices required in a contract.

Crop Acreage Base (CAB) means the acreage base for a crop on a farm which was established according to part 1413 of this chapter before enactment of the

Federal Agriculture Improvement and Reform Act of 1996.

Cropland means land defined as cropland in accordance with the provisions of part 718 of this title, except for land in terraces that are no longer capable of being cropped.

Deputy Administrator means the Deputy Administrator for Farm Programs, FSA, or designee.

Designated 319 areas means areas approved by States under the Clean Water Act, as amended, administered by Environmental Protection Agency (EPA) and designated by the Deputy Administrator as eligible for entry into the CRP.

Easement means the real property interest designated as such acquired by FSA, NRCS, or CCC under this part, to be filed with the appropriate local or State governmental official of office.

Environmental Quality Incentives Program (EQIP) means the program authorized by the Food Security Act of 1985 (16 U.S.C. 3839aa-3839aa-7) in which eligible persons enter into contracts with CCC to address threats to soil, water, and related natural resources and for other purposes.

Erodibility index (EI) means the factor used to determine the inherent erodibility of a soil by dividing the potential average annual rate of erosion without management for each soil by the predetermined T value for the soil.

Federally owned land means land owned by the Federal Government or any department bureau, or agency thereof, or any corporation whose stock is wholly owned by the Federal Government.

Field means a part of a farm which is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, woodlands, other similar features, or croplines, except that croplines will be considered as separate fields only in cases where the eligible cropland and farming practices divide the land into manageable units and it is likely, as determined by CCC, that such cropline is not subject to change during the duration of the contract.

Field Office Technical Guide means the official NRCS guidelines, criteria, and standards for planning and applying conservation treatments and conservation management systems. It contains detailed information on the conservation of soil, water, air, plant, and animal resources applicable to the local area for which it is prepared.

Field windbreak, shelterbelt, and living snowfence mean a vegetative barrier with a linear configuration composed of trees or shrubs which are designated as such practices in a

conservation plan and which are planted for the purpose of reducing wind erosion, snow control, wildlife habitat, and energy conservation.

Filterstrip means a strip or area of vegetation of a width determined appropriate for the purpose by the applicable Field Office Technical Guide.

Highly erodible land applies to certain acreage enrolled in CRP before January 1, 1995, and means land which is classified by NRCS as:

(1) Being predominantly Land Capability Classes II, III, IV, and V with:

(i) An average annual erosion rate of at least 2T or;

(ii) A serious gully erosion problem as determined by the Deputy Administrator;

(2) Being predominantly Land Capability Classes VI, VII, or VIII;

(3) If trees are to be planted under the conservation plan, eroding at the rate of at least 2T; or

(4) Having:

(i) An erodibility index equal to or greater than 8 for either wind or water erosion; and

(ii) An erosion rate greater than T.

Landlord means a person who rents or leases acreage to another person.

Local FSA office means the FSA office serving the area in which the FSA records are located for the farm or ranch.

Manageable unit means a part of a field that could be farmed in a normal manner as a self-contained unit.

Offer or bid means, unless the context indicates otherwise, if required by CCC, the per acre rental payment requested by the owner or operator in such owner's or operator's offer to participate in the CRP.

Operator means a person who is in general control of the farming operation on the farm, as determined by CCC.

Owner means a person or entity who is determined by FSA to have sufficient legal ownership of the land, including a person who is buying the acreage under a purchase agreement; each spouse in a community property State; each spouse when spouses own property jointly and a person who has life-estate in a property.

Participant means an owner or operator or tenant who has entered into a contract. Payment period means the 10–15 year contract period for which the participant receives an annual rental payment.

Permanent vegetative cover means perennial stands of approved combinations of certain grasses, legumes, forbs, and shrubs with a life span of 10 or more years, or trees.

Permanent wildlife habitat means a permanent vegetative cover with the

specific purpose of providing habitat, food, or cover for wildlife and protecting other environmental concerns.

Practice means a conservation, wildlife habitat, or water quality measure with appropriate operations and management as agreed to in the conservation plan to accomplish the desired program objectives according to NRCS standards and specifications as a part of a conservation management system.

Predominantly highly erodible field means:

(1) A field in which at least 66⅔ percent of the land in such field is highly erodible; or

(2) A field on which the participant agrees to plant trees, as determined necessary by the Deputy Administrator to achieve overall program goals, which is at least 33⅓ percent highly erodible land.

Quota means the pounds allocated to a farm for a commodity as prescribed in the applicable program regulations.

Riparian buffer means areas adjacent to permanent or intermittent streams (as designated on United States Geological Survey topographic maps), permanent lakes, or wetlands that are influenced biologically and physically by the water regime of the water body. Riparian buffers shall be a minimum width as determined appropriate for the purpose of the practice by the Field Office Technical Guide.

Soil Loss Tolerance (T) means the maximum average annual erosion rate specified in the Field Office Technical Guide that will not adversely impact the long term productivity of the soil.

State Technical Committee means that committee established pursuant to 16 U.S.C. 3861 to provide information, analysis, and recommendations to the Department of Agriculture.

State Water Quality Priority Areas means any area designated by the State committee and NRCS, in consultation with the State Technical Committee where agricultural nonpoint source pollutants or agricultural point source pollutants contribute or create the potential for failure to meet applicable water quality standards or the goals and requirements of Federal or State water quality laws. These areas may include areas designated under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) as water quality protection areas, sole source aquifers or other designated areas that result from agricultural nonpoint sources of pollution. Acreage in these areas could be determined eligible as conservation priority areas.

Technical assistance means the assistance provided in connection with the CRP to owners or operators by NRCS, FS, or another source as approved by the NRCS or FS, as appropriate, in classifying cropland, developing conservation plans, determining the eligibility of land, and implementing and certifying practices, and forestry issues.

Water bank program (WBP) means the program authorized by the Water Bank Act of 1970 (16 U.S.C. 1301–1311) in which eligible persons enter into 10 year agreements with NRCS to preserve, restore, and improve wetlands.

Water cover means flooding of land by water either to develop or restore shallow water areas for wildlife or wetlands, or as a result of a natural disaster.

Wellhead means the actual location of a well, as determined by CCC, for water being drawn for public use, as defined for public use by the Safe Drinking Water Act, as amended.

Wetlands Reserve Program (WRP) means the program authorized by the Food Security Act of 1985 (16 U.S.C. 3837–3837f) in which eligible persons enter to long-term agreements to restore and protect wetlands.

§ 1410.3 General description.

(a) Under the CRP, the CCC will enter into contracts with eligible producers to convert eligible land to a conserving use for a minimum of 10 years in return for financial and technical assistance.

(b) A conservation plan for eligible acreage shall be approved by the Conservation District in which the lands are located.

(c) The objectives of the CRP are to cost effectively reduce water and wind erosion, protect the Nation's long-term capability to produce food and fiber, reduce sedimentation, improve water quality, create and enhance wildlife habitat, and other objectives including encouraging more permanent conservation practices and tree planting.

(d) Except as otherwise provided, a participant may, in addition to any payment under this part, receive cost-share assistance, rental payments, or tax benefits from a State, subdivision of such State, or a private organization in return for enrolling lands in CRP. However, a participant may not receive or retain CRP cost-share assistance if other Federal cost-share assistance is provided for such acreage under any other provision of law, as determined by the Deputy Administrator. Further, under no circumstances may the cost-share payments received under this part or otherwise exceed the cost of the practice, as determined by CCC.

§ 1410.4 Maximum county acreage.

The maximum acreage which may be placed in the CRP and the WRP may not exceed 25 percent of the total cropland in the county of which no more than 10 percent of the cropland in the county may be subject, in the aggregate, to a CRP or WRP easement, unless CCC determines that such action would not adversely affect the local economy of the county. This restriction on participation shall be in addition to any other restriction imposed by law.

§ 1410.5 Eligible persons.

(a) In order to be eligible to enter into a CRP contract in accordance with this part, a person must be an owner, operator, or tenant of eligible cropland and:

(1) If an operator of eligible cropland must have operated such cropland for at least 1 year prior to the close of the applicable signup period and must provide satisfactory evidence that such operator will be in control of such cropland for the full term of the CRP contract period;

(2) If an owner of eligible cropland, must have owned such cropland for at least 1 calendar year prior to the close of the applicable signup period, unless:

(i) The new owner acquired such cropland by will or succession as a result of the death of the previous owner;

(ii) The only ownership change in the 1-year period occurred due to foreclosure on the land and the owner of the land, immediately before the foreclosure, exercises a timely right of redemption from the mortgage holder in accordance with State law; or

(iii) As determined by the Deputy Administrator, the circumstances of the acquisition are such as present adequate assurance that the new owner of such cropland did not acquire such cropland for the purpose of placing it in the CRP; or

(3) If a tenant, the tenant is a participant with an eligible owner or operator.

(b) Notwithstanding paragraph (a) of this section, under continuous signup provisions authorized by § 1410.30, an otherwise eligible person must have owned or operated, as appropriate, the eligible cropland for at least 1 year prior to submission of a bid or offer.

§ 1410.6 Eligible land.

(a) Except as otherwise provided in this section, in order to be eligible to be placed in the CRP, land must:

(1) Have been annually planted or considered planted to an agricultural commodity in 2 of the 5 most recent

crop years, as determined by the Deputy Administrator;

(2) Be physically and legally possible to be planted in a normal manner to an agricultural commodity, as determined by the Deputy Administrator; and

(3) Except as provided in paragraph (b) of this section, if in a redefined field, be a manageable unit which meets the minimum acreage requirements, as determined by the Deputy Administrator, for the county.

(b) A field or portion of a field determined to be suitable for use as a permanent wildlife habitat, filterstrip, riparian buffer, contour grass strip, grass waterway, field windbreak, shelterbelt, living snowfence, or vegetation on salinity producing areas, and any area determined eligible for the CRP based on wetland or wellhead protection area criteria shall be eligible to be placed in the CRP, even if it does not meet the definition of a manageable unit. A field or portion of a field may be considered to be suitable for use as a filterstrip or riparian buffer only if it, as determined by NRCS:

(1) Is located adjacent to a stream, other water of a permanent nature (such as a lake, pond, or wetland), sinkholes, or wetland excluding such areas as gullies or sod waterways; and

(2) Is capable, when permanent grass, forbs, shrubs or trees are grown, of substantially reducing pollutant loadings or sediment that otherwise would be delivered to the adjacent stream or waterbody.

(c) (1) A field which has evidence of scour erosion caused by out-of-bank flows of water, as determined by NRCS, may be eligible to be placed in the CRP, even if the field does not meet the requirement of paragraph (a)(3) of this section.

(2) In order for land to be eligible for enrollment in the CRP under this paragraph (c), such land must otherwise meet the requirements of paragraph (a) of this section.

(3) Such land must in addition:

(i) Be expected to flood a minimum of once every 10 years; and

(ii) Have evidence of scour erosion as a result of such flooding.

(4) To the extent practicable, only cropland areas of a field may be enrolled in the CRP under this paragraph. The entire cropland area of an eligible field may be enrolled if:

(i) The size of the field is 9 acres or less; or

(ii) More than one third of the cropland in the field is land which lies between the water source and the inland limit of the scour erosion.

(5) If the full field is not eligible for enrollment under this paragraph, the

portion of the field eligible for enrollment shall be that portion of the cropland between the water body and the inland limit of the scour erosion together with, as determined by the Deputy Administrator, additional areas which would otherwise be unmanageable and would be isolated by the eligible areas.

(6) Cropland approved for enrollment under this paragraph shall be planted to an appropriate tree species or mix thereof according to the Field Office Technical Guide, unless tree planting is determined to be inappropriate by NRCS in consultation with FS, in which case the eligible cropland shall be devoted to another acceptable permanent vegetative cover in accordance with the Field Office Technical Guide.

(d) Notwithstanding paragraph (a)(3) of this section, the following land may also, as determined by the Deputy Administrator, be considered eligible for the CRP under the provisions of this part, provided that all other provisions of paragraph (a) of this section are met:

(1) Land contributing to the degradation of water quality or posing an on-site or off-site environmental threat to water quality if such land remains in production so long as water quality objectives, with respect to such land, cannot be obtained under other Federal programs, including but not limited to EQIP.

(2) Land devoted to living snowfences, grass waterways, field windbreaks, wildlife habitat, shelterbelts, filterstrips, or riparian buffers;

(3) Land devoted to certain covers, as determined by the Deputy Administrator, which are established and maintained according to the Field Office Technical Guide providing such acreage is not under life-span requirements established under any other Federal Programs; or

(4) Non-irrigated or irrigated cropland which produces or serves as the recharge area, as determined by the Deputy Administrator, saline seeps, or acreage which is functionally related to such saline seeps, or where a rising water table contributes to increased levels of salinity at or near the ground surface.

(e) Federal lands, lands acquired by an agency of the Federal Government, or by a quasi-federal entity are ineligible for the CRP.

(f) Except as provided in paragraph (h) of this section and unless otherwise approved by the Deputy Administrator, land otherwise eligible for the CRP shall not be eligible if the land is subject to a deed or other restriction prohibiting

the production of agricultural commodities.

(g) Acreage currently enrolled in the CRP may be eligible to be reoffered for enrollment if the scheduled expiration date of the current CRP contract is to occur before the available effective date of a new CRP contract, as determined by the Deputy Administrator, and if the acreage is otherwise eligible according to this part, as determined by the Deputy Administrator.

(h) Except as otherwise provided in this section, eligible land must be:

(1) Land with an EI greater than or equal to 8, calculated by using the weighted average of the EI's of Soil Map Units within a field;

(2) Land having evidence of scour erosion caused by out-of-bank water flows;

(3) Land within a public wellhead protection area established by the EPA or in a Hydrologic Unit Area approved by the Secretary;

(4) Land within a designated conservation priority area;

(5) A field or part of a field determined suitable for filter strip, grass waterway, field windbreak, shelterbelt, living snowfence, or vegetation on salinity producing areas, including any applicable recharge areas;

(6) A field or part of a field determined suitable for riparian buffer, in which case the provisions of paragraph (a) need not apply;

(7) Acreage designated a farmed wetland by NRCS according to part 12 of this title; or

(8) Acreage enrolled in the WBP, in which case the provisions of paragraph (a) of this section need not apply, provided that WBP land may not be enrolled unless:

(i) The acreage is in the final year of the WBP agreement;

(ii) The acreage is not classified as naturally occurring type 3 through 7 wetlands, as determined by CCC including acreage protected by a Federal agency easement or mortgage restriction (types 3 through 7 wetlands that are normally artificially flooded shall not be precluded from eligibility);

(iii) The acreage meets statutory criteria for enrollment; and

(iv) Enrollment in the CRP would cost-effectively enhance the environmental benefits of the site, as determined by CCC.

§ 1410.7 Duration of contracts.

(a) Except as provided in paragraph (b) of this section, contracts under this part shall be 10 years in duration.

(b) In the case of land devoted to hardwood trees, shelterbelts, windbreaks, or wildlife corridors under

the original terms of a contract subject to this part or for land devoted to such use under a contract modified under § 1410.10, the participant may specify the duration of the contract provided that such contracts must be at least 10 years and no more than a total of 15 years in length.

(c) Within the constraints of paragraphs (a) and (b) of this section, all contracts shall expire on September 30 of the appropriate year.

§ 1410.8 Conservation priority areas.

(a) The Deputy Administrator may designate other areas of special environmental sensitivity as conservation priority areas.

(b) State FSA committees, in consultation with NRCS and State Technical Committees, may submit an application within guidelines established by the Deputy Administrator for designation of other areas to the Deputy Administrator. Such applications should contain clearly defined conservation and environmental objectives and analysis how CRP can cost-effectively address such objectives. Generally, the total acreage of conservation priority areas, in aggregate, shall not total more than 10 percent of the cropland in a State, as determined by CCC.

(c) Watersheds shall be eligible for designation as a priority area only if the watershed has actual significant adverse water quality or wildlife habitat impacts related to activities of agricultural production.

(d) Conservation priority area designations expire after 5 years unless redesignated, except they may be withdrawn:

(1) Upon application by the appropriate State water quality agency; or

(2) By the Secretary, if such areas no longer contain actual and significant adverse water quality, wildlife habitat, or other environmental impacts in association with agricultural production activities.

(e) In those areas designated as priority areas, under this section, special emphasis will be placed on maximizing water quality, including assisting agricultural producers to comply with nonpoint source pollution requirements, or wildlife habitat benefits through the implementation of the CRP by cost-effectively promoting a significant level of enrollment of lands within such designated areas, as determined by the Deputy Administrator, which are determined to be appropriate and consistent with the purposes of the program.

§ 1410.9 Alley-cropping.

(a) Alley-cropping on CRP land may be permitted by CCC if:

(1) The land is planted to, or converted to, hardwood trees in accordance with § 1410.10;

(2) Agricultural commodities are planted in accordance with an approved conservation plan in close proximity to such hardwood trees; and

(3) The owner and operator of such land agree to implement appropriate conservation measures on such land.

(b) CCC may solicit bids for alley-cropping permission for CRP land. Annual rental payments for the term of any contract modified under this section shall be reduced by at least 50 percent of the original amount of the total rental payment in the original contract and total annual rental payments over the term of any contract modified under this section may not exceed the total annual rental payments specified in the original contract.

(c) The actual reduction in rental payment will be determined by CCC, based upon criteria, such as percentage of the total acreage that will be available for cropping and projected returns to the producer from such cropping.

(d) The area available for cropping will be chosen according to the Field Office Technical Guide and will be farmed in accordance with an approved conservation plan so as to minimize erosion and degradation of water quality during those years when the areas are devoted to an agricultural commodity.

§ 1410.10 Conversion to trees.

An owner or operator who has entered into a contract prior to November 28, 1990, may elect to convert areas of highly erodible cropland, subject to such contract, which is devoted to permanent vegetative cover, from such cover to hardwood trees (including alley cropping where permitted by CCC), windbreaks, shelterbelts, or wildlife corridors.

(a) With respect to any contract modified under this section, the participant may elect to extend such contract in accordance with the provisions of § 1410.7 (b).

(b) With respect to any contract modified under this section in which such areas are converted to windbreaks, shelterbelts, or wildlife corridors, the owner of such land must agree to maintain such plantings for a time period established by the Deputy Administrator.

(c) CCC shall, as it determines appropriate, pay up to 50 percent of the eligible cost of establishing new conservation measures authorized under

this section, except that the total cost-share paid with respect to such contract, including cost-share assistance paid when the original cover was established, may not exceed the amount by which CCC would have paid had such land been originally devoted to such new conservation measures.

(d) With respect to any contract modified under this section, the participant must participate in the Forest Stewardship Program (16 U.S.C. 2103a).

§ 1410.11 Restoration of wetlands.

(a) An owner or operator who entered into a contract under part 704 of this chapter prior to November 28, 1990, on land that is suitable for restoration to wetlands or that was restored to wetlands while under such contract, may, if approved by CCC, apply to transfer such eligible acres subject to such contract, which are devoted to an approved cover, from the CRP to the WRP. Transferred acreage shall be terminated from the CRP effective the day an easement is filed. Participants will receive a prorated CRP annual payment for that part of the year the acreage was enrolled in the CRP according to § 1410.42. Refunds of cost-share payments or any applicable incentive payments need not be required.

(b) An owner or operator may, if approved by CCC, restore suitable acres to wetlands while under the CRP without Federal cost-share assistance if CRP cost share assistance was previously provided, since water is an approved cover. The approved restoration shall become a part of the conservation plan for the contracted area.

(c) An owner or operator who has enrolled acreage in the CRP under the wetland eligibility criteria may restore suitable acres to wetlands with cost-share assistance. In addition to the cost-share limitation in § 1410.41, an additional rental amount as a financial incentive may be provided to encourage wetland restoration.

§§ 1410.12—1410.19 [Reserved]

§ 1410.20 Obligations of participant.

(a) All participants subject to a CRP contract must agree to:

(1) Carry out the terms and conditions of such CRP contract;

(2) Implement the conservation plan which is part of such contract in accordance with the schedule of dates included in such conservation plan unless the Deputy Administrator determines that the participant cannot fully implement the conservation plan

for reasons beyond the participant's control;

(3) Establish temporary vegetative cover when required by the conservation plan or, as determined by the Deputy Administrator, if the permanent vegetative cover cannot be timely established;

(4)(i) Reduce the aggregate total allotments and quotas for the contract period for each farm which contains land subject to such CRP contract by an amount based upon the ratio between the acres in the CRP contract and the total cropland acreage on such farm. Allotments and quotas reduced during the contract period shall be returned at the end of the contract period in the same amounts as would apply had the land not been enrolled in the CRP unless CCC approves, in accordance with the provisions of § 1410.34, an extension of such protection; and

(ii) reduce Agricultural Market Transition Act contract acres enrolled under part 1412 of this chapter or CRP acres enrolled under this part to the extent that the total of such acres exceeds the cropland on the farm;

(5) Not produce an agricultural commodity on highly erodible land, in a county which has not met or exceeded the acreage limitation under § 1410.4, which was acquired on or after November 28, 1990, unless such land, as determined by CCC, has a history in the most recent five year period of producing an agricultural commodity other than forage crops;

(6) Comply with all requirements of part 12 of this title;

(7) Not allow grazing, harvesting, or other commercial use of any crop from the cropland subject to such contract except for those periods of time in accordance with instructions issued by the Deputy Administrator;

(8) Establish and maintain the required vegetative or water cover and the required practices on the land subject to such contract and take other actions that may be required by CCC to achieve the desired environmental benefits and to maintain the productive capability of the soil throughout the CRP contract period;

(9) Comply with noxious weed laws of the applicable State or local jurisdiction on such land;

(10) Control on land subject to such contract all weeds, insects, pests and other undesirable species to the extent necessary to ensure that the establishment and maintenance of the approved cover is adequately protected, taking into consideration the needs of water quality and wildlife, as determined by CCC; and

(11) Be jointly and severally responsible for compliance with such contract and the provisions of this part and for any refunds or payment adjustments which may be required for violations of any of the terms and conditions of the CRP contract and provisions of this part except that for acreage enrolled after January 1, 1995, a participant shall only be jointly and severally liable for contract compliance when the share of the payment attributable to the participant is greater than zero

(b) [Reserved].

§ 1410.21 Obligations of the Commodity Credit Corporation.

CCC shall, subject to the availability of funds:

(a) Share the cost with participants of establishing eligible practices specified in the conservation plan at the levels and rates of cost-sharing determined in accordance with the provisions of this part;

(b) Pay to the participant for a period of years not in excess of the contract period an annual rental payment in such amounts as may be specified in the CRP contract;

(c) Provide such technical assistance as may be necessary to assist the participant in carrying out the CRP contract; and

(d) Permit grazing on CRP land where the grazing is incidental to the gleaning of crop residues on fields where the contracted land is located. Such incidental grazing shall be limited to the 7-month period in which grazing of conservation use acreage was allowed, as determined by CCC, in a State under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 *et seq.*), or after the producer harvests the grain crop of the surrounding field. Further, CCC may provide approval of the incidental grazing of the CRP only in exchange for an applicable reduction in the annual rental payment, as determined appropriate by the Deputy Administrator.

§ 1410.22 Conservation plan.

(a) The applicant shall develop and submit a conservation plan which is acceptable to NRCS and is approved by the Conservation District for the land to be entered in CRP.

(b) The practices included in the conservation plan and agreed to by the participant must cost-effectively achieve the reduction in erosion necessary to maintain the productive capability of the soil, improvement in water quality, protection for wildlife or wetlands, protection of a public well head, or

achieve other environmental benefits as applicable.

(c) If applicable, a tree planting plan shall be developed and included in the conservation plan. Such tree planting plan may allow up to 3 years to complete plantings if 10 or more acres of hardwood trees are to be established.

(d) All conservation plans and revisions of such plans shall be subject to the approval of CCC and the Conservation District.

§ 1410.23 Eligible practices.

(a) Eligible practices are those practices specified in the conservation plan that meet all quantity and quality standards needed to cost-effectively:

(1) Establish permanent vegetative or water cover, including introduced or native species of grasses and legumes, forest trees, permanent wildlife habitat, field windbreaks, and shallow water areas for wildlife;

(2) Meet other environmental benefits, as applicable, for the contract period; and

(3) Accomplish other purposes of the program.

(b) Water cover is eligible cover for purposes of paragraph (a) of this section only if approved by the Deputy Administrator for the enhancement of wildlife, improvement of water quality, or otherwise, provided further that such water cover shall not include ponds for the purpose of watering livestock, irrigating crops, or raising fish for commercial purposes.

§§ 1410.24–1410.29 [Reserved]

§ 1410.30 Signup.

Offers for contracts shall be submitted only during signup periods as announced periodically by the Deputy Administrator, except that CCC may hold a continuous signup for land to be devoted to particular uses, as CCC deems desirable.

§ 1410.31 Acceptability of offers.

(a) Except as provided in paragraph (c) of this section, producers may submit bids for the amounts in dollars they are willing to accept as rental payments to enroll their acreage in the CRP. The bids shall, to the extent practicable, be evaluated on a competitive basis in which the bids selected will be those where the greatest environmental benefits are generated for the Federal dollars expended provided the bid is not in excess of the maximum acceptable payment rate established for the county by or for the Deputy Administrator in accordance with established procedure.

(b) In evaluating contract offers, different factors, as determined by CCC,

may be established from time to time for priority purposes to accomplish the goals of the program. Such factors may include, but are not limited to:

- (1) Soil erosion;
- (2) Water quality (both surface and ground water);
- (3) Wildlife benefits;
- (4) Conservation priority area designation for selection as provided by § 1410.8;
- (5) Soil productivity;
- (6) Conservation compliance considerations;
- (7) Likelihood to remain in conserving uses beyond the contract period, including tree planting and permanent wildlife habitat;
- (8) State water quality priority areas; and
- (9) Cost of enrolling acreage in the program.

(c) Acreage determined eligible for continuous signup, as provided in § 1410.30, shall be automatically accepted in the program if the:

- (1) Land is eligible in accordance with the provisions of § 1410.6;
- (2) Applicant is eligible in accordance with the provisions of § 1410.5; and
- (3) Applicant accepts either the maximum payment rate CCC is willing to offer to enroll the acreage in the program or a lesser amount.

§ 1410.32 CRP contract.

(a) In order to enroll land in the CRP, the participant must enter into a contract with CCC.

(b) The CRP contract will be comprised of:

- (1) The terms and conditions for participation in the CRP;
- (2) The conservation plan; and
- (3) Any other materials or agreements determined necessary by CCC.

(c)(1) In order to enter into a CRP contract, the applicant must submit an offer to participate at the local FSA office as provided in § 1410.30;

(2) An offer to enroll land in the CRP shall be irrevocable for such period as is determined and announced by CCC. The applicant shall be liable to CCC for liquidated damages if the applicant revokes an offer during the period in which the offer is irrevocable as determined by the Deputy Administrator. CCC may waive payment of such liquidated damages if CCC determines that the assessment of such damages, in a particular case, is not in the best interest of CCC.

(d) The CRP contract must, within the dates established by CCC, be signed by:

- (1) The applicant; and
- (2) The owners of the cropland to be placed in the CRP, if applicable.

(e) The Deputy Administrator or designee is authorized to approve CRP contracts on behalf of CCC.

(f) As determined by CCC, CRP contracts may be terminated before the expiration date when:

(1) The owner loses control of or transfers all or part of the acreage under contract and the new owner does not wish to continue the contract;

(2) The participant(s) voluntary request in writing to terminate the contract and obtain the approval of CCC according to terms and conditions as determined by CCC;

(3) The participant(s) are not in compliance with the terms and conditions of the contract;

(4) Acreage is enrolled in another State, Federal or local conservation program;

(5) The CRP practice fails after a certain time period, as determined by the Deputy Administrator, and the county committee determines the cost of restoring the cover outweighs the benefits received from the restoration; or

(6) The CRP contract was approved based on erroneous eligibility determinations.

(g)(1) Contracts for land enrolled in CRP before January 1, 1995, which have been in effect for at least 5 years may be unilaterally terminated by all CRP participants on a contract except for contract acreage:

(i) Located within an average of 100 feet of a perennial stream or other permanent waterbody;

(ii) On which a CRP easement is filed;

(iii) That is considered to be a wetland by NRCS;

(iv) Located within an EPA designated wellhead protection area;

(v) That is subject to frequent flooding;

(vi) That may be required to serve as a wetland buffer according to the Field Office Technical Guide to protect the functions and values of a wetland; or

(vii) On which there exist one or more of the following practices, installed or developed as a result of participation in the CRP or as otherwise required by the conservation plan:

- (A) Grass waterways;
- (B) Filter strips;
- (C) Shallow water areas for wildlife;
- (D) Bottomland timber established on wetlands;
- (E) Field windbreaks; and
- (F) Shelterbelts.

(2) For any land for which an early termination is sought, the land must have an EI of 15 or less.

(3) With respect to terminations under this paragraph:

(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 part 12 of this title to the extent applicable to other land.

(h) Except as approved by CCC, where the new owner is a Federal agency that agrees to abide by the terms and conditions of the terminated contract, the participant in a contract that has been terminated must refund all or part of the payments made with respect to such contract plus interest thereon, as determined by CCC, and shall pay liquidated damages as provided for in such contract. CCC, in its discretion, may permit the amount to be repaid to be reduced to the extent that such a reduction will not impair program operations. Further, no refund of rental and cost-share payments shall be required from a participant who is otherwise in full compliance with the CRP contract when the land is purchased by or for the Fish and Wildlife Service.

§ 1410.33 Contract modifications.

(a) By mutual agreement between CCC and the participant, a CRP contract may be modified in order to:

(1) Decrease acreage in the CRP;
(2) Permit the production of an agricultural commodity under extraordinary circumstances during a crop year on all or part of the land subject to the CRP contract as determined by the Deputy Administrator;

(3) Facilitate the practical administration of the CRP; or

(4) Accomplish the goals and objectives of the CRP, as determined by the Deputy Administrator.

(b) CCC may modify CRP contracts to add, delete, or substitute practices when:

(1) The installed practice failed to adequately provide for the desired environmental benefit through no fault of the participant; or

(2) The installed measure deteriorated because of conditions beyond the control of the participant; and

(3) Another practice will achieve at least the same level of environmental benefit.

(c) Offers to extend contracts may be made available to the extent otherwise allowed by law.

§ 1410.34 Extended base protection.

(a) In the final year of the contract, participants may, subject to approval by the Deputy Administrator, request to extend the preservation of cropland base, quota, and allotment history for 5 years, without payment. Such approval may be given by CCC only if participants agree to continue for that period to abide by the terms and conditions which applied to the relevant contract relating to the conservation of the property for the term in which payments were to be made.

(b) Where such an extension is approved, no additional cost share, annual rental, or bonus payment shall be made that would not have been made under the original contract for its original term.

(c) Haying and grazing of the acreage subject to such an extension may be permitted during the extension period, except during any consecutive 5-month period between April 1 and October 31 of any year as shall be established by the State committee. In the event of a natural disaster, however, CCC may permit unlimited haying and grazing of such acreage.

(d) In the event of a violation of any CRP contract extended under this section, CCC may reduce or terminate the amount of cropland base, quota, and allotment history otherwise preserved under the contract or under an extension of the contract.

§§ 1410.35–1410.39 [Reserved]

§ 1410.40 Cost-share payments.

(a) Cost-share payments shall be made available upon a determination by CCC that an eligible practice, or an identifiable unit thereof, has been established in compliance with the appropriate standards and specifications.

(b) Except as otherwise provided for in this part, cost-share payments may be made under the CRP only for the cost-effective establishment or installation of an eligible practice.

(c) Except as provided in paragraph (d) of this section, cost-share payments shall not be made to the same owner or operator on the same acreage for any eligible practices which have been previously established, or for which such owner or operator has received cost-share assistance from the Department or other Federal agency.

(d) Except as provided for under § 1410.10(c), cost-share payments may be authorized for the replacement or restoration of practices for which cost-share assistance has been previously allowed under the CRP, only if:

(1) Replacement or restoration of the practice is needed to achieve adequate

erosion control, enhanced water quality, wildlife habitat, or increased protection of public wellheads; and

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

(e) The cost-share payment made to a participant shall not exceed the participant's actual contribution to the cost of establishing the practice and the amount of the cost-share may not be an amount which, when added to assistance from other sources, exceeds the cost of the practices.

(f) In the case of land devoted to hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract subject to this part or in the case of land converted to such use under § 1410.10, CCC may pay up to 50 percent of appropriate costs, as determined by CCC, to the participant for the estimated costs of maintaining such plantings, including the cost of replanting if such plantings are lost for reasons beyond the control of the participant, during not less than the 2-year nor more than the 4-year period commencing on the date of such plantings.

(g) CCC shall not make cost-share payments with respect to a CRP contract if any other Federal cost-share assistance has been, or is being, made on land subject to such contract.

§ 1410.41 Levels and rates for cost-share payments.

(a) As determined by the Deputy Administrator, CCC may not pay more than 50 percent of the actual or average cost of establishing eligible practices specified in the conservation plan, except that CCC may allow cost-share payments for maintenance costs to the extent required by § 1410.40(f) and CCC may determine the period and amount of such cost-share payments.

(b) The average cost of performing a practice may be determined by CCC based on recommendations from the State Technical Committee. Such cost may be the average cost in a State, a county, or a part of a county or counties as determined by the Deputy Administrator.

(c) A rental amount as a financial incentive, in an amount up to 25 percent of restoring the hydrology on the site, may be offered to participants that restore eligible wetlands in accordance with the provisions of § 1410.11.

§ 1410.42 Annual rental payments.

(a) Subject to the availability of funds, annual rental payments shall be made in such amount and in accordance with

such time schedule as may be agreed upon and specified in the CRP contract.

(b) The annual rental payment shall be divided among the participants on a single contract in the manner agreed upon in such contract.

(c) The maximum amount of rental payments which a person may receive under the CRP for any fiscal year shall not exceed \$50,000. The regulations set forth at part 1400 of this chapter shall be applicable in making certain eligibility and "person" determinations as they apply to payment limitations under this part, except that the regulations set forth in part 795 of this title may be applied to contracts approved before August 1, 1988.

(d) In the case of a contract succession, annual rental payments shall be divided between the predecessor and the successor participants as agreed to among the participants and approved by CCC. If there is no agreement among the participants, annual rental payments shall be divided based on the actual days of ownership of the property as reflected in applicable appropriately filed land records.

(e) CCC may reject any and all offers received from applicants who had previously entered into CRP contracts with CCC if the total annual rental payments due under such prior contracts (excluding contracts entered into in accordance with the provisions of § 1410.51 plus the total annual rental payments called for in the offer) exceed \$50,000.

(f) CCC shall, when appropriate, prepare a schedule for each county that shows the rental rate CCC may pay for different soil types. As determined by the Deputy Administrator, such schedule shall be calculated based on the relative productivity of soils within the county using NRCS data and local FSA average dryland cash rental estimates. The schedule shall be posted in the local FSA office. As determined by the Deputy Administrator, the schedule shall indicate, when appropriate, that:

(1) Contracts offered by producers who request rental payments greater than the schedule for their soil(s) will be rejected;

(2) Offers of contracts that are expected to provide especially high environmental benefits, as determined by the Deputy Administrator, may be accepted without further evaluation when the requested rental rate is less than or equal to the corresponding soil(s) schedule; and

(3) Remaining contracts offered shall be ranked competitively based on the environmental benefits index, taking

into account the Government cost of the contract, in order to provide the most cost effective environmental benefits, as determined by the Deputy Administrator.

(g) Additional financial incentives may be provided to producers offering contracts expected to provide especially high environmental benefits through an increased annual rental payment of not more than 25 percent as determined by the Deputy Administrator.

§ 1410.43 Method of payment.

Except as provided in § 1410.50, payments made by CCC under this part may be made in cash, in kind, in commodity certificates, or in any combination of such methods of payment in accordance with part 1401 of this chapter, unless otherwise specified by CCC.

§§ 1410.44–1410.49 [Reserved]

§ 1410.50 State enhancement program.

(a) For contracts to which a State, political subdivision, or agency thereof has succeeded in connection with an approved conservation reserve enhancement program, payments shall be made in the form of cash only. The provisions that limit the amount of payments per year that a person may receive under this part shall not be applicable to payments received by such State, political subdivision, or agency thereof in connection with agreements entered into under such program carried out by such State, political subdivision, or agency thereof which has been approved by the Secretary.

(b) CCC may enter into other agreements with States, as approved by the Secretary, to utilize the CRP to further the conservation and environmental objectives of that State and the Nation.

§ 1410.51 Transfer of land.

(a) (1) If a new owner or operator purchases or obtains the right and interest in, or right to occupancy of, the land subject to a CRP contract, as determined by the Deputy Administrator, such new owner or operator, upon the approval of CCC, may become a participant to a new CRP contract with CCC with respect to such transferred land.

(2) With respect to the transferred land, if the new owner or operator becomes a successor to the existing CRP contract, the new owner or operator shall assume all obligations under the CRP contract of the previous participant.

(3) If the new owner or operator becomes a successor to a CRP contract with CCC:

(i) Cost-share payments shall be made to the participant, past or present, who established the practice; and

(ii) Annual rental payments to be paid during the fiscal year when the land was transferred shall be divided between the new participant and the previous participant in the manner specified in § 1410.42.

(b) If a participant transfers all or part of the right and interest in, or right to occupancy of, land subject to a CRP contract and the new owner or operator does not become a successor to such contract within 60 days of such transfer, such contract shall be terminated with respect to the affected portion of such land and the original participant:

(1) Must forfeit all rights to any future payments with respect to such acreage; and

(2) Shall comply with the provisions of § 1410.32(h).

(c) Federal agencies acquiring property, by foreclosure or otherwise, that contains CRP contract acreage cannot be a party to the contract by succession. However, through an addendum to the CRP contract, if the current operator of the property is one of the participants on such contract, such operator may, as permitted by CCC, continue to receive payments provided for in such contract so long as:

(1) The property is maintained in accordance with the terms of the contract;

(2) Such operator continues to be the operator of the property; and

(3) Ownership of the property remains with such federal agency.

§ 1410.52 Violations.

(a) (1) If a participant fails to carry out the terms and conditions of a CRP contract, CCC may terminate the CRP contract.

(2) If the CRP contract is terminated by CCC in accordance with this paragraph:

(i) The participant shall forfeit all rights to further payments under such contract and refund all payments previously received together with interest; and

(ii) Pay liquidated damages to CCC in such amount as specified in such contract.

(b) If the Deputy Administrator determines such failure does not warrant termination of such contract, the Deputy Administrator may authorize relief as the Deputy Administrator deems appropriate.

(c) CCC may also terminate a CRP contract if the participant agrees to such termination and CCC determines such termination to be in the public interest.

(d) CCC may reduce a demand for a refund under this section to the extent

CCC determines that such relief would be appropriate and will not deter the accomplishment of the goals of the program.

§ 1410.53 Executed CRP contract not in conformity with regulations.

If, after a CRP contract is approved by CCC, it is discovered that such CRP contract is not in conformity with the provisions of this part, the provisions of the regulations shall prevail.

§ 1410.54 Performance based upon advice or action of the Department.

The provisions of § 718.8 of this title relating to performance based upon the action or advice of a representative of the Department shall be applicable to this part.

§ 1410.55 Access to land under contract.

(a) Any representative of the Department, or designee thereof, shall be provided by the applicant or participant as the case may be, with access to land which is:

(1) The subject of an application for a program under this part; or

(2) Under contract or otherwise subject to this part.

(b) With respect to such land identified in paragraph (a) of this section the participant or applicant shall provide such representatives with access to examine records with respect to such land for the purpose of determining land classification and erosion rates and for the purpose of determining whether there is compliance with the terms and conditions of the CRP.

§ 1410.56 Division of program payments and provisions relating to tenants and sharecroppers.

(a) Payments received under this part shall be divided in the manner specified in the applicable contract or agreement and CCC shall ensure that producers who would have shared in the risk of producing crops on land subject to such contract and who continue to maintain an interest in such acreage, receive treatment deemed to be equitable. CCC may refuse to enter into a contract when there is a disagreement among persons seeking enrollment as to a tenant's eligibility and there is insufficient evidence to indicate whether a tenant does or does not have an interest in the acreage.

(b) CCC may remove an operator or tenant from a CRP contract when the operator or tenant:

(1) Requests, in writing to be removed from CRP-1;

(2) Files for bankruptcy and the trustee or debtor in possession fails to affirm the contract, to the extent

permitted by the provisions of applicable bankruptcy laws;

(3) Dies during the contract period and the Administrator of the estate fails to succeed to the contract within a period of time determined acceptable by the Deputy Administrator; or

(4) For acreage enrolled under contracts executed after January 1, 1995, if a court-ordered directive to remove the operator or tenant is received by FSA.

(c) For acreage enrolled under contracts executed after January 1, 1995, in addition to the provisions in paragraph (b) of this section, tenants shall maintain their tenancy throughout the contract period in order to remain on a contract. If a tenant fails to maintain their tenancy under applicable State law, CCC may remove a tenant from a contract. CCC shall assume the tenancy is being maintained unless notified otherwise by a CRP participant on the applicable contract.

§ 1410.57 Payments not subject to claims.

Subject to part 1403 of this chapter, any cost-share or annual payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any creditor, except agencies of the United States Government.

§ 1410.58 Assignments.

Any participant who may be entitled to any cash payment under this program may assign the right to receive such cash payments, in whole or in part, as provided in part 1404 of this chapter, except that assignments may also be made to secure or pay pre-existing indebtedness.

§ 1410.59 Appeals.

(a) Except as provided in paragraph (b) of this section, a participant or person seeking participation may appeal or request reconsideration of an adverse determination rendered with regard to such participation in accordance with the administrative appeal regulations at parts 11 and 780 of this title.

(b) Determinations by NRCS concerning land classification, erosion rates, water quality ratings or other technical determinations may be appealed in accordance with procedures established under part 614 of this title or otherwise established by NRCS.

§ 1410.60 Scheme or device.

(a) If it is determined by CCC that a person has employed a scheme or device to defeat the purposes of this part, any part of any program payments otherwise due or paid such person

during the applicable period may be withheld or required to be refunded with interest thereon as determined appropriate by CCC.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person of cost-share assistance or land rental payments, or obtaining a payment that otherwise would not be payable.

(c) A new owner or operator or tenant of land subject to this part who succeeds to the responsibilities under this part shall report in writing to CCC any interest of any kind in the land subject to this part that is retained by a previous participant. Such interest shall include 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 occurring after the loan was made. Failure to fully disclose such interest shall be considered a scheme or device under this section.

§ 1410.61 Filing of false claims.

If it is determined by CCC that any participant has knowingly supplied false information or has knowingly filed a false claim, such participant shall be ineligible for payments under this part with respect to the program year in which the false information or claim was filed and the contract may be terminated in which case a full refund of all prior payments may be demanded. False information or false claims include, but are not limited to, claims for payment for practices which do not meet the specifications of the applicable conservation plan. Any amounts paid under these circumstances shall be refunded, together with interest as determined by CCC, and any amounts otherwise due such participant shall be withheld. The remedies provided for in this section shall be in addition to any and all other remedies, criminal and/or civil that may apply.

§ 1410.62 Miscellaneous.

(a) Except as otherwise provided in this part, in the case of death, incompetency, or disappearance of any participant, any payment due under this part shall be paid to the participant's successor in accordance with the provisions of part 707 of this title.

(b) Unless otherwise specified in this part, payments under this part shall be subject to the requirements of part 12 of this title concerning highly-erodible land and wetland conservation and

payments that otherwise could be made under this part may be withheld to the extent provided for in part 12 of this title.

(c) Any remedies permitted CCC under this part shall be in addition to any other remedy, including, but not limited to criminal remedies, or actions for damages in favor of CCC, or the United States, as may be permitted by law.

(d) Absent a scheme or device to defeat the purpose of the program, when an owner loses control of CRP acreage due to foreclosure and the new owner chooses not to continue the contract according to § 1410.51, refunds shall not be required from any participant on the contract.

(e) Crop insurance requirements in part 1405 of this chapter apply to all acreage initially enrolled after October 12, 1994, as determined by the Deputy Administrator.

(f) Land enrolled in CRP shall be classified as cropland for the time period enrolled in CRP and, after the time period of enrollment, shall be removed from such classification upon a determination by the county committee that such land no longer meets the conditions identified in part 718 of this title.

(g) Research projects may be proposed by the State committee and authorized by the Deputy Administrator to address defined conservation or land use problems, water quality issues, or wildlife habitat. The research projects must include objectives that are consistent with this part, involve land that otherwise meets required eligibility criteria, provide beneficial information on economically and environmentally sound agricultural practices, not adversely affect local agricultural markets, and be conducted and monitored by a bona fide research entity.

§ 1410.63 Permissive uses.

Unless otherwise specified by the Deputy Administrator, no crops of any kind may be planted or harvested from designated CRP acreage during the contract period.

§ 1410.64 Special concurrence requirements for certain functions

In establishing policies, priorities, and guidelines, FSA shall obtain the concurrence of the NRCS at national, State, and local levels.

§ 1410.65 Paperwork Reduction Act assigned numbers.

The Office of Management and Budget has approved the information collection requirements contained in these

regulations under provisions 44 U.S.C. Chapter 35 and OMB number 0560-0125 has been assigned.

Signed at Washington, DC, on September 17, 1996.

Bruce R. Weber,

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

[FR Doc. 96-24268 Filed 9-19-96; 8:45 am]

BILLING CODE 3410-05-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Draft Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft Policy Statement request for public comment.

SUMMARY: The NRC is seeking comment on the draft statement of policy regarding its expectations for, and intended approach to, its power reactor licensees as the electric utility industry moves from an environment of rate regulation toward greater competition. The NRC is concerned that rate deregulation and disaggregation resulting from various restructurings involving power reactor licensees could have adverse effects on the protection of public health and safety.

DATES: The public is invited to submit comments on this draft Policy Statement by December 9, 1996. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date. On the basis of the submitted comments, the Commission will determine whether to modify the draft Policy Statement before issuing it in final form.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington DC 20555, Attention: Docketing and Service Branch.

Deliver Comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m., Federal workdays.

Examine copies of comments received at: The NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert S. Wood, Office of Nuclear Reactor Regulation, U.S. Nuclear

Regulatory Commission, Washington, DC 20555, telephone (301) 415-1255, e-mail RSW1@nrc.gov; or, for the antitrust aspects of this policy statement, William Lambe, telephone (301) 415-1277, e-mail WML@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Purpose

The purpose of this draft policy statement is to provide a discussion of the NRC's concerns regarding the potential safety impacts on NRC power reactor licensees resulting from the economic deregulation and restructuring of the electric utility industry and the means by which NRC intends to address those concerns. This draft policy statement recognizes the changes that are occurring in the electric utility industry and the importance these changes may have for the NRC and its licensees. The NRC's principal mission is to regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of the public health and safety, to promote the common defense and security, and to protect the environment. As part of carrying out this mission, the NRC must monitor licensee activities and any changes in licensee activities, as well as external factors that may affect the ability of individual licensees to safely operate and decommission licensed power production facilities.

II. Background

The electric utility industry is entering a period of economic deregulation and restructuring which is intended to lead to increased competition in the industry. Increasing competition may force integrated power systems to separate (or "disaggregate") their systems into functional areas. Thus, some licensees may divest electrical generation assets from transmission and distribution assets by forming separate subsidiaries or even separate companies for generation. Disaggregation may involve utility restructuring, mergers, and corporate spin-offs that lead to changes in owners or operators of licensed power reactors and may cause some licensees, including owners, to cease being an "electric utility" as defined in 10 CFR 50.2.¹ Such changes may affect the

¹ Section 50.2 defines "electric utility" as "any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities, including generation and distribution subsidiaries, public