

paid under these circumstances shall be refunded and any amounts otherwise due the participant shall be withheld. The withholding or refunding of such payments will be in addition to any other penalty or liability otherwise imposed by law.

§ 702.24 Depriving others of payments.

If the COC with STC concurrence finds that any participant has employed any scheme or device to deprive any other person of payments under this part, it may withhold or require a refund of all or part of any program payment otherwise due or paid that person in accordance with the CRSC Contract. A scheme or device includes, but is not limited to, coercion, fraud, or misrepresentation.

§ 702.25 Miscellaneous.

(a) In accordance with the regulations set forth at 7 CFR part 796:

(1) No payment shall be made to any participant who harvests or knowingly permits to be harvested for illegal use, marijuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by such participants; and

(2) Any participant who is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payments under this part during that crop year and the four (4) succeeding crop years.

(b) In case of death, incompetency, or disappearance of any participant, any cost-share payment due shall be paid to the participant's successor in accordance with provisions of 7 CFR part 707.

§ 702.26 Paperwork Reduction Act assigned numbers.

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 33 and OMB number 0560-0128 has been assigned.

PART 704—1986-1990 CONSERVATION RESERVE PROGRAM

Sec.

704.1 General description of the program.

- 704.2 Definitions.
- 704.3 Administration.
- 704.4 Applicability.
- 704.5 Maximum county acreage.
- 704.6 Eligible person.
- 704.7 Eligible cropland.
- 704.8 Criteria for identifying highly erodible land.
- 704.9 Conservation plan.
- 704.10 Eligible conservation practices.
- 704.11 CRP contract.
- 704.12 Obligations of the participant.
- 704.13 Obligations of the Commodity Credit Corporation.
- 704.14 Availability of cost-share payments.
- 704.15 Levels and rates for cost-share payments.
- 704.16 Annual rental payments.
- 704.17 Method of payment.
- 704.18 Assignments.
- 704.19 Payments not subject to claim.
- 704.20 Contract modifications.
- 704.21 Transfer of land.
- 704.22 Violations.
- 704.23 CRP Contracts not in conformity with regulations.
- 704.24 Performance based upon advice or action of representatives of the Department or a Conservation District.
- 704.25 Access to land.
- 704.26 Division of program payments and provisions relating to tenants and sharecroppers.
- 704.27 Appeals.
- 704.28 Depriving others of payments.
- 704.29 Filing of false claims.
- 704.30 Miscellaneous.
- 704.31 Paperwork Reduction Act assigned numbers.

AUTHORITY: 15 U.S.C. 714b and 714c; 16 U.S.C. 3801-3847.

SOURCE: 52 FR 4269, Feb. 11, 1987, unless otherwise noted.

§ 704.1 General description of the program.

(a) The regulations in this part set forth the terms and conditions for the Conservation Reserve Program (CRP) authorized by Title XII of the Food Security Act of 1985 (Pub. L. 99-198), as amended. The Secretary of Agriculture is authorized to enter into contracts and make payments to eligible owners and operators of eligible cropland to assist them in conserving and improving the soil and water resources of their farms and ranches by converting such land to permanent vegetative cover in accordance with an approved conservation plan. A conservation plan for specified highly erodible croplands shall be developed in cooperation with

the Conservation District (CD) in which the lands are located.

- (b) The objectives of the CRP are to:
- (1) Reduce water and wind erosion,
 - (2) Protect our long-term capability to produce food and fiber,
 - (3) Reduce sedimentation,
 - (4) Improve water quality,
 - (5) Create better habitat for fish and wildlife through improved food and cover,
 - (6) Curb production of surplus commodities, and
 - (7) Provide needed income support for farmers.

(c) The provisions of this part shall only apply to contracts or bids with respect to participation in the CRP by persons who submitted bids to enter into the program prior to November 28, 1990, and whose bids were accepted by CCC prior to that date, unless otherwise agreed to by CCC.

[52 FR 4269, Feb. 11, 1987, as amended at 56 FR 15985, Apr. 19, 1991; 61 FR 43944, Aug. 27, 1996]

§ 704.2 Definitions.

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

(1) *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 multiyear grasses and legumes in rotation, as approved by the Secretary;

(2) *Annual rental payment* means the annual payment specified in the CRP Contract which is made to a participant to compensate such participant for placing eligible cropland in the CRP;

(3) *Applicant* means a person who submits an offer to CCC to enter into a CRP Contract;

(4) *Bid* means the per acre rental payment requested by the owner or operator in such owner or operator's offer to participate in the CRP;

(5) *Conservation District (CD)* means a subdivision of a State organized pursuant to the applicable State Soil Conservation District Law;

(6) *Conservation plan* means the plan describing and scheduling the conservation practices which must be established on eligible cropland placed in

the CRP in order for erosion on such land to be adequately controlled. The conservation plan shall include the approved vegetative cover and other required conservation practices necessary for the establishment and maintenance of vegetative cover;

(7) *Commodity Credit Corporation (CCC)* means a wholly-owned government corporation within the U.S. Department of Agriculture;

(8) *CRP Contract* means the approved agreement, including the conservation plan, entered into in writing between CCC and the participant which sets forth the terms and conditions for participation in the CRP established under this part;

(9) *Cost-share payment* means the payment made by CCC to assist program participants in establishing the conservation practices eligible for cost-share assistance and required in the CRP Contract;

(10) *Department* means the United States Department of Agriculture and includes CCC;

(11) *Eligible cropland* means highly erodible land which meets the requirements of § 704.7;

(12) *Erodibility index (EI)* means the factor calculated by the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture which is used to determine the inherent erodibility that a soil possesses without management by dividing the potential average annual rate of erosion for each soil by the predetermined soil loss tolerance (T) value for the soil;

(13) *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, or crop line in cases where the predominantly eligible cropland and farming practices make it a manageable unit and probable that such crop line is not subject to change during the duration of the contract, or other similar features;

(14) *Field windbreak* means a vegetative barrier with a linear configuration composed of trees or shrubs planted for the purpose of wind erosion control;

(15) *Local FSA office* means the county office of the Farm Service Agency serving the county or a combination of

counties in the area in which the landowner's farm or ranch is located;

(16) *Manageable unit* means a part of a field that can be farmed in a normal manner;

(17) *Operator* means a person who is in general control of the farming operations on the farm;

(18) *Owner* means a person who has legal ownership of farmland including a person who is buying farmland under a purchase agreement;

(19) *Participant* means an owner or operator who has entered into a CRP Contract;

(20) *Person* means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, whenever applicable, a State, a political subdivision of a State, or any agency thereof;

(21) *Secretary* means the Secretary of the U.S. Department of Agriculture;

(22) *Soil Loss Tolerance (T)* represents the maximum level of annual soil erosion that will permit a high level of crop productivity to be sustained economically and indefinitely;

(23) *Technical assistance* means the assistance provided to owners or operators by a representative of the Department or as otherwise authorized by the Secretary in classifying cropland, developing conservation plans, inspecting eligibility of a designated area, and implementing and certifying conservation practices;

(24) *Tree planting plan* means the plan that sets forth the silvicultural treatment necessary for planting trees, in order to obtain adequate erosion control on eligible cropland. The plan shall include site location, number of acres, requirements for site preparation, tree species and specifications, planting dates, pre- and post-care of nursery stock, and maintenance to ensure survival; and

(25) *Vegetative cover* means perennial or permanent grasses, legumes, forbs, and shrubs with a lifespan of 5 or more years, or trees.

(b) In the regulations in this part and in all instructions, forms, and documents in connection therewith, all other words and phrases specifically relating to FSA operations shall, unless the context of subject matter other-

wise requires, have the meanings assigned to them in the regulations governing reconstitution of farms, allotments and bases, 7 CFR part 719.

[52 FR 4269, Feb. 11, 1987, as amended at 61 FR 10672, Mar. 15, 1996; 61 FR 43944, Aug. 27, 1996]

§ 704.3 Administration.

(a) The program will be administered on behalf of CCC under the general supervision of the Administrator of the Farm Service Agency (FSA) and shall be carried out in the field by State FSA committees (STC) and county FSA committees (COC).

(b) The Natural Resources Conservation Service (NRCS) shall determine whether land is highly erodible and suitable for permanent vegetative cover, and the adequacy of the planned conservation practice to achieve the necessary erosion control and shall provide such other technical assistance in the implementation of the CRP as determined necessary.

(c) The Forest Service (FS) or the State Forestry Agency shall provide such assistance as determined necessary for developing and implementing conservation plans which include tree planting as the appropriate conservation practice.

(d) The Cooperative State Research, Education and Extension Service shall coordinate the related information and education program concerning implementation of the CRP.

(e) The FSA shall, in its operating procedures, list the conservation agencies and other agencies, such as the Fish and Wildlife Service, that provide services that may be utilized by FSA in carrying out the program provided for in this part.

(f) Except as provided in paragraph (b), the Deputy Administrator, State and County Operations, FSA (Deputy Administrator), may determine any question arising under the CRP, may reverse or modify any determination made by a STC or COC in connection with the CRP, and may administer any or all phases of the CRP delegated to the COC, STC, or any employee(s) where the COC, STC, or any employee fails to perform a function required in these regulations. In exercising this authority the Deputy Administrator

may authorize a person or persons to carry out the CRP or other function(s) for such period of time as is deemed necessary by the Deputy Administrator.

[52 FR 4269, Feb. 11, 1987, as amended at 61 FR 43944, Aug. 27, 1996]

§ 704.4 Applicability.

(a) The CRP is applicable in the 50 States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

(b) The CRP is applicable to private croplands, Indian tribal croplands, and State or local government croplands that otherwise meet the requirements of eligibility set forth in § 704.7.

§ 704.5 Maximum county acreage.

The maximum acreage in a county which may be placed in the CRP may not exceed 25 percent of the total cropland in the county unless CCC determines that such action would not adversely affect the local economy of the county.

§ 704.6 Eligible person.

In order to be eligible to enter into a CRP Contract in accordance with this part, a person must be an owner or operator of eligible cropland and—

(a) If an operator of eligible cropland, must have operated such cropland for the period beginning not less than 3 years prior to the close of the applicable signup period of January 1, 1985, whichever is later, and must provide satisfactory evidence that such person will be the operator of such cropland for the CRP Contract period; or

(b) If an owner of eligible cropland, must have owned such cropland for not less than 3 years prior to the close of the applicable signup period, unless:

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

(2) The new owner acquired such cropland prior to January 1, 1985; or

(3) It is determined that the new owner of such cropland did not acquire such cropland for the purpose of placing it in the CRP.

§ 704.7 Eligible cropland.

(a) In order to be eligible to be placed in the CRP, a field must—

(1) Have been annually planted or considered planted to produce an agricultural commodity other than orchards, vineyards, or ornamental plantings in 2 of the 5 crop years, 1981 through 1985;

(2) Be physically possible to be planted to produce an agricultural commodity other than orchards, vineyards, or ornamental plantings;

(3) Consist predominantly of soils that meet the criteria of paragraph (a)(3)(i) or (a)(3)(ii) of this section as specified for CRP contracts for the respective crop years in paragraph (a)(3)(iii) of this section.

(i) Identified as being highly erodible in accordance with § 704.8 of this part and having an erosion rate during the crop years 1981–1985 greater than that recommended by the Soil Conservation Service Field Office Technical Guide.

(ii) Classified by NRCS as being predominantly Land Capability Classes II, III, IV, and V with an average annual erosion rate of 2T or greater, as announced by the Secretary; or being predominantly Land Capability Classes VI, VII, or VIII.

(iii)(A) For CRP contracts entered into pursuant to offers to participate in the CRP submitted during signup periods prior to February, 1987, criteria set forth in paragraph (a)(3)(ii) of this section shall be applicable.

(B) For CRP contracts for the 1988 crop year entered into pursuant to offers to participate in the CRP submitted during the February, 1987, signup, criteria set forth in paragraph (a)(3)(i) of this section shall be applicable.

(C) For all other CRP contracts, criteria set forth in either paragraph (a)(3)(i) or (a)(3)(ii) of this section shall be applicable.

(4) If a redefined field, be a manageable unit which meets the minimum acreage requirements as established by CCC for the county.

(b) Land subject to a contract under the Great Plains Conservation Program, Agricultural Conservation Program, Forestry Incentives Program, Rural Clean Water Program, or similar program contract or land currently

under an annual program with maintenance on lifespan requirements may be eligible to be placed in the CRP if the eligible cropland meets the requirements of paragraph (a) and the conservation practices required under the CRP are consistent with the requirements of the existing contracts.

(c) A field shall be considered to be predominantly highly erodible if 66⅔ percent or more of the land in such field meets the applicable requirements of paragraph (a)(3) of this section: *Provided*, That a field on which the participant agrees to plant trees may, as determined necessary by the Deputy Administrator to achieve overall program goals, be considered to be predominantly highly erodible if 33⅓ percent or more of the land in such field meets the applicable requirements of paragraph (a)(3) of this section.

(d) A field determined to be suitable for use as a filter strip may be eligible to be placed in the CRP, although it does not meet the applicable erodibility criteria of paragraph (a)(3) of this section, if the participant agrees to grow permanent grass, forbs, shrubs or trees on such field. A field may be considered to be suitable for use as a filter strip only if it—

(1) Meets the criteria of paragraph (a)(1) of this section;

(2) Is located adjacent to streams having perennial flow, other waterbodies of permanent nature (such as lakes and ponds), or seasonal streams, excluding such areas as gullies or sod waterways;

(3) Is capable, when permanent grass, forbs, shrubs or trees are grown on the field, of substantially reducing sediment that otherwise would be delivered to the adjacent stream or other waterbodies; and

(4) Is 1.0 to 1.5 chain lengths (66 to 99 feet) in width: *Provided*, That such width may be adjusted to the extent necessary to meet NRCS Field Office Technical Guide criteria.

(e)(1) A field which has evidence of scour erosion caused by out-of bank flows of water, as determined by NRCS, or wetland areas, and which meets the other requirements of this paragraph may, as approved by CCC, be eligible to be placed in the CRP, although the

field does not meet the erodibility criteria of paragraph (a)(3) of this section.

(2) In order for land to be eligible for enrollment in the CRP under this paragraph, the land must be cropland and must meet the criteria of paragraphs (a)(1) and (a)(2) of this section.

(3) In order for land to be eligible for enrollment in the CRP on the basis of scour erosion, the land at the time of enrollment in the program must be cropland which:

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

(ii) Has evidence of damage as a result of such scour erosion.

(4) For purposes of this paragraph, the term "wetland" shall, to the extent practicable, be given the same meaning as is designated in the regulations in 7 CFR part 12.

(5) 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 in the CRP 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 either wetland or is land which, in the case of scour erosion, lies between the water source and the inland limit of the scour erosion.

If the full field is not eligible for enrollment, the quantity of cropland within the field which is eligible for enrollment shall be determined in accordance with subparagraphs (6) and (7).

(6) If the full field is not eligible for enrollment under this paragraph:

(i) That portion of the field eligible for enrollment on the basis of scour erosion shall be that portion of the cropland between the water body and the inland limit of the scour erosion plus whatever additional areas would otherwise be unmanageable and would be isolated by the eligible areas; and,

(ii) That portion of the field which is eligible for enrollment on the basis of the presence of wetlands, shall be only the wetland, except as determined under paragraph (7).

(7) The area of a field deemed eligible for enrollment under this paragraph may be adjusted as necessary to establish manageable boundaries between the eligible and ineligible areas of the field.

§ 704.8

7 CFR Ch. VII (1–1–97 Edition)

(8) If cropland is approved for enrollment in the CRP under this paragraph, the eligible cropland shall be planted to an appropriate tree species approved by NRCS unless tree planting is determined to be inappropriate by NRCS in which case the eligible cropland shall be devoted to another acceptable permanent vegetative cover approved by NRCS and the CCC.

[52 FR 4269, Feb. 11, 1987, as amended at 52 FR 27537, July 22, 1987; 53 FR 734, Jan. 12, 1988; 54 FR 803, Jan. 10, 1989; 61 FR 43944, Aug. 27, 1996]

§ 704.8 Criteria for identifying highly erodible land.

(a) Soil map units will be used as the basis for identifying highly erodible land. The erodibility of a soil is determined by dividing the potential average annual rate of erosion for each soil by the predetermined soil loss tolerance (T) value for the soil.

(1) The potential average annual rate of sheet and rill erosion is estimated by multiplying the following factors of the Universal Soil Loss Equation (USLE):

- (i) Rainfall and runoff (R),
- (ii) The degree to which the soil resists water erosion (K), and
- (iii) The function (LS), which includes the effects of slope length (L) and steepness (S).

(2) The potential average annual rate of wind erosion is estimated by multiplying the following factors of the Wind Erosion Equation (WEQ): Climatic characterization of wind speed and surface soil moisture (C) and the degree to which soil resists wind erosion (I).

(3) The USLE is explained in U.S. Department of Agriculture Handbook 537, "Predicting Rainfall Erosion Losses." The WEQ is explained in Agriculture Handbook 346, "Wind Erosion Forces in the United States and Their Use in Predicting Soil Loss." Copies of the handbook may be obtained by writing: U.S. Department of Agriculture, Soil Conservation Service, Land Treatment Programs Division, Washington, D.C. 20013-2890. Values for all the factors used in these equations are contained in the SCS field office technical guide and the references which are a part of the guide.

(b) A soil map unit subject to significant erosion by water or by wind shall be determined to be highly erodible if either the RKLS/T or the CI/T value equals or exceeds 8.

(c) Whenever a soil map unit description contains a range of slope length and steepness characteristics that produce a range of LS values which result in RKLS/T quotients both above and below 8, the soil map unit will be entered on the list of highly erodible soil map units as "potentially highly erodible." The final determination of erodibility for an individual field containing these soil map delineations shall be made by an on-site investigation.

§ 704.9 Conservation plan.

(a) The applicant, in consultation with the NRCS or another source as approved by the NRCS, in consultation with FSA, shall develop the conservation plan.

(b) The NRCS shall ensure that the conservation practices included in the conservation plan and agreed to by the applicant will achieve the reduction in erosion necessary to maintain the production capability of the soil.

(c) If applicable, a tree planting plan shall be developed by the State Forester and shall be included with the conservation plan.

(d) All conservation plans must be approved by the CD, or for areas not located within a CD, a representative of NRCS.

(e) The conservation plan may include practices which will enable participants to be in compliance with provisions of 7 CFR part 12 governing production of agricultural commodities on highly erodible land when the contract expires, if the participant agrees in writing to: (1) Minimize soil erosion on the land during the installation of such conservation practices, and (2) re-establish disturbed vegetative cover at no cost to CCC.

[52 FR 4269, Feb. 11, 1987, as amended at 61 FR 43944, Aug. 27, 1996]

§ 704.10 Eligible conservation practices.

(a) Eligible conservation practices are those practices specified in the conservation plan that meet all quantity

and quality standards needed to establish permanent vegetative cover, including introduced or native species of grasses and legumes, forest trees, permanent wildlife habitat, field windbreaks, and shallow water areas for wildlife that will provide adequate erosion control for the contract period.

(b) Other conservation practices may be determined to be eligible if such practices are required in the conservation plan to assure establishment or permanent vegetative cover.

(c) Conservation practices installed according to paragraph 704.9(e) are not eligible for cost-share payments under the provisions of this part.

§ 704.11 CRP Contract.

(a) In order to enter into the CRP, the owner or operator must enter into a CRP Contract with CCC.

(b) The CRP Contract will be comprised of: (1) The terms and conditions for participation in the CRP, (2) the offer of the applicant, and (3) the conservation plan.

(c) In order to enter into a CRP Contract, the applicant must submit an offer to participate on a Form CRP-1 at the local county FSA office during the announced signup period for the applicable crop year.

(1) The offer shall be irrevocable for a period of 30 days subsequent to the close of the applicable signup period.

(2) The applicant shall be assessed liquidated damages in an amount provided in the CRP Contract if the applicant revokes an offer prior to 30 days after the close of the applicable signup period. Once an offer has been received by CCC, it shall be reviewed and evaluated. The revocation of offers during this 30-day review and evaluation period would require a re-evaluation of bids reviewed and would result in additional administrative expenditures by CCC as well as increased annual rental payments; however, it would be impossible to compute the actual damages suffered by CCC.

(3) CCC may waive payment of liquidated damages if CCC determines that the assessment of such damages in a particular case is not in the best interest of the CRP.

(d) The CRP Contract must be signed within the dates established by the

COC by: (1) The applicant, and (2) the owners of the cropland to be placed in the CRP.

(e) The COC or its designee is authorized to approve CRP Contracts on behalf of CCC in accordance with instructions issued by the Deputy Administrator.

(f) CCC may reject any and all offers to place land into the CRP, including offers received from:

(1) Applicants who have submitted a previous offer to place such land into the CRP at a lower annual rental rate and revoked such earlier offer in violation of the provisions of § 704.10(c);

(2) Applicants who have violated any other terms and conditions of an earlier CRP Contract covering such land; and

(3) 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 § 704.21 of this part) plus the total annual rental payments called for in the offer exceeds \$50,000.

§ 704.12 Obligations of the participant.

(a) All participants in the CRP must:

(1) Carry out the terms and conditions of the CRP Contract for a period of 10 crop years from the date the CRP Contract is entered into by the participant and CCC;

(2) Implement the conservation plan:

(i) The participant shall implement the conservation plan in accordance with the plan's schedule of operation, unless and extension of time for practice completion is granted by the COC. Such an extension shall be granted only if the participant cannot fully implement the plan as scheduled for reasons beyond the participant's control; and

(ii) The participant shall establish temporary vegetative cover when required by the conservation plan or the COC to control soil erosion until permanent vegetative cover can be adequately established;

(3) Agree to reduction in the aggregate total of crop acreage bases, allotments, and quotas for the contract period for each farm which contains land which is the subject of the CRP Contract by an amount based upon the

ratio between the total cropland acreage on such farm and the total acreage on such farm subject to the CRP Contract;

(4) Not undertake any action on other land under the participant's control during the contract period that tends to defeat the purpose of the CRP, including the production of any agricultural commodity on land subject to 7 CFR part 12 which sets forth the terms and conditions under which a person shall be determined ineligible for certain benefits provided by the U.S. Department of Agriculture because of the production of an agricultural commodity on highly erodible land or converted wetland;

(5) Not knowingly or willingly allow grazing, harvesting, or other commercial use of any crop from the cropland subject to the CRP Contract except for those periods of time in accordance with instructions issued by the Secretary in response to drought or similar emergency;

(6) Not knowingly or willingly allow harvesting, as Christmas trees or nursery stock, of any trees planted during the contract period on land subject to the CRP Contract;

(7) Maintain the vegetative cover and the required conservation practices on the land subject to the CRP Contract and take other actions that may be required by CCC to achieve the reduction in soil erosion necessary to maintain the production capability of the soil throughout the CRP Contract period; and

(8) Comply with the noxious weed laws of the applicable State on land subject to the CRP Contract.

(b) The participant and each other person signing the CRP Contract shall be jointly and severally responsible for compliance with the CRP Contract and the provisions of this part and for any refunds or payment adjustments which may be required for violation of any of the terms and conditions of the CRP Contract and the provisions of this part.

§ 704.13 Obligations of the Commodity Credit Corporation.

(a) CCC shall, subject to the availability of funds:

(1) Share the cost with participants of establishing eligible conservation practices specified in the conservation plan at the levels and rates of cost-sharing determined in accordance with the provisions of § 704.15;

(2) 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; and

(3) Provide such technical assistance as may be necessary to assist the participant in carrying out the CRP Contract.

(b) CCC shall preserve the participant's cropping history during the contract period, for use in establishing any bases, allotments and quotas required by Federal farm programs in effect upon expiration of the contract.

§ 704.14 Availability of cost-share payments.

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

(b) Cost-share payments may be made under the CRP only for the establishment or installation of an eligible conservation 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 conservation practices which have been previously established, and for which such owner or operator has received cost-share assistance from the Department.

(d) Cost-share payments may be authorized for the replacement or restoration of conservation 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; and

(2) The failure of the original practice was not due to the lack of proper maintenance by 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 conservation practice.

§ 704.15 Levels and rates for cost-share payments.

(a) CCC will share not more than 50 percent of the actual or average cost of establishing the eligible conservation practices specified in the conservation plan.

(b) The average cost of performing a conservation practice shall be determined by the STC or COC, based upon the recommendation of the State and county Conservation Review Groups as identified in 7 CFR 701.2 (a) and (f), and may be the average cost in a State, a county, or a part of a county or counties.

§ 704.16 Annual rental payments.

(a) 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 in the manner agreed upon in the CRP 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 7 CFR part 795, 1497, and 1498 shall be applicable in determining whether certain persons as individuals or other entities are to be considered as a separate person for payment limitation purposes.

(d) Annual rental payments made by CCC will not be reduced by amounts paid to CRP participants in cash or services by other natural resources entities.

[52 FR 4269, Feb. 11, 1987, as amended 53 FR 29570, Aug. 5, 1988]

§ 704.17 Method of payment.

Payments made by the Department 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 7 CFR part 770.

§ 704.18 Assignments.

Any participant who may be entitled to any cash payment under this pro-

gram may assign the right to receive such cash payment, in whole or in part, as provided in the regulations at 7 CFR part 1404, Assignment of Payments, except that assignments may also be made to secure or pay pre-existing indebtedness.

[52 FR 4269, Feb. 11, 1987, as amended at 61 FR 43945, Aug. 27, 1996]

§ 704.19 Payments not subject to claim.

Subject to the regulations found at 7 CFR part 13, any cost-share or annual payment or portion thereof due any person 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 U.S. Government.

§ 704.20 Contract modifications.

(a) CCC, by mutual agreement with the participant, may modify the CRP Contract in order to:

(1) Decrease acreage placed in the CRP;

(2) Permit the production of an agricultural commodity during a crop year on all or part of the land subject to the CRP Contract; or

(3) Facilitate the practical administration of the CRP.

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

§ 704.21

7 CFR Ch. VII (1-1-97 Edition)

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

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

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

(b) The concurrence of the NRCS, State Forester where applicable, and the CD are necessary when modifications to a CRP Contract involve a technical aspect of the participant's conservation plan.

(c) CCC may modify CRP Contracts to add, delete, or substitute conservation practices when:

(1) The installed conservation practice failed to adequately control erosion through no fault of the participant;

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

(3) Another conservation practice will achieve at least the same level of erosion control.

[52 FR 4269, Feb. 11, 1987, as amended at 60 FR 22458, May 8, 1995; 61 FR 43945, Aug. 27, 1996]

§ 704.21 Transfer of land.

(a) Participation by new owner.

(1) If a new owner or operator purchases or obtains the right and interest in, or right to occupancy of, the land subject to CRP Contract, such new owner or operator, upon the approval of the COC, may become a participant to the existing contract with the same terms and conditions or may offer to enter into a new CRP Contract with CCC covering such transferred land.

(2) If the new owner or operator becomes a participant to the existing CRP Contract, the new owner or operator shall assume all obligations under the CRP Contract of the previous participant with respect to the transferred land.

(3) The following provisions shall be applicable if the new owner or operator

becomes a participant to the existing CRP Contract or enters into a new CRP Contract with CCC:

(i) Cost-share payments shall be made to the participant who established the conservation practice as specified in the contract; and

(ii) Annual rental payments to be paid during the fiscal year when the land was transferred shall be divided:

(A) Between the new participant and the previous participant based upon the period of time during the fiscal year during which such participants had control of the land or

(B) As agreed upon between the participants and approved by the COC.

(b) If a participant transfers all or part of the right and interest in, or right to occupancy of, the land subject to CRP Contract and the new owner or operator does not become a participant to the existing CRP Contract or a new CRP Contract in accordance with the provisions of this section, the CRP Contract shall be terminated with respect to the affected portion of the land subject to the CRP Contract, and the participant:

(1) Must forfeit all rights to any future annual rental or cost-share payments with respect to the transferred acreage;

(2) Must refund all or part of the payments plus interest thereon, as determined by CCC, that have been made on the transferred land, except a portion of the payments may be retained to the extent CCC determines, after consultation with the technical agency and the CD, that the established conservation practices have achieved desired conservation benefits for an acceptable period; and

(3) Must pay liquidated damages to COC as set forth in § 704.22(a) of this part.

(c) An offer to modify an existing CRP Contract upon the transfer of land subject to a CRP Contract will be accepted only if, under the terms of the modified CRP Contract and any new CRP Contracts entered into with respect to the transferred land, CCC would not pay an increased total annual rental for the land covered by the existing CRP Contract.

[52 FR 4269, Feb. 11, 1987, as amended at 52 FR 27537, July 22, 1987]

§ 704.22 Violations.

(a) Termination of CRP Contract.

(1) If the participant fails to carry out the terms and conditions of the CRP Contract, CCC may, after considering the recommendations of the CD and SCS, terminate the CRP Contract.

(2) If the CRP Contract is terminated by CCC in accordance with this paragraph (a), the participant shall forfeit all rights to further payments under the CRP Contract, refund all payments received together with interest thereon as determined by CCC and pay liquidated damages to CCC in such amount and under such conditions as are specified in the CRP Contract.

(3) The purpose of the CRP is to control erosion on highly erodible lands thereby protecting the Nation's soil and water resources for succeeding generations. Once a CRP Contract has been entered into between CCC and the owner or operator, CCC and other segments of the agricultural community will act based on the assumption that the CRP Contract will be fulfilled and the reduction in erosion and production will be obtained. CCC's action includes budgeting and planning for the CRP in subsequent crop years. A participant's failure to carry out the terms and conditions of the CRP Contract undermines the basis for these actions, damages the credibility of CCC's programs with other segments of the agricultural community, and requires additional expenditures in subsequent crop years in order for the required levels of acreage to be placed in the CRP and in order for an adequate reduction in erosion to be obtained. While the adverse effects on CCC of the participant's failure to comply with the CRP Contract is obvious, it would be impossible to compute the actual damage suffered by CCC. Therefore, participants shall be required to refund all payments received, plus interest, upon the termination of the CRP Contract in accordance with this paragraph (a) and pay liquidated damages in such amount and under such conditions as specified in the CRP Contract.

(b) CCC may also terminate a CRP Contract if the participant agrees to such termination and CCC determines that termination would be in the public interest.

(c) If the participant fails to carry out the terms and conditions of the CRP Contract but CCC determines that such failure does not warrant termination of the CRP Contract, CCC may require such participant to refund payments received under the CRP Contract or to accept such adjustments in the payment as are determined to be appropriate by CCC.

[52 FR 4269, Feb. 11, 1987, as amended at 52 FR 27537, July 22, 1987]

§ 704.23 CRP Contracts not in conformity with regulations.

If, after a CRP Contract is approved by the COC on behalf of CCC, it is discovered that such CRP Contract is not in conformity with the provisions of this part as the result of a misunderstanding of the program procedures by a signatory to the contract, a modification of the contract may be made by mutual agreement. If the parties to the CRP Contract cannot reach agreement with respect to such modification, the CRP Contract shall be terminated and all payments paid or payable under the contract shall be forfeited or refunded to CCC, except as may otherwise be allowed by CCC in accordance with the provisions of § 704.24.

§ 704.24 Performance based upon advice or action of representatives of the Department or a Conservation District.

(a) Notwithstanding any other provision of law, performance rendered in good faith in reliance upon the action or advice of any authorized representative of a CD (where performance relates to the Conservation Plan or the erodibility determination), a representative of NRCS, or the STC or COC (where performance relates to any other program requirement) may be accepted by the Chief of NRCS or the Deputy Administrator, as applicable, as meeting the requirements of this program. The Chief of NRCS or the Deputy Administrator respectively, may grant relief because of such good faith reliance to the extent it is deemed desirable in order to provide fair and equitable treatment.

§ 704.25

(b) The provisions of this section shall be applicable only if a person relied upon the action or advice of an authorized representative of a CD, NRCS, or the STC or COC, in rendering performance which the person believed in good faith met the requirements of the program established by this part. The authority provided in this section does not extend to cases where the person knew or had sufficient reason to know that the action or advice of the authorized representative of NRCS or the STC or COC, upon which the person relied was improper or erroneous, or where the person acted in reliance on the person's own misunderstanding or misinterpretation of program provisions, notices or advice.

(c) Any person seeking consideration under the provisions of this section may file a request therefor with the local NRCS field office and the COC (where performance related to the Conservation Plan or erodibility determination) or the COC (where performance relates to any other program requirement).

[52 FR 4269, Feb. 11, 1987, as amended at 61 FR 43945, Aug. 27, 1996]

§ 704.25 Access to land.

Any representative of the Department, or designate thereof, shall have the right of access to land which is the subject of an application for a CRP Contract or land which is the subject of a CRP Contract and shall have the right to examine any other cropland under the applicant's or participant's control for the purpose of determining whether the land is highly erodible and for the purpose of determining whether there is compliance with the terms and conditions of the CRP.

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

Payments received under a CRP Contract shall be divided fairly and equitably among all participants to the contract. Producers who would have shared in the risk of producing crops on the land to be placed in the CRP shall receive equitable treatment in accordance with the regulations set forth in 7 CFR 1413.150 which relate to divi-

7 CFR Ch. VII (1-1-97 Edition)

sion of payments and the rights of tenants and sharecroppers.

[52 FR 4269, Feb. 11, 1987, as amended at 61 FR 43945, Aug. 27, 1996]

§ 704.27 Appeals.

(a) Except as provided in paragraph (b) of this section, the participant may obtain a review in accordance with the administrative appeal regulations (7 CFR part 780) of any administrative determination rendered under this program.

(b) The participant may obtain a review in accordance with appeal regulations at 7 CFR part 614 of any determinations rendered under this program by NRCS or a CD.

[52 FR 4269, Feb. 11, 1987, as amended at 61 FR 43945, Aug. 27, 1996]

§ 704.28 Depriving others of payments.

If it is determined by CCC that any participant has employed any scheme or device to deprive any other person of cost-share assistance or land rental payments, any part of any program payment otherwise due or paid such participant during the CRP Contract period may be withheld or required to be refunded with interest thereon as determined by CCC. A scheme or device includes, but is not limited to, coercion, fraud, or misrepresentation.

§ 704.29 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 the CRP with respect to the crop year in which the false information or claim was filed. False information or false claims include a claim for payment for a conservation practice which is not carried out or a claim for payment for conservation 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 withholding or refunding of such payments will be in addition to any other penalty or liability otherwise imposed by law.

§ 704.30 Miscellaneous.

(a) In accordance with the regulations set forth at 7 CFR part 796:

(1) No payment shall be made to any participant who harvests or knowingly permits to be harvested for illegal use, marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by such participant; and

(2) Any participant who is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payments under this part during the crop year and the four (4) succeeding crop years.

(b) In case of death, incompetency, or disappearance of any participant, any payment due shall be paid to the participant's successor in accordance with the provisions of 7 CFR part 707.

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

[52 FR 4269, Feb. 11, 1987, as amended at 61 FR 43945, Aug. 27, 1996]

§ 704.31 Paperwork Reduction Act assigned numbers.

The Office of Management and Budget has approved the information collection requirements contained in these regulations under provisions of 44 U.S.C. Chapter 33 and OMB number 0560-0125 has been assigned.

PART 707—PAYMENTS DUE PERSONS WHO HAVE DIED, DISAPPEARED, OR HAVE BEEN DECLARED INCOMPETENT

Sec.

707.1 Applicability.

707.2 Definitions.

707.3 Death.

707.4 Disappearance.

707.5 Incompetency.

707.6 Death, disappearance, or incompetency of one eligible to apply for payment pursuant to the regulations in this part.

707.7 Form of application.

AUTHORITY: 54 Stat. 728, as amended, sec. 121, 70 Stat. 197, sec. 375, 52 Stat. 66, as amended, sec. 124(i), 75 Stat. 300, sec. 307(h), 76 Stat. 617, sec. 318, 76 Stat. 622, sec. 324(2), 76 Stat. 630, sec. 704, 68 Stat. 911, secs. 4, 8(b), 49 Stat. 164, 1149, as amended, sec. 101(4), 76 Stat. 606, sec. 3, 77 Stat. 45, sec. 4, 62 Stat. 1070; 5 U.S.C. 301, 7 U.S.C. 1334 note, 1339, 1375, 1379j, 1385, 1783, 1809; 16 U.S.C. 590d, 590h(b), 590(e), 590p(h), 15 U.S.C. 714b(d)(j)(k).

SOURCE: 30 FR 6246, May 5, 1965, unless otherwise noted.

§ 707.1 Applicability.

This part applies to all programs in Title 7 of the Code of Federal Regulations which are administered by the Farm Service Agency under which payments are made to eligible program participants. This part also applies to all other programs to which this part is applicable by the individual program regulations.

§ 707.2 Definitions.

“Person” when relating to one who dies, disappears, or becomes incompetent, prior to receiving payment, means a person who has earned a payment in whole or in part pursuant to any of the programs to which this part is applicable. “Children” shall include legally adopted children who shall be entitled to share in any payment in the same manner and to the same extent as legitimate children of natural parents. “Brother” or “sister”, when relating to one who, pursuant to the regulations in this part, is eligible to apply for the payment which is due a person who dies, disappears, or becomes incompetent prior to the receipt of such payment, shall include brothers and sisters of the half blood who shall be considered the same as brothers and sisters of the whole blood. “Payment” means a payment by draft, check or certificate pursuant to any of the Programs to which this part is applicable. Payments shall not be considered received for the purposes of this part until such draft, check or certificate has been negotiated or used.

§ 707.3 Death.

(a) Where any person who is otherwise eligible to receive a payment dies before the payment is received, payment may be made upon proper application therefor, without regard to