

§ 704.8

(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.

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

(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