

## SUBCHAPTER D—SPECIAL PROGRAMS

### PART 750—SOIL BANK

EDITORIAL NOTE: Part 750 (formerly part 485 of title 6), published at 21 FR 6289, Aug. 22, 1956, and redesignated at 26 FR 5788, June 29, 1961, is no longer carried in the Code of Federal Regulations. This deletion does not relieve any person of any obligation or liability incurred under these regulations, nor deprive any person of any rights received or accrued under the provisions of this part. For FEDERAL REGISTER citations affecting this part, see the "List of CFR Sections Affected, 1949-1963, 1964-1972, and 1973-1985," published in seven separate volumes.

### PART 752—WATER BANK PROGRAM

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AUTHORITY: Secs. 2-12, 84 Stat. 1468-1471, as amended (16 U.S.C. 1301-1311).

SOURCE: 48 FR 45528, Oct. 6, 1983, unless otherwise noted.

#### § 752.1 Program objective.

(a) The regulations in this part set forth the terms and conditions for the Water Bank Program. The Secretary is authorized to enter into agreements and make payments to eligible persons in important migratory waterfowl nesting and breeding areas. Specified wetlands identified for the conservation of water or related uses on a conservation plan shall be developed in cooperation with the Soil and Water Conservation District in which the lands are located.

(b) The objective of the Water Bank Program (hereinafter referred to in this part as the "program") is to preserve, restore, and improve the wetlands of the Nation, and thereby: (1) Conserve surface waters, (2) preserve and improve habitat for migratory waterfowl and other wildlife resources, (3) reduce runoff, soil and wind erosion, (4) contribute to flood control, (5) contribute to improved water quality and reduce stream sedimentation, (6) contribute to improved subsurface moisture, (7) reduce acres of new land coming into production and to retire lands now in agricultural production, (8) enhance the natural beauty of the landscape, and (9) promote comprehensive and total water management planning.

#### § 752.2 Definitions.

(a) *Adjacent land* means land on a farm which adjoins designated types 1 through 7 wetlands and is considered essential for the protection of the wetland or for the nesting, breeding, or feeding of migratory waterfowl. Adjacent land need not be contiguous to the land designated as wetland, but cannot be located more than one quarter of a mile away. Types 1 and 2 wetlands may be designated as adjacent land rather than wetland if located not more than one quarter mile from types 3 through 7 wetlands.

(b) *Administrator* means the Administrator or Acting Administrator of the Farm Service Agency (FSA), U.S. Department of Agriculture.

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(c) *Agreement* means a water bank agreement.

(d) *Conservation plan* means a written record of the land user's decisions on the use and management of the wetland and adjacent areas covered by the agreement. The conservation plan is the basis for the agreement. It includes a schedule of conservation treatment and management required to improve, protect, or restore the wetland and to maintain the wetland and adjacent land as a functional wetland unit for the life of the agreement. Conservation treatment and management of the vegetation for wetland protection, wildlife habitat, or other authorized objectives are consistent with the program objectives and priorities.

(e) *Wetlands* means the inland fresh areas described as types 1 through 7 in Circular 39, Wetlands of the United States, as published by the United States Department of the Interior.

(f) 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 operation shall, unless the context of subject matter otherwise requires, have the meanings assigned to them in the regulations governing reconstitution of farms, allotments and bases, part 719 of this chapter, as amended.

[48 FR 45528, Oct. 6, 1983, as amended at 50 FR 7744, Feb. 26, 1985]

### § 752.3 Administration.

(a) The program will be administered under the general supervision of the Administrator, in consultation with the Secretary of the Interior or his designee, and shall be carried out in the field by FSA State and county committees.

(b) Members of county committees are authorized to approve water bank agreements on behalf of the Secretary of Agriculture.

(c) State and county committees do not have authority to modify or waive any of the provisions of these regulations, or any amendment, supplement, or revision thereto. They do not have authority to modify or waive any of the provisions of any agreement entered into hereunder except to the ex-

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tent specifically authorized in this part.

[48 FR 45528, Oct. 6, 1983, as amended at 50 FR 7744, Feb. 26, 1985]

### § 752.4 Geographical applicability.

The program will be applicable in States and counties designated by the Deputy Administrator, State and County Operations, FSA (hereinafter referred to as the "Deputy Administrator") after consultation with the United States Fish and Wildlife Service, United States Department of the Interior.

### § 752.5 Eligible farm.

A farm is eligible for participation in the program if: (a) At the time the request for an agreement is filed, land on the farm is not covered by a Water Bank Program agreement; (b) the farm contains at least one of the types 3 through 7 wetlands which are identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the farm is located; and (c) the farm meets the other requirements specified in this part.

### § 752.6 Land eligible for designation.

(a) Land placed under an agreement shall be specifically identified and designated for the period of the agreement.

(b) Land eligible for designation must be: (1) Privately owned inland fresh wetland areas of types 1 through 7 of which at least 2 acres must be types 3 through 7 wetlands with respect to which, in the absence of inclusion in the program, destruction of the wetland character could reasonably be expected; (2) privately owned inland fresh wetland areas of types 1 through 7, which are under a drainage easement with the U.S. Department of the Interior or with a State government which permits agricultural use; or (3) other privately owned land which is adjacent to or within one quarter mile of designated types 1 through 7 wetlands and which is determined by the county committee to be essential for the nesting, breeding, or feeding of migratory waterfowl, or for the protection of wetland.