

§ 1488.16 Liability for payment.

If delivery is made within the coverage of the bank obligation(s) submitted in accordance with §1488.8, CCC will look to the obligating bank or banks and the foreign importer, rather than to the exporter or intervening purchaser, for payment of all amounts due at maturity of the account receivable and of the bank obligation(s), but the exporter and the intervening purchaser shall remain liable for any loss arising from breach of any contractual obligation, certification or warranty made by them pursuant to the financing agreement, and the exporter shall remain liable for any amounts not covered by the bank obligation which are owing to CCC, and any remittance or refund required by §1488.15 and §1488.18, together with interest thereon at the rate specified in the documents evidencing the account receivable, as well as for any liquidated damages provided for in §1488.11. The liability of the bank and the importer under their respective obligations shall be several.

MISCELLANEOUS PROVISIONS

§ 1488.17 Assignment.

The exporter shall not assign any claim or rights or any amounts payable under the financing agreement, in whole or in part, without written approval of the Vice President, CCC, or the Controller, CCC.

§ 1488.18 Covenant against contingent fees.

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the financing agreement on an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right, without limitation on any other rights it may have, to annul the financing agreement without liability to CCC. Should the financing agreement be annulled, CCC will promptly consent to the reduction or cancellation or related bank obligations except for amounts outstanding

under a financing agreement. Such amounts shall, on demand, be refunded to CCC by the exporter.

§ 1488.19 [Reserved]**§ 1488.20 Officials not to benefit.**

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the financing agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the financing agreement if made with a corporation for its general benefit.

§ 1488.21 Exporter's records and accounts.

CCC shall have access to and the right to examine any directly pertinent books, documents, papers and records of the exporter involving transactions related to the financed export credit sale until the expiration of three years after the end of the financing period.

§ 1488.22 Communications.

(a) Unless otherwise provided, written requests, notifications, or communications by the applicant pertaining to the financing agreement shall be addressed to the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, DC 20250.

(b) [Reserved]

§ 1488.23 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR part 1488) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0551-0021.

[Amdt. 8, 50 FR 13967, Apr. 9, 1985]

PART 1491—FARM AND RANCH LANDS PROTECTION PROGRAM

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AUTHORITY: 16 U.S.C. 3838h–3838i.

SOURCE: 74 FR 2818, Jan. 16, 2009, unless otherwise noted.

Subpart A—General Provisions

§ 1491.1 Applicability.

(a) The regulations in this part set forth requirements, policies, and procedures, for implementation of the Farm and Ranch Lands Protection Program (FRPP) as administered by the Natural Resources Conservation Service (NRCS). FRPP cooperative agreements shall be administered under the regulations in effect at the time the cooperative agreement is signed.

(b) The NRCS Chief may implement FRPP in any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 1491.2 Administration.

(a) The regulations in this part shall be administered under the general supervision and direction of the NRCS Chief.

(b) NRCS shall—

(1) Provide overall program management and implementation leadership for FRPP;

(2) Develop, maintain, and ensure that policies, guidelines, and procedures are carried out to meet program goals and objectives;

(3) Ensure that the FRPP share of the cost of an easement or other deed restrictions in eligible land shall not exceed 50 percent of the appraised fair

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market value of the conservation easement;

(4) Determine eligibility of the land, the landowner, and the entity;

(5) Ensure a conservation plan is developed in accordance with 7 CFR part 12;

(6) Make funding decisions and determine allocations of program funds;

(7) Coordinate with the Office of the General Counsel (OGC) to ensure the legal sufficiency of the cooperative agreement and the easement deed or other legal instrument;

(8) Sign and monitor cooperative agreements for the CCC with the selected entity;

(9) Monitor and ensure conservation plan compliance with highly erodible land and wetland provisions in accordance with 7 CFR part 12; and

(10) Provide leadership for establishing, implementing, and overseeing administrative processes for easements, easement payments, and administrative and financial performance reporting.

(c) NRCS shall enter into cooperative agreements with eligible entities to assist NRCS with implementation of this part.

§ 1491.3 Definitions.

The following definitions will apply to this part and all documents issued in accordance with this part, unless specified otherwise:

Agricultural uses are defined by the State's farm or ranch land protection program or equivalent, or where no program exists, agricultural uses should be defined by the State agricultural use tax assessment program. (If NRCS finds that a State definition of agriculture is so broad that an included use could lead to the degradation of soils and agriculture productivity, NRCS reserves the right to impose greater deed restrictions on the property than allowable under that State definition of agriculture in order to protect agricultural use and related conservation values.)

Certified entity means an eligible entity that NRCS has determined to meet the requirements of §1491.4(d) of this part.

Chief means the Chief of NRCS, USDA.

Commodity Credit Corporation, USDA

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Commodity Credit Corporation (CCC) is a Government-owned and operated entity that was created to stabilize, support, and protect farm income and prices. CCC is managed by a Board of Directors, subject to the general supervision and direction of the Secretary of Agriculture, who is an ex-officio director and chairperson of the Board. CCC provides the funding for FRPP, and NRCS administers FRPP on its behalf.

Conservation Easement means a voluntary, legally recorded restriction, in the form of a deed, on the use of property, in order to protect resources such as agricultural lands, historic structures, open space, and wildlife habitat.

Conservation Plan is the document that—

(1) Applies to highly erodible cropland;

(2) Describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedules;

(3) Is approved by the local soil conservation district in consultation with the local committees established under Section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 5909h(b)(5)) and the Secretary, or by the Secretary.

Cooperative agreement means the document that specifies the obligations and rights of NRCS and eligible entities participating in the program.

Dedicated fund means an account held by an eligible entity sufficiently capitalized for the purpose of covering expenses associated with the management, monitoring, and enforcement of conservation easements and where such account cannot be used for other purposes.

Eligible entity means federally recognized Indian Tribes, State, unit of local government, or a non-governmental organization, which has a farmland protection program that purchases agricultural conservation easements for the purpose of protecting agriculture use and related conservation values by limiting conversion to non-agricultural uses of the land.

Fair market value means the value of a conservation easement as ascertained through standard real property ap-

praisal methods, as established in §1491.4(g).

Farm and ranch land of statewide importance means, in addition to prime and unique farmland, land that is of statewide importance for the production of food, feed, fiber, forage, bio-fuels, and oil seed crops. Criteria for defining and delineating this land are to be determined by the appropriate State agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some States, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by State law in accordance with 7 CFR part 657.

Farm and ranch land of local importance means farm or ranch land used to produce food, feed, fiber, forage, bio-fuels, and oilseed crops, that are not identified as having national or statewide importance. Where appropriate, these lands are to be identified by the local agency or agencies concerned. Farmlands of local importance may include tracts of land that have been designated for agriculture by local ordinance.

Farm or Ranch Succession Plan means a general plan to address the continuation of some type of agricultural business on the conserved land; the farm or ranch succession plan may include specific intra-family succession agreements or strategies to address business asset transfer planning to create opportunities for beginning farmers and ranchers.

Field Office Technical Guide (FOTG) means the official local NRCS source of resource information and interpretations of guidelines, criteria, and requirements for planning and applying conservation practices and conservation management systems. The FOTG contains detailed information on the conservation of soil, water, air, plant, and animal resources applicable to the local area for which it is prepared.

Forest land means a land cover or use category that is at least 10 percent

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stocked by single-stemmed woody species of any size that will be at least 13 feet tall at maturity. Also included is land bearing evidence of natural regeneration of tree cover (cutover forest or abandoned farmland) that is not currently developed for non-forest use. Ten percent stocked, when viewed from a vertical direction, equates to an aerial canopy cover of leaves and branches of 25 percent or greater.

Forest management plan means a site-specific plan that is prepared by a professional resource manager, in consultation with the participant, and is approved by the State Conservationist. Forest management plans may include a forest stewardship plan, as specified in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a); another practice plan approved by the State Forester; or another plan determined appropriate by the State Conservationist. The plan complies with applicable Federal, State, Tribal, and local laws, regulations and permit requirements.

Historical and archaeological resources mean resources that are:

(1) Listed in the National Register of Historic Places (established under the National Historic Preservation Act (NHPA), 16 U.S.C. 470, *et seq.*),

(2) Formally determined eligible for listing in the National Register of Historic Places (by the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) and the Keeper of the National Register in accordance with section 106 of the NHPA),

(3) Formally listed in the State or Tribal Register of Historic Places of the SHPO (designated under section 101(b)(1)(B) of the NHPA) or the THPO (designated under section 101(d)(1)(C) of the NHPA), or

(4) Included in the SHPO or THPO inventory with written justification as to why it meets National Register of Historic Places criteria.

Imminent harm means easement violations or threatened violations that, as determined by the Chief, would likely cause immediate and significant degradation to the conservation values; for example, those violations that would adversely impact agriculture use, productivity, and related con-

servation values or result in the erosion of topsoil beyond acceptable levels as established by NRCS.

Indian Tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.*, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 450(b)(e)).

Land Evaluation and Site Assessment System (LESA) means the land evaluation system approved by the NRCS State Conservationist used to rank land for farm and ranch land protection purposes, based on soil potential for agriculture, as well as social and economic factors, such as location, access to markets, and adjacent land use. (For additional information see the Farmland Protection Policy Act rule at 7 CFR part 658.)

Landowner means a person, legal entity, or Indian tribe having legal ownership of land and those who may be buying eligible land under a purchase agreement. The term, “landowner” may include all forms of collective ownership including joint tenants, tenants-in-common, and life tenants. State governments, local governments, and non-governmental organizations that qualify as eligible entities are not eligible as landowners, unless otherwise determined by the Chief.

Natural Resources Conservation Service (NRCS) means an agency of the United States Department of Agriculture.

Non-governmental organization means any organization that:

(1) Is organized for, and at all times since the formation of the organization, has been operated principally for one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(2) Is an organization described in section 501(c)(3) of that Code that is exempt from taxation under 501(a) of that Code; and

(3) Is described—

(i) In section 509(a)(1) and (2) of that Code; or