

§ 1450.207

(1) The failure to plant or establish such cover was due to a natural disaster such as excessive rainfall, flooding, or drought; and

(2) The participant establishes the approved cover as soon as practicable after the wet or drought conditions that prevented the establishment of such cover subside.

§ 1450.207 Conservation plan, forest stewardship plan, or equivalent plan.

(a) The producer must implement a conservation plan, forest stewardship plan, or equivalent plan that complies with CCC guidelines and is approved by the appropriate conservation district for the land to be entered in BCAP. If the conservation district declines to review the conservation plan, forest stewardship plan, or equivalent plan, or disapproves the conservation plan, forest stewardship plan, or equivalent plan, such approval may be waived by CCC.

(b) The practices and management activities included in a conservation plan, forest stewardship plan, or equivalent plan, and agreed to by the producer, must be implemented in a cost-effective manner that meets BCAP purposes as determined by CCC.

(c) If applicable, a tree planting plan must be developed and included in the conservation plan, forest stewardship plan, or equivalent plan. Such tree planting plan may allow a reasonable time to complete plantings, as determined by CCC.

(d) Each conservation plan, forest stewardship plan, or equivalent plan, and any revision of the plan, will be subject to approval by CCC.

1450.208 Eligible practices.

(a) Eligible practices are those practices specified in the conservation plan, forest stewardship plan, or equivalent plan that meet all standards needed to cost-effectively establish:

- (1) Annual crops;
- (2) Non-woody perennial crops; and
- (3) Woody perennial crops.

(b) [Reserved]

§ 1450.209 Signup.

(a) Offers for contracts may be submitted on a continuous basis to CCC as

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determined by the Deputy Administrator.

(b) [Reserved]

§ 1450.210 Acceptability of offers.

(a) Acceptance or rejection of any contract offered will be at the sole discretion of CCC, and offers may be rejected for any reason as determined appropriate to accomplish the purposes of BCAP.

(b) An offer to enroll land in BCAP will be irrevocable for such period as is determined and announced by CCC. The producer will 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 CCC. 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 and BCAP.

§ 1450.211 BCAP contract.

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

(b) The contract is comprised of:

(1) The terms and conditions for participation in BCAP;

(2) The conservation plan, forest stewardship plan, or equivalent plan; and

(3) Any other materials or agreements determined necessary by CCC.

(c) In order to enter into a contract, the producer must submit an offer to participate as specified in § 1450.209;

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

(1) The producer; and

(2) The owners of the eligible land to be placed in the BCAP and other eligible participants, if applicable.

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

(f) CCC will honor contracts even in the event that a project area biomass conversion facility does not become fully or partially operational.

(g) Contracts may be terminated by CCC before the full term of the contract has expired if:

(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 voluntarily requests in writing to terminate the contract and obtains the approval of CCC according to terms and conditions as determined by CCC;

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

(4) The BCAP practice fails or is not established after a certain time period, as determined CCC, and the cost of restoring or establishing the practice outweighs the benefits received from the restoration or establishment;

(5) The contract was approved based on erroneous eligibility determinations; or

(6) CCC determines that such a termination is needed in the public interest.

(h) Except as allowed and approved by CCC where the new owner of land enrolled in BCAP 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 the contract plus interest, as determined by CCC, and must pay liquidated damages as provided for in the contract and this part. CCC may permit the amount(s) to be repaid to be reduced to the extent that such a reduction will not impair the purposes of BCAP. Further, a refund of all payments need not be required from a participant who is otherwise in full compliance with the contract when the land is purchased by or for the United States, as determined appropriate by CCC.

§ 1450.212 Establishment payments.

(a) Establishment payments will be made available upon a determination by CCC that an eligible practice, or an identifiable portion of a practice, has been established in compliance with the appropriate standards and specifications.

(b) Except as otherwise provided for in this part, such payments will be made only for the cost-effective establishment or installation of an eligible practice, as determined by CCC.

(c) Except as provided in paragraph (d) of this section, such payments will

not be made to the same owner or operator on the same acreage for any eligible practices that have been previously established, or for which such owner or operator has received establishment assistance from any Federal agency.

(d) Establishment payments may be authorized for the replacement or restoration of practices on land for which assistance has been previously allowed under BCAP, only if the failure of the original practice was due to reasons beyond the control of the participant, as agreed to by CCC.

(e) In addition, CCC may make partial payments when the participant completes identifiable components of the contract. CCC may make supplemental establishment payments, if necessary.

§ 1450.213 Levels and rates for establishment payments.

(a) CCC will pay not more than 75 percent of the actual or average cost (whichever is lower) of establishing non-woody perennial crops and woody perennial crops specified in the conservation plan, forest stewardship plan, or equivalent plan.

(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 State or county, as determined by CCC. This means that the calculated 75 percent of the average cost may represent less than 75 percent of the actual cost for an individual participant.

(c) Except as otherwise provided for in this part, a participant may receive, in addition to any payment under this part, establishment assistance, rental payments, or tax benefits from a State or a private organization in return for enrolling lands in BCAP without a commensurate reduction in BCAP establishment payments.

§ 1450.214 Annual payments.

(a) Annual payments will be made in such amount and in accordance with such time schedule as may be agreed upon and specified in the BCAP contract.