

## § 1410.2

in program benefits being withheld or denied.

(f) Notwithstanding other provisions of this section, the Erodibility Index (EI), suitability of land for permanent vegetative or water cover, factors for determining the likelihood of improved water quality, and adequacy of the planned practice to achieve desired objectives shall be determined by the Natural Resource Conservation Service (NRCS) or other sources approved by CCC, in accordance with the Field Office Technical Guide (FOTG) of NRCS or other guidelines deemed appropriate by NRCS. In no case shall such determination compel CCC to execute a contract that CCC does not believe will serve the purposes of the program established by this part. Any approved technical authority shall utilize CRP guidelines established by CCC.

(g) CCC may consult with the Forest Service (FS), a State forestry agency, or other organizations as determined by CCC to be necessary for developing and implementing conservation plans that include tree planting as the appropriate practice or as a component of a practice.

(h) CCC may consult with the National Institute of Food and Agriculture (NIFA) to coordinate a related information and education program as deemed appropriate to implement the Conservation Reserve Program (CRP).

(i) CCC may consult with the National Marine Fisheries Service, U.S. Fish and Wildlife Service (FWS), or State wildlife agencies for such assistance as is determined necessary by CCC to implement the CRP.

(j) Except as agreed by CCC and the participant together:

(1) The regulations in this part and others governing CRP as of September 30, 2008, will continue to govern contracts in effect as of that date (see 7 CFR part 1410 contained in the edition of 7 CFR parts 1200 to 1599 revised as of January 1, 2008); and

(2) Except as specified in paragraph (j)(1) of this section, this part will apply to all CRP contracts.

[68 FR 24835, May 8, 2003, as amended at 74 FR 30911, June 29, 2009; 76 FR 4805, Jan. 27, 2011]

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### § 1410.2 Definitions.

(a) The definitions in part 718 of this chapter shall be applicable to this part and all documents issued in accordance with this part, except as otherwise provided in this section.

(b) The following definitions shall be applicable to this part:

*Agricultural commodity* means:

(1) Any crop planted and produced by annual tilling of the soil or on an annual basis by one-trip planters,

(2) Sugarcane planted or produced in a State, or

(3) Alfalfa and other multi-year grasses and legumes grown in a rotation practice as approved by CCC.

*Annual rental payment* means, unless the context indicates otherwise, the annual payment specified in the CRP contract that, subject to the availability of funds, is made to a participant to compensate a participant for placing eligible land in CRP, including any incentive payments that are not specifically cost-shares.

*Beginning farmer or rancher* means, as determined by CCC, a person or entity who:

(1) Has not been a farm or ranch operator or owner for more than 10 years,

(2) Materially and substantially participates in the operation of the farm or ranch involved in the CRP contract modification, and

(3) If an entity, is an entity in which 50 percent of the members or stockholders of the entity meet the first two requirements of this definition.

*Commercial pond-raised aquaculture facility* means, as determined by CCC, any earthen facility from which \$1,000 or more of freshwater food fish were sold or normally would have been sold during a calendar year.

*Conservation district* means a political subdivision of a State, Indian Tribe, or territory, organized pursuant to the State or territorial soil conservation district law, or Tribal law. The subdivision may be a conservation district, soil conservation district, soil and water conservation district, resource conservation district, natural resource district, land conservation committee, or similar legally constituted body.

*Conservation plan* means a record of the participant's decisions and supporting information for treatment of a

unit of land or water, and includes a schedule of operations, activities, and estimated expenditures needed to solve identified natural resource problems by devoting eligible land to permanent vegetative cover, trees, water, or other comparable measures.

*Conservation priority area* means an area designated with actual and adverse water quality, wildlife habitat, air quality, or other natural resource impacts related to agricultural production activities or to assist agricultural producers to comply with Federal and State environmental laws or to meet other conservation needs, such as for air quality, as determined by the Deputy Administrator.

*Conserving use* means a use of land with any rotation requirements as may be specified by the Deputy Administrator: for alfalfa and other multi-year grasses and legumes planted during 2002 through 2007; as summer fallow during 2002 through 2007; and in which the land was previously enrolled in the program (for which the contract expired during the period 2002 through 2007) and where the grass cover required by the CRP contract continues to be maintained as though still enrolled. Where the land use for a year qualifies as a "conserving use" under this definition, then, the land for that year shall, for purposes of eligibility under §1410.6(a)(1) be considered to have been planted to an "agricultural commodity."

*Considered planted* means: land devoted to a conserving use or land enrolled in the WBP during the crop year or during any of the 2 years preceding the crop year if the contract expired; cropland enrolled in CRP; or land for which the producer received insurance indemnity payment for prevented planting.

*Contour grass strip* means a vegetation area that follows the contour of the land that complies with the FOTG and a conservation plan developed under this part.

*Contract period* means the term of the contract which is not less than 10, nor more than 15 years.

*Cost-share payment* means the payment made by CCC to assist program participants in establishing the practices required in a contract.

*Cropland* means land defined as cropland in part 718 of this title, except for land in terraces that are no longer capable of being cropped.

*Cropped wetlands* means farmed wetlands and wetlands farmed under natural conditions.

*Deputy Administrator* means the Deputy Administrator for Farm Programs, FSA, the CRP Program Manager, or a designee.

*Erodibility Index (EI)* is, as prescribed by CCC, used to determine the inherent erodibility (water or wind) of a soil.

*Farmed wetlands* means land defined as farmed wetlands in part 12 of this title.

*Federally-owned land* means land owned by the Federal Government or any department, instrumentality, bureau, or agency thereof, or any corporation whose stock is wholly owned by the Federal Government.

*Field* means a part of a farm that is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, woodlands, other similar features, or crop-lines, as determined by CCC.

*Field Office Technical Guide (FOTG)* means the official USDA guidelines, criteria, and standards for planning and applying conservation treatments and conservation management systems. It contains detailed information on the conservation of soil, water, air, plant, animal resources, and cultural resources applicable to the local area for which it is prepared.

*Field windbreak, shelterbelt, and/or living snowfence* mean a vegetative barrier with a linear configuration composed of trees, shrubs, or other vegetation, as determined by CCC, that are designated as such in a conservation plan and that are planted for the purpose of reducing wind erosion, controlling snow, improving wildlife habitat, or conserving energy.

*Filter strip* means a strip or area of vegetation adjacent to a body of water the purpose of which is to remove nutrients, sediment, organic matter, pesticides, and other pollutants from surface runoff and subsurface flow by deposition, absorption, plant uptake, and other processes, thereby reducing pollution and protecting surface water and subsurface water quality and of a

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width determined appropriate for the purpose by the Deputy Administrator.

*Highly Erodible Land* (HEL) means land determined to have an EI equal to or greater than 8 on the acreage offered.

*Infeasible to farm* means an area that is too small or isolated to be economically farmed, as determined by the Deputy Administrator.

*Indian tribe* means any Indian tribe, band, nation, or other organized group, or community, including pueblos, rancherias, colonies and 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. 1601–1629h), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

*Landlord* means a person who rents or leases acreage to another person.

*Limited resource farmer or rancher* means:

(1) A person with direct or indirect gross farm sales of not more than \$155,200 in each of the previous two calendar years preceding the year of enrollment (adjusted for inflation using Prices Paid by Farmer Index as compiled by the USDA National Agricultural Statistics Service), and

(2) A total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years (to be determined annually using U.S. Department of Commerce data).

*Local FSA office* means the FSA office serving the area in which the FSA records are located for the farm or ranch.

*Merchantable timber* means timber grown for commercial purposes on private non-industrial forest land on which the average tree has a trunk diameter of at least 6 inches measured at a point no less than 4.5 feet above the ground.

*Offer* means, unless the context indicates otherwise, if required by CCC, the per-acre rental payment requested by the owner or operator in such owner's or operator's request to participate in the CRP.

*Offeror* means an eligible person as determined by CCC who submits an offer of eligible acreage for enrollment into the CRP to enter into a CRP contract.

*Operator* means a person who is in general control of the farming operation on the farm, as determined by CCC.

*Payment period* means the 10- to 15-year contract period for which the participant receives an annual rental payment.

*Perennial crop* means a crop that is produced from the same root structure for two or more years, as determined by CCC.

*Permanent vegetative cover* means perennial stands of approved combinations of certain grasses, legumes, forbs, shrubs and trees with a life span of 10 or more years.

*Permanent wildlife habitat* means a vegetative cover with the specific purpose of providing habitat, food, or cover for wildlife and protecting other environmental concerns for the life of the contract.

*Pollinator* means an insect or other animal that carries pollen from one flower to another.

*Practice* means a conservation, wildlife habitat, or water quality measure with appropriate operations and management as agreed to in the conservation plan to accomplish the desired program objectives according to CRP and FOTG standards and specifications as a part of a conservation management system.

*Present value* means the value of a stream of future payments discounted by 5 percent in accordance with Office of Management and Budget Circular A-94 (revised January 2006), Discount Rates To Be Used in Evaluating Time-Distributed Costs and Benefits.

*Private non-industrial forest land* means, for purposes of §1410.12, lands with existing tree cover that are owned by a private non-industrial forest landowner and which were damaged by hurricanes occurring in calendar year 2005.

*Private non-industrial forest landowner* means, for purposes of §1410.12, an individual, group, association, corporation, Indian Tribe, other legal private entity, or State School Trust, owning non-industrial private forest land or who

receives concurrence from the landowner for making the claim in lieu of the owner, and for practice implementation and who holds a lease on the land for a minimum of 10 years. Corporations whose stocks are publicly traded or owners or lessees principally engaged in the primary processing of raw wood products are excluded from this definition. An owner of land leased to a lessee shall also be excluded who should be excluded under the previous sentence.

*Retired or retiring owner or operator* means an owner or operator of land enrolled in a CRP contract who has ended active labor in farming operations as a producer of agricultural crops or expects to do so within 5 years of the CRP contract modification.

*Riparian buffer* means a strip or area of vegetation adjacent to a river or stream of sufficient width as determined by the Deputy Administrator to remove nutrients, sediment, organic matter, pesticides, and other pollutants from surface runoff and subsurface flow by deposition, absorption, plant uptake, and other processes, thereby reducing pollution and protecting surface water and subsurface water quality, which are also intended to provide shade to reduce water temperature for improved habitat for aquatic organisms and supply large woody debris for aquatic organisms and habitat for wildlife.

*Socially disadvantaged farmer or rancher* means a farmer or rancher who is a member of a socially disadvantaged group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. Gender is not included as a covered group. Socially disadvantaged groups include the following and no others unless approved in writing by the Deputy Administrator:

- (1) American Indians or Alaskan Natives,
- (2) Asians or Asian-Americans,
- (3) Blacks or African Americans,
- (4) Hispanics, and
- (5) Native Hawaiians or other Pacific Islanders.

*Soil loss tolerance (T)* means the maximum average annual erosion rate specified in the FOTG that will not ad-

versely impact the long-term productivity of the soil.

*State* means State agencies, departments, districts, county or city governments, municipalities or any other State or local government of the State.

*State school trust land* means land owned by a State with the explicit purpose of supporting public schools.

*State Technical Committee* means a committee established pursuant to part 610 of this chapter to provide information, analysis, and recommendations to the U.S. Department of Agriculture.

*State water quality priority areas* means any area so designated by the State committee, in consultation with the State Technical Committee, where agricultural pollutants contribute to water degradation or create the potential for failure to meet applicable water quality standards or the goals and requirements of Federal or State water quality laws. These areas may include areas designated under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) as water quality protection areas, sole source aquifers or other designated areas that result from agricultural nonpoint sources of pollution. Acreage in these areas may be determined eligible as conservation priority areas.

*Technical assistance* means assistance in regard to determining the eligibility of land and practices, implementing and certifying practices, ensuring contract performance, and providing annual rental rate surveys. The technical assistance provided in connection with CRP to owners or operators, as approved by CCC, includes technical expertise, information, and tools necessary for the conservation of natural resources on land; technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices; and, technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.

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*Violation* means an act by the participant, either intentional or unintentional, that would cause the participant to no longer be eligible for all or a portion of cost-share, incentive, or annual contract payments.

*Water Bank Program (WBP)* means the program authorized by the Water Bank Act of 1970, as amended, in which eligible persons enter into 10-year agreements to preserve, restore, and improve wetlands.

*Water cover* means flooding of land by water either to develop or restore shallow water areas for wildlife or wetlands, or as a result of a natural disaster.

*Wellhead protection area* means the area designated by EPA or the appropriate State agency with an Environmental Protection Agency approved Wellhead Protection Program for water being drawn for public use, as defined for public use by the Safe Drinking Water Act, as amended.

*Wetland* means land defined as wetland in accordance with provisions of part 12 of this title.

*Wetlands farmed under natural conditions* means land defined as wetlands farmed under natural conditions in accordance with provisions of part 12 of this title.

*Wetlands Reserve Program (WRP)* means the program authorized by part 1467 of this chapter in which eligible persons enter into long-term agreements to restore and protect wetlands.

[68 FR 24835, May 8, 2003, as amended at 69 FR 26763, May 14, 2004; 71 FR 31917, Jun 2, 2006; 74 FR 30911, June 29, 2009; 75 FR 27168, May 14, 2010; 75 FR 44071, July 28, 2010]

#### § 1410.3 General description.

(a) Under the CRP, CCC will enter into contracts with eligible participants to convert eligible land to a conserving use during the contract period in return for financial and technical assistance.

(b) A participant must obtain and adhere to a conservation plan prepared in accordance with CRP guidelines, as established and determined by CCC. A conservation plan for eligible acreage must be obtained by a participant and must be approved by the conservation district in which the lands are located unless the conservation district de-

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clines to review the plan, in which case the provider of technical assistance may take such further action as is needed to account for lack of such review.

(c) The objectives of the CRP are to cost-effectively reduce water and wind erosion, protect the Nation's long-term capability to produce food and fiber, reduce sedimentation, improve water quality, create and enhance wildlife habitat, and other objectives including, as appropriate, addressing issues raised by State, regional, and national conservation initiatives and encouraging more permanent conservation practices, such as, but not limited to, tree planting.

(d) Except as otherwise provided, a participant may, in addition to any payments under this part, receive cost-share assistance, rental or easement payments, tax benefits, or other payments from a State or a private organization in return for enrolling lands in CRP. However, a participant may not receive or retain CRP cost-share assistance if other Federal cost-share assistance is provided for such acreage under any law, as determined by the Deputy Administrator. Further, under no circumstances may the cost-share payments received under this part, or otherwise, exceed the cost of the practice, as determined by CCC.

[68 FR 24835, May 8, 2003, as amended at 74 FR 30912, June 29, 2009]

#### § 1410.4 Maximum county acreage.

(a) Except as provided in paragraph (b) of this section, the maximum acreage that may be placed in the CRP and the WRP may not exceed 25 percent of the total cropland in the county; further, no more than 10 percent of the cropland may be subject, in the aggregate, to a CRP or WRP easement.

(b) The restrictions in paragraph (a) of this section may be waived by CCC as follows:

(1) If CCC determines that such action would not adversely affect the local economy of the county and that operators in the county are having difficulties complying with conservation plans implemented under part 12 of this title; or

(2) Cropland in a county enrolled under continuous signup provisions as