

with the requirements of the covered conservation program.

(e) Requests for equitable relief shall include the following information:

(1) The reason why the participant was unable to comply with the requirements of the conservation program;

(2) Details regarding how much of the required action had been completed;

(3) Why the participant did not have sufficient reason to know that the action or information relied upon was improper or erroneous;

(4) Whether the participant did not act in reliance on their own misunderstanding or misinterpretation of the conservation program provisions, notices, or information; and

(5) Any other pertinent facts or supporting documentation.

PART 636—WILDLIFE HABITAT INCENTIVE PROGRAM

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AUTHORITY: 16 U.S.C. 3839bb-1.

SOURCE: 75 FR 71338, Nov. 23, 2010, unless otherwise noted.

§ 636.1 Applicability.

(a) The purpose of the Wildlife Habitat Incentive Program (WHIP) is to help participants develop fish and wildlife habitat on private agricultural

land, nonindustrial private forest land (NIPF), and Indian land.

(b) The regulations in this part set forth the requirements for WHIP.

(c) The Chief, Natural Resources Conservation Service (NRCS), may implement WHIP in any of the 50 States, District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 636.2 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Chief. The funds, facilities, and authorities of the Commodity Credit Corporation (CCC) are available to NRCS to carry out WHIP. Accordingly, where NRCS is mentioned in this part, it also refers to CCC's funds, facilities, and authorities, where applicable.

(b) The State Conservationist may accept recommendations from the State Technical Committee and Tribal Conservation Advisory Council (for tribal land) in the implementation of the program and in establishing program direction for WHIP in the applicable State or tribal land. The State Conservationist has the authority to accept or reject the State Technical Committee and the Tribal Conservation Advisory Council's (for tribal land) recommendation; however, the State Conservationist will give strong consideration to the State Technical Committee and the Tribal Conservation Advisory Council's recommendation.

(c) NRCS may enter into agreements with Federal and State agencies, Indian tribes, conservation districts, local units of government, public and private organizations, and individuals to assist with program implementation, including the provision of technical assistance. NRCS may make payments pursuant to said agreements for program implementation and for other goals consistent with the program provided for in this part.

(d) NRCS will provide the public with notice of opportunities to apply for participation in the program.

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(e) No delegation in this part to lower organizational levels will preclude the Chief, or designee, from determining any issues arising under this part or from reversing or modifying any determination made under this part.

§ 636.3 Definitions.

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

Agricultural lands means cropland, grassland, rangeland, pastureland, and other land determined by NRCS to be suitable for fish and wildlife habitat development on which agricultural and forest-related products or livestock are or have the potential to be produced. Agricultural lands may include cropped woodland, wetlands, waterways, streams, incidental areas included in the agricultural operation, and other types of land used for or have the potential to be used for production.

Applicant means a person, legal entity, joint operation, or Indian tribe that has an interest in agricultural land, NIPF, Indian land, or other lands identified in 636.4(c)4, who has requested in writing to participate in WHIP.

At-risk species means any plant or animal species listed as threatened or endangered; proposed or candidate for listing under the Endangered Species Act (ESA); a species listed as threatened or endangered under State law or tribal law on tribal land; State or tribal land species of conservation concern; or other plant or animal species or community, as determined by the State Conservationist, with advice from the State Technical Committee and Tribal Conservation Advisory Council (for tribal land), that has undergone, or likely to undergo, population decline and may become imperiled without direct intervention.

Beginning farmer or rancher means an individual or entity who:

(1) Has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 consecutive years. This requirement applies to all members of an entity, who will materially and substantially participate in the operation of the farm or ranch.

(2) In the case of a cost-share agreement with an individual, individually, or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch consistent with the practices in the county or State where the farm is located.

(3) In the case of a cost-share agreement with an entity or joint operation, all members must materially and substantially participate in the operation of the farm or ranch. Material and substantial participation requires that each of the members provide some amount of the management, or labor and management necessary for day-to-day activities, such that if each of the members did not provide these inputs, operation of the farm or ranch would be seriously impaired.

Chief means the Chief of NRCS or designee.

Conservation activities means conservation systems, practices, or management measures needed to address a resource concern or improve environmental quality through the treatment of natural resources, and includes structural, vegetative, and management activities, as determined by NRCS.

Conservation district means any district or unit of State, tribal, or local government formed under State, tribal, or territorial law for the express purpose of developing and carrying out a local soil and water conservation program. Such district or unit of government may be referred to as a conservation district, soil conservation district, soil and water conservation district, resource conservation district, natural resource district, land conservation committee, or similar name.

Conservation practice means one or more conservation improvements and activities, including structural practices, land management practices, vegetative practices, forest management, and other improvements that benefit the eligible land and achieve program purposes. Approved conservation practices are listed in the NRCS Field Office Technical Guide (FOTG).

Cost-share agreement means a financial assistance document that specifies