

§ 1450.202

7 CFR Ch. XIV (1–1–13 Edition)

submit a proposal to CCC that includes, at a minimum:

(1) A description of the sources of renewable biomass, eligible land, and eligible crops that may be enrolled within the proposed project area;

(2) A letter of commitment from a biomass conversion facility stating that the facility will use, for BCAP purposes, eligible crops intended to be produced in the proposed project area;

(3) Information demonstrating that the biomass conversion facility will have sufficient equity available to operate if the facility is not operational at the time the project area proposal is submitted; and

(4) Other information that gives CCC a reasonable assurance that the biomass conversion facility will be in operation in a timely manner so that it will utilize the eligible crops, as determined by CCC.

(b) The project area description required in paragraph (a) of this section needs to specify geographic boundaries and be described in definite terms such as acres, watershed boundaries, mapped longitude and latitude coordinates, or counties.

(c) The project area needs to be physically located near a biomass conversion facility or facilities, as determined by CCC.

(d) Project area proposals may limit the nature and types of eligible crops to be established within a project area.

§ 1450.202 Project area selection criteria.

(a) In selecting project areas, CCC will consider:

(1) The dry tons of the eligible crops proposed to be produced in the proposed project area and the probability that such crops will be used for BCAP purposes;

(2) The dry tons of renewable biomass projected to be available from sources other than the eligible crops grown on contract acres;

(3) The anticipated economic impact in the proposed project area;

(4) The opportunity for producers and local investors to participate in the ownership of the biomass conversion facility in the proposed project area;

(5) The participation rate by beginning or socially disadvantaged farmers or ranchers;

(6) The impact on soil, water, and related resources;

(7) The variety in biomass production approaches within a project area, including agronomic conditions, harvest and postharvest practices, and monoculture and polyculture crop mixes;

(8) The range of eligible crops among project areas; and

(9) Any other additional criteria, as determined by CCC.

(b) [Reserved]

§ 1450.203 Eligible persons and legal entities.

(a) In order to be eligible to enter into a BCAP contract for this subpart, a person or legal entity must be an owner, operator, or tenant of eligible land within a project area, as defined in § 1450.204 and be the person or entity with the ability to perform under the terms of the contract.

(b) [Reserved]

§ 1450.204 Eligible land.

(a) For the purposes of this subpart, eligible land must be physically and legally capable of producing an eligible crop and must be:

(1) Agricultural land; or

(2) Nonindustrial private forest land.

(b) For the purposes of this subpart, eligible land is not:

(1) Federal- or State-owned land, including land owned by local governments or municipalities;

(2) Land that is native sod;

(3) Land enrolled in the Conservation Reserve Program operated under part 1410 of this chapter;

(4) Land enrolled in the Wetlands Reserve Program operated under part 1467 of this chapter; or

(5) Land enrolled in the Grassland Reserve Program operated under part 1415 of this chapter.

§ 1450.205 Duration of contracts.

(a) Contracts under this subpart will be for a term of up to:

(1) 5 years for annual and non-woody perennial crops; and

(2) 15 years for woody perennial crops.

(b) The establishment time period may vary due to: Type of crop, agronomic conditions (for example, establishment time frame, winter hardiness), and other factors.

§ 1450.206 Obligations of participant.

(a) All participants subject to a BCAP contract must:

(1) Carry out the terms and conditions of the contract;

(2) Make available to CCC or to an institution of higher education or other entity designated by CCC, such information as CCC determines to be appropriate to promote the production of eligible crops and the development of renewable biomass conversion technology;

(3) Comply with the highly erodible land and wetland conservation requirements of part 12 of this title;

(4) Implement a:

(i) Conservation plan,

(ii) Forest stewardship plan, or

(iii) Equivalent plan.

(5) Implement the conservation plan, forest stewardship plan, or equivalent plan which is part of such contract, in accordance with the schedule of dates included in such conservation plan, forest stewardship plan, or equivalent plan, unless CCC determines that the participant cannot fully implement the conservation plan, forest stewardship plan, or equivalent plan for reasons beyond the producer's control and CCC and the participant agree to a modified plan.

(6) Demonstrate compliance with the conservation plan, forest stewardship plan, or equivalent plan through required self-certification subject to compliance spot checks, as determined by CCC.

(7) Establish temporary vegetative cover either within the timeframes required by the conservation plan, forest stewardship plan, or equivalent plan or as determined by the Deputy Administrator, if the eligible crops cannot be timely established; and

(8) If the participant has a share of the payment greater than zero, be jointly and severally responsible with the other contract participants for compliance with the provisions of such contract and the provisions of this part, and for any refunds or payment

adjustments that may be required for violations of any of the terms and conditions of the contract and this part.

(b) Payments may cease and producers may be subject to contract termination for failure to establish eligible crops.

(c) A contract will not be terminated for failure by the participant to establish an approved cover on the land if, as determined by CCC:

(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.

[75 FR 66234, October 27, 2010, as amended at 76 FR 56951, Sept. 15, 2011]

§ 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.