

§ 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 re-

newable 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

§ 1450.207

after the wet or drought conditions that prevented the establishment of such cover subside.

[75 FR 66234, Oct. 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.

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 determined by the Deputy Administrator.

- (b) [Reserved]

7 CFR Ch. XIV (1–1–14 Edition)

§ 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