

Commodity Credit Corporation, USDA

§ 1410.12

map of the Department of the Interior; or

(2) Is located adjacent to a perennial stream identified on a 1-24,000 scale map of the United States Geological Survey, when the area is not delineated on a final national wetland inventory map.

(d) Total enrollment in the CRP under this section shall not exceed 1 million acres.

(e) The maximum size of a wetland enrolled under this section shall be 10 contiguous acres of which only the first 5 acres shall be eligible for payments.

(f) The maximum size of any buffer acreage described in paragraph (b)(2)(ii) of this section shall be the greater of:

(1) An area three times the size of the wetland described in paragraph (b)(1) of this section; or

(2) An area that continues no more than 150 feet from the edge of the wetland.

(g) The maximum total acreage enrolled in the CRP under this section, including any wetland and buffer acreage described in paragraph (b)(2) of this section, in a tract, as determined by the Deputy Administrator, of an owner or operator, is 40 acres.

(h) All participants subject to a CRP contract under this section must agree to restore the hydrology of the wetland described in paragraph (b)(1) of this section to the maximum extent possible, as determined by the Deputy Administrator, in accordance with the FOTG.

(i) Offers for contracts under this section shall be submitted under continuous signup provisions as authorized in §1410.30.

(j) Except as otherwise determined by the Deputy Administrator, all other requirements of this part shall apply to enrollments under this section, and the Deputy Administrator by contract or otherwise may add such other requirements or conditions as are deemed necessary. Such additional conditions include but are not limited to payment limitations, adjusted gross income limitations, and limitations on the amount of acreage that can be enrolled in any one county.

§ 1410.12 Emergency Forestry Program.

(a) In addition to other allowable enrollments, certain non-industrial private forest land located in Presidential- or Secretarial-declared primary disaster counties that suffered damage from hurricanes in calendar year 2005 may be enrolled through the Emergency Forestry Conservation Reserve Program (EFCRP) provided for in this section.

(b) Owners and/or operators may enroll non-industrial private forest land, as defined in §1410.2, in the CRP provided that the private non-industrial forest land:

(1) Has merchantable timber (timber on land on which the average tree has a trunk diameter of at least six inches measured at a point no less than four and one-half feet above the ground); and

(2) Has experienced a loss of 35 percent or more of merchantable timber in a 2005 calendar year hurricane-affected county due to 2005 hurricanes.

(c) The provisions of §1410.4 do not apply to this section.

(d) Any overall acreage enrollment limit imposed on CRP shall not apply to acreage enrolled under this section.

(e) All participants subject to a CRP contract entered into pursuant to this section must agree:

(1) To restore the land, through site preparation and planting of, to the maximum extent practicable, native species or similar species as existing prior to hurricane damages as may be specified in the contract, and comply with other requirements as may be specified in the contract;

(2) To establish temporary vegetative cover; and

(3) That the contract term shall be for a period of 10 years, during which time standing timber may not be harvested from the enrolled land except as may be approved by CCC in the conservation plan as part of the normal maintenance of the forest land.

(f) Offers for contracts under this section shall be submitted under continuous signup provisions as authorized in §1410.30.

(g) In evaluating contract offers to which this section applies, different factors, as determined by CCC, may be

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considered for priority purposes. These include but are not limited to soil erosion prevention, water quality improvement, wildlife habitat restoration, and mitigation of economic loss.

(h) In return for a contract entered into under this paragraph, a participant may opt for:

(1) Annual rental payments authorized by §1410.42, except that the payment rate shall be equal to:

(i) The average rental rate for CRP contracts in the county in which the land is actually located; or

(ii) In the case where no CRP contracts are enrolled in a county, the average rental rate will be the CRP rate applicable to a nearby similarly-situated county.

(2) In lieu of the annual payments provided for in paragraph (h)(1) of this section, lump sum payment equal to the present value of the total amount of annual rental payments that would otherwise be paid under paragraph (h)(1) of this section.

(i) Cost-share assistance authorized under §1410.40 may be reduced by the value of salvaged timber or timber products which are removed to prepare the site for replanting.

(j) The provisions of §1410.7(c), which concern enrollment limits, do not apply to contracts to which this section applies.

(k) To avoid duplicate payments, participants under this section are not eligible to receive EFCRP funding for land on which the participant has or will receive funding under any other program that covers the same expenses.

(1) All other requirements of this part shall apply to enrollments under this section.

[71 FR 31917, Jun 2, 2006]

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§ 1410.20 Obligations of participant.

(a) All participants subject to a CRP contract must agree to:

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

(2) Implement the conservation plan, which is part of such contract, in accordance with the schedule of dates included in such conservation plan unless the Deputy Administrator determines

that the participant cannot fully implement the conservation plan for reasons beyond the participant's control, and CCC agrees to a modified plan. However, a contract will not be terminated for failure to establish an approved vegetative or water cover on the land if, as determined by the Deputy Administrator:

(i) The failure to plant or establish such cover was due to excessive rainfall, flooding, or drought;

(ii) The land subject to the contract on which the participant could practicably plant or establish to such cover is planted or established to such cover; and

(iii) The land on which the participant was unable to plant or establish such cover is planted or established to such cover after the wet or drought conditions that prevented the planting or establishment subside;

(3) Establish temporary vegetative cover either when required by the conservation plan or, as determined by the Deputy Administrator, if the permanent vegetative cover cannot be timely established;

(4) Comply with part 12 of this title;

(5) Not allow grazing, harvesting, or other commercial use of any crop from the cropland subject to such contract except for those periods of time approved in accordance with instructions issued by the Deputy Administrator;

(6) Establish and maintain the required vegetative or water cover and the required practices on the land subject to such contract and take other actions that may be required by CCC to achieve the desired environmental benefits and to maintain the productive capability of the soil throughout the contract period;

(7) Comply with noxious weed laws of the applicable State or local jurisdiction on such land;

(8) Control on land subject to such contract all weeds, insects, pests and other undesirable species to the extent necessary to ensure that the establishment and maintenance of the approved cover as necessary or may be specified in the CRP conservation plan and to avoid an adverse impact on surrounding land, taking into consideration water quality, wildlife, and other