

# Rules and Regulations

Federal Register

Vol. 61, No. 52

Friday, March 15, 1996

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 704

RIN 0560-AE56

#### 1986-1990 Conservation Reserve Program

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim rule amends the program regulations to allow holders of certain Conservation Reserve Program (CRP) contracts that expire September 30, 1996, the opportunity to request and receive early release from contracts or to reduce the amount of acreage subject to the contracts. The purpose of this action is to enhance the commodity supply situation for the 1996/97 marketing year. Domestic stocks relative to use of wheat, feed grains, and oil seeds are expected to be at extremely low levels for the 1995/96 crop year. For corn, the expected stocks to use ratio in the 1995/96 crop year is approximately 6 percent while the average stocks to use ratio from 1980 through 1994 was 30 percent. For wheat, the expected stocks to use ratio in the 1995/96 crop year is approximately 16 percent, while the average stocks to use ratio from 1980 through 1994 was 43 percent. However, the domestic and export demand for these commodities are expected to remain strong during the 1996/97 crop year. The action is implemented to allow acreage that can be brought back into production without adversely impacting the environment to be released for crop production in 1996.

**DATES:** *Effective Date:* Interim rule effective March 15, 1996.

*Comments:* Comments on all items, except the information collection requirements, must be received on or before April 15, 1996 in order to be

assured of consideration. Comments on the information collection requirements must be received on or before May 14, 1996.

**ADDRESSES:** Comments should be mailed to Cheryl Zavodny, Farm Service Agency, P.O. Box 2415, Ag Box Code 0513, Washington, DC 20013-2415; telephone 202-720-6304. Comments received may be inspected between 9 a.m. and 4 p.m., Monday through Friday, except holidays, in room 4768, South Agriculture Building, United States Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Zavodny, Conservation and Environmental Protection Division, FSA, P.O. Box 2415, Room 4768-S, Washington, DC 20013-2415.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This interim rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

##### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule because neither FSA nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

##### Environmental Evaluation

It has been determined by an environmental evaluation that this action will not adversely affect the environmental, historical, social, or economic resources of the Nation. Therefore, it has been determined that these actions will not require an Environmental Assessment or an Environmental Impact Statement.

##### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

##### Federal Domestic Assistance Program

The title and number of the Federal Domestic Assistance Program, as found

in the Catalog of Federal Domestic Assistance, to which this rule applies, is the Conservation Reserve Program—10.069.

##### Paperwork Reduction Act

Revisions were made to the currently approved information collection to reflect the Department's January 25, 1996, announcement regarding early release provisions. Current approval by the Office of Management and Budget (OMB) is located under control number 0560-0125. Total public burden hours are based on the assumption that approximately 10,000 requests will be received for early release in 1996.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 30 minutes per response.

*Respondents:* Owners, operators, and other producers participating in CRP.

*Estimated Number of Respondents:* 10,000.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 5,000 hours.

*Comments are invited on:* (a) whether the proposed collection information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, D.C., 20503 and to Cheryl Zavodny, Chief, Conservation Programs Branch, Conservation and Environmental Protection Division, USDA, FSA, P.O. Box 2415, Ag Box 0513, Washington, D.C., 20013, (202) 720-6304.

Copies of information collection may be obtained from Cheryl Zavodny, Chief, Conservation Programs Branch, Conservation and Environmental Protection Division, USDA, FSA, P.O.

Box 2415, Ag Box 0513, Washington, D.C., 20013, (202) 720-6304.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

#### Executive Order 12778

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of this rule are not retroactive and preempt State and local laws to the extent such laws are inconsistent with the provisions of this rule. Before any action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded program participants at 7 CFR part 780 must be exhausted.

#### Request for Comments

Comments are requested with respect to this interim rule and such comments shall be considered in developing the final rule.

#### Background

The current regulations in 7 CFR Part 704 and 7 CFR Part 1410 implemented the CRP, which is authorized by Title XII of the Food Security Act of 1985, as amended. Contracts due to expire on September 30, 1996, are subject to the regulations found in 7 CFR Part 704.

The intent of the CRP is to permit the CCC to enter into contracts with owners and operators of highly erodible and certain other cropland to assist such owners and operators in conserving and improving the Nation's soil and water resources and wildlife habitat. By entering into a contract, the owner or operator agreed to implement an approved conservation plan converting highly erodible cropland normally devoted to the production of an agricultural commodity to a conserving use and to a reduction in certain crop acreage bases, allotments, or quotas. CCC provides (1) funds to support technical assistance by way of a conservation plan, (2) financial assistance for the costs of establishing the conservation practices required by the conservation plan, and (3) annual land rental payments to compensate the owner or operator for taking the cropland out of production.

The Department has announced that options to extend expiring contracts will be announced before the early release signup period begins, so that participants will have all the information to make their CRP decisions.

#### Program Changes

The Secretary has determined that in order to enhance the commodity supply

situation for the 1996/97 marketing year, CRP participants with certain acreage due to expire from CRP on September 30, 1996, may release all or part of the acreage before the expiration date. This interim rule provides authority to permit these CRP participants the option of early termination with an effective date not to exceed September 30, 1996, on certain acreage under CRP contract in whole or in part, without penalty or obligation to refund previous payments issued under the contract, provided the acreage released, if highly erodible and if farmed, is farmed under an Alternative Conservation System as determined by the Natural Resources Conservation Service (NRCS). The conservation plan for such acreage will avoid measures more restrictive than those of an Alternative Conservation System. If the acreage is to be hayed or grazed, an approved haying or grazing plan for the acreage will be developed by NRCS. Under previous early release regulations, published as an interim rule on May 8, 1995, participants requesting early release of acreage to be farmed were required to obtain from NRCS and follow a more restrictive Basic Conservation System. Crop acreage bases, allotments, and quotas will be reinstated effective for the 1996 crop year.

CRP contract acreage which is not eligible for early termination under this rule includes acreage subject to contracts due to expire after September 30, 1996; acreage with an erodibility index (EI) greater than 15, as determined by NRCS; acreage within an average of 100 feet of a stream or other permanent waterbody; acreage on which a CRP easement is filed; and acreage on which there exist the following practices installed or developed as a result of participation in CRP: grass waterways, filter strips, shallow water areas for wildlife, bottomland timber established on wetlands, field windbreaks, and shelterbelts. Exclusion of these areas will contribute to continued prevention of soil erosion and protection of water quality and certain wildlife habitat.

Although CRP participants are not obligated to request early release from their contracts, all signatories to the CRP contract must agree to the release. Acreage released under this voluntary opportunity will not be eligible for subsequent reenrollment. Further, acreage that is not eligible for early release may not otherwise be removed from the contract.

Because CRP participants are making planting decisions and wish to carry out their plans as early as possible, it is necessary that this regulation be

effective upon publication. This action must be effective immediately to provide participants the opportunity to finalize their farming plans.

#### List of Subjects in 7 CFR Part 704

Administrative practices and procedures, Base protection, Conservation System, Contracts, Environmental indicators, Natural resources, and Technical assistance.

Accordingly, 7 CFR Part 704 is amended as follows:

#### **PART 704—1986—1990 CONSERVATION RESERVE PROGRAM**

1. The authority citation for 7 CFR Part 704 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3801-3847.

2. Section 704.2 is amended by redesignating paragraphs (a)(12) through (a)(24) as (a)(13) through (a)(25), respectively, and adding a new paragraph (a)(12) to read as follows:

#### **§ 704.2 Definitions.**

(a) \* \* \*

(12) *Erodibility index (EI)* means the factor calculated by the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture which is used to determine the inherent erodibility that a soil possesses without management by dividing the potential average annual rate of erosion for each soil by the predetermined soil loss tolerance (T) value for the soil;

3. In § 704.20, paragraph (a)(4) is amended by revising the first sentence and by adding a new sentence at the end of the paragraph to read as follows:

#### **§ 704.20 Contract modifications.**

(a) \* \* \*

(4) Terminate contracts scheduled to expire on September 30, 1996 prior to the expiration date with an effective date no later than September 30, 1996, provided the acreage released, if farmed, is farmed under a conservation system as determined by the Natural Resources Conservation Service (NRCS) or, if the acreage is to be hayed or grazed, an approved haying or grazing plan is developed by the NRCS. \* \* \* In addition, for any land for which an early release is sought, the land must have an EI of 15 or less.

Signed at Washington, DC, on March 11, 1996.

Bruce R. Weber,  
*Acting Administrator, Farm Service Agency.*  
[FR Doc. 96-6116 Filed 3-14-96; 8:45 am]

BILLING CODE 3410-05-P