

DEPARTMENT OF AGRICULTURE**Commodity Credit Corporation****7 CFR Part 1410**

RIN 0560-AH80

Conservation Reserve Program**AGENCY:** Commodity Credit Corporation, USDA.**ACTION:** Interim rule.

SUMMARY: The Commodity Credit Corporation (CCC) is amending the Conservation Reserve Program (CRP) regulations to implement provisions of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). The 2008 Farm Bill generally extends the existing CRP through 2012 with some changes in eligibility requirements. The changes in this rule include adding alfalfa to the definition of agricultural commodity for the purposes of determining cropping history, adding incentives for limited resource farmers and Indian tribes, adding pollinator habitat incentives, adding a provision allowing preference for local residents in accepting competitive offers, adding an additional waiver provision to exclude certain acreage for CRP county acreage maximums, and clarifying the limited harvesting and grazing activities that may be allowed on CRP land. The purpose of CRP is to cost-effectively assist producers in conserving and improving soil, water, wildlife, and other natural resources by converting environmentally-sensitive acreage from the production of agricultural commodities to a long-term vegetative cover and to address issues raised by State, regional and national conservation initiatives.

DATES: *Effective Date:* This rule is effective July 28, 2010.*Comment Date:* We will consider comments that we receive by September 27, 2010.**ADDRESSES:** We invite you to submit comments on this interim rule. In your comment, include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Director, Conservation and Environmental Programs Division (CEPD), USDA FSA CEPD, Mail Stop 0513, 1400 Independence Ave, SW., Washington, DC 20250-0513.
- *Hand Delivery or Courier:* Deliver comments to the above address.

Comments may be inspected at the mail address listed above between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this interim rule is available through the U.S. Department of Agriculture (USDA) Farm Service Agency (FSA) home page at <http://www.fsa.usda.gov/>.

FOR FURTHER INFORMATION CONTACT:

Beverly J. Preston, CRP Program Manager, USDA FSA CEPD, Mail Stop 0513, 1400 Independence Ave, SW., Washington, DC 20250-0513 at, 1400 Independence Avenue, SW., Washington, DC 20250-0513; telephone: (202) 720-9563; e-mail: beverly.preston@wdc.usda.gov. Persons with disabilities who require alternative means for communication (Braille, large print, audiotope, etc.) should contact the USDA Target Center at 202-720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:**Background**

This rule amends CRP regulations in 7 CFR part 1410 to implement certain changes to CRP as required by the 2008 Farm Bill (Pub. L. 110-246). This is the third of three interim rules that CCC has published to implement 2008 Farm Bill changes to CRP. On June 29, 2009, (74 FR 30907-30912) CCC published an interim rule to implement CRP provisions in the 2008 Farm Bill regarding farmable wetlands, thinning of trees to improve the condition of resources, income and payment limitations, and address issues raised by State, regional, and National conservation initiatives.

On May 14, 2010, (75 FR 27165-69) CCC published an interim rule to implement provisions in the 2008 Farm Bill regarding transition incentives for CRP participants with expiring contracts to sell or lease the land to a beginning or socially disadvantaged farmer or rancher.

This interim rule implements the remaining 2008 Farm Bill CRP provisions, which include updating cropping history requirements, adding an additional waiver provision as an exclusion to exceed the 25 percent of the county cropland CRP acreage maximum, adding an acceptability-of-offer provision to allow local resident preference, and clarifying permissive uses of CRP land. It also adds provisions for pollinator habitat incentives and incentives for limited resource farmers and ranchers and Indian tribes. This rule also updates dates and makes minor plain language improvements. This interim rule is effective on publication, but is subject to modification after the consideration of

comments. After the comment period closes, CCC expects to publish a final rule that will discuss the comments and implement any amendments determined to be justified based on a review of the comments.

CRP participants enroll land under contracts for 10 to 15 years in exchange for annual rental payments and financial assistance to install certain conservation practices and to maintain approved vegetative, tree, or other appropriate covers. A wide range of conservation practices may be enrolled under CRP including, for example, introduced and native grasses and legumes, hardwood trees, wildlife habitat, grass waterways, filter strips, riparian buffers, wetlands, rare and declining habitat, upland bird habitat, longleaf pine, and duck nesting habitat. The basic structure and nature of CRP remains the same.

Definitions

This rule amends § 1410.2, “Definitions,” to add a definition for “pollinator.” The 2008 Farm Bill allows the Secretary to add the development of pollinator habitat and practices to encourage native and managed pollinators to any of the USDA conservation programs. The 2008 Farm Bill does not define “native or managed pollinator.” This rule adds a definition of “pollinator” to mean “an insect or other animal that carries pollen from one flower to another.” Other animals would include birds and bats.

Consistent with section 2105 of the 2008 Farm Bill, this rule also adds alfalfa, other multi-year grasses, and legumes grown in rotation to the definition of “agricultural commodity.” This will permit, for example, land with alfalfa grown under a long-term rotation with another agricultural commodity to meet the cropping history requirement for eligible land.

This rule adds definitions for “limited resource farmer or rancher” and “Indian tribe” that are consistent with the definitions used for other USDA programs and with the 2008 Farm Bill. The 2008 Farm Bill gives the term “Indian tribe” the definition given under section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)). In implementing the Indian Self-Determination and Education Assistance Act, the Department of the Interior, Bureau of Indian Affairs, and the Department of Health and Human Services, Indian Health Service, established the definition of “Indian tribe” in 25 CFR 900.6. This rule adds that definition to 7 CFR 1410.2. The definition of “limited resource farmer or

rancher” in this rule is consistent with the definition that applies under the regulations for the Environmental Quality Incentives Program (EQIP) at 7 CFR 1466.3. These definitions are needed because this rule adds authority to provide additional incentives for enrollment of Indian tribes and limited resource farmers and ranchers.

This rule amends the definitions for “conserving use” and “considered planted” to update the period of time—to the period 2002 through 2007—that is considered for land use history. This change is consistent with other updates to the cropping history requirement for eligible land, as described below, required by the 2008 Farm Bill.

Maximum County Acreage

This rule amends § 1410.4, “Maximum County Acreage,” to add an additional waiver provision as an exclusion of certain acreage enrolled under CRP. Under the current regulations, the amount of cropland that may be enrolled under CRP and the Wetlands Reserve Program, as specified in § 1410.4, may not exceed 25 percent of a county’s total cropland unless CCC waives this cap. To implement a waiver, CCC must determine that enrolling additional land would not adversely affect the local economy of the county and that operators in the county are having difficulties complying with conservation plans implemented under 7 CFR part 12. The existing waiver provisions are not changed with this rule. This rule adds an additional waiver provision specifying that CCC may exclude high-priority continuous signup acreage, including acreage in the Conservation Reserve Enhancement Program (CREP), Farmable Wetlands Program (FWP), or State Acreage for Wildlife Enhancement (SAFE) Program, from the 25 percent cropland limitation, if the county government agrees. The 2008 Farm Bill specifies that the Secretary may implement the waiver to exclude for high-priority acreage; it does not require CCC to do so.

Under CRP, eligible land may be enrolled competitively during publicly announced general signups. An environmental benefits index (EBI) to optimize costs and benefits is used for competitive enrollment. When an offer is made, FSA collects data for a number of factors for each piece of ground offered into CRP. Each offer is assigned a point score based on its relative environmental factors and competes with all other offers. Offer acceptability is determined based on the ranking results. Generally, FSA has used these EBI factors to assess the environmental benefits for the land offered:

- Wildlife habitat benefits;
- Water quality benefits from reduced erosion, runoff, and leaching;
- On-farm benefits from reduced erosion;
- Benefits that will likely endure beyond the contract period;
- Air quality benefits from reduced wind erosion; and
- Cost.

Land may also be enrolled non-competitively on a continuous basis if the land meets certain criteria. That is not changing with this rule. Non-competitive continuous enrollment is available for certain high-priority practices including, but not limited to, filter strips, wetlands, buffers, grass waterways, land enrolled under CREP, FWP, and for certain initiatives such as wetland restoration, longleaf pine restoration, quail habitat, and SAFE. This rule amends the regulations to allow the special high-priority land including acreage in CREP, FWP, or SAFE Program to be excluded from the 25 percent maximum county acreage limit if the county government agrees.

Eligible Land

As provided for in the existing CRP regulations in § 1401.6, “Eligible Land,” eligible land for CRP must be cropland with a history of production of tillable crops or marginal pastureland. The purpose of this eligibility requirement, which is not changing with this rule, is to ensure CRP is used to convert environmentally-sensitive land to a long-term environmentally-beneficial cover crop.

As provided in the 2008 Farm Bill, this rule amends § 1410.6, “Eligible Land,” to change the dates of the cropping history required for certain cropland to be eligible. In the current regulation, eligible cropland must have been planted or considered planted for four of the six years during the period of 1996 through 2001. This rule amends that section to modify the cropping history dates to the four of the six years during 2002 through 2007. This rule also updates this section to refer to CCC rather than the Deputy Administrator to reflect more consistently that the program is a CCC program. References to the dates for expiring Water Bank Program contracts are removed from the eligibility requirements for marginal pastureland because all such contracts have already expired.

Acceptability of Offers

This rule amends § 1410.31, “Acceptability of Offers,” to add the 2008 Farm Bill specified “local preference” as a factor in offer acceptability. This means that CCC may

preferentially accept offers from residents of the county or a contiguous county where the land is offered for enrollment, provided that offer has at least equal expected benefits to offers from non-resident landowners. Section 2110 of the 2008 Farm Bill requires the Secretary to give preference to such offers.

Permissive Uses of CRP Land

The CRP regulations limit the uses of CRP land to a list of uses specified in § 1410.63 “Permissive Uses.” The intent is to ensure that CRP land is not used for activities that would tend to defeat the conservation purposes of the program. Permissive uses must be consistent with the conservation of soil, water quality and wildlife habitat, including habitat during nesting season for birds in the area. To achieve this goal, section 2108 of the 2008 Farm Bill clarifies the specific restrictions on managed harvesting, grazing, other commercial uses of forage on CRP land, and installation of wind turbines. Therefore, § 1410.63 is amended to implement the specific permissive uses, and permissive use restrictions, as specified in the 2008 Farm Bill. The amendments to permissive uses are as follows:

- Provisions for managed harvesting and grazing uses are revised and clarified, as specified in the 2008 Farm Bill. Specific types of harvesting and grazing are allowed, in exchange for a payment reduction as determined by CCC. The provision for “haying” is removed, but haying is understood to be a type of harvesting. Managed harvesting provisions are expanded to include uses in addition to biomass harvest, in exchange for a payment reduction as determined by CCC. The specific requirement for harvesting biomass not more than once every three years is removed, but CCC will continue to require that biomass harvesting and any other harvesting not defeat the conservation purposes of the contract. Appropriate vegetation management requirements for the land will apply including the timing, frequency, and duration that is consistent with the purposes of CRP. Managed harvesting will be conducted according to an approved CRP conservation plan.

- Routine grazing, in exchange for a payment reduction, is added as a permissive use, as specified in the 2008 Farm Bill. Appropriate vegetation management requirements and stocking rates for the land will apply, as appropriate, consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG) grazing standards that are suitable for

continued routine grazing. The allowed frequency and timing of routine grazing will take into account regional differences that are consistent with the purposes of CRP according to an approved CRP conservation plan. The provision for managed grazing that is incidental to the gleaning of crop residue is removed, but this practice is understood to be a type of routine grazing.

- Prescribed grazing to control invasive species, in exchange for a payment reduction, is added as a permissive use, as specified in the 2008 Farm Bill. Appropriate vegetation management requirements and stocking rates for the land will apply. The allowed frequency of prescribed grazing will take into account regional differences that are consistent with the purposes of CRP according to an approved CRP conservation plan. Invasive species such as kudzu and leafy spurge will be targeted.

- Harvesting, grazing, or other commercial use of forage allowed in response to a drought or other emergency, is added as a permissive use in exchange for a payment reduction. Emergency haying and grazing has been allowed in the past, in response to droughts and other emergencies, but was not specified as a permitted use in the CFR.

- Wind turbine installation provisions are revised; the 2008 Farm Bill requires a payment reduction for this use.

The following permissive use provisions in § 1410.63 remain unchanged:

- The general provision that the permissive uses in this section may be allowed, but are not automatically allowed, is unchanged.
- Commercial shooting preserve use provisions are unchanged.
- Spot grazing use provisions are unchanged.
- Forestry maintenance use provisions are unchanged.
- Sale of carbon, water quality, or other environmental credits provisions are unchanged.

As noted above, in § 1410.63, there is the general provision that the permissive uses may be allowed, but are not automatically allowed. All of the permissive uses in § 1410.63 require approval by CCC, which also means that they may not be approved for use in a particular region or for a specific CRP contract. CCC will exercise the discretionary authority provided in section 2108 of the 2008 Farm Bill to determine which activities will be approved for specific CRP contracts.

As noted above, the 2008 Farm Bill requires a payment reduction for the permissive use for wind turbine installation. All of the permissive uses except commercial shooting preserves and sale of carbon, water quality, or other environmental credits will, as in the past, require a payment reduction as determined by CCC. The reduction for the installation of wind turbines is new. The 2008 Farm Bill requires the payment reduction, but gives CCC discretionary authority as to the amount of the reduction.

Incentives for Native and Managed Pollinator Habitat, Limited Resource Farmers and Ranchers, and Indian Tribes

Section 2708 of the 2008 Farm Bill allows, but does not require, the Secretary to add provisions to encourage the development of habitat for, and use of conservation practices to benefit, native and managed pollinators. Accordingly, this rule adds a new paragraph to § 1410.62 “Miscellaneous,” to add a provision that will allow approval of practices to encourage the development of habitat for, and use of conservation practices to benefit, native and managed pollinators. FSA, working with NRCS and State technical committees, will develop and define conservation practice standards that provide habitats for pollinators. The requirements in those practices for acreage and other characteristics of habitat will take into account appropriate habitat needs relevant to specific geographical areas and species.

Section 2708 of the 2008 Farm Bill also allows the Secretary to provide special incentives for certain categories of participants, including Indian tribes and limited resource farmers and ranchers. This rule therefore amends § 1410.62, “Miscellaneous,” to add incentives for Indian tribes and for limited resource farmers and ranchers. Implementation of the incentives will be coordinated with other USDA programs that provide assistance, including CRP technical assistance, to these farmers and ranchers. Implementation will be subject to funding availability and acreage limits that apply to CRP as a whole.

Notice and Comment

CCC is not 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. CCC is authorized by section 2904 of the 2008 Farm Bill to issue an interim rule effective on publication with an opportunity for comment.

Executive Order 12866

This rule has been determined to be economically significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. A Cost Benefit Analysis is summarized below and is available from the contact information listed above.

Cost Benefit Analysis

The changes to CRP in this rule are expected to cost about \$6.7 million per year over ten years (2011–2020). This is a net cost that reflects roughly \$77 million in additional CRP payments to participants over the next ten years for additional land enrolled through the county maximum acreage waivers to exclude certain acreage and revised cropping history requirements and payments for pollinator habitat practices, minus roughly \$10 million in reduced payments for the revised permissive uses. The benefits to participants will be the net additional \$6.7 million per year over the next ten years. There are expected to be additional non-quantifiable environmental benefits from the waivers to exclude that will allow more environmentally sensitive acres to be enrolled through continuous signup, from additional highly erodible land enrollment that could result from making land in long-term hay rotations eligible, and from the incentives for pollinator habitat.

The other provisions in this rule, such as local preference, are expected to have little to no cost. These provisions will largely substitute one CRP participant for another, or one practice for another, leading in a shift in costs and benefits to different participants and practices, but little net cost or benefit for CRP as a whole.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule because CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking for this rule. CCC is authorized by section 2904 of the 2008 Farm Bill to issue an interim rule effective on publication with an opportunity for comment.

Environmental Evaluation

In 2003, FSA, on behalf of CCC, finalized a Programmatic Environmental Impact Statement (PEIS) for the reauthorization of the CRP in Title II of the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill) and published a Record of Decision (ROD). Consistent with provisions in 40 CFR 1508.28, in order to focus primarily on

the issues relevant to this specific rule and not duplicate material found in the 2003 EIS, FSA tiered a Programmatic Environmental Assessment (PEA) on select provisions of the 2008 Farm Bill for CRP to the 2003 PEIS; tiering is appropriate when the sequence of analysis is lesser in scope than the initial programmatic statement.

The PEA incorporated by reference general discussions and analysis from the 2003 PEIS to assess potential environmental impacts associated with implementation of only those non-discretionary provisions identified in this rule for CRP consistent with the 2008 Farm Bill. The Final PEA and Finding of No Significant Impact (FONSI) on select provisions of the 2008 Farm Bill for CRP was published in the **Federal Register** on December 16, 2008 (73 FR 76331–76332) for public review and comment. The proposed changes analyzed in the PEA were separate and distinct from the proposals for discretionary changes examined in the 2010 Final Supplemental Environmental Impact Statement (Final SEIS). For those 2008 Farm Bill changes not examined in the PEA where discretion was exercised, FSA published a Final SEIS to the 2003 Programmatic Environmental Impact Statement (PEIS) on CRP on February 19, 2010, (75 FR 7438–7440) for public comment and review.

On behalf of the Commodity Credit Corporation, FSA prepared a Final Supplemental Environmental Impact Statement (SEIS) for CRP and the Notice of Availability (NOA) was published in the **Federal Register** (FR) on June 18, 2010 (75 FR 34737–34738). Based on a thorough evaluation of the resource areas affected by CRP, a detailed analysis of the Alternatives, and a comprehensive review of public comments, FSA has issued a Record of Decision (ROD). This decision was made after comparing overall environmental impacts and other relevant information with regard to the reasonable alternatives considered in the Final SEIS. The ROD can be found on FSA's Web site: <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=ecrc&topic=nep-cd>.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published in the **Federal Register** on June 24, 1983 (48 FR 29115).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not retroactive and does not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial action may be brought regarding provisions of this rule, the administrative appeal provisions of 7 CFR parts 11, 624, and 780 must be exhausted.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

The policies contained in this rule do not have tribal implications that preempt tribal law.

USDA will undertake, within 6 months after this rule becomes effective, a series of regulation Tribal consultation sessions to gain input by Tribal officials concerning the impact of this rule on Tribal governments, communities, and individuals. These sessions will establish a baseline of consultation for future actions, should any become necessary, regarding this rule. Reports from these sessions for consultation will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule and will provide additional venues, such as webinars and teleconferences, to periodically host collaborative conversations with Tribal leaders and their representatives concerning ways to improve this rule in Indian country.

Unfunded Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA, Pub. L. 104–4) for State, local, or tribal governments, or the private sector. In addition, CCC is not required to publish a notice of proposed rulemaking for this rule. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule has been determined to be Major under the Small Business Regulatory Enforcement Fairness Act of 1996, (Pub. L. 104–121) (SBREFA). SBREFA normally requires that an agency delay the effective date of a major rule for 60 days from the date of publication to allow for Congressional review. Section 808 of SBREFA allows an agency to make a major regulation effective immediately if the agency finds there is good cause to do so. Section 2904(c) provides that the authority in Section 808 of SBREFA will be used in implementing the 2008 Farm Bill changes to the CRP. Consistent with section 2904(c) of the 2008 Farm Bill, FSA finds that it would be contrary to the public interest to delay implementation of this rule because it would significantly delay implementation of the program changes required by the 2008 Farm Bill by impeding the conduct of future general signups without having these additional changes to the program regulations in place. Therefore, this rule is effective on the date of its publication in the **Federal Register**.

Federal Domestic Assistance Program

The title and number of the Federal Domestic Assistance Program in the Catalog of Federal Domestic Assistance to which this rule applies is the Conservation Reserve Program—10.069.

Paperwork Reduction Act

The regulations in this rule are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. Chapter 35), as specified in section 2904 of the 2008 Farm Bill, which provides that these regulations be promulgated and the programs administered without regard to the Paperwork Reduction Act.

E-Government Act Compliance

CCC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 CFR Part 1410

Administrative practice and procedure, Agriculture, Environmental protection, Grant programs—Agriculture, Natural resources, Reporting and recordkeeping requirements, Soil conservation, Technical assistance, Water resources, Wildlife.

■ For the reasons explained above, this rule amends 7 CFR part 1410 as follows:

PART 1410—CONSERVATION RESERVE PROGRAM

■ 1. The authority citation for 7 CFR part 1410 continues to read as follows:

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

■ 2. Amend § 1410.2 as follows:

■ a. Revise the definition in paragraph (b) for “Agricultural commodity” to read as set forth below;

■ b. Add definitions in paragraph (b), in alphabetical order, for “Indian tribe,” “Limited resource farmer or rancher,” and “Pollinator” to read as set forth below;

■ c. Amend the definition of “Conserving use” by removing the words “1996 through 2001” each time they appear and adding, in their place, the words “2002 through 2007”; and

■ d. Amend the definition of “Considered planted” by removing the words “or will expire during calendar year 2000, 2001, or 2002”.

§ 1410.2 Definitions.

* * * * *

(b) * * *

Agricultural commodity means:

(1) Any crop planted and produced by annual tilling of the soil or on an annual basis by one-trip planters,

(2) Sugarcane planted or produced in a State, or

(3) Alfalfa and other multi-year grasses and legumes grown in a rotation practice as approved by CCC.

* * * * *

Indian tribe means any Indian tribe, band, nation, or other organized group, or community, including pueblos, rancherias, colonies and any Alaska Native Village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601–1629h), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

* * * * *

Limited resource farmer or rancher means:

(1) A person with direct or indirect gross farm sales of not more than \$155,200 in each of the previous two calendar years preceding the year of enrollment (adjusted for inflation using Prices Paid by Farmer Index as compiled by the USDA National Agricultural Statistics Service), and

(2) A total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years (to be

determined annually using U.S. Department of Commerce data).

* * * * *

Pollinator means an insect or other animal that carries pollen from one flower to another.

* * * * *

■ 3. Revise § 1410.4(b) to read as follows:

§ 1410.4 Maximum county acreage.

* * * * *

(b) The restrictions in paragraph (a) of this section may be waived by CCC as follows:

(1) If CCC determines that such action would not adversely affect the local economy of the county and that operators in the county are having difficulties complying with conservation plans implemented under part 12 of this title; or

(2) Cropland in a county enrolled under continuous signup provisions as specified in § 1410.30 or § 1410.50 may be excluded from the restrictions in paragraph (a) of this section, as determined by CCC, provided that the county government concurs.

* * * * *

§ 1410.6 [Amended]

■ 4. Amend § 1410.6 as follows:

■ a. In paragraphs (a)(1), (a)(2) introductory text, (a)(2)(i)(B), (a)(2)(i)(C), (a)(2)(ii) introductory text, (a)(2)(ii)(B), (a)(3), (b)(1) introductory text, (b)(2)(iii), (b)(6), (b)(7), (b)(11), (b)(12), (c) introductory text and (c)(3), remove the words “the Deputy Administrator” each time they appear and add, in their place, the word “CCC”.

■ b. In paragraph (a)(1), remove the words “1996 through 2001” and add, in their place, the words “2002 through 2007”.

■ c. Remove paragraph (a)(2)(i),

■ d. Redesignate paragraph (a)(2)(ii) as paragraph (a)(2)(i) and reserve paragraph (a)(2)(ii), and

■ e. In newly redesignated paragraph (a)(2)(i), introductory text, second sentence, add the word “by” before the word “CCC”.

■ 5. Amend § 1410.31 to redesignate paragraph (c) as paragraph (d) and to add new paragraph (c) to read as follows:

§ 1410.31 Acceptability of offers.

* * * * *

(c) Notwithstanding paragraph (b) of this section, when all other appropriate factors are equivalent, CCC may give preference to offers from residents of the county or contiguous county where the offered land is located.

* * * * *

■ 6. Amend § 1410.62 as follows:

■ a. In paragraph (g), remove the words “beginning and socially disadvantaged” and add, in their place, the words “Indian tribes and beginning, limited resource, and socially disadvantaged” and

■ b. Add paragraph (h) to read as follows:

§ 1410.62 Miscellaneous.

* * * * *

(h) As determined by CCC, consistent with the purposes of CRP, the development of habitat for, and use of conservation practices for, native and managed pollinators may be authorized.

■ 7. Amend § 1410.63 by revising paragraph (c) to read as follows:

§ 1410.63 Permissive uses.

* * * * *

(c) The following activities may be permitted, as determined by CCC, on CRP enrolled land insofar as they are consistent with the conservation purposes of the program including timing, frequency, and duration as provided in an approved CRP conservation plan that identifies appropriate vegetative management requirements:

(1) Managed harvesting, including harvest of biomass, but only in exchange for a payment reduction as determined by CCC and in accordance with harvest frequency and timing of harvesting activities outside the official nesting and broodrearing season only as identified in an approved CRP conservation plan;

(2) Routine grazing, but only in exchange for a payment reduction as determined by CCC and in accordance with appropriate vegetative management requirements and stocking rates for the land, grazing frequency, and grazing periods outside the official nesting and broodrearing season only as identified in an approved CRP conservation plan;

(3) Prescribed grazing to control invasive species, but only in exchange for a payment reduction as determined by CCC and in accordance with appropriate vegetative management requirements and stocking rates for the land, grazing frequency, and grazing periods outside the official nesting and broodrearing season only as identified in an approved CRP conservation plan;

(4) Harvesting, grazing, or other commercial use of the forage on the land in response to a drought or other emergency, but only in exchange for a payment reduction as determined by CCC;

(5) Wind turbines on CRP land installed in numbers and locations as determined appropriate by CCC

considering the location, size, and other physical characteristics of the land, the extent to which the land contains wildlife and wildlife habitat, and the purposes of CRP, but only in exchange for a payment reduction as determined by CCC;

(6) Spot grazing, if necessary for control of weed infestation, and not to exceed a 30-day period according to an approved conservation plan, but only in exchange for a payment reduction as determined by CCC;

(7) Forestry maintenance such as pruning, thinning, and timber stand improvement on lands converted to forestry use, but only in accordance with a conservation plan, and only in exchange for a payment reduction as determined by CCC; and

(8) The sale of carbon, water quality, or other environmental credits, as determined appropriate by CCC.

Signed at Washington, DC, on July 21, 2010.

Jonathan W. Coppess,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2010-18473 Filed 7-27-10; 8:45 am]

BILLING CODE 3410-05-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

[NRC-2008-0567]

RIN 3150-A116

Export and Import of Nuclear Equipment and Material; Updates and Clarifications

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The United States Nuclear Regulatory Commission (NRC) is amending its regulations that govern the export and import of nuclear equipment and material. This rule allows International Atomic Energy Agency Code of Conduct on the Safety and Security of Radioactive Sources Category 1 and 2 quantities of radioactive materials to be imported under a general license. This rule also revises the definition of “radioactive waste” and removes the definition of “incidental radioactive material.” In addition, this rule updates, clarifies, and corrects several provisions.

DATES: The rule is effective on August 27, 2010.

ADDRESSES: You can access publicly available documents related to this document using the following methods:

Federal e-Rulemaking Portal: Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2008-0567]. Address questions about NRC dockets to Ms. Carol Gallagher at 301-492-3668; e-mail Carol.Gallagher@nrc.gov.

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

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FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

- I. Background
- II. Analysis of Public Comments on Proposed Rule
- III. Section-by-Section Analysis

I. Background

On June 23, 2009, the NRC published a proposed rule that requested comments on the proposed changes to 10 CFR part 110, Export and Import of Nuclear Equipment and Material (74 FR 29614). This final rule updates, clarifies, and corrects several provisions in 10 CFR part 110 to improve NRC's regulatory framework for the export and import of nuclear equipment, material, and radioactive waste. It also clarifies and corrects the regulations addressing the general license for the export of byproduct material. In addition, changes are made to the regulations governing the export and import of International Atomic Energy Agency (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources Category 1 and

Category 2 quantities of radioactive materials listed in appendix P to 10 CFR part 110 and the definition of “radioactive waste” in 10 CFR part 110. A discussion of the most significant changes follows.

A. Category 1 and 2 Quantities of Radioactive Material Listed in Appendix P to 10 CFR Part 110

The NRC reevaluated the need for a specific license for the import of Category 1 and 2 quantities of radioactive material to a U.S.-licensed user in light of enhancements made to the NRC's domestic regulatory framework. As a result, the NRC is amending 10 CFR part 110 to allow imports of Category 1 and 2 quantities of materials listed in Appendix P under a general license.

After the attacks of September 11, 2001, the Commission determined that certain licensed material should be subject to enhanced security requirements and safeguarded during transport, and that individuals with unescorted access to risk-significant quantities of radioactive material should be subject to background investigations. The results of vulnerability assessments performed by the NRC were used in the development of security enhancement orders that were issued to licensees using a graded approach based on the relative risk and quantity of material possessed by the licensee. (70 FR 72128; December 1, 2005) These security orders specifically address the security of byproduct material possessed in quantities greater than, or equal to, Category 1 and 2 quantities. The orders provide for enhanced security measures for such things as license verification before transfer, intrusion detection and response, access control, and coordination with local law enforcement authorities. The orders also contain requirements for the licensee to determine the trustworthiness and reliability of individuals permitted unescorted access to risk-significant radioactive materials. The determination involves a background investigation of the individual.

With the passage of the Energy Policy Act of 2005 giving the NRC new fingerprinting authority, the Commission determined that individuals with access to Category 1 and 2 quantities of radioactive material warrant fingerprinting and FBI criminal history records checks.

By the end of 2007, the NRC had issued orders to all NRC licensees that possessed Category 1 or 2 quantities of radioactive material (72 FR 70901; December 13, 2007) to require fingerprinting and FBI criminal history