

AGREEMENT
BETWEEN
THE U.S. DEPARTMENT OF AGRICULTURE
COMMODITY CREDIT CORPORATION
AND
THE STATE OF DELAWARE
FOR IMPLEMENTATION OF
THE CONSERVATION RESERVE ENHANCEMENT PROGRAM
(Revised September, 2002)

I. PURPOSE

This Agreement is between the Commodity Credit Corporation (CCC) of the United States Department of Agriculture (USDA) and the State of Delaware (State) to implement a Conservation Reserve Enhancement Program (CREP) in connection with the federal Conservation Reserve Program (CRP). The primary objective of this CREP is enhancement of water quality through reduction of agricultural nutrients to further the goal of restoring designated uses of Delaware's water bodies. The secondary goal of this CREP is enhancement of wildlife habitats.

II. GENERAL PROVISIONS

The intended outcome is to allow, where deemed appropriate by USDA, CCC, and Delaware, certain acreage to be enrolled under the CREP. The waters of Delaware drain into the Chesapeake Bay, Delaware Bay, and the Delaware Inland Bays - all of which are National Estuaries. Delaware is within an area of special environmental sensitivity that is designated a CRP national conservation priority area. This designation makes all cropland eligible to be offered if all other eligibility requirements are met.

USDA, CCC, and the State of Delaware in cooperation with other Federal, State, and local authorities, seek to take actions that will help reduce the occurrence of sediment and nutrient runoff which contribute to excessive nutrient enrichment of the Chesapeake, Delaware and Inland Bays, as well as promote enhanced wildlife habitats. This agreement is not intended to supersede any rules or regulations, which have been, or may be promulgated by either USDA or CCC. This agreement is intended to facilitate existing authorities through a cooperative effort of USDA, CCC, and Delaware.

It is the intent of USDA, CCC and the State of Delaware that this CREP will address the following objectives:

- A. Facilitate nutrient and sediment reduction pursuant to Delaware's goal of restoring designated uses of surface waters.
- B. Provide conservation buffers on approximately 1200 miles of Delaware's waterways and drainage systems.
- C. Increase wildlife habitat acreage and create wildlife corridors in the targeted areas described in section IV A.
- D. Restore natural conditions for water temperature and dissolved oxygen in areas protected by riparian

forested buffers.

III. AUTHORITY

A. Federal

The CCC has the authority under provisions of the Food Security Act of 1985, as amended (the 1985 Act) (16 U. S. C. 3830 et seq.) and the regulations at 7 CFR part 1410 to perform activities contemplated by this agreement. The 2002 Act authorizes new enrollments of land in the CRP through December 31, 2007.

Other authorities may also apply.

B. State

Funding authority for Delaware to enter into this Agreement is Section 15 (b)(2), General Assembly House Bill No. 750. These State CREP funds were to be obligated by June 30, 2002. Beyond June 30, 2002, funding authority is subject to annual authorization by the Delaware General Assembly.

IV. PROGRAM ELEMENTS

USDA, CCC and the State agree that:

A. The Delaware CREP will consist of a special continuous sign-up CRP component and a State of Delaware incentive program. The Delaware CREP will seek to enroll up to 6,000 acres in the Chesapeake, Delaware and Inland Bays basin areas adjoining drainage ditches, streams and other water bodies identified as Category I impaired segments in Delaware's Unified Watershed Assessment and Watershed Restoration Priorities List (October 1, 1998), or areas adjoining drainage ditches contributing to Category I impaired segments in the Chesapeake, Delaware and Inland Bays basin areas.

B. The eligible CRP practices for enrollment under CREP are:

- (1) CP3A - Hardwood Tree Planting.
- (2) CP4D - Permanent Wildlife Habitat - provided that practice acres for an individual contract will be limited to 5 acres per tract or 5% of a tract, whichever is greater.
- (3) CP21 - Grassed Filter Strips.
- (4) CP22 - Riparian Buffers.
- (5) CP23 - Wetland Restoration.

These practices may be used in conjunction with each other.

C. In determining CCC's share of the cost of practice establishment, CCC shall apply the customary CRP procedures and rules. All approved conservation plans shall be consistent with applicable CRP statutes and regulations, as well as specifications outlined in the applicable Natural Resources Conservation Service Field Office Technical Guide. Modifications to these Field Office Technical Guides, that meet the provisions of Handbook 2-CRP, and are adopted subsequent to the date of this agreement will be implemented as appropriate to achieve the overall purposes of this Agreement in a cost-effective manner.

- D. The term for continuous sign-up CRP contracts for acres enrolled in this CREP must be a minimum of 10 years, but may not exceed a maximum of 15 years.
- E. Producers eligible for this CREP will not be denied the opportunity to offer eligible acreage for enrollment in the regular CRP during general or continuous enrollment periods.
- F. CRP contracts executed under this Agreement will be administered in accordance with, and subject to, the CRP regulations at 7 CFR part 1410, and the provisions of this Agreement, and such other rules and regulations as may apply. In the event of a conflict, the CRP regulations will be controlling.
- G. This Agreement shall remain in force and effect until December 31, 2007, or it may be terminated by USDA, CCC or the State upon written notice. Such termination will not alter responsibilities regarding existing contractual obligations under the CREP between participants and USDA or CCC, or between participants and the State.
- H. No lands may be enrolled under this program until the USDA's Deputy Administrator for Farm Programs, in consultation with USDA's Natural Resource Conservation Service, concurs with a detailed Delaware Amendment to Handbook 2-CRP, which will provide a thorough description of this program and applicable practices.

V. FEDERAL COMMITMENTS

USDA and CCC agree to:

- A. Determine producer eligibility for participation in the CREP consistent with the regulations at 7 CFR part 1410 and administer those CRP contracts that are executed.
- B. Pay 50 percent of the eligible costs of CRP conservation practices. Reimbursements to the CREP participants from all sources must be consistent with the cost-share provisions as outlined in Handbook 2-CRP and temporary CRP directives as issued by USDA.
- C. Make an annual rental payment under the CRP contract for each eligible acre enrolled. The basic rental rate in all cases will be the normal CRP rate for non-irrigated cropland for the kind and location involved, and will be calculated as provided for in the existing Handbook 2-CRP. The basic rate will be adjusted as otherwise provided in this section.
- D. Make an annual incentive payment, as a percentage of the base CRP maximum annual rental rate otherwise normally applicable to the land enrolled in the CREP, as calculated under paragraph V. C., in the following amounts:
 - (1) for land to be established to practices CP22, Riparian Buffers, CP3A, Hardwood Tree Planting, and CP23, Wetland Restoration: 95 percent, provided that the total annual contract rental rate, inclusive of all incentives except the annual maintenance payment, shall not exceed \$150 per acre. Should the base annual rental rate, plus the full 130% of the special federal/State incentive payments exceed \$150 per acre, then the federal incentive shall be 73% of the difference between \$150 less the base annual rental rate, and the State incentive payment shall be 27% of the difference.
 - (2) for land established to practices CP21, Grassed Filter Strips and CP4D, Permanent Wildlife Habitat: 32 percent, provided that the total annual contract rental rate, inclusive of all incentives except the annual maintenance payment, shall not exceed \$110 per acre. Should the base annual rental rate, plus the full 50% of special federal/State CREP incentive

payments exceed \$110 per acre, then federal incentive shall be 64% of the difference between \$110 and the base annual rental rate, and the State incentive payment shall be 36% of the difference.

- E. Provide the annual maintenance payment for each acre enrolled in the same manner as with other CRP contracts.
- F. Provide eligibility and enrollment information to landowners concerning this CREP and technical assistance for the CREP in general.
- G. Provide, in a manner consistent with any existing CRP, additional assistance to producers whose practices are destroyed by circumstances beyond the producer's control.
- H. Permit successors-in-interest to contracts enrolled under this CREP subject to normal CRP statutes, regulations, and procedures.
- I. Administer contracts for lands approved under the CREP.
- J. Share appropriate data, in accordance with procedures, restrictions and exemptions established under the federal Freedom of Information Act, federal privacy laws and other applicable laws, with the State to facilitate State monitoring efforts.
- K. Develop conservation plans for treatment of enrolled acres to address identified natural resource problems by devoting eligible land to permanent vegetative cover or other comparable practices, and review conservation plans developed by others for producers offering to enroll eligible acreage in the CREP.
- L. Conduct annual compliance reviews according to Handbook 2-CRP to ensure compliance with the CRP contract.
- M. Coordinate with the State of Delaware in the development of a broad campaign for continuous public information and education regarding the CREP.
- N. Subject to the availability of funds, pay one-time Signing Incentive Payment (SIP) at normal CRP rates for acreage enrolled in the Delaware CREP in practices CP21 and CP22 in accordance with Handbook 2-CRP procedure.
- O. Subject to the availability of funds, pay a one-time practice incentive payment at normal CRP rates equal to 40 percent of the eligible cost of installation of practices CP21 and CP22 in accordance with Handbook 2-CRP procedure.
- P. Make an annual rental payment for eligible marginal pastureland based on the marginal pastureland rental rate as listed in Handbook 2-CRP procedure.

VI. STATE COMMITMENTS

Delaware agrees to:

- A. Contribute not less than 20 percent of the overall Federal program costs, pursuant to continued annual program appropriations from the Delaware General Assembly.
- B. Be responsible for:

(1) making direct cost-share payments to approved participants of 37.5 percent of the eligible reimbursable costs for all conservation practices established under this CREP;

(2) making an incentive payment, as a percentage of the base CRP maximum annual rental rate otherwise applicable to the land enrolled in the CREP (as calculated under paragraph V. C.), in the following amounts. State incentive payments will be accelerated to be paid in a lump sum within the first year of the contract:

a) for land established to practices CP3A, Hardwood Tree Planting, CP22, Riparian Buffers, and CP23, Wetland Restoration: 35 percent provided that the total annual contract rental rate, inclusive of all incentives except the annual maintenance payment, shall not exceed \$150 per acre. Should the base annual rental rate, plus the full 130% of special federal/State CREP incentive payments provided for in this agreement exceed \$150 per acre, then the federal incentive shall be 73% of the difference of \$150 less the base annual rental rate, and the State incentive payment shall be 27% of the difference;

b) for land established to practices CP21, Grassed Filter Strips and CP4D, Permanent Wildlife Habitat: 18 percent provided that the total annual contract rental rate, inclusive of all incentives except the annual maintenance payment, shall not exceed \$110 per acre. Should the base annual rental rate, plus the full 50% of special federal/State CREP incentive payments exceed \$110 per acre, the federal incentive shall be 64% of the difference between \$110 the base annual rental rate, and the State incentive payment shall be 36% of the difference;

(3) paying all costs associated with the annual monitoring program;

(4) providing technical assistance through the local soil and water conservation districts in the development of conservation plans, including installation of the identified practices. Development of conservation plans will be coordinated with the USDA's Natural Resources Conservation Service for producers offering to enroll eligible acreage in the CREP; and

(5) providing conservation planning assistance for the entire farm to enroll participants on a voluntary basis.

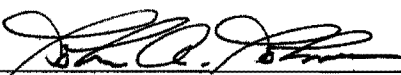
- C. Seek persons willing to offer eligible and appropriate land for enrollment in the CREP.**
- D. Develop and implement, in coordination with USDA and CCC, a broad campaign for continuous public information and education regarding the CREP.**
- E. Ensure that the CREP is coordinated with other agricultural and natural resource conservation programs at the State and Federal level.**
- F. Prepare an annual report to the Deputy Administrator for Farm Programs, FSA within 60 days of the end of the Federal fiscal year (September 30) which includes, at a minimum, level of program participation, the results of the annual monitoring program, and a summary of non-federal CREP expenditures.**

VII. OTHER PROVISIONS

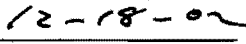
- A. All commitments by USDA and the State are subject to the availability of funds. In the event either party is subject to a funding limitation, it will notify the other party expeditiously and any necessary modifications will be made to this Agreement.
- B. The Executive Vice-President, CCC, the Deputy Administrator for Farm Programs, FSA, and their successors or designees, are delegated the authority to carry out this Agreement for CCC and USDA consistent with the provisions of the 1985 Act, the regulations at 7 CFR part 1410 and other authorities as may apply. The Secretary of the Delaware Department of Natural Resources and Environmental Control, or his or her designee, is delegated authority to carry out this Agreement for the State of Delaware.
- C. All CRP contracts under this CREP shall be subject to all limitations set forth in the regulations at 7 CFR Part 1410, including, but not limited to, such matters as economic use, transferability, violations and contract modifications. Agreements between owners or operators and the State may impose additional conditions not in conflict with those under the CRP regulations, but only if approved by CCC.
- D. Neither the State nor USDA shall assign or transfer any rights or obligations under this Agreement without the prior written approval of the other party.
- E. The State and USDA agree that each party will be responsible for its own acts to the extent required by law and shall not, in any case, be responsible or liable for the acts of any others and the results thereof.
- F. This agreement may be modified or extended upon mutual written agreement by the State and USDA.

IT IS SO AGREED:

FOR THE U. S. DEPARTMENT OF AGRICULTURE AND
THE COMMODITY CREDIT CORPORATION

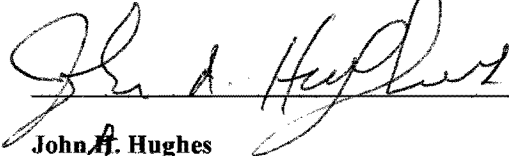


John Johnson
Deputy Administrator for Farm Programs
Farm Service Agency
Deputy Vice President
Commodity Credit Corporation

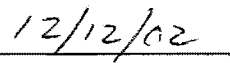


DATE

FOR THE STATE OF DELAWARE



John A. Hughes
Secretary,
Delaware Department of Natural Resources and Environmental Control



DATE