
Rules of
Department of Agriculture
Division 100—Missouri Agricultural and Small Business
Development Authority
Chapter 3—Conservation Reserve
Enhancement Program

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Title 2—DEPARTMENT OF AGRICULTURE

Division 100—Missouri Agricultural and Small Business Development Authority Chapter 3—Conservation Reserve Enhancement Program

2 CSR 100-3.010 General Organization

PURPOSE: This rule is to comply with section 536.023, RSMo 1986 which requires each agency to adopt as a rule a description of its operation and the methods by which the public may obtain information or make submissions or requests.

(1) The Missouri Agricultural and Small Business Development Authority is authorized to purchase agricultural development loans, small business development loans and small business pollution control facilities originated by lenders or it may participate with lenders in making those loans and may enter into commitments with lenders for purchase or participation.

(2) The authority will become successor in interest to certain Conservation Reserve Program (CRP) contract(s) or participating borrowers and will provide for the participating borrowers' duties and responsibilities in those contracts under the terms and conditions of a memorandum of understanding dated July 3, 1989 between the authority and the Commodity Credit Corporation of the United States Department of Agriculture. The authority will succeed to the participating borrower's interest in the CRP contracts by virtue of a successor-in-interest agreement(s) with each participating borrower and the authority will receive one hundred percent (100%) of the CRP contract payments to be received by each participating borrower under the contracts.

(3) The authority will authorize the issuance of agricultural development revenue bonds to fund the purchase of participation in agricultural development loans to participating borrowers originated by participating lenders; sell bonds to participating lenders as original purchasers of the bonds to fund the agricultural development loans and to provide for certain issuance expenses; assign the authority's rights in an amount equal to ninety-six percent (96%) of the CRP contract payments to the participating lenders as original purchasers of the bonds to amortize the agricultural development loans; and retain a sum equal to four percent (4%) of the CRP contract payments to provide a fund for actions necessary to meet United States Department

of Agriculture compliance requirements for the Conservation Reserve Enhancement Program (the program) and to provide for necessary administrative costs in connection with the program.

(4) In consideration of the agricultural development loan, each participating borrower will place certain restrictive covenants on the CRP land which, among other things, will require that the CRP land be kept by the participating borrower as CRP contract acreage in compliance with the CRP contract and will grant to the authority a right of entry upon the farm and the CRP land to permit, among other things, the authority to take any steps necessary to ensure compliance. These restrictive covenants and the right of entry will be contained in a Land Use Agreement which will require the approval of each current lienholder and will be recorded.

AUTHORITY: section 536.023, RSMo 1986. *Original rule filed Aug. 15, 1989, effective Oct. 27, 1989.

*Original authority: 536.023, RSMo 1975, amended 1976, 1997.

2 CSR 100-3.020 Definitions

PURPOSE: This rule describes terms used by the Agricultural and Small Business Development Authority in administering the Conservation Reserve Enhancement Program.

(1) Terms not otherwise defined in this rule shall have the meanings given them in sections 348.005–348.180, RSMo (1986) or in the participation and loan purchase agreement as described in these rules and the resolution of the authority adopted on August 18, 1989 (the master resolution) authorizing the issuance of a series of agricultural development revenue bonds (Conservation Reserve Enhancement Program) (the bonds).

(A) Act means sections 348.005–348.180, RSMo (1986).

(B) Agricultural development loan means a loan for the financing or refinancing of the acquisition, construction, improvement or rehabilitation of agricultural property.

(C) Agricultural property means any land and easements and depreciable real and personal property, including, but not limited to, buildings, structures, improvements, equipment and livestock which is used or is to be used in Missouri by Missouri residents for—

1. Operating a farm or ranch;
2. Planting, cultivating or harvesting cereals, natural fibers, fruits, vegetables or trees;

3. Grazing, feeding or the caring of livestock, poultry or fish;

4. Producing dairy products;

5. Storing, transporting or processing farm and ranch products, including, without limitation, facilities such as grain elevators, cotton gins, shipping heads, livestock pens, warehouses, wharfs, docks, creameries or feed plants; and

6. Supplying and conserving water, draining or irrigating land, collecting, treating and disposing of liquid and solid waste or controlling pollution, as needed for the operations set out in these rules.

(D) Application means a completed instrument on a form approved by the authority which includes a description of the anticipated use of loan proceeds, the amount of the loan and certain certifications of the participating borrower and the participating lender.

(E) Application fee means the fee as set from time-to-time by the authority payable by a participating borrower to a participating lender.

(F) ASCS office means the office of the county Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(G) Authority means the Missouri Agricultural and Small Business Development Authority organized under the provisions of the Act.

(H) Authority fee means the fee as set from time-to-time by the authority payable by a participating lender to the authority.

(I) CCC means the Commodity Credit Corporation, a wholly-owned government corporation within the United States Department of Agriculture.

(J) Closing documents mean the participating borrowers' documents, the participating lenders' documents, the closing certificates of the participating borrower(s) and the participating lender(s), evidence of the prior recording of the land use agreement and any other certification or documents as the authority may reasonably require.

(K) Conditional approval means a completed instrument on a form approved by the authority which includes the authority's conditional approval of an application.

(L) Conservation plan means the plan bearing the same contract number as the CRP contract and applicable to the land placed in the program by the participating borrower describing the conservation practices which must be established on the land placed in the program in order for erosion on the land to be adequately controlled. The conservation plan includes Form SCS-CPA-11 and any addenda to it. The conservation plan must list the

approved vegetative cover and required conservation practices necessary for the establishment and maintenance of the vegetative cover.

(M) CRP means the Conservation Reserve Program authorized by Title 12 of the Food Security Act of 1985 (Pub. L. No. 99-198). The CRP provisions are codified in *United States Code* at 16 USC 3811, including particularly The Disaster Assistance Act of 1988 (Pub. L. No. 100-387) and any rules promulgated with respect to it, including particularly 7 CFR 704.

(N) CRP contract means Forms CRP-1, CRP-1A (Addendum), CRP-1 (Appendix), CRP-1b (Addendum), CRP-15, the applicable conservation plan and any addenda to it entered into in writing between the CCC and a participating borrower which sets forth the terms and conditions in the program.

(O) CRP land means land subject to the terms and conditions of the CRP contract.

(P) Debt register means the register maintained by the ASCS office of debts due and owed by any participating borrower which have been reduced to claims.

(Q) Farm or farm land means all land which is constituted as the farm in accordance with regulations governing constitution and reconstitution of farms found at 7 CFR 719.

(R) Land use agreement means an agreement executed by the participating borrower in favor of the participating lender and the authority and any amendments and supplements to it providing that the CRP land will be kept by the participating borrower as CRP land in compliance with the CRP contract and granting to the authority a right of entry upon the farm and the CRP land to permit, among other things, the authority to take any steps necessary to ensure compliance.

(S) Loan and security agreement means an agreement between a participating borrower and a participating lender and any amendments and supplements to it providing for an agricultural development loan by a participating lender to a participating borrower and for its repayment by the participating borrower.

(T) Loan purchase date means the date established by the authority, acceptable to the participating lender, on which the authority shall purchase an agricultural development loan from the participating lender.

(U) Note means a promissory note to evidence the obligation of the participating borrower to make the repayments as defined in the loan and security agreement.

(V) Participating borrower means any individual, partnership, corporation, farm cooperative, association, trust, estate or other legal entity or its representative who has legal

ownership of farm land, including a person who is buying farm land under a contract for deed, except that two (2) or more individuals and entities may be combined as one (1) person in accordance with the regulations found at—

1) 7 CFR 795 for administering maximum payments limitations; 2) 7 CFR 796 for administering prohibitions on controlled substances; and 3) the regulations promulgated in accordance with sections 1201—1223 of the Food Security Act of 1985 and otherwise qualifying for an agricultural development loan as set forth in these guidelines.

(W) Participating borrower documents mean the application, the CRP contract(s), the successor-in-interest agreement(s), evidence of approval of the conservation plan, the application fee and a copy of the debt register certified by ASCS.

(X) Participating lender means any state or national bank, federal land bank, production credit association, bank for cooperatives, federal or state chartered savings and loan association, or building and loan association or small business investment company that is subject to credit examinations by an agency of the state or federal government, or any life insurance company, any governmental agency or any other lending institution approved by the insurer or guarantor of an agricultural development loan, beginning farmer loan or small business pollution control facility loan which undertakes to make or service such a loan.

(Y) Participating lender documents mean a proposal to sell, the bond, the participation and loan purchase agreement, the authority fee, the note, the loan and security agreement, the guaranty, the land use agreement, consents and approval by each current lienholder and the closing documents.

(Z) Participation and loan purchase agreement means an agreement between the authority and a participating lender and any amendments and supplements to it providing for participating in the program by the participating lender and for the purchase by the authority from the participating lender of an eligible agricultural development loan held by the participating lender.

(AA) Program means the Conservation Reserve Enhancement Program of the authority authorized and described by the memorandum of understanding dated July 3, 1989 between the authority and CCC.

(BB) Proposal to sell means a completed instrument on a form approved by the authority evidencing the proposal of the participating lender to sell an agricultural development loan to the authority.

(CC) Successor-in-interest agreement means Form CPID-Addendum entered into in writing between the CCC, the participating borrower(s) and the authority.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 15, 1989, effective Oct. 27, 1989.*

**Original authority: 348.075, RSMo 1981, amended 1995, 1997.*

2 CSR 100-3.030 Criteria Relating to Participating Borrowers, Participating Lenders and Agricultural Development Loans

PURPOSE: This rule sets forth the fee structure and the requirements which the applicant must meet to be an eligible borrower for a loan under this program.

(1) The minimum face amount of an agricultural development loan is fifteen thousand dollars (\$15,000) and the maximum amount may not exceed five hundred thousand dollars (\$500,000).

(2) The participating lender may charge a nonrefundable application fee of not more than one hundred twenty-five dollars (\$125) to defray expenses incurred by the participating lender in processing and administering the application; and to cover all reasonable and customary charges which are permitted by law and are actually paid or incurred by the participating lender, including hazard or mortgage insurance premiums, surveys, title insurance, appraisal fees, abstract and attorney's fees, recording or registration charges, escrow fees, credit reports and other similar charges.

(3) The authority will purchase or take a one hundred percent (100%) participation in each agricultural development loan under the program.

(4) The participating lender will collect from the participating borrower(s) and pay over to the authority an authority fee to defray expenses incurred by the authority in processing and administering the Conservation Reserve Enhancement Program (CRP) and the agricultural development loan in an amount as determined by the authority not to exceed a sum equal to two percent (2%) of CRP contract payments up to one hundred thousand dollars (\$100,000) and an additional one and one-half percent (1.5%) on all payments in excess of one hundred thousand

dollars (\$100,000) with a minimum fee of five hundred dollars (\$500).

(5) To assure compliance with the CRP contract and to provide for necessary annual administrative costs associated with the program, the participating lender will collect from participating borrowers and pay over to the authority a sum equal to two percent (2%) of the CRP contract payments.

(6) No agricultural development loan will be made if the proceeds of the loan are insufficient to satisfy debts of the participating borrower(s) as set forth on the debt register in the Agricultural Stabilization and Conservation Service (ASCS) office or if any lienholder of the participating borrower(s) does not consent to the land use agreement.

(7) Any agricultural development loan which provides that it is assumable, or which the participating lender intends to permit to be assumed, shall further provide that it is only assumable if approved by the authority and to the extent that the purchaser of the farm including the CRP land and the agricultural development loan meet the requirements set forth in the Act, CRP, the program and these guidelines.

(8) At the time of the purchase of an agricultural development loan by the authority, the participating lender and participating borrower(s) shall certify that the participating borrower(s) is (are) in compliance with the CRP contract; that the participating borrower(s) cannot obtain a loan on equivalent terms from conventional farm credit markets or other sources without the purchase or participation of the authority; that the proceeds of the agricultural development loan are sufficient to satisfy all obligations of the participating borrower(s) set forth on the debt register in the ASCS office; that all lienholders will consent to the land use agreement; and that the participating borrower(s) is (are) an individual(s) residing in this state (or that the participating borrower is a firm, partnership, corporation or other entity, with all owners, partners or stockholders being persons residing in this state) owning or operating a farm a portion of which is subject to a CRP contract.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 15, 1989, effective Oct. 27, 1989.*

**Original authority: 348.075, RSMo 1981, amended 1995, 1997.*

2 CSR 100-3.040 Procedure for the Purchase or Participation of Eligible Loans

PURPOSE: This rule sets forth the procedures for the approval of loans to be purchased under this program.

(1) A participating lender and participating borrower(s) will complete and forward the application to the authority. The application will provide information on the use of loan proceeds, current Conservation Reserve Enhancement Program (CRP) contract(s), approval of the conservation plan, compliance with the CRP contract(s), the CRP payment schedule, previous bankruptcies (if any), liens (if any), loan defaults or delinquencies (if any), loans potentially subject to CRP contract payments offset and authorization to review and copy the debt register pertaining to the participating borrower(s) at the Agricultural Stabilization and Conservation Service (ASCS) office.

(2) Upon receipt of the executed participating borrower documents, the authority shall determine whether the participating borrower(s) and the participating lender qualify under the Act, and whether the loan constitutes an agricultural development loan under the Act. Thereafter, the authority will deliver to the participating borrower(s) and the participating lender a conditional approval describing the terms of the agricultural development loan proposed to be purchased by the authority, subject to the availability of bond proceeds.

(3) Following receipt of the conditional approval and in accordance with its terms, the participating lender shall deliver the executed participating lender documents to the authority.

(4) Upon receipt of the proposal to sell, the authority will secure the execution of the successor-in-interest agreement by the Commodity Credit Corporation (CCC) which provides that the authority will succeed to the interest of the participating borrower(s) to the CRP contract and shall execute, as required, the participating lender documents.

(5) Upon approval of the State Agricultural Stabilization and Conservation Committee, the authority shall establish the loan purchase date.

(6) On the loan purchase date, the authority will sell the bond and direct the participating lender to fund the agricultural development loan. In addition, on the loan purchase date, the authority will simultaneously assign and deliver the note, the loan and security agreement, the guaranty and the land use agreement to the participating lender as original purchaser of the bond.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 15, 1989, effective Oct. 27, 1989.*

**Original authority: 348.075, RSMo 1981, amended 1995, 1997.*

2 CSR 100-3.050 Amendments

PURPOSE: This rule sets forth the conditions under which amendments to the program will be made.

(1) Subject to the provisions of the Act and the program, these guidelines may be amended from time-to-time in order to make them conform to the provisions of the Act or the program or to facilitate the purchase of agricultural development loans.

(2) To the extent that the Act, the program or the CRP contract is amended so that, if applied, it would make the requirements in these guidelines less restrictive, the program guidelines shall be deemed to be amended to incorporate the amended provisions of the Act, the program or the CRP contract.

AUTHORITY: section 348.075, RSMo 1986. Original rule filed Aug. 15, 1989, effective Oct. 27, 1989.*

**Original authority: 348.075, RSMo 1981, amended 1995, 1997.*