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## ADMINISTRATIVE RULES AND REGULATIONS

### ARTICLE 13. KANSAS SEDIMENT AND NUTRIENT REDUCTION INITIATIVE

**K.A.R. 11-13-1. Definitions.** Each of the following terms, as used in this article of the division of conservation's regulations, shall have the meaning specified in this regulation:

- (a) "Bottomland timber establishment" means the trees planted in floodplains adjacent to perennial streams to provide wildlife habitat and other benefits.
- (b) "CRP" means the conservation reserve program administered by the USDA farm service agency.
- (c) "Director" means the executive director of the division of conservation, Kansas department of agriculture or the executive director's designee.
- (d) "Farmable wetland or farmable wetland buffer" means land eligible for restoration by improving the land's hydrology and vegetation.
- (e) "Filter strip" means a strip or area of grass for removing sediment, organic matter, and other pollutants from runoff and wastewater and for providing food and cover for wildlife.
- (f) "FSA" means the farm service agency in the USDA.
- (g) "Grassed waterway" means a designated strip of grass that is designed to convey runoff and gully erosion for the purpose of improving water quality and providing wildlife habitat.
- (h) "Habitat buffers for upland birds" means a narrow band of native grasses, legumes, forbs, or shrubs, or any combination of these, to provide habitat for bobwhite quail, ring-necked pheasant, and other upland birds and to limit the amount of nutrients, sediment, pesticides, and other contaminants entering water bodies.
- (i) "HUC 12 watershed" means a hydrological unit code consisting of a sequence of 12 numbers identifying a hydrological feature like a river, river reach, or lake or an area like a drainage basin.
- (j) "Initiative" means the Kansas water quality buffer initiative and the application requirements for the program specified in this article of the division of conservation's regulations. This term is also known as the Kansas sediment and nutrient reduction initiative.

(k) "NRCS" means natural resources conservation service.

(l) "Practices" means the use of cultural techniques or structures installed or constructed on land for the purpose of improving or maintaining water quality.

(m) "Program-eligible area" means the Big Creek, Delaware, Little Arkansas, Lower Big Blue, Lower Kansas, Lower Little Blue, Lower Republican, Lower Smoky Hill, Neosho Headwaters, Upper Cottonwood, and Lower Cottonwood watersheds.

(n) "Program-eligible boundaries" means the boundaries based on HUC 12 watersheds that are above Tuttle Creek, Milford, Perry, John Redmond, and Clinton reservoirs and are identified as target areas for nutrient and sediment reduction in watershed restoration and protection strategy plans. The program-eligible boundaries shall contain two tiers for priority enrollment, which are called tier 1 areas and tier 2 areas.

(o) "Shallow water areas for wildlife" means wet areas that have been developed or restored and include 6-18 inches of water depth for wildlife.

(p) "Tier 1 areas" means those HUC 12 watersheds identified in watershed restoration and protection strategy plans as the highest priority target areas for nutrient and sediment reduction within program-eligible boundaries.

(q) "Tier 2 areas" means all areas within the program-eligible boundaries that are not tier 1 areas.

(r) "Unfarmable field" means the remaining portion of a field in which 51 percent or more of the total acreage has been enrolled in CRP.

(s) "USDA" means United States department of agriculture.

(t) "Wetland restoration" means the restoration of constructed wetlands for the purpose of intercepting tile runoff, reducing nutrient loss, improving water quality, and enhancing agricultural production practices.

(u) "WRAPS" means watershed restoration and protection strategy, which consists of a planning and management framework intended to engage stakeholders in a process to identify watershed restoration. The process documents stakeholder goals, strategies to achieve the goals, and the resources required to implement the strategies. (Authorized by and implementing K.S.A. 2017 Supp. 2-1915; effective June 1, 2018.)

**K.A.R. 11-13-2.** Initiative requirements for new applications; funds for existing contracts. On and after the effective date of this regulation, all new applications for the initiative shall be required to meet the requirements in this article of the division of conservation's regulations. These requirements shall be known as the Kansas sediment and nutrient reduction initiative, which consists of the new requirements for the Kansas water quality initiative. All persons with parcels currently enrolled in the initiative with contracts whose terms have not yet expired shall continue to be paid through funds made available under K.S.A. 2-1915, and amendments thereto, and any other available sources. (Authorized by and implementing K.S.A. 2017 Supp. 2-1915; effective June 1, 2018.)

**K.A.R. 11-13-3.** Selection of applicants for initiative. Funding may be distributed to initiative applicants for proposed projects that meet the eligibility requirements specified in K.S.A. 2-1915 and K.S.A. 2017 Supp. 2-1933, and amendments thereto, and the director's requirements as follows:

(a) Land shall lie within a tier 1 area or a tier 2 area of the initiative-eligible area and meet the basic eligibility criteria for CRP.

(b) To be eligible for tier 1 area payments, all of the land shall be within the tier 1 area. To be eligible for tier 2 area payments, all of the land shall be within the tier 2 area.

(c) Land that has an existing CRP contract or an approved offer with a CRP contract pending shall not be eligible for the initiative. (Authorized by K.S.A. 2017 Supp. 2-1915; implementing K.S.A. 2017 Supp. 2-1915 and 2-1933; effective June 1, 2018.)

**K.A.R. 11-13-4.** Haying and grazing. Any eligible initiative applicant that is authorized to hay or graze, or both, pursuant to an existing CRP contract may conduct these activities upon initiative-eligible land without penalty. (Authorized by K.S.A. 2016 Supp. 2-1915; implementing K.S.A. 2016 Supp. 2-1915 and 2-1933; effective June 1, 2018.)

**K.A.R. 11-13-5.** Practices eligible for incentive payments.

(a) Any of the following practices may be eligible for incentive payments:

- (1) Grassed waterways;
- (2) shallow water areas for wildlife;
- (3) filter strips;
- (4) riparian buffers;
- (5) wetland restorations;
- (6) improvements to farmable wetland or farmable wetland buffers by utilizing any of the practices listed in this regulation or any other conservation practice approved by the director;
- (7) bottomland timber establishment; or
- (8) habitat buffers for upland birds.

(b) Payments made through the initiative shall be in addition to any CRP payments. (Authorized by K.S.A. 2017 Supp. 2-1915; implementing K.S.A. 2017 Supp. 2-1915 and 2-1933; effective June 1, 2018.)

**K.A.R. 11-13-6.** Incentive payments; refunds.

(a) Incentive payments under the initiative shall be made on a onetime basis coinciding with enrollment in the CRP. Each incentive payment shall be an upfront payment on all eligible acres enrolled.

(b) Incentive payments shall not exceed the following:

- (1) \$225.00 per acre in tier 1 areas; and
- (2) \$162.50 per acre in tier 2 areas.

(c) Any acres determined to be in an unfarmable field may be eligible for the one-time incentive payment if the applicant agrees to establish and maintain permanent vegetative cover for the duration of the CRP contract.

(d) If a CRP contract is terminated by the FSA for any contract violation or for any other reason, a refund of the incentive payment shall be required.

(e) A refund of the incentive payment shall be required from any initiative participant who fails to meet the initiative requirements. (Authorized by K.S.A. 2017 Supp. 2-1915; implementing K.S.A. 2017 Supp. 2-1915 and 2-1933; effective June 1, 2018.)