

AGREEMENT

BETWEEN

**THE U.S. DEPARTMENT OF AGRICULTURE
COMMODITY CREDIT CORPORATION**

AND

STATE OF NEW YORK

IMPLEMENTING THE CONSERVATION RESERVE ENHANCEMENT PROGRAM

This Agreement is between the U.S. Department of Agriculture (USDA), the Commodity Credit Corporation (CCC), the State of New York acting by and through the New York State Department of Agriculture and Markets (NYSDAM) and the New York State Soil and Water Conservation Committee (NYSSWCC) (collectively referred to as State) to implement CCC's Conservation Reserve Enhancement Program (CREP) in connection with CCC's Conservation Reserve Program (CRP). The objective of this CREP is to assist in the maintenance or improvement of current water quality conditions through the reduction of agricultural sources of sediment, nutrients, and waterborne pathogens within the following twelve major watershed areas (see attached map):

- Allegany River Basin
- Black River/St. Lawrence Watersheds
- Chesapeake Bay/Susquehanna River Watershed
- Delaware River Watershed
- Genesee - Oswego - Seneca - Oneida River Watershed
- Lake Champlain Watershed
- Lake Erie - Niagara River Watersheds
- Lake Ontario Direct Drainage Watershed
- Long Island Sound - Peconic Bay Watershed
- Lower Hudson River Basin
- Mohawk River Watershed
- Upper Hudson River Watershed.

Public wellhead protection areas, as designated by the New York State Department of Health (DOH) in accordance with the State's approved wellhead protection program, are eligible to be enrolled within these twelve major watersheds.

I. GENERAL PROVISIONS

The purpose of this Agreement is to allow, where deemed desirable by USDA, CCC, and the State, certain acreage in the major New York State Watersheds to be enrolled under CREP.

CREP in these watersheds will be guided, in part, by locally led pollution prevention and conservation efforts which indicate landowner support and demonstrate a need for CREP. CREP builds upon a voluntary partnership between producers, governmental entities and nongovernmental organizations for addressing watershed quality problems and protecting public health. The main forums and institutional bodies for this partnership are NYSDAM and NYSSWCC who, through local Soil and Water Conservation Districts (SWCDs), work with agricultural producers to develop, implement and maintain comprehensive nutrient management plans and/or whole farm plans (which are equivalent to New York State's Agricultural Environmental Management Tier 3 plans) designed to meet the water quality objectives within the approved twelve major watersheds in New York State.

NYS CREP includes all waterbodies listed on the 1996 NYS Priority Waterbodies List (PWL) that may have been impacted by agricultural activities. The State seeks to improve the water quality in these identified watersheds. In addition, NYS CREP will be designed to improve drinking water supplies and establish, preserve or enhance wildlife habitat leading to an increase in populations and diversity of birds, mammals and aquatic organisms. The specific goals of NYS CREP are to:

- Reduce nutrient loading of phosphorus from 145,284 lbs. per year to 72,642 lbs. per year, nitrogen from 77,376 lbs. per year to 38,688 lbs. per year and sedimentation from 175,316 tons per year to 70,126 tons per year entering waterbodies from cropland and pastureland in project areas and upslope areas. In addition, practices and complementary practices installed under NYS CREP are expected to reduce the potential for pathogens in identified waterbodies.
- Establish riparian buffers adjacent to 4,598 stream miles and 473,457 acres of surface waters.
- Establish conservation cover on areas that serve Environmental Protection Agency approved wellhead zones.

This Agreement is not intended to, and does not, supersede any rules or regulations which have been or may be promulgated by USDA, CCC, the State or any other Governmental entity participating in this CREP.

II AUTHORITY

A. Federal

The CCC has the authority under the provisions of the Food Security Act of 1985,

as amended (1985 Act) as amended, (16 U.S.C. 3830 *et seq.*), and the regulations at 7 Code of Federal Regulations (CFR) part 1410 to perform activities contemplated by this Agreement. The CCC is authorized to enroll land in the CRP through December 31, 2007. Other authorities may also apply.

B. State

Section 16 of the New York State Agriculture and Markets Law authorizes the Commissioner of Agriculture and Markets to aid in the promotion and development of the agricultural resources of the State.

Article 11-A of the New York State Agriculture and Markets Law establishes an agricultural environmental management program (AEM) to assist farmers in maintaining the economic viability of farm operations while addressing environmental impacts.

Article 25-AAA of the New York State Agriculture and Markets Law establishes a grant program to fund implementation of farmland protection plans, including the purchase of conservation easements on farms.

Section 4 of the Soil and Water Conservation Districts Law establishes within the Department of Agriculture and Markets the New York State Soil and Water Conservation Committee. The Committee is comprised of five voting members appointed by the Governor, and nine advisory members, including representatives of the Departments of Agriculture and Markets, Environmental Conservation and Health. The Committee is charged with approving and coordinating the programs of county soil and water conservation districts and securing the cooperation and assistance of the United States and its agencies in the work of the districts.

Section 11-b of the Soil and Water Conservation Districts Law establishes a grant program to fund agricultural nonpoint source abatement and control projects.

III PROGRAM ELEMENTS

USDA, CCC and the State agree that:

- A. CREP will consist of a Federal continuous sign-up CRP component and a voluntary State program administered by the State. This Agreement contemplates the enrollment in CREP of up to 40,000 acres of certain environmentally sensitive acreage within the twelve designated New York State watersheds.

The annual enrollment in this CREP will be limited as follows:

2003 - up to 2,000 acres
2004 - up to 5,000 acres
2005 - up to 9,000 acres
2006 - up to 12,000 acres
2007 - up to 12,000 acres

B. The eligible CRP practices will be:

1. For land qualifying on the basis of erosion, where at least 50 percent of the land must be within 1000 feet of a surface water source and have an erodibility index (EI) of 15 or greater, as determined by NRCS or other qualified technical provider.

CRP Practice CP 1 (Establishment of Permanent Introduced Grasses and Legumes)

CRP Practice CP 2 (Establishment of Permanent Native Grasses)

CRP Practice CP 3 (Tree Planting)

CRP Practice CP 3A (Hardwood Tree Planting)

CRP Practice CP 4B (Permanent Wildlife Habitat Corridor, Non Easement)

CRP Practice CP 4D (Permanent Wildlife Habitat, Non Easement)

CRP Practice CP 9 (Shallow Water Areas for Wildlife)

CRP Practice CP 10 (Vegetative Cover – Grass - Already Established)

CRP Practice CP 11 (Vegetative Cover – Trees - Already Established)

CRP Practice CP23 (Wetland Restoration)

2. For wellhead protection areas designated by the New York State Department of Health:

CRP Practice CP 1 (Establishment of Permanent Introduced Grasses and Legumes)

CRP Practice CP 2 (Establishment of Permanent Native Grasses)

CRP Practice CP 3 (Tree Planting)

CRP Practice CP 3A (Hardwood Tree Planting)

CRP Practice CP 4B (Permanent Wildlife Habitat Corridor, Non Easement)

CRP Practice CP 4D (Permanent Wildlife Habitat, Non Easement)

CRP Practice CP 10 (Vegetative Cover – Grass - Already Established)

CRP Practice CP 11 (Vegetative Cover – Trees - Already Established)

3. For lands qualifying as riparian buffers:

- CRP Practice CP8A (Grass Waterways)
- CRP Practice CP15A (Establishment of Permanent Vegetative Cover - Contour Grassed Strips)
- CRP Practice CP21 (Filter Strips)
- CRP Practice CP22 (Riparian Buffers)
- CRP Practice CP29 (Marginal Pastureland Wildlife Habitat Buffer)
- CRP Practice CP30 (Marginal Pastureland Wetland Buffer).

- C. In determining reimbursable costs to be paid by CCC, CCC shall use the appropriate CRP practices, as described in the FSA's Handbook 2-CRP. All conservation practices must meet the minimum specifications outlined in the applicable NRCS Field Office Technical Guide and Handbook 2-CRP .
- D. All CRP contracts for land enrolled in this CREP will be for a period of not less than 10 years nor more than 15 years and will be subject to all CRP provisions as specified in the 1985 Act, as amended, and applicable regulations governing the Act and the program.
- E. Producers eligible for this CREP will not be denied the opportunity to offer eligible acreage for non-CREP CRP enrollments.

IV. FEDERAL COMMITMENTS

USDA and CCC will, subject to the availability of funds,:

- A. Determine producer eligibility for participation on the CRP portion of this CREP consistent with, and subject to, the regulations at 7 CFR part 1410, and administer those CRP contracts that are executed.
- B. Consistent with CRP regulations, pay up to 50 percent of the reimbursable costs of CRP conservation practice installation. The applicable cost-share rates used will be rates established in Handbook 2-CRP. Reimbursements to CREP participants from all sources may not exceed 100 percent of the eligible cost to establish practices.
- C. Consistent with CRP regulations, pay to participants a one-time Practice Incentive Payment (PIP) for all practices listed in section III (B2) and (B3) to the extent a PIP would be paid for enrollments in a continuous signup CRP.
- D. Make annual rental payments consistent with Handbook 2-CRP with a base rate equal to the weighted average soil rental rate for the land offered into CREP.

- E. In cropland where more than 50 percent of a field is enrolled as a buffer, if the remainder of the field is infeasible to farm, then the remainder may be enrolled at regular rental rates, in accordance with Handbook 2-CRP procedure.
- F. Make annual incentive payments of 145 percent of the established weighted average county soil rental rate, as determined and established by CCC used in connection with normal CRP sign-ups for all practices under this agreement.
- G. Provide in a manner consistent with CRP procedure, an additional one-time Sign-up Incentive Payment (SIP) for eligible practices to the extent a SIP would be paid for comparable local enrollments in a continuous signup CRP.
- H. Provide information to landowners concerning this CREP and technical assistance for CREP, in coordination with the SWCDs.
- I. Permit successors-in-interest to the CRP contracts enrolled under this CREP in the same manner as allowed generally for other CRP contracts.

V. STATE OF NEW YORK COMMITMENTS

The State will:

- A. Identify, through the NYSSWCC, which land it seeks to be considered for enrollment in CREP for purposes of this Agreement. The State shall provide reimbursement to SWCDs and to municipalities for CREP practices cost share and/or for complementary practices in the identified watersheds through competitive grant programs, subject to an annual appropriation.

To the extent complementary practices extend the period of land retirement or are conducted in the twelve major watershed areas, the total project cost, including landowner, SWCD, municipality and other third party shares, shall be considered State payments toward the required contribution to the CREP.

In no event shall the total amount of the State's contribution for reimbursement of practice installation costs under this paragraph and that of CCC under paragraph IV.(B), together with contribution by any third party, exceed 100 percent of the participant's out-of-pocket expense.

The State will also provide personnel to oversee implementation of CREP on a statewide basis, the cost of which shall also be considered toward the State contribution to the CREP.

- B. Provide an annual tax credit to producers whose lands are enrolled in CREP amounting to 100 percent of the school property tax on land qualified in CREP for acreage over and above the first 250 acres of qualified agricultural land.

- C. Pay at least 20 percent of the overall cost of CREP, except that the aggregate total of all State payments over ten fiscal years shall not be required to exceed \$10,400,000 and will be subject to annual appropriation. In addition, the State shall be entitled to credit, toward the State's 20 percent obligation, amounts paid for the design and installation of conservation practices and for complementary practices of the type referred to in paragraph V(A) and the tax credit referred to in paragraph V(B).
- D. Within 90 days after the end of the Federal fiscal year, the State will report the overall cost of CREP from the time the program was implemented. After Federal fiscal year 2003, the report of the share paid by the State will be made on an annual basis within 90 days after the end of each Federal fiscal year. In order to determine the overall cost of CREP, the following costs will be used: the total land retirement cost, which will include the CRP payments made by CCC; the total reimbursement of conservation practices paid by CCC and the State; and the aggregate cost of technical assistance, including those reasonable expenses incurred by the State to develop comprehensive nutrient management plans and/or whole farm plans (which are equivalent to AEM Tier III plans) for land enrolled in CREP. It is further agreed that for the purpose of calculating the share of program costs paid by the State, the State may treat, in furtherance of the provisions of this Agreement, sums expended in connection with the program by SWCDs, municipalities, and other third parties as sums expended by the State. Any shortfall under this paragraph shall be promptly resolved.
- E. Seek, in collaboration with SWCDs, applicants willing to offer eligible and appropriate land for enrollment in CREP.
- F. Evaluate the overall success of the project in meeting its objectives using water quality evaluation methods developed by the State especially for CREP.
- G. Prepare an annual report through NYSSWCC to FSA, which includes level of program participation, the results of the annual monitoring program, success stories and a summary of non-federal CREP expenditures.
- H. Ensure that its participation in CREP is coordinated with its participation with other watershed protection programs in the State.
- I. Develop an outreach plan for the CREP.

VI. OTHER PROVISIONS

- A. All obligations of the parties are subject to the availability of funds.
- B. CRP contracts executed under this Agreement will be administered in accordance

with the CRP regulations at 7 CFR part 1410 and other authorities as may apply.

- C. The Executive Vice-President, CCC, the Deputy Administrator for Farm Programs, FSA, and their successors or designees, have been delegated the authority to carry out this Agreement for CCC and USDA consistent with the provisions of the 1985 Act, as amended, the regulations at 7 CFR part 1410, the provisions of this Agreement, and other authorities as may apply. The Commissioner of Agriculture and Markets and the Chair of NYSSWCC are authorized to carry out this Agreement for the State.
- D. This Agreement or any portion thereof, may only be modified by written agreement between parties.
- E. The provisions within this Agreement are subject to annual appropriations or other statutory limitation imposed with respect to the USDA, CCC or the State. This Agreement may be modified or extended upon mutual written agreement.
- F. The State agrees to temporarily release participants from any contractual restriction on crop production during the CRP contract period if such release is determined necessary by the Secretary of Agriculture in order to address a national emergency.
- G. The terms of this Agreement are authorized through December 31, 2007. The Agreement shall remain in force and effect until terminated by USDA, CCC or the State. Either party may terminate this Agreement after 30 days written notification. 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. Nothing in this Agreement shall require a party to agree to any enrollment in the program which the party does not believe is warranted. However, the Agreement sets forth the terms under which the parties intend to cooperate in this joint effort.
- H. It is understood that amendments to Handbook 2-CRP operating procedures must be approved by the FSA CREP Program Manager prior to acceptance of individual landowner CRP contracts.
- I. USDA, CCC and the State agree that each party will be responsible only for its own acts and/or omissions and results thereof to the extent required by law and shall not be responsible for the act or omissions of any others and the results thereof.

IT IS SO AGREED:

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

Ann M. Veneman
Secretary
U.S. Department of Agriculture and
Chairman of the Board
Commodity Credit Corporation

Date

FOR THE STATE OF NEW YORK

George E. Pataki
Governor
State of New York

Date

PLEASE NOTE:

You must close this document and click on "CREP_NY2003sm.pdf" to retrieve the map containing the twelve watersheds.