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## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### 7 CFR Part 636

RIN 0578-AA49

#### Wildlife Habitat Incentive Program Correction

**AGENCY:** Natural Resources Conservation Service, United States Department of Agriculture.

**ACTION:** Interim final rule; correction and extension of comment period.

**SUMMARY:** The Natural Resources Conservation Service published in the *Federal Register* of January 16, 2009, an interim final rule with request for comment amending the program regulations for the Wildlife Habitat Incentive Program (WHIP) to incorporate programmatic changes authorized by the Food, Conservation, and Energy Act of 2008 (2008 Act). The language in the interim final rule regarding the application of the payment limitation to joint operations was incorrect and is inconsistent with payment attributions specified in the regulation which governs payment limitations and eligibility determinations for CCC-funded programs. This document corrects that language. NRCS is also using the opportunity presented by this rulemaking to extend the comment period by an additional 30 days and ask for public input on key programmatic implementation questions.

**DATES:** This correction is effective on March 12, 2009. The comment period for the WHIP Interim Final Rule published on January 16, 2009, is hereby extended and comments must be received on or before April 17, 2009. Additionally, NRCS has extended the public comment period for the Environmental Analysis (EA) and

Finding of No Significant Impact (FONSI) until April 17, 2009. A copy of the EA and FONSI may be obtained, and comments submitted, as provided for in the January 16, 2009, WHIP interim final rule.

**FOR FURTHER INFORMATION CONTACT:**

Gregory Johnson, Director, Financial Assistance Programs Division, U.S. Department of Agriculture, Natural Resources Conservation Service, Room 5237, P.O. Box 2890, Washington, DC 20013-2890; Phone: (202) 720-1845; Fax: (202) 720-4265.

**SUPPLEMENTARY INFORMATION:** The NRCS published an interim final rule in the *Federal Register* of January 16, 2009 (74 FR 2786), amending the program regulations for WHIP found at 7 CFR part 636. The language in the interim final rule regarding the application of the payment limitation to joint operations was incorrect. The WHIP interim final rule inadvertently applied the \$50,000 annual payment limitation to joint operations by applying the payment limitation with the term “participants,” which is defined to include “joint operations.” A joint operation is composed of members who may be either persons or legal entities. As specified under 7 CFR part 1400, payment limitations are determined on a pro-rata basis in accordance with the “interest held by the person or legal entity in any other legal entity or joint operation.” Based on how joint operations are characterized in part 1400.106, the \$50,000 annual payment limit applies to each person or legal entity that comprises the joint operation. Within the 7 CFR 636’s preamble, the discussion on payment limitation should apply solely to persons or legal entities. NRCS removes references to payment limitations applying to joint operations.

**Request for Public Input**

USDA furthers the Nation’s ability to increase renewable energy production and conservation, mitigate the effects and adapt to climate change, and reduce net carbon and greenhouse gas (GHG) emissions through various assistance programs.

USDA is increasing renewable energy production through facilitating the availability, adoption, and use of wind, solar, and biofuel energy sources. USDA encourages renewable energy production by funding biofuel

technology transfer under Conservation Innovation Grants and through facilitating wind and solar power generation facilities for on-farm use on conservation lands under the Conservation Reserve Program and the Grassland Reserve Program.

Energy conservation is improved through more efficient equipment and processes. The Environmental Quality Incentives Program (EQIP) fosters energy conservation on farms and ranches by promoting efficient water irrigation systems, no-till, and nutrient management and promoting renewable energy production by installing solar-generated electric fences.

The effects of climate change can be mitigated through improving the adaptability of ecosystems and flexibility of agricultural management systems, including reductions in GHG emissions. WHIP improves ecosystem adaptability by enhancing wildlife habitat biodiversity and the Agricultural Management Assistance program promotes flexible management system through integrated pest management.

Climate change adaptation occurs through the adoption of alternative management systems which respond to changes such as decreasing precipitation, longer growing seasons, and increasing vulnerability to pest damage. USDA conservation programs, such as the Agricultural Water Enhancement Program, encourage the adoption of water conservation systems and dry land farming.

Net carbon emissions can be reduced by reducing fossil fuel use or increasing the land’s carbon storage capacity. USDA conservation programs, such as EQIP, assist participants with reducing fossil fuel use through no-till and other conservation tillage cropping systems which require fewer trips over a field with a tractor. The Wetlands Reserve Program and Healthy Forests Reserve Program sequester carbon by encouraging agricultural land reforestation. The Conservation Stewardship Program encourages conservation tillage activities that improve soil carbon storage.

While much is underway, USDA has adopted a proactive strategy to increase its ability to meet these critical national needs. Therefore, NRCS is using this rulemaking opportunity to obtain input from the public on how WHIP can achieve its program purposes and

further the Nation's efforts with renewable energy production, energy conservation, mitigating the effects of climate change, facilitating climate change adaptation, or reducing net carbon emissions. For further information on these subjects you may wish to look at the following Web site: <http://www.koshland-science-museum.org/exhibitgcc/>.

■ For the reasons stated in the preamble, the NRCS amends part 636 of Title 7 of the Code of Federal Regulations as set forth below:

**PART 636—WILDLIFE HABITAT INCENTIVE PROGRAM**

■ 1. The authority citation for part 636 continues to read as follows:

Authority: 16 U.S.C. 3839bb-1.

■ 2. Section 636.4 is amended by revising paragraph (a)(11) to read as follows:

\* \* \* \* \*

**§ 636.4 Program requirements.**

\* \* \* \* \*

(a) \* \* \*

(11) With regard to any person or legal entity that utilizes a unique identification number as an alternative to a tax identification number, the person or legal entity will utilize only that identifier for any and all other WHIP cost-share agreements to which the person or legal entity is party. Violators will be considered to have provided fraudulent representation and be subject to the full penalties of § 638.13 of this part.

\* \* \* \* \*

■ 3. Section 636.7 is amended by revising paragraph (f) to read as follows:

**§ 636.7 Cost-share payments.**

\* \* \* \* \*

(f) Payments made or attributed to a person or legal entity, directly or indirectly, may not exceed in the aggregate, \$50,000 per year.

\* \* \* \* \*

Signed this 4th day of March 2009, in Washington, DC.

**Dave White,**

*Acting Vice President, Commodity Credit Corporation and Acting Chief, Natural Resources Conservation Service.*

[FR Doc. E9-5083 Filed 3-11-09; 8:45 am]

BILLING CODE 3410-16-P

**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**7 CFR Part 1465**

RIN 0578-AA50

**Agricultural Management Assistance Program Correction**

**AGENCY:** Commodity Credit Corporation, United States Department of Agriculture.

**ACTION:** Interim final rule; correction.

**SUMMARY:** The Commodity Credit Corporation (CCC) published in the *Federal Register* of November 20, 2008, an interim final rule with request for comment amending the program regulations for the Agricultural Management Assistance (AMA) Program to incorporate programmatic changes authorized by the Food, Conservation, and Energy Act of 2008 (2008 Act). The language in the interim final rule regarding the application of the payment limitation to joint operations was incorrect and is inconsistent with payment attributions specified in the regulation which governs payment limitations and eligibility determinations for CCC-funded programs. This document corrects that language.

**DATES:** This correction is effective on March 12, 2009.

**FOR FURTHER INFORMATION CONTACT:** Gregory Johnson, Director, Financial Assistance Programs Division, U.S. Department of Agriculture, Natural Resources Conservation Service, Room 5237, P.O. Box 2890, Washington, DC 20013-2890; Phone: (202) 720-1845; Fax: (202) 720-4265.

**SUPPLEMENTARY INFORMATION:** The CCC published an interim final rule in the *Federal Register* of November 20, 2008 (73 FR 70245), amending the program regulations for the AMA found at 7 CFR part 1465. The language in the interim final rule regarding the application of the payment limitation to joint operations was incorrect. The AMA interim final rule inadvertently applied the \$50,000 annual payment limitation to joint operations, by applying the payment limitation to the term "participants," which is defined to include "joint operations." A joint operation is composed of members who may be either persons or legal entities. As specified under 7 CFR part 1400, payment limitations are determined on a pro-rata basis in accordance with the "interest held by the person or legal entity in any other legal entity or joint operation." Based on how joint

operations are characterized in part 1400.106, the \$50,000 annual payment limit applies to each person or legal entity that comprises the joint operation. Within the preamble of 7 CFR part 1465, the discussion on payment limitation should apply solely to persons or legal entities. CCC deletes the preamble's references to payment limitations applying to joint operations.

■ For the reasons stated in the preamble, the CCC amends part 1465 of Title 7 of the Code of Federal Regulations as set forth below:

**PART 1465—AGRICULTURAL MANAGEMENT ASSISTANCE**

■ 1. The authority citation for part 1465 continues to read as follows:

Authority: 7 U.S.C. 1524(b).

■ 2. Section 1465.23 is amended by revising paragraph (d) to read as follows:

**§ 1465.23 Payments.**

\* \* \* \* \*

(d) The total amount of payments paid to a person or legal entity under this part may not exceed \$50,000 for any fiscal year.

\* \* \* \* \*

Signed this 4th day of March, 2009, in Washington, DC.

**Dave White,**

*Acting Vice President, Commodity Credit Corporation and Acting Chief, Natural Resources Conservation Service.*

[FR Doc. E9-5093 Filed 3-11-09; 8:45 am]

BILLING CODE 3410-16-P

**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**7 CFR Part 1466**

RIN 0578-AA45

**Environmental Quality Incentives Program Correction**

**AGENCY:** Commodity Credit Corporation, Natural Resources Conservation Service, United States Department of Agriculture.

**ACTION:** Interim final rule; correction; extension of comment period.

**SUMMARY:** The Commodity Credit Corporation (CCC) published in the *Federal Register* of January 15, 2009, an interim final rule with request for comment amending the program regulations for the Environmental Quality Incentives Program (EQIP) to incorporate programmatic changes authorized by the Food, Conservation,