

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### 7 CFR Parts 622, 624 and 625

#### Commodity Credit Corporation

#### 7 CFR Parts 1465 and 1470

RIN 0578-AA56

### Conservation Program Recipient Reporting

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

**ACTION:** Final rule.

**SUMMARY:** The Office of Management and Budget (OMB) issued regulatory guidance to agencies to establish requirements for Federal financial assistance applicants, recipients, and sub-recipients that are necessary for the implementation of the Federal Funding Accountability and Transparency Act of 2006 (the Transparency Act). OMB's regulations require agencies that make awards of Federal financial assistance subject to the Transparency Act to include the requirements identified in each regulation that has application or plan due dates after October 1, 2010. The Watershed Operations and Flood Prevention Program, Emergency Watersheds Protection Program, Healthy Forests Reserve Program, Agricultural Management Assistance Program, and the Conservation Stewardship Program have application or plan due dates after October 1, 2010, and therefore, the Natural Resources Conservation Service (NRCS) is incorporating the Transparency Act's recipient registration and reporting requirements into these programs' regulations. These changes, the terms of which are not

subject to agency discretion, are mandatory.

**DATES:** *Effective Date:* The rule is effective April 8, 2011.

**FOR FURTHER INFORMATION CONTACT:** Martha Joseph, Special Assistant, Easements and Landscape Planning, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 5109 South Building, Washington, DC 20250; Telephone: (202) 205-7704; or E-mail: [martha.joseph@wdc.usda.gov](mailto:martha.joseph@wdc.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion

OMB published two regulations, 2 CFR parts 25 and 170, to assist agencies and recipients of Federal financial assistance to comply with the Transparency Act (Pub. L. 109-282, as amended). Both regulations have implementation requirements beginning October 1, 2010.

The regulations at 2 CFR part 25 require, with some exceptions, recipients of Federal financial assistance to apply for and receive a Dun and Bradstreet Universal Numbering Systems (DUNS) number and register in the Central Contractor Registry. Section 25.200(a) of Title 2 of the CFR requires each agency to include the registration requirements identified in part 25 in each regulation that has application or plan due dates after October 1, 2010.

The regulations at 2 CFR part 170 establish new requirements for Federal financial assistance applicants, recipients, and subrecipients. The regulation provides standard wording that each agency must include in its awarding of financial assistance that requires recipients to report information about first-tier subawards and executive compensation under those awards. Section 170.200(a) of Title 2 of the CFR requires each agency that makes awards of Federal financial assistance subject to the Transparency Act to include the requirements identified in part 170 in each regulation that has application or plan due dates after October 1, 2010.

NRCS has determined that 2 CFR parts 25 and 170 apply to certain awards of financial assistance provided under the Watershed Operations and Flood Prevention Program (7 CFR part 622), Emergency Watershed Protection Program (7 CFR part 624), Healthy Forests Reserve Program (7 CFR part 625), Agricultural Management

Assistance Program (7 CFR part 1465), and the Conservation Stewardship Program (7 CFR part 1470). Since these conservation programs either have continuous application periods or will have an application due date after October 1, 2010, NRCS determined that each of its program regulations under which NRCS provides Federal financial assistance must be amended to incorporate this requirement immediately.

Several of NRCS' other conservation programs have pending or recently promulgated rulemaking, and NRCS is incorporating parts 25 and 170 requirements as these pending rules are cleared and published. These pending rules are final rules to implement the Environmental Quality Incentives Program (7 CFR part 1466—pending), Farm and Ranch Lands Protection Program (7 CFR part 1491—published January 24, 2011), Grassland Reserve Program (7 CFR part 1415—published November 29, 2010), Wildlife Habitat Incentive Program (7 CFR part 636—published November 23, 2010), and the Wetlands Reserve Program (7 CFR part 1467—pending).

This final rule incorporates this mandated change into the regulations implementing the Watershed Operations and Flood Prevention Program, Emergency Watershed Protection Program, Healthy Forests Reserve Program, Agricultural Management Assistance Program, and the Conservation Stewardship Program. These changes are non-discretionary on the part of the agency, and thus, no public comments are being solicited.

#### Executive Order 12866

This final rule does not meet the criteria for a significant regulatory action as specified in Executive Order 12866.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this final rule because neither the Commodity Credit Corporation (CCC) nor NRCS is required by 5 U.S.C. 553, or by any other provision of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### Paperwork Reduction Act

The General Services Administration has recently published the information collections for public comment that

provide the specific data elements required for the Transparency Act reporting of subawards and executive compensation [75 FR 43165].

**Unfunded Mandates Reform Act of 1995**

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, NRCS assessed the affects of this rulemaking action on State, local, and Tribal governments, and the public. This action does not compel the expenditure of \$100 million or more in any one year (adjusted by inflation) by any State, local, or Tribal governments, or anyone in the private sector; therefore, a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

**List of Subjects in 7 CFR Parts 622, 624, 625, 1465 and 1470**

Administrative practice and procedures, Cooperative agreements, Farmers, Federal aid programs, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 622, 624, 625, 1465, and 1470 are amended as follows:

■ 1. The authority citation for part 622 continues to read as follows:

**Authority:** Pub. L. 83-566, 68 Stat. 666 as amended (16 U.S.C. 1001, *et seq.*); Pub. L. 78-534, 58 Stat. 889, 33 U.S.C. 701b-1.

■ 2. Section 622.30 is amended by adding a new paragraph (d) to read as follows:

**§ 622.30 General.**

(d) Sponsors who receive financial assistance awarded after October 1, 2010, must comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282, as amended), and 2 CFR parts 25 and 170.

■ 3. The authority citation for part 624 continues to read as follows:

**Authority:** Sec. 216, Pub. L. 81-516, 33 U.S.C. 701b-1; Sec. 403, Pub. L. 95-334, as amended, 16 U.S.C. 2203; 5 U.S.C. 301.

■ 4. Section 624.6 is amended by revising paragraph (a)(2) to read as follows:

**§ 624.6 Program administration.**

(a) \* \* \*  
(2) Sponsors must:  
(i) Contribute their share of the project costs, as determined by NRCS, by providing funds or certain services necessary to undertake the activity.

Contributions that may be applied towards the sponsor's applicable cost-share of construction costs include:

- (A) Cash;
- (B) In-kind services such as labor, equipment, design, surveys, contract administration and construction inspection, and other services as determined by the State Conservationist; or
- (C) A combination of cash and in-kind services;
  - (ii) Obtain any necessary real property rights, water rights, and regulatory permits;
  - (iii) Agree to provide for any required operation and maintenance of the completed emergency measures; and
  - (iv) Comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282, as amended), and 2 CFR parts 25 and 170.

■ 5. The authority citation for part 625 continues to read as follows:

**Authority:** 16 U.S.C. 6571-6578.

■ 6. Section 625.4 is amended by revising paragraph (b) to read as follows:

**§ 625.4 Program requirements.**

(b) *Landowner eligibility.* To be eligible to enroll an easement in the HFRP, an individual or entity must:

- (1) Be the landowner of eligible land for which enrollment is sought;
- (2) Agree to provide such information to NRCS, as the agency deems necessary or desirable, to assist in its determination of eligibility for program benefits and for other program implementation purposes; and
- (3) Comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282, as amended), and 2 CFR parts 25 and 170.

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

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

■ 8. Section 1465.5 is amended by revising paragraphs (c)(10) and (c)(11) and adding a new paragraph (c)(12) to read as follows:

**§ 1465.5 Program requirements.**

(c) \* \* \*  
(10) Be in compliance with the terms of all other USDA-administered conservation program agreements to which the participant is a party;

(11) Develop and agree to comply with an APO and O&M agreement, as described in § 1465.3; and

(12) Comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282, as amended), and 2 CFR parts 25 and 170.

■ 9. The authority citation for part 1470 continues to read as follows:

**Authority:** 16 U.S.C. 3838d-3838g.

■ 10. Section 1470.6 is amended by revising paragraphs (a)(4) and (a)(5) and adding a new paragraph (a)(6) to read as follows:

**§ 1470.6 Eligibility requirements.**

(a) \* \* \*  
(4) Supply information, as required by NRCS, to determine eligibility for the program, including but not limited to, information related to eligibility requirements and ranking factors, conservation activity and production system records, information to verify the applicant's status as a historically underserved producer, if applicable, and payment eligibility as established by 7 CFR part 1400;

(5) Provide a list of all members of the legal entity and embedded entities along with members' tax identification numbers and percentage interest in the entity. Where applicable, American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payment; and

(6) Comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282, as amended), and 2 CFR parts 25 and 170.

Signed this 31st day of March 2011, in Washington, DC.

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

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**BILLING CODE 3410-16-P**

**FEDERAL TRADE COMMISSION**

**16 CFR Part 306**

**Automotive Fuel Ratings Certification and Posting**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.