



Billing Code: 3410-16

**DEPARTMENT OF AGRICULTURE**

**Natural Resources Conservation Service**

**7 CFR Parts 610, 622, 625, 652, and 662**

**Commodity Credit Corporation**

**7 CFR Parts 1455 and 1465**

**RIN 0578-AA60**

**Changes to Existing Conservation Program Regulations**

**[Docket No. NRCS-2014-0006]**

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

**ACTION:** Interim rule with request for comment.

**SUMMARY:** The Agricultural Act of 2014 (the 2014 Act) made several, nondiscretionary changes to the Natural Resources Conservation Service (NRCS) conservation programs. These conservation programs have existing regulations that require adjustments, including addressing the required review of operating procedures of the State Technical Committee, adding reference of the Regional Conservation Partnership Program (RCPP) to the Watershed Protection and Flood Prevention Act program regulations, adding reference of the RCPP to, and expanding the definition of, “acreage owned by Indian Tribes” under the Healthy Forests Reserve Program (HFRP), revising and simplifying the Regional Equity provision, and adjusting the Agricultural Management Assistance (AMA) program to correspond with changes to payment provisions under the Environmental Quality Incentives Program (EQIP). Additionally,

the Secretary of Agriculture has delegated to NRCS administrative responsibility for implementation of the Voluntary Public Access and Habitat Incentive Program (VPA-HIP) and internal NRCS administrative changes warrant updating the appropriate delegated official in the technical service provider (TSP) provision. This interim rule, with request for comments, implements changes to these NRCS conservation program regulations that are either necessitated by enactment of the 2014 Act or are required to implement administrative streamlining improvements and clarifications.

**DATES:** Effective Date: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comment date: Submit comments on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments using one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments for Docket No. NRCS-2014-0006.
- U.S. mail or hand delivery: Public Comments Processing, Attn: Docket No. NRCS-2014-0006, Regulatory and Agency Policy Team, Strategic Planning and Accountability, U.S. Department of Agriculture, Natural Resources Conservation Service, 5601 Sunnyside Avenue, Building 1-1112D, Beltsville, MD 20705.

NRCS will post all comments on <http://www.regulations.gov>. Personal information provided with comments will be posted. If your comment includes your address, phone number, email address, or other personal identifying information, please be aware that your entire comment, including this personal information, will be made publicly available. Do not include personal

information with your comment submission if you do not wish for it to be made public.

**FOR FURTHER INFORMATION CONTACT:** Leslie Deavers, NRCS Farm Bill Coordinator, U.S. Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013-2890; telephone: (202) 720-1510; fax: (202) 720-2998; or email: [leslie.deavers@wdc.usda.gov](mailto:leslie.deavers@wdc.usda.gov), Attn: Farm Bill Program Inquiry.

Persons with disabilities who require alternate means for communication (Braille, large print, audio tape, etc.) should contact the USDA TARGET Center at: (202) 720-2600 (voice and TDD).

## **SUPPLEMENTARY INFORMATION:**

### **Regulatory Certifications**

#### Executive Orders 12866 and 13563

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866 and, therefore, OMB will not review this interim rule.

#### Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this interim rule, we invite your comments on how to make its provisions easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?

- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule because NRCS is not required by 5 U.S.C. 553, or any other provision of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### Environmental Analysis

The 2014 Act made changes in statutory authority and administrative delegations that require conforming amendments to existing program regulations. The changes made to these regulations by this rule will ensure that the regulations conform to the new statutory authorities and delegations. Such changes are mandatory and, therefore, do not require analysis under the National Environmental Policy Act. In addition, a number of minor administrative improvements are made to the regulations as a result of continuing evaluations of NRCS program implementation efforts. Such administrative changes fall within a categorical exclusion for policy development, planning, and implementation which relate to routine administrative activities (7 CFR 1b.3(a)(1)).

#### Civil Rights Impact Analysis

NRCS has determined through a Civil Rights Impact Analysis that this interim rule discloses no disproportionately adverse impacts for minorities, women, or persons with disabilities. The mandatory changes in these existing regulations present no issues that our analysis identified as posing a risk of adverse impacts. Outreach and communication strategies are in place to ensure all producers will be provided the same information to allow them to make informed compliance decisions regarding the use of their lands that will affect their participation in the U.S. Department of Agriculture (USDA) programs. NRCS conservation programs apply to all persons equally regardless of their race, color, national origin, gender, sex, or disability status. Therefore, the conservation program rules portend no adverse civil rights implications for women, minorities, and persons with disabilities.

#### Paperwork Reduction Act

Section 1246 of the Food Security Act of 1985 (1985 Act), Pub. L. 99-198, states that implementation of programs authorized by Title XII of the 1985 Act be made without regard to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Therefore, NRCS is not reporting recordkeeping or estimated paperwork burden associated with this interim rule.

#### Government Paperwork Elimination Act

NRCS is committed to compliance with the Government Paperwork Elimination Act and the Freedom to E-File Act, which require government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. To better accommodate public access, NRCS has developed an online application and information system for public use.

### Executive Order 13175

This interim rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have been substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. NRCS has assessed the impact of this interim rule on Indian Tribes and determined that this rule does not have Tribal implications that require Tribal consultation under EO 13175. The rule neither imposes substantial direct compliance costs on Tribal governments nor preempts Tribal law. The 2014 Act change addressed in this interim rule that impact participation by Indian Tribes was limited to expanding land eligibility under HFRP to include trust lands. The agency has developed an outreach/collaboration plan that it will implement as it develops its Farm Bill policy. If a Tribe requests consultation, NRCS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

## Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments or the private sector of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA requires NRCS to prepare a written statement, including a cost benefit assessment, for proposed and final rules with “Federal mandates” that may result in such expenditures for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under Title II of the UMRA, for State, local, and Tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

## Executive Order 13132

NRCS has considered this interim rule in accordance with Executive Order 13132, issued August 4, 1999. NRCS has determined that the interim rule conforms with the Federalism principles set out in this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, NRCS concludes that this interim rule does not have Federalism implications.

Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994

Pursuant to section 304 of the Federal Crop Insurance Reform Act of 1994 (Pub. L. 103–354), USDA has estimated that this regulation will not have an annual impact on the economy of \$100,000,000 in 1994 dollars, and therefore, is not a major regulation. Therefore, a risk analysis was not conducted.

Executive Order 13211

This rule is not a significant regulatory action subject to Executive Order 13211, Energy Effects.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996, (Pub. L. 104–121, SBREFA). Therefore, neither NRCS nor the Commodity Credit Corporation (CCC) is required to delay the effective date for 60 days from the date of publication to allow for congressional review. Accordingly, this rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Registration and Reporting Requirements of the Federal Funding and Transparency Act of 2006

OMB published two regulations, 2 CFR part 25 and 2 CFR part 170, to assist agencies and recipients of Federal financial assistance comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282, as amended). Both regulations have implementation requirements effective as of 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. 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.

NRCS has determined that 2 CFR part 25 and 2 CFR part 170 apply to awards of financial assistance provided under its conservation programs. Though the Farm Service Agency (FSA) and NRCS have identified these requirements in program announcements and awards, this interim rule updates the VPA-HIP regulation to reflect these Transparency Act requirements. NRCS will continue to include the requisite provisions as part of its financial assistance awards.

### **Comments Invited**

NRCS invites interested persons to participate in this rulemaking by submitting written comments or views about the changes made by this interim rule. The most helpful comments reference a specific portion of the regulation, explain the reason for any recommended changes, and include supporting data and references to statutory language. All comments received on or before the closing date for comments will be considered. This regulation may be changed because of the comments received. All comments received, as well as a report summarizing each substantive public comment received concerning this interim rule, will be filed in the docket. The docket, including any personal information provided, will be made available for public inspection at: <http://www.regulations.gov>.

## **Background**

This interim rule makes a number of minor changes to existing NRCS rules for various reasons. The 2014 Act made nondiscretionary changes to several conservation programs, including requiring review of operating procedures of the State Technical Committee (7 CFR part 610, subpart C); authorizing the use of the Watershed Protection and Flood Prevention Act to implement the RCPP in Critical Conservation Areas; expanding the definition of “acreage owned by Indian Tribes” under the HFRP (7 CFR part 625) and authorizing the use of HFRP to implement RCPP; and simplifying and streamlining the Regional Equity requirement (7 CFR part 662). The Secretary of Agriculture delegated authority to NRCS to implement the VPA-HIP (7 CFR part 1455), requiring conforming amendments to the regulation originally published by FSA. Internal NRCS administrative changes warrant updating the appropriate delegated official in the TSP provision (7 CFR part 652). Finally, slight adjustments are needed to the AMA program regulation (7 CFR part 1465) to maintain its historic consistency with the amended administrative provisions of EQIP.

### **Discussion of State Technical Committee (7 CFR part 610, subpart C):**

The Food, Conservation, and Energy Act of 2008 (the 2008 Act) amended section 1261(b)(1) of the 1985 Act to require the Secretary to develop standard operating procedures for committees within 180 days of enactment of the 2008 Act. The 2014 Act further requires the Secretary to review and update State Technical Committee operating standards as necessary. The standard operating procedures outline items such as the best practice approach to establishing, organizing, and effectively utilizing State Technical Committees and Local Working Groups; direction on publication of meeting notices,

agendas, and State Technical Committee meeting summaries; how to provide feedback on State Conservationist decisions regarding State Technical Committee recommendations; and other items as determined by the Chief.

The 2014 Act changes regarding the review and update of the operating procedures do not require any changes to the regulations themselves. NRCS has initiated the necessary review of the operating procedures. The operating procedures, and any changes made through the current review of their provisions, will be made available at: <http://directives.sc.egov.usda.gov/>.

The current regulation at 7 CFR 610.24 identifies the programs under Title XII of the 1985 Act about which the State Technical Committee provides advice and input and also provides flexibility to encompass any additional programs authorized by Title XII of the 1985 Act. However, to ensure that there is no confusion, NRCS is amending 7 CFR 610.24 to include a current listing of programs as amended by the 2014 Act.

**Discussion of the Watershed Protection and Flood Prevention Program (7 CFR part 622):**

The Watershed Protection and Flood Prevention Act of 1954, as amended (Pub. L. 83-566) (Watershed Operations) authorizes NRCS to install watershed improvement measures to reduce flooding, sedimentation, and erosion damage; improve the conservation, development, utilization, and disposal of water; and advance the conservation and proper utilization of land. Working in cooperation with soil conservation districts and other local sponsoring organizations, NRCS prepares detailed watershed plans that outline soil and water management problems and proposals to

alleviate the problems, including estimated benefits and costs, cost-sharing arrangements, and operation and maintenance arrangements.

Section 1271F(c)(3) of the 1985 Act, as amended by the 2014 Act authorizes the Secretary to use the Watershed Operations program to carry out projects for the purposes of RCPP (Subtitle I of Title XII of the 1985 Act, as amended) in Critical Conservation Areas designated by the Secretary. RCPP replaces the Agricultural Water Enhancement Program, Chesapeake Bay Watershed Program, Cooperative Conservation Partnership Initiative, and the Great Lakes Basin Program for soil erosion and sediment control. Like the programs it replaces, RCPP will operate through regulations in place for contributing programs. The other RCPP contributing programs include EQIP, Conservation Stewardship Program, HFRP, and the new Agricultural Conservation Easement Program. NRCS is adding reference to part 622 to identify that eligible watershed projects include projects selected for funding under RCPP. This language is needed to facilitate the use of the Watershed Operations programs to carry out projects for the purposes of RCPP in Critical Conservation Areas identified by the Secretary.

**Discussion of the Healthy Forests Reserve Program (7 CFR part 625):**

HFRP is authorized by Title V of the Healthy Forests Restoration Act of 2003 (Pub. L. 108–148). HFRP restores and enhances forest ecosystems in order to: (1) promote the recovery of threatened and endangered species, (2) improve biodiversity, and (3) enhance carbon sequestration. Land enrolled in HFRP is subject to a forest restoration plan, and NRCS enrolls land through the purchase of a permanent conservation easement, an easement for the maximum duration allowed under State law, a 30-year conservation easement or contract, or through entering a 10-year restoration

agreement. In addition to permanent and 30-year easements, HFRP offers an additional enrollment option to Indian Tribes to enroll “acreage owned by Indian Tribes” through 30-year contracts.

The 2014 Act amended section 502(e)(3) of the Healthy Forests Restoration Act by adding a definition of “acreage owned by Indian Tribes” which includes lands held in Trust by the United States and allotted lands which contain restraints against alienation. This definition is inconsistent with the current regulatory definition of “acreage owned by Indian Tribes.” Therefore, NRCS must amend the definition of HFRP regulation at 7 CFR 625.2 to conform the regulatory definition to the new statutory definition.

Additionally, section 2401 of the 2014 Act identifies HFRP as a covered program under RCPP. As mentioned above, RCPP will operate through regulations in place for contributing programs, and NRCS is adding reference to part 625 to identify that eligible projects include HFRP projects selected for funding under RCPP. In addition, NRCS is adding language to allow the Chief to waive nonstatutory discretionary regulatory provisions and operational procedures where the Chief determines that the waiver will further the purposes of HFRP in accordance with the 2014 Act. This language is needed to facilitate RCPP implementation using HFRP in RCPP partner project areas.

**Discussion of the Technical Service Provider(7 CFR part 652):**

The 2014 Act did not make any changes to the implementation the TSP provision; however, internal NRCS administrative changes warrant updating the appropriate delegated official in the TSP provision. Since the TSP final rule was published in 2004, NRCS has modified what official has delegated responsibility for several aspects of the decertification process for TSPs. In particular, the existing TSP regulation identifies the

decertification official as the State Conservationist. However, having a relatively large number of State Conservationists as decertification officials increases the difficulty of consistently applying the TSP decertification process. Many TSPs also provide services across State boundaries, further complicating the implementation of TSP decertification policy. NRCS has determined that the decertification process will be more uniformly implemented at the national level.

NRCS is updating subpart C of the TSP rule by replacing the State Conservationist with the Deputy Chief for Programs as the decertification official. The role of the State Conservationist will be to propose decertification, through a notice, identifying the causes for decertification to the Deputy Chief for Programs. Once the Deputy Chief for Programs has issued a written determination, TSPs will continue to be able to appeal in writing to the Chief of NRCS, if necessary.

**Discussion of Regional Equity (7 CFR part 662):**

Section 2701 of the Farm Security and Rural Investment Act of 2002 (the 2002 Act) amended Subtitle H of the 1985 Act to include Regional Equity. Regional Equity, as established in the 2002 Act, required the Secretary to give priority for funding under conservation programs in Subtitle D of the 1985 Act, excluding the Conservation Reserve Program, the Wetlands Reserve Program, and the Conservation Security Program.

The Secretary was to give priority to approved applications in any States that did not receive an aggregate amount of at least \$12 million for those conservation programs specified in the statute. The funding made available to these States in order to reach the \$12 million requirement, was taken from those States that had initial aggregate funding allocations of specified conservation programs greater than \$12 million. NRCS

implemented the Regional Equity provision utilizing multiple funding procedures from fiscal year (FY) 2004 through FY 2008.

The 2008 Act amended the Regional Equity provision, increasing the regional equity threshold used to identify regional equity States from \$12 million to \$15 million, and adding language to require consideration of the respective demand in each regional equity State. NRCS developed the Regional Equity regulation to reflect the statutory language.

The 2014 Act amends and simplifies the Regional Equity provision. The new Regional Equity provision eliminates the previous April 1 deadline for funding applications, replacing it with a requirement to allow States to establish their ability to utilize funding of at least 0.6 percent of the funds made available for covered conservation programs. States that establish their ability to use the funds would receive at least this amount as part of the normal allocation process. This process is consistent with the agency's regular process used to allocate funding to all States, whether they are covered by the regional equity provision or not.

Therefore, the revised Regional Equity provision can be implemented as an internal administrative matter that does not require a stand-alone regulation. Agency efficiency would be enhanced by having the entire allocation process developed and carried out through the existing internal allocation process. This would improve consistency in the allocation process.

Though the regulation was considered necessary after the 2008 Farm Bill, the new provision in the 2014 Farm Bill is less prescriptive and can be implemented through the agency's regular process to allocate funding, making a regulation unnecessary.

Additionally, the report on the Senate version of the 2014 Farm Bill, (the “Agriculture Reform, Food and Jobs Act of 2013,” S. 954 (2013)) on which the language in the 2014 Farm Bill was based, indicated that the changes were intended to assist in streamlining agency process, stating that the change to a target of 0.6 percent rather than \$15 million was made “in order to allow allocations to synchronize with annual appropriations.” (S. Rep. 113-88, Sept. 4, 2013, p. 100.)

Regional Equity is a statutory funding requirement that requires NRCS to shift overall funding levels between States as compared to the results of the regular agency merit-based allocation formulas. Implementing Regional Equity simply adds a step to the process to identify the Regional Equity States and to shift a relatively minor level of funding to each of those States to reach the statutory threshold. Depending upon the available funding for allocation, the threshold may range anywhere from more than \$10 million to less than \$20 million per State, with much of the threshold being met through the normal program allocation process. In FY 2013, only nine States were identified as Regional Equity States, and only five had a total need to have funds shifted in an amount over \$4 million.

The Regional Equity provision does not affect a participant’s eligibility in any of the conservation programs, nor affect any roles and responsibilities between the agency and a program participant under a conservation program contract. The existing regulation does not govern any program benefit to which any applicant or participant may be entitled. Removing the current regulation would be consistent with the way this provision was carried out from FY 2002-2008.



The 2014 Act only directs NRCS to promulgate regulations necessary to implement conservation programs, not internal allocation and budget procedures.

Therefore, NRCS is removing the Regional Equity regulation from the CFR.

**Discussion of Voluntary Public Access and Habitat Incentive Program (VPA-HIP)  
(7 CFR part 1455):**

The VPA-HIP is authorized by section 1240R of the 1985 Act. VPA-HIP provides, within funding limits, grants to State and Tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting and fishing under programs administered by State and Tribal governments.

VPA-HIP is not an entitlement program, and no grant will be made unless the application is acceptable to the CCC. The program was originally delegated to the Administrator of FSA to administer on behalf of the CCC. The program is now delegated to the Chief of NRCS. NRCS seeks to use the same regulation that FSA promulgated on CCC's behalf and update the regulation to reflect the new delegation.

FSA promulgated the final rule for VPA-HIP in July 2010, and OMB published regulations in September 2010 for the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282, as amended). Therefore, NRCS is amending the VPA-HIP regulation to add the requirements that grantees must comply with OMB regulations at 2 CFR parts 25 and 170.

NRCS is also updating the VPA-HIP regulation to reflect that the program is subject to the provisions of 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

## **Discussion of the Agricultural Management Assistance Program (7 CFR part 1465)**

Through the AMA program, NRCS provides technical and financial assistance to participants in 16 States to address issues such as water management, water quality, and erosion control by incorporating conservation practices into their agricultural operations. Producers may construct or improve water management structures or irrigation structures; plant trees for windbreaks or to improve water quality; and mitigate risk through production diversification or resource conservation practices including soil erosion control, integrated pest management, or organic farming. The 2014 Act did not make any changes to AMA, but NRCS administers AMA conservation program contract requirements consistent with EQIP. Due to changes to the EQIP statute, minor changes are needed to the AMA program regulation to maintain this consistency. The AMA statute did not specify contract duration requirements. NRCS incorporated into the AMA regulation the EQIP contract duration requirements that a contract be in effect for at least one year after final conservation practice implementation. The 2014 Act removed this minimal duration requirement from EQIP, thus NRCS is modifying the AMA regulation to similarly remove this requirement to keep the two programs administrative requirements consistent.

## **List of Subjects**

### 7 CFR Part 610

Soil conservation, State Technical Committee, Technical assistance, Water resources.

### 7 CFR Part 622

Watershed projects, Watershed protection, Flood prevention.

### 7 CFR Part 625

Administrative practice and procedure, Agriculture, Soil conservation.

### 7 CFR Part 652

Natural Resources Conservation Service, Soil conservation, Technical assistance.

### 7 CFR Part 662

Administrative practice and procedure, Agriculture, Soil conservation.

### 7 CFR Part 1455

Agriculture, Animals, Environmental protection, Fishing, Forests and forest products, Grant programs, Hunting, Indians, Indians-land, Natural resources, Recreation and recreation areas, Rural areas, State and local governments, Wildlife.

### 7 CFR Part 1465

Conservation contract, Conservation plan, Conservation practices, Soil and water conservation.

For the reasons stated in the preamble, and under the authority of 16 U.S.C. 3841(d), the Natural Resources Conservation Service amend parts 610, 622, 625, 652, 662, and the Commodity Credit Corporation amends parts 1455 and 1465 of Title 7 of the Code of Federal Regulations (CFR) as follows:

**CHAPTER VI—NATURAL RESOURCES CONSERVATION SERVICE,  
DEPARTMENT OF AGRICULTURE**

**PART 610—TECHNICAL ASSISTANCE**

1. The authority citation for part 610 continues to read as follows:

Authority: 16 U.S.C. 590a-f, 590q, 2005b, 3861, 3862.

2. Section 610.24 is amended by revising paragraph (a) to read as follows:

**§ 610.24 Responsibilities of State Technical Committees.**

(a) Each State Technical Committee established under this subpart will meet on a regular basis, as determined by the State Conservationist, to provide information, analysis, and recommendations to appropriate officials of the U.S. Department of Agriculture (USDA) who are charged with implementing and establishing priorities and criteria for natural resources conservation activities and programs under Title XII of the Food Security Act of 1985 including, but not limited to, the Agricultural Conservation Easement Program, Conservation Reserve Program, Conservation Security Program, Conservation Stewardship Program, Environmental Quality Incentives Program, Conservation Innovation Grants, Conservation of Private Grazing Land, Grassroots Source Water Protection Program, the Voluntary Public Access and Habitat Incentive Program, and the Regional Conservation Partnership Program. The members of the State Technical Committee may also provide input on other natural resource conservation programs and issues as may be requested by NRCS or other USDA agency heads at the State level as long as they are within the programs authorized by Title XII. Such recommendations may include, but are not limited to, recommendations on:

- (1) The criteria to be used in prioritizing program applications;
- (2) The State-specific application criteria;
- (3) Priority natural resource concerns in the State;
- (4) Emerging natural resource concerns and program needs; and
- (5) Conservation practice standards and specifications.

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## **PART 622—WATERSHED PROJECTS**

3. 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.

4. Section 622.11 is amended by adding a new paragraph (b)(4) to read as follows:

### **§ 622.11 Eligible watershed projects.**

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(b) \*\*\*

(4) Are implemented pursuant to the Regional Conservation Partnership Program authorized by Subtitle I of Title XII of the Food Security Act of 1985 (Pub. L. 99-198).

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## **PART 625—HEALTHY FORESTS RESERVE PROGRAM**

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

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

6. Section 625.1 is amended by adding a new paragraph (e) to read as follows:

### **§ 625.1 Purpose and scope.**

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(e) Pursuant to the Regional Conservation Partnership Program (RCPP) authorized by Subtitle I of Title XII of the Food Security Act of 1985 (Pub. L. 99-198):

- (1) Eligible Healthy Forests Reserve Program (HFRP) projects may be selected for funding under RCPP; and
- (2) The Chief may modify or waive a nonstatutory discretionary provision or operational procedure of this part if the Chief determines the waiver of such provision or procedure is necessary to further HFRP purposes.

7. Section 625.2 is amended by revising the definition of “Acreage Owned by Indian Tribes” to read as follows:

### **§ 625.2 Definitions.**

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Acreage Owned by Indian Tribes means:

- (1) Land that is held in trust by the United States for Indian Tribes or individual Indians;
- (2) Land, the title to which is held by Indian Tribes or individual Indians subject to Federal restrictions against alienation or encumbrance;
- (3) Land that is subject to rights of use, occupancy, and benefit of certain Indian Tribes;
- (4) Land that is held in fee title by an Indian Tribe; or

- (5) Land that is owned by a native corporation formed under section 17 of the Act of June 18, 1934, (commonly known as the ‘Indian Reorganization Act’) (25 U.S.C. 477) or section 8 of the Alaska Native Claims Settlement Act (43 U.S.C. 1607); or
- (6) A combination of one or more types of land described in paragraphs (1) through (5) of this definition.

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## **PART 652—TECHNICAL SERVICE PROVIDER ASSISTANCE**

8. The authority citation for part 652 continues to read as follows:

Authority: 16 U.S.C. 3842.

9. Section 652.4 is amended by revising paragraph (g) to read as follows:

### **§ 652.4 Technical service standards.**

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- (g) The TSP will report conservation accomplishments associated with the technical services provided to the Department and the participant.

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10. Section 652.5 is amended by revising paragraph (l)(2)(ii) to read as follows:

### **§ 652.5 Participant acquisition of technical services.**

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(1)\*\*\*

(2) \*\*\*

(ii) NRCS will establish TSP payment rates for the various categories of technical services. NRCS will determine the rates according to NRCS regional and local cost data, procurement data, and market data.

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11. Section 652.32 is amended by revising the introductory text to read as follows:

**§ 652.32 Causes for decertification.**

A State Conservationist, in whose State a technical service provider is certified to provide technical service, may submit a Notice of Proposed Decertification to the Deputy Chief for Programs recommending decertification of the technical service provider in accordance with these provisions if the technical service provider, or someone acting on behalf of the technical service provider:

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12. Section 652.34 is revised to read as follows:

**§ 652.34 Opportunity to contest decertification.**

To contest decertification, the technical service provider must submit in writing to the Deputy Chief for Programs, within 20 calendar days from the date of receipt of the Notice of Proposed Decertification, the reasons why the Deputy Chief for Programs should not decertify, including any mitigating factors as well as any supporting documentation.

13. Section 652.35 is revised to read as follows:

**§ 652.35 Deputy Chief of Programs decision.**

Within 40 calendar days from the date of the notice of proposed decertification, the Deputy Chief for Programs will issue a written determination. If the Deputy Chief for



Programs decides to decertify, the decision will set forth the reasons for decertification, the period of decertification, and the scope of decertification. If the Deputy Chief for Programs decides not to decertify the technical service provider, the technical service provider will be given written notice of that determination. The decertification determination will be based on an administrative record, which will be comprised of the Notice of Proposed Decertification and supporting documents, and if submitted, the technical service provider's written response and supporting documentation. Both a copy of the decision and administrative record will be sent promptly by certified mail, return receipt requested, to the technical service provider.

14. Section 652.36 is amended by revising paragraph (a) to read as follows:

**§ 652.36 Appeal of decertification decisions.**

- (a) Within 20 calendar days from the date of receipt of the Deputy Chief for Program's decertification determination, the technical service provider may appeal in writing to the NRCS Chief. The written appeal must state the reasons for appeal and any arguments in support of those reasons. If the technical service provider fails to appeal, the decision of the Deputy Chief for Programs is final.

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15. Section 652.37 is amended by revising the introductory text to read as follows:

**§ 652.37 Period of decertification.**

The period of decertification will not exceed 3 years in duration and will be decided by the decertifying official, either the Deputy Chief for Programs or the Chief of NRCS, as applicable, based on their weighing of all relevant facts and the seriousness of the reasons for decertification, mitigating factors, if any, and the following general guidelines:

\*\*\*\*\*

16. Section 652.38 is amended by revising paragraph (b) to read as follows:

**§ 652.38 Scope of decertification.**

\*\*\*\*\*

(b) In cases where specific individuals are decertified only, an entity or public agency must file within 10 calendar days an amended Certification Agreement removing the decertified individual(s) from the Certification Agreement. In addition, the entity or public agency must demonstrate that, to the satisfaction of the Deputy Chief for Programs, the entity or public agency has taken affirmative steps to ensure that the circumstances resulting in decertification have been addressed.

**PART 662 - [REMOVED AND RESERVED]**

17. Remove and reserve part 662.

**CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE**

**PART 1455—VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM**

18. The authority citation for part 1455 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3839.

19. In part 1455, remove the term “RFA” with the term “APF” wherever it appears.

20. Section 1455.1 is amended by revising paragraph (c) to read as follows:

**§ 1455.1 Purpose and administration.**

\*\*\*\*\*

(c) The regulations in this part are administered under the general supervision and direction of the Chief, Natural Resources Conservation Service (NRCS).

21. Section 1455.11 is amended by revising paragraphs (a) and (f)(5)(iii)(E), and adding paragraph (f)(5)(iii)(H) to read as follows:

**§ 1455.11 Application procedure.**

(a) Announcement of Program Funding (APF). The CCC will issue periodic APFs for VPA-HIP on [www.grants.gov](http://www.grants.gov) subject to available funding. Unless otherwise specified in the applicable APF, applicants must file an original and one hard copy of the required forms and an application.

\*\*\*\*\*

(f)\*\*\*

(5)\*\*\*

(iii) \*\*\*

(E) A detailed description of how and to what extent public hunting and other recreational access will be increased on land enrolled under a USDA conservation program, or if conservation program land is not available, specify that there is no impact;

\*\*\*\*\*

(H) A description on how this will create a new program or enhance an existing program.

\*\*\*\*\*

22. Section 1455.20 is amended by revising paragraphs (b) and (c)(5) to read as follows:

**§ 1455.20 Criteria for grant selection.**

\*\*\*\*\*

(b) After all applications have been evaluated using the evaluation criteria and scored in accordance with the point allocation specified in the announcement for program funding, a list of all applications in ranked order, together with funding level recommendations, will be submitted to the Chief or designee.

(c) \*\*\*

(5) *Strengthening wildlife habitat for lands under a USDA conservation program.*

The application will be evaluated to determine whether the project proposes to provide incentives to increase public hunting and other recreational access on land enrolled under a USDA conservation program.

\*\*\*\*\*

23. Section 1455.30 is amended by revising paragraph (a) introductory text and paragraph (b), and adding a new paragraph (c) to read as follows:

**§ 1455.30 Reporting requirements.**

(a) Grantees must provide the following to NRCS:

\*\*\*\*\*

(b) All reports submitted to NRCS will be held in confidence to the extent permitted by law.

(c) Grantees 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.

24. Section 1455.31 is amended by revising paragraphs (e), (f), (h), (i), and (j) to read as follows:

**§ 1455.31 Miscellaneous.**

\*\*\*\*\*

(e) Appeals. Appeals will be handled according to 7 CFR parts 11, 614, and 780.

(f) Environmental review. All grants made under this subpart are subject to the requirements of 7 CFR part 650. Applicants for grant funds must consider and document within their plans the important environmental factors within the planning area and the potential environmental impacts of the plan on the planning area, as well as the alternative planning strategies that were reviewed.

\*\*\*\*\*

(h) Other regulations. The grant program under this part is subject to the provisions of 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(i) Audit. Grantees must comply with the audit requirements of 2 CFR part 200. The audit requirements apply to the years in which grant funds are received and years in which work is accomplished using grant funds.

(j) Change in scope or objectives. The Grantee must obtain prior approval from NRCS for any change to the scope or objectives of the approved project. Failure to

obtain prior approval of changes to the scope of work or budget may result in suspension, termination, or recovery of grant funds.

\*\*\*\*\*

## **PART 1465—AGRICULTURAL MANAGEMENT ASSISTANCE**

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

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

26. Section 1465.21 is amended by revising paragraph (b)(2) to read as follows:

### **§ 1465.21 Contract requirements.**

\*\*\*\*\*

(b) An AMA contract will:

(2) Be for a duration of not more than 10 years;

\*\*\*\*\*

Signed this 24th day of July, 2014 in Washington, D.C.

Jason A. Weller,  
Vice President, Commodity Credit Corporation and  
Chief, Natural Resources Conservation Service.

[FR Doc. 2014-17993 Filed 07/31/2014 at 8:45 am; Publication Date: 08/01/2014]