

Rules and Regulations

Federal Register

Vol. 75, No. 138

Tuesday, July 20, 2010

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1413

RIN 0560-AH72

Wheat and Oilseed Programs; Durum Wheat Quality Program

AGENCY: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule implements specific requirements for the Durum Wheat Quality Program (DWQP) authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). The 2008 Farm Bill authorizes the DWQP for fiscal years 2009 through 2012 to partially compensate producers for the cost of fungicides applied to durum wheat to control Fusarium head blight, commonly known as wheat scab.

DATES: *Effective Date:* July 20, 2010.

FOR FURTHER INFORMATION CONTACT: Candace Thompson, Director, Production, Emergencies, and Compliance Division; Farm Service Agency (FSA); U.S. Department of Agriculture (USDA), Mail Stop 0517, 1400 Independence Avenue, SW., Washington, DC 20250-0517; telephone (202) 720-3463; e-mail to: candy.thompson@wdc.usda.gov.

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SUPPLEMENTARY INFORMATION:

Background

Section 1613 of the 2008 Farm Bill (Pub. L. 110-246) authorizes the Secretary of Agriculture to compensate producers of durum wheat for up to 50 percent of the actual cost of fungicide applied to control Fusarium head blight,

a wheat disease caused by the Fusarium genus of fungi.

The 2008 Farm Bill authorizes annual appropriations for DWQP. The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (2010 Agriculture Appropriations Bill, Pub. L. 111-80) provides \$3 million for this program in fiscal year 2010. This rule implements specific requirements for the DWQP in 7 CFR part 1413. DWQP is a Commodity Credit Corporation (CCC) program that will be administered by FSA.

The basic eligibility requirements, authorized funding limit, and compensation rates for this program are specified in the 2008 Farm Bill. The details in this rule on eligible fungicides, the application process, and acceptable documentation of the producer's actual cost are discretionary provisions.

Applying for DWQP Payments; DWQP Payment Calculation

Producers must file a completed application in the FSA county office during the application period announced by the Deputy Administrator. To be eligible, a producer must have used an eligible fungicide to control Fusarium head blight on acres certified as planted to durum wheat. This rule specifies that producers must provide documentation to show:

- The total number and location of acres planted to durum wheat to which an eligible fungicide was applied to control Fusarium head blight, and
- The actual cost of the eligible fungicide.

This rule specifies that producers must certify the dates:

- Durum wheat was planted, and
- Eligible fungicide was applied to durum wheat to control Fusarium head blight.

Payments to eligible producers will be based on 50 percent of their actual cost for eligible fungicide or a per-acre national fungicide acquisition payment rate set by the FSA Deputy Administrator, whichever is lower, plus a per-acre State application payment rate, as set by the State committee. The fungicide acquisition payment rate set by the Deputy Administrator will be based on 50 percent of the national average cost of an eligible fungicide

applied per acre of durum wheat, for the applicable crop year. The application payment rate set by the State committee will be based on 50 percent of the State's average cost to apply an eligible fungicide per acre of durum wheat, for the applicable crop year. If eligible applications exceed the available funding, FSA plans to prorate the available funds by a national factor to reduce the total expected payments to the amount available for the crop year. The 50 percent of actual cost limit on the payment rate is specified in the 2008 Farm Bill.

Producers may treat the crop with eligible fungicides more than once during the crop year, but only one such treatment per year during the flowering stage will be eligible for DWQP payment. CCC will collect data on reasonable per acre usage and application rates for a single treatment of fungicide, and will take that into consideration when calculating the national fungicide payment rate. As noted above, the payments will be 50 percent of actual cost or the payment rate, whichever is lower.

To be considered an eligible fungicide for DWQP, the fungicide must have been registered with the Environmental Protection Agency (EPA) and be compliant with State pesticide regulations in the State in which benefits are being requested. Information on eligible pesticides in a State is available on State environmental Web sites. The EPA maintains State Resource Locators and contact information for State pesticide programs at <http://www.epa.gov/pesticides/safety/applicators/statepro.htm>.

CCC will announce the period for submitting payment applications under this program. The program application period for a crop year will end September 15 of that crop year. During the application period, durum wheat producers may apply in person at FSA county offices during regular business hours. Applications may also be submitted by mail or fax. Program applications may be obtained in person, by mail, telephone, or fax from any FSA county office or via the Internet at <http://forms.sc.egov.usda.gov/eForms>. Any application received after September 15 of the applicable crop year will not receive consideration and

producers on that application will be ineligible for payment.

The application period for the 2010 crop year will end September 15, 2010. An annual deadline for applications is necessary because CCC must know the total value of requested payments in order to determine if payments will exceed the available funding for that year. We anticipate that for FY 2010, payment applications may exceed the available \$3 million in appropriated funding and we will need to prorate the payments. This program is funded by annual appropriations, so in future years there may be more or less funding for this program than is available for FY 2010. No funding was appropriated for this program in FY 2009, so there was no application period in 2009, and subsequently no available payments. Application periods for subsequent years will be announced as funding becomes available. The application periods are expected to be typically at least 60 days, and never, it is anticipated, less than 30 days, as determined by the Deputy Administrator, subject to when the appropriations become available, and will always end on September 15 of the applicable year.

CCC will establish a reserve fund for errors and appeals. These reserve funds are only intended for corrections and payments for disapproved applications that are successfully appealed, and not for late-filed applications.

2008 Farm Bill provisions that mandate an eligibility limit that prevents payments for persons with an average adjusted gross income (AGI) limitation above certain amounts (depending on the program) do not apply to this program and no such test will be applied.

Miscellaneous DWQP Provisions

All producers must meet the eligibility and documentation requirements provided in this rule. False certifications carry serious consequences. CCC will validate applications with random compliance spot-checks.

Producers receiving DWQP payments must keep records and supporting documentation for 3 years following the end of the year in which the application for payment was filed. The discretionary recordkeeping requirement is consistent with other FSA and CCC rules and programs. Payments will only be made for one fungicide treatment as one treatment should suffice and will allow for equal treatment of producers consistent with the spirit and letter of the 2008 Farm Bill.

DWQP producers must have been in compliance with the regulations at 7 CFR part 12, "Highly Erodible Land and Wetland Conservation," during the year for which the person is requesting benefits. Those regulations provide for a denial of benefits for failing to comply with general requirements regarding the handling of highly erodible cropland and wetlands.

Appeal regulations in 7 CFR parts 11 and 780 apply and under those rules it is the program agency's view and position that appeals are not allowed for matters of general applicability rather than factual determination and under that view producers would not be able to appeal CCC determinations that are not limited to particular disputes for a particular producer or producers but are matters of policy. These include, but are not limited to, general regulatory provisions that apply to similarly situated producers.

This Rule and Related Programs

This rule adds a new part 1413, "Commodity Incentive Payment Programs," to Title 7 of the Code of Federal Regulations (CFR). This new part will include regulations for DWQP and two other commodity incentive programs authorized by the 2008 Farm Bill. Subpart A of the new part 1413, which is added with this rule, specifies provisions for DWQP. Subparts B and C will be added later when the hard white wheat and oilseed incentives programs specified in sections 1605 and 1612 of the 2008 Farm Bill are funded and implemented.

Notice and Comment

These regulations are exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. 553), as specified in section 1601(c) of the 2008 Farm Bill, which requires that the regulations be promulgated and administered without regard to the notice and comment provisions of Section 553 of title 5, United States Code or to the Statement of Policy of the Secretary effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking.

Executive Order 12866

This final rule has been designated as not significant under Executive Order 12866 and has not been reviewed by the Office of Management and Budget. The cost benefit analysis is summarized below and is available from the contact information listed above.

Summary of Economic Impacts

DWQP is funded by annual appropriations. The appropriated funding for FY 2010 is \$3 million, which is the expected maximum cost of this program for FY 2010. The cost of this program, and benefit to producers, will depend upon how many producers apply for the program, but will in no case exceed appropriated funding. Program participation levels will likely increase if weather conditions warrant the application of fungicide to eligible crops. Costs and benefits for FY 2010 are expected to range between \$500,000 and \$3 million. In FY 2011–2012, costs and benefits could be as much as \$10 million per year, the maximum authorized for appropriations, but are expected to average under \$1.5 million, based on historical data of fungicide usage. Most of the program participants who will receive the benefits are expected to be durum wheat producers in Montana and North Dakota.

Regulatory Flexibility Act

This rule is not subject to the Regulatory Flexibility Act since CCC is not required to publish a notice of proposed rulemaking for this rule.

Environmental Evaluation

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799). The changes to the Wheat and Oilseed Programs and Durum Wheat Quality Program required by the 2008 Farm Bill that are identified in this final rule are actions that do not require an assessment or an EIS (7 CFR 799.10(b)(2)(x)). Therefore, FSA will not prepare an environmental assessment or an environmental impact statement.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published in the **Federal Register** on June 24, 1983 (48 FR 29115).

Executive Order 12988

This rule has been reviewed under Executive Order 12988. This final rule is not retroactive and it does not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. Before any judicial action may be

brought regarding the provisions of this rule the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on 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. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

The policies contained in this rule do not have Tribal implications that preempt Tribal law.

Unfunded Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, or Tribal governments, or the private sector. In addition, CCC is not required to publish a notice of proposed rulemaking for this rule. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Domestic Assistance Program

The title and number of the Federal Domestic Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, is the Durum Wheat Quality Program—10.095.

Paperwork Reduction Act

These regulations are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. Chapter 35), as specified in section 1601(c)(2)(a) of the 2008 Farm Bill, which provides that these regulations, which are necessary to implement title I of the 2008 Farm Bill, be promulgated and administered without regard to the Paperwork Reduction Act.

E-Government Act Compliance

CCC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 CFR Part 1413

Agricultural commodities, Oilseeds, Reporting and recordkeeping requirements, Wheat.

■ For the reasons explained above, CCC adds 7 CFR part 1413 to read as follows:

PART 1413—COMMODITY INCENTIVE PAYMENT PROGRAMS

Authority: 7 U.S.C. 8788 and 15 U.S.C. 714.

Subpart A—Durum Wheat Quality Program

- Sec.
- 1413.101 Applicability.
 - 1413.102 Definitions.
 - 1413.103 Administration.
 - 1413.104 Eligibility.
 - 1413.105 [Reserved]
 - 1413.106 Application process.
 - 1413.107 Availability of funds.
 - 1413.108 Payment calculation.
 - 1413.109 Refunds, joint and several liability.
 - 1413.110 Misrepresentation and scheme or device.
 - 1413.111 Miscellaneous provisions.
 - 1413.112 Appeals.
 - 1413.113 Deceased individuals or dissolved entities.
 - 1413.114 Records and inspections.

Subpart B [Reserved]

Subpart C [Reserved]

Subpart A—Durum Wheat Quality Program

§ 1413.101 Applicability.

(a) This subpart establishes the terms and conditions under which the Durum Wheat Quality Program (DWQP) as authorized by section 1613 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246) will be administered.

(b) This program will operate only to the extent appropriated funding is available.

(c) Subject to available funding, eligible producers of durum wheat will be partially compensated for the cost of purchasing and applying fungicides to a crop of durum wheat to control Fusarium head blight on acres accurately certified as planted to durum wheat. “Available funding” requires that there be a specific appropriation for the program that applies to a particular crop for which the producer seeks compensation under this program.

§ 1413.102 Definitions.

The following definitions apply to this subpart. The definitions in parts 718 and 1400 of this title also apply, except where they conflict with the definitions in this section.

Application period means the dates established by the Deputy Administrator for Farm Programs for producers to apply for program benefits.

CCC means the Commodity Credit Corporation.

Crop year means the calendar year in which the wheat was harvested or

intended to be harvested. For example, a reference to the 2010 crop year of wheat means wheat that when planted was intended for harvest in calendar year 2010.

Durum wheat means all varieties of white (amber) durum wheat as defined in the U.S. Standards for Wheat (7 CFR part 810, subpart M) including, but not limited to, hard amber durum wheat and amber durum wheat.

Flowering stage means the period of time during the wheat growth stage, after the head emergence has completed and prior to milk development in the kernel.

State committee, county committee or county office means the respective FSA committee or office.

United States means all 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

USDA means the United States Department of Agriculture.

§ 1413.103 Administration.

(a) DWQP will be administered under the general supervision of the Executive Vice President, CCC (Administrator, Farm Service Agency (FSA)), or a designee, and will be carried out in the field by FSA State and county committees and FSA employees.

(b) FSA representatives do not have authority to modify or waive any of the provisions of the regulations of this subpart, except as specified in paragraph (e) of this section.

(c) The State FSA committee will take any action required by the provisions of this subpart that the county FSA committee has not taken. The State FSA committee will also:

(1) Correct, or require a county FSA committee to correct, any action taken by such county FSA committee that is not in compliance with the provisions of this subpart.

(2) Require a county FSA committee to not take an action that is not in compliance with the provisions of this subpart.

(d) No provision or delegation to a State or county FSA committee will preclude the Administrator, Deputy Administrator, or a designee from determining any question arising under the program in this subpart, or from reversing or modifying any determination made by a State or county FSA committee.

(e) The Deputy Administrator may authorize State and county FSA committees to waive or modify non-statutory program requirements of this subpart in cases where failure to meet such requirements does not adversely

affect operation of the program in this subpart. Producers have no right to seek an exception under this provision. The Deputy Administrator's refusal to consider cases or circumstances or decision not to exercise this discretionary authority under this provision will not be considered an adverse decision and is not appealable.

§ 1413.104 Eligibility.

(a) To be considered eligible for DWQP payments, the person or entity must have a share in the treated wheat crop on those acres planted to durum wheat on which an eligible fungicide was applied, as certified on the application, have incurred the cost of acquiring and applying eligible fungicide, and meet the requirements in paragraph (b) of this section.

(b) To be eligible for benefits, a person or entity must be a:

- (1) Citizen of the United States;
- (2) "Lawful alien" as defined in § 1400.3 of this chapter;
- (3) Partnership of citizens of the United States; or

(4) Corporation, limited liability corporation, or other farm organizational structure organized under State law.

(c) A minor child is eligible to apply for DWQP payments if all the eligibility requirements of this subpart are met and the requirements in part 1400 of this chapter that apply to minor children are met.

(d) A person or entity determined to be a foreign person under part 1400 of this title is not eligible to receive benefits under this subpart, unless that person provides land, capital, and a substantial amount of active personal labor in the production of crops on such farm.

(e) State and local governments and their political subdivisions and related agencies are not eligible for DWQP payments.

(f) To be considered an eligible fungicide under this subpart, the fungicide must be:

(1) Registered with the U.S. Environmental Protection Agency, as required under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), unless exempt from FIFRA requirements;

(2) In compliance with State pesticide regulations, if applicable, in the State in which benefits are being requested; and

(3) Applied specifically to control Fusarium head blight on acres certified as planted by the producer to durum wheat for the applicable crop year.

(g) CCC will provide program benefits to reimburse eligible costs for a maximum of one fungicide treatment,

including application cost, during the flowering stage, to a crop of durum wheat per crop year. Multiple or additional fungicide treatments, beyond a single treatment, to the same crop of wheat are not eligible for benefits.

§ 1413.105 [Reserved]

§ 1413.106 Application process.

(a) To apply for DWQP payment, the producer must submit, to the FSA county office that maintains the producer's farm records for the agricultural operation, a completed application as specified in paragraph (c) of this section, including any supporting documentation required by FSA, and a report of acreage.

(b) The producer must submit a completed application for payment and required supporting documentation to the administrative FSA county office during the relevant, for the crop, application period announced by FSA which will end no later than September 15 of the crop year in which the fungicide was applied to a crop of durum wheat.

(c) A complete application includes all of the following:

(1) An application form provided by FSA;

(2) Certification of the total number and location of acres planted to durum wheat on which an eligible fungicide was applied specifically to control Fusarium head blight;

(3) Certification of the date durum wheat, on which an eligible fungicide was applied specifically to control Fusarium head blight, was planted;

(4) Certification of the type of eligible fungicide applied to acres certified as planted to durum wheat;

(5) Certification of the date eligible fungicide was applied to acres certified as planted to durum wheat;

(6) Documentation providing adequate proof, as determined by FSA, of the producer's actual cost of purchasing and applying eligible fungicide to acres certified as planted to durum wheat for one treatment; and

(7) Any other documentation as determined by FSA to be necessary to make a determination of eligibility of the producer.

(d) The producer requesting benefits under this program certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information provided is subject to verification by FSA.

(e) Data furnished by the producer will be used to determine eligibility for program benefits. Furnishing the data is

voluntary; however, without all required data program benefits will not be approved or provided.

§ 1413.107 Availability of funds.

(a) The 2008 Farm Bill authorizes up to \$10 million to be appropriated for each of the 2009 through 2012 fiscal years for DWQP. Payments will not be made for claims for a particular crop year until after the application deadline, which is September 15 of that crop year, for the crop for which payment for the fungicide application is sought and only if funds are made available through an appropriation.

(b) In the event that approval of all eligible applications for fungicide treatments for a particular crop would result in expenditures in excess of the amounts appropriated for that crop year, the FSA Deputy Administrator will prorate the funds by a national factor to reduce the total expected payments to the amount made available by the Secretary. FSA will prorate the payments in such manner as it determines appropriate and reasonable.

(c) Claims that are unpaid or paid at a reduced rate for a crop year for any reason will not be carried forward for payment under other funds for later crop years, unless provided for by law and approved by the Deputy Administrator. Such unpaid claims will be considered, as to any unpaid amount, void and nonpayable.

§ 1413.108 Payment calculation.

(a) Subject to the availability of DWQP funds, the payment to an eligible producer will be the result of adding (adjusted for the producer's share of the crop):

(1) The lesser of:

(i) The result of multiplying the number of acres certified by the producer as planted to durum wheat on which an eligible fungicide was applied, during the flowering stage, times the per acre national fungicide acquisition payment rate as set by the Deputy Administrator; or

(ii) Fifty percent of the producer's actual cost of purchasing eligible fungicide for acres certified as planted to durum wheat and treated for the applicable crop year in a manner that would otherwise generate a payment under paragraph (a)(1)(i) of this section; plus

(2) The result of multiplying the number of acres certified as planted to durum wheat on which an eligible fungicide was applied during the flowering stage, times the State application per-acre payment rate set by the State committee, with such application payment not to exceed 50

percent of the actual application cost certified to by the producer.

(b) The national fungicide acquisition payment rate set by the Deputy Administrator will be based on 50 percent of the national average cost of eligible fungicide (only including the cost of the chemical itself), applied to one acre of durum wheat for the applicable crop year.

(c) The State application payment rate set by the State committee will be based on 50 percent of the State average cost of applying an eligible fungicide to one acre of durum wheat for the applicable crop year.

§ 1413.109 Refunds, joint and several liability.

(a) Excess payments, payments provided as the result of erroneous information provided by any person, or payments resulting from a failure to comply with any requirement or condition for payment in the application or this subpart, must be refunded to CCC.

(b) A refund required as specified in this section will be due with interest from the date of CCC disbursement and otherwise determined in accordance with paragraph (d) of this section and late payment charges as provided in part 1403 of this chapter.

(c) Persons signing an application for payment as having an interest in an operation will be jointly and severally liable for any refund and related charges found to be due as specified in this section.

(d) Interest will be applicable to any refunds required as specified in parts 792 and 1403 of this title. Such interest will be charged at the rate that the U.S. Department of the Treasury charges CCC for funds, and will accrue from the date CCC made the erroneous payment to the date of repayment.

(e) CCC may waive the accrual of interest if it determines that the cause of the erroneous determination was not due to any action of the person, or was beyond the control of the person committing the violation. Any waiver is at the discretion of CCC alone.

§ 1413.110 Misrepresentation and scheme or device.

(a) In addition to other penalties, sanctions, or remedies as may apply, a producer will be ineligible for payment through the DWQP if the producer is determined by CCC to have:

- (1) Adopted any scheme or device that tends to defeat the purpose of the program,
- (2) Made any fraudulent representation, or
- (3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this subpart to any producer engaged in a misrepresentation, scheme, or device, must be refunded with interest together with such other sums as may become due and all charges including interest will run from the date of disbursement of the CCC funds. Any producer engaged in acts prohibited by this section and any producer receiving payment as specified in this subpart will be jointly and severally liable with other persons or producers involved in such claim for payment for any refund due as specified in this section and for related charges. The remedies provided in this subpart will be in addition to other civil, criminal, or administrative remedies that may apply.

§ 1413.111 Miscellaneous provisions.

(a) *Other interests.* Any payment to any producer under this part will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government.

(b) *Assignments.* Any producer entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 1404 of this chapter.

(c) *Offsets.* CCC may offset or withhold any amount due to CCC from any benefit provided under this subpart in accordance with the provisions of part 1403 of this chapter and part 792 of this title.

(d) *Violations of highly erodible land and wetland conservation provisions.* The provisions of part 12 of this title apply to this subpart. That part sets out certain conservation requirements as a general condition for farm benefits.

(e) *Violations regarding controlled substances.* The provisions of § 718.6 of this title, which generally limit program payment eligibility for persons who have engaged in certain offenses with respect to controlled substances, will apply to this part.

§ 1413.112 Appeals.

(a) *Appeals.* Appeal regulations set forth at parts 11 and 780 of this title apply to determinations made under this subpart.

(b) *Determinations not eligible for administrative review or appeal.* CCC determinations and policies that are not limited to a specific individual producer's application are not to be construed to be individual program eligibility determinations or adverse decisions and are, therefore, not subject to administrative review or appeal under 7 CFR part 11 or part 780 of this

title (but nothing in the regulations for this program will limit the ability of the National Appeals Division to decide its own jurisdiction under part 11). Such determinations include, but are not limited to, application periods, deadlines, crop years, prices, general statutory or regulatory provisions that apply to similarly situated producers, national average payment prices, and payment factors established by CCC for DWQP for which this subpart applies or similar matters requiring CCC determinations.

§ 1413.113 Deceased individuals or dissolved entities.

(a) Payment may be made for an eligible application on behalf of an eligible producer who is now a deceased individual or is a dissolved entity if a representative who currently has authority to enter into a contract on behalf of the producer signs the application for payment.

(b) Legal documents showing proof of authority to sign for the deceased individual or dissolved entity must be provided.

(c) If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

§ 760.114 Records and inspections.

(a) Any producer receiving DWQP payments, or any other legal entity or person who provides information for the purposes of enabling a producer to receive a DWQP payment, must:

(1) Maintain any books, records, and accounts supporting the information for 3 years following the end of the year during which the request for payment was submitted, and

(2) Allow authorized representatives of USDA and the U.S. Government Accountability Office, during regular business hours, to inspect, examine, and make copies of such books or records, and to enter the farm and to inspect and verify all applicable acreage in which the producer has an interest for the purpose of confirming the accuracy of information provided by or for the producer.

(b) [Reserved]

Subpart B [Reserved]**Subpart C [Reserved]**

Signed in Washington, DC on July 14, 2010.

Jonathan W. Coppess,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2010-17636 Filed 7-19-10; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 13, 47, and 91**

[Docket No. FAA-2008-0188; Amendment Nos. 13-34, 47-29, 91-318]

RIN 2120-A189

Re-Registration and Renewal of Aircraft Registration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the FAA's regulations concerning aircraft registration. Over a 3-year period, this rule will terminate the registration of all aircraft registered before October 1, 2010, and will require the re-registration of each aircraft to retain U.S. civil aircraft status. These amendments also establish a system for a 3-year recurrent expiration and renewal of registration for all aircraft issued registration certificates on or after October 1, 2010. This final rule amends the FAA's regulations to provide standards for the timely cancellation of registration numbers (N-numbers) for unregistered aircraft. This final rule makes other minor changes to establish consistency and ensure the regulations conform to statute or current Registry practices. These amendments will improve the accuracy of the Civil Aviation Registry database and will ensure that aircraft owners provide information to maintain accurate registration records. These amendments respond to the concerns of law enforcement and other government agencies to provide more accurate, up-to-date aircraft registration information. **DATES:** These amendments become effective October 1, 2010.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule contact John Bent, Civil Aviation Registry, AFS-700, FAA Mike Monroney Aeronautical Center, 6500 South MacArthur Boulevard, Oklahoma City, OK 73169; Telephone (405) 954-4331; e-mail john.g.bent@faa.gov. For

legal questions concerning this final rule contact Robert Hawks, Office of Chief Counsel, (AGC-240); Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267-7143; e-mail rob.hawks@faa.gov.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Chapter 441, Section 44111. Under that section, the FAA is charged with prescribing regulations considered necessary to carry out this part. In that section, Congress mandated the Administrator modify the system for registering and recording aircraft necessary to make the system more effective in serving the needs of its users. The modifications described in this amendment include measures to ensure positive, verifiable, and timely identification of the true owners of aircraft operated in the national airspace system. Thus, these changes are within the scope of the FAA's statutory authority and are a necessary and reasonable exercise of that authority.

Table of Contents

- I. Executive Summary of the Final Rule
- II. Background
- III. Summary of Comments
- IV. Discussion of Final Rule
 - A. Aircraft Re-Registration and Periodic Renewal of Registration
 - B. Reminder Notice, Extended Filing Timeframes, and Online Access
 - C. Triennial Aircraft Registration Report No Longer Required
 - D. Time Limits for Aircraft in Sale Reported and Registration Pending Status
 - E. Conforming Amendments
- V. Miscellaneous Comments
 - A. Re-Registration and Renewal
 - B. Risks and Disruption
 - C. Fees, User Fees, New Taxes
 - D. Alternatives Suggested by Commenters
- VI. Regulatory Notices and Analyses
 - A. Paperwork Reduction Act
 - B. International Compatibility
 - C. Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment
 - D. Executive Order 13132, Federalism
 - E. Environmental Analysis
 - F. Regulations that Significantly Affect Energy Supply, Distribution, or Use

- G. Availability of Rulemaking Documents
- H. Small Business Regulatory Enforcement Fairness Act

I. Executive Summary

The FAA estimates that approximately one-third of the 357,000 registered aircraft records it maintains are inaccurate and that many aircraft associated with those records are likely ineligible for United States registration. The inaccuracies result from failures in the voluntary compliance based system. Although aircraft owners are required to report the sale of an aircraft, death of an owner, scrapping or destruction of an aircraft, and changes in mailing address; many have not. Without owner initiated action, there has been no means to correct those records. The FAA has been asked by government and law enforcement agencies to provide more accurate and up-to-date aircraft registration information. This rule is intended to support the needs of our system users.

The changes made by this Final Rule provide the FAA Aircraft Registry the tools to improve the currency and accuracy of the Civil Aircraft Registry database and maintain the improvement into the future. Re-registration of all U.S. civil aircraft over a three year period will redraw the Civil Aircraft Register with current data derived from recent contact with aircraft owners. Additionally, the FAA is enabled to cancel the registrations of those aircraft that are not re-registered. These amendments will also ensure that aircraft owners refresh that data by providing information on the status of their aircraft at least once every three years when registration is renewed. The expected reduction in registration data error provided by this rule and the corresponding cost of implementation is shown in the table below with estimates for alternate renewal intervals that were considered.

This rule also eliminates the present Triennial Aircraft Registration Report Program, provides clear time limits and standards for canceling aircraft with registrations that have ended and for which no new registration application has been made or completed. It also makes several administrative changes to conform the regulation to statute and current registration practices.

An NPRM was published in the **Federal Register** on February 28, 2008 (73 FR 10701), requesting input on these goals and the proposed procedures to achieve them. Significant comments addressed concern that the proposed fee for registration renewal, which occurs every third year, would be increased and used as a device to raise revenue: