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DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Part 4284

[Docket No. RBS-24-BUSINESS-0004]

RIN 0570-AB03

Modernizing Grant Program Regulation

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Final rule; confirmation and response to comments.

SUMMARY: The Rural Business-Cooperative Service (RBCS or the Agency), an agency of the Rural Development (RD) mission area within the U.S. Department of Agriculture (USDA), published a final rule with comment in the **Federal Register** on September 16, 2024, to implement the provisions of the Agriculture Improvement Act of 2018 related to the Value-Added Producer Grant (VAPG) Program and the Agriculture Innovation Center (AIC) Program and to modernize the Rural Cooperative Development Grant Program (RCDG). These changes will also help simplify and streamline RD program delivery. Through this action, RBCS is confirming the final rule as it was published and providing responses to the public comments that were received.

DATES: The final rule published September 16, 2024, at 89 FR 75762, and is confirmed and effective November 15, 2024.

FOR FURTHER INFORMATION CONTACT: Melinda Martin, Program Management Division, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250-3201; telephone (202) 720-1400; email: melinda.c.martin@usda.gov.

SUPPLEMENTARY INFORMATION: RD is a mission area within USDA comprised of RBCS, the Rural Utilities Service and the Rural Housing Service. RD's mission is to increase economic opportunity and

improve the quality of life for all rural Americans. RD meets its mission by providing loans, grants, loan guarantees, and technical assistance through a multitude of programs aimed at creating and improving businesses, housing and infrastructure throughout rural America.

The final rule that published September 16, 2024 (89 FR 75762), included a 30-day comment period that ended October 16, 2024. The changes implemented the mandatory provisions outlined in sections 7608 and 10102 of the Agriculture Improvement Act of 2018 (Pub. L. 115-334) and updated and reorganized subparts F, J and K. In addition, language in subpart J was updated to incorporate a new application intake system that was developed and will streamline the application process for VAPG. With the changes, each subpart is a standalone set of definitions and requirements for each individual grant program.

The Agency received detailed comments from 19 respondents consisting of nonprofit cooperative development centers, individuals, and current and past awardees of RBCS grant programs. The majority of the respondents felt the changes were positive and would provide clarity for the applicants, but several did identify areas where additional changes may be needed. The Agency reviewed the comments, categorized them as general or by section of the final rule, and provided an Agency response below. The Agency has decided to proceed with implementation of the final rule without further amendments.

General—Program Accessibility

Comments: Three respondents stated that accessibility for Federal programs should be improved for small businesses and nonprofits. One identified the audit requirement, stating that requiring an audit limits these organizations from applying because they cannot afford an audit. Another identified a lack of inclusivity for small and micro-sized agricultural businesses and nonprofit organizations led by Afro-American, Native, and transplanted American communities in the Northern Mariana Islands. A third identified matching funds requirements as a concern.

Agency Response: The Agency agrees. The Agency is aware that accessing Federal programs is difficult for smaller organizations and strives to limit

program requirements to those that are required by applicable laws and regulations. Neither the RCDG program nor the VAPG program have audit requirements beyond the ones required by 2 CFR part 200. The AIC program does have an audit requirement for all applicants. However, it must be noted that small businesses are not eligible applicants for the program. It is imperative that applicants who are considered for funding have the financial capability to administer up to a \$1.5 million project. Thus, reviewing the audit for certain financial standards is a critical part of the review process to ensure that the Agency selects applicants who have the financial resources to carry out the authorized work for the program. The Agency recognizes the need to be inclusive of all people and ensure equitable access to funding opportunities and services. Priority is given to distressed and disadvantaged communities and also to historically underserved agricultural producers. With regard to matching funds, all three programs have statutory requirements that are implemented through this regulation.

General—Local Agriculture Market Program (LAMP) Report to Congress

Comment: One respondent noted that while VAPG awards reach all states, very few awards reached the following states: Wyoming, Utah, Arizona, Nevada, North Dakota, Louisiana, Arkansas, Alabama, and Mississippi. To strengthen program implementation, the commenter suggested that the annual LAMP Report to Congress include additional factors such as the number of applications being received from these underrepresented states, what type of projects are being funded in those states, the agricultural products created, and the proportion of awards by priority categories within individual states.

Agency Response: The Agency will collaborate with the Agriculture Marketing Service to assess the information that will appear in future LAMP reports to Congress.

Sec. 4284.501 Purpose

Comment: One respondent states that § 4284.501 mentions that grants are made to *non-profit institutions*, then § 4284.503 defines *institutions* as a college. The respondent continues by stating it is vital that private, non-profit charitable organizations be explicitly

eligible for the grants and would like for the Agency to clarify the eligibility of 501(c)(3) charitable non-profits.

Agency Response: In § 4284.503 Definitions, the final rule defines a Nonprofit Institution as “any organization or institution, including an accredited Institution of Higher Education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.” A 501(c)(3) charitable non-profit would be included in this definition. In addition, RCDG applicants must have a mission that is in line with the purpose of the program and provide targeted support for the startup, expansion, and operational improvement of Cooperatively and Mutually Owned Businesses in Rural Areas.

Sec. 4284.503 Definitions

Comment: One respondent recommended that the Agency include the International Cooperative Alliance (ICA)’s Statement on Cooperative Identity in its processes and written materials.

Agency Response: The Agency acknowledges that many cooperatives in the United States look to the Alliance’s Statement of Cooperative Identity for guidance; however, the Agency will be using a definition of Cooperative based on legal concepts recognized in the United States.

Comment: One respondent stated that the definition for Cooperative Development fails to include many of the essential business development activities, such as business plans, feasibility analysis, and financial analysis that are critical in cooperative development. The respondent recommends adding these activities to the definition of Cooperative Development.

Agency Response: Cooperative Development is a subset of the defined term Technical Assistance which incorporates the activities of assessment and analysis through Feasibility Studies and Business Plans, customized training, written information, in person or virtual exchanges, web-based curricula, and webinars.

Comment: One respondent requested that the Agency amend the definition of Mutually Owned Business to include the following: “This section allows for cooperatively governed businesses that may not distribute patronage.” The respondent believes this will explicitly recognize childcare and housing cooperatives (that provide a service at cost and use cost savings instead of patronage), as well as purchasing

cooperatives that may include not-for-profit members such as school districts.

Agency Response: The Agency understands that some cooperatives like childcare and housing cooperatives operate at cost and may not distribute patronage, but that members benefit in proportion to their use of the cooperative business. Mutually Owned Businesses and Cooperatives that operate at cost are Cooperatives as defined in the regulation. Therefore, no change will be made to the definition of Mutually Owned Business.

Comment: Two respondents stated that including a separate definition for Mutually Owned Business was unnecessary and creates confusion. One goes on to state that “*Mutually Owned Business*” means a business not incorporated under a Cooperative statute but operating as a Cooperative. Cooperative operation of the business is reflected in the articles and bylaws.” The respondent believes this substantially undercuts the clarity of the Rule’s definition of Cooperative by creating a seemingly different model and referring to corporate entity enabling laws. The respondent states that Congress did not intend to create two different categories of enterprise for RCDG purposes and thinks that cooperatively and mutually owned businesses are a single concept, not two different categories.

Agency Response: The definition of Mutually Owned Business adopts the definition of Cooperative by reference. The Agency provided a separate definition for Mutually Owned Business to clarify that a Mutually Owned Business that operates on a Cooperative basis meets the definition of a Cooperative for the purposes of the authorizing statute. Consequently, there is no adverse impact to Mutually Owned Businesses with respect to eligibility or merit-based evaluation for the RCDG program.

Comment: Six respondents noted that the final rule does not define “Underserved and Economically Distressed” but will be defined in the annual notification for the RCDG program. The concern is that this will lead to annual inconsistencies with how these areas are determined, create confusion among applicants, and inefficiencies in planning work. The respondents recommend defining the term in the final rule. Two respondents also noted that cooperative developers frequently work with economically distressed populations in regions that may not carry that label and would like for there to be flexibility for applicants to describe and justify ways in which

they serve economically distressed populations.

Agency Response: Defining “Underserved and Economically Distressed” in the annual notification instead of the final rule will allow the Agency to give attention to the priorities of the administration, while also receiving consistent data and maintaining equity among applicants in the program competition.

Sec. 4284.522 Project Eligibility

Comment: Two respondents state that the Agency is placing more value on new cooperatives being developed relative to helping existing cooperatives to thrive. One noted that projects are required to focus on the development of new rural cooperatives and is concerned that assistance to existing cooperatives was left out. The respondent reasons that assistance to existing cooperatives for improvement or expansion can often lead to creation of new jobs and improved economic activity and would like for the Agency to consider adding the phrase “or existing cooperatives” to the develop new cooperatives requirement.

Agency Response: The Agency disagrees. Section 4284.522(a)(2) requires applicants to focus on establishing or operating a Center with the goals of creating jobs in Rural Areas through the development of new Rural Cooperatives, Value-Added processing, and Rural businesses. The Agency agrees that establishing a Center involves the development of a new cooperative, however, operating a Center includes providing assistance to existing cooperatives. Providing assistance to existing cooperatives is already an eligible project focus so adding the requested phrase to the final rule is unnecessary.

Sec. 4284.531 Application Requirements

Comment: Seven respondents addressed the performance metrics included in the final rule. All were in favor of the Agency continuing to use the previously required metrics or allowing applicants to create their own metrics that are specific to the needs and service demands of their respective state and region. One respondent suggested “removing (L) Financial loss avoided as a result of a ‘no-go’ decision in the Cooperative Development Process.” They questioned the basis of this calculation and stated that it would not be something that would be planned at the time of application and may occur at various stages of the process.

Agency Response: While the Agency has outlined a set of performance

metrics to capture the intent of the program and to track the benefits and effects on rural communities, we want to emphasize that applicants may provide a “null” response to any of these metrics without penalty. The intent is that applicants respond to metrics that match the goals identified in the applicant’s work plan and budget. Additionally, we encourage applicants to suggest additional metrics that they believe would enhance their proposals, as we are not scoring the required metrics in a way that would adversely affect their applications. The annual notification for the program will include this guidance.

Comment: One respondent disagrees with the Agency’s decision to require centers to describe their experience within the last three years. They noted that applicants are encouraged to highlight how they have helped develop sustainable businesses and provide economic development statistics, but it often takes cooperatives and small businesses more than three years to reach desired levels of performance and profitability. The respondent thinks the Agency should change the requirement back to experience within the last five years, as was required previously.

Agency Response: The Agency recognizes that it often takes Cooperatives and Mutually Owned Businesses more than three years to reach desired levels of performance and profitability. A Center with three years of experience likely has clients in various stages of Cooperative Development. The three-year period allows the Cooperative Development Center to highlight its more recent experience.

Comment: Four respondents noted that the final rule does not address scoring criteria for letters of support. Three of the respondents want the Agency to continue considering letters of support in the scoring process for RCDG. However, one respondent believes requiring applicants to obtain ten letters is excessive and takes time away from developing the application itself. If support letters remain a scoring criterion, they requested that the required number of support letters be reduced to five to ease the burden on applicants.

Agency Response: The Agency understands the importance of demonstrating local collaboration. However, after careful consideration, the Agency decided to remove this requirement. The Agency’s goal is to encourage applicants to provide a more comprehensive narrative, within the workplan and budget, that truly reflects their impact and partnerships, rather

than relying on letters that may not offer substantive insights. The Agency believes this approach will lead to a clearer understanding of each Project’s community engagement and potential benefits.

Comment: One respondent believes that the Agency should continue requiring applicants to include their incorporation documentation in their RCDG application.

Agency Response: In streamlining the regulation, the Agency determined it best for applicants to provide the incorporation information within the context of the application. The Agency is now requesting more specific information from the applicant about the Technical Assistance provided to the Cooperative and Mutually Owned Business that leads to incorporation in § 4284.531(b)(5)(v)(A).

Comment: One respondent questioned the need for a complete address in the Experience section of the application. They stated that when a cooperative developer is working with a new cooperative, there may or may not be a complete address available until the entity is incorporated and noted that previously they only needed to name the business or effort and a community.

Agency Response: The Agency understands that there may not be a complete address available until an entity is incorporated. The annual notification for the program will include additional guidance on what location information should be submitted in your application for a new cooperative if a complete address is not available.

Comment: One respondent stated that the final rule did not identify years of experience required in the Experience section and noted that five years of experience was previously required.

Agency Response: The Agency disagrees. Section 4284.531(b)(5)(v)(A) identifies that experience described in the application must be within the last three (3) years.

Comment: Two respondents are concerned that making New Cooperative Approach an application requirement could be confusing and counterproductive. One noted that while it is good to encourage innovation, competent and successful work should be properly valued. Even though new approaches may not occur every year, a Center may be doing very good work that should continue. The second stated that although encouraging innovation is important, requiring Centers to develop New Cooperative Approaches annually will be challenging and time consuming. The respondent believes it also distracts from the technical assistance delivery

focus by requiring Centers to spend time conducting research and seeking projects that can fit into a new cooperative approach category instead of providing technical assistance to existing or newly forming cooperatives in need of services. The respondent goes on to state that existing proven approaches already meet the needs of most Center clients. They suggest providing more flexibility in this area, allowing Centers to focus on adapting and refining their existing approaches as needed.

Agency Response: The application requirement of New Cooperative Approach as a scoring criterion is required in the authorizing statute for the program.

Sec. 4284.533 Submission Requirements

Comment: Three respondents voiced their support of the application submission period included in the final rule. Two of the respondents also requested that the Agency consider staggering the deadlines for the RCDG and Socially Disadvantaged Groups Grant (SDGG) programs by two weeks to decrease the burden on centers applying for both programs.

Agency Response: The Agency agrees and will work to ensure that sufficient time is allotted between the RCDG and SDGG programs’ application windows.

Sec. 4284.540 Application Processing

Comment: One respondent asked if the Agency plans to retain the use of qualitative evaluation criteria. They noted this as a specific evaluation criterion called out by the program in the past and found it to be an important component of RCDG application process.

Agency Response: The Agency is no longer scoring on the applicant’s use of qualitative evaluation. Instead, the Agency will be performing a qualitative evaluation on the performance of the program using the newly required post-award outcome reports.

Sec. 4284.554 Multi-Year Award

Comment: Five respondents voiced their support of the RCDG program offering a multi-year funding opportunity to previous recipients. However, three of the respondents encouraged the Agency to only award multi-year grants if additional appropriations are received so that there is not a decrease in the number of award recipients. If multi-year grants are implemented without a commensurate increase in appropriations, the three respondents suggested that they be awarded contingent upon future

appropriations. They believe this would maintain the improved efficiency and consistency of multi-year grants without jeopardizing the national impact of the program.

Agency Response: The Agency agrees. The multi-year funding option will be contingent upon an increase in future appropriations.

Sec. 4284.560 Reporting Requirements

Comment: Two respondents questioned the requirement to submit two annual outcome performance reports. One asked if the two reports referred to one financial report and one narrative report. The other asked if the two reports were requesting different metrics or longer-term outcomes.

Agency Response: The intent of the requirement pertains to submitting an annual outcome performance report for two years following the submission of the final report. The report's purpose is to assess the performance metrics outlined in your application and evaluate whether the primary goals and objectives of the approved work plan and budget were achieved. The final rule will be effective as written but the Agency will look to clarify this requirement in the annual notice and when future updates are made to the regulation.

Sec. 4284.916 Reserved Funds

Comment: One respondent recommends that any reserved funds not obligated by September 30 of each Fiscal Year for Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, and food safety related projects to remain in those categories.

Agency Response: The Agency disagrees. The VAPG statute allows for any funds in the Beginning Farmers or Ranchers, Socially-Disadvantaged Farmers or Ranchers, and Food Safety categories that are not obligated by September 30 of the Fiscal Year for which the funds were made available, to be available to the Agency to carry out any function of the program. Therefore, unobligated funds in those categories will be available in the general fund competition the subsequent program cycle.

Sec. 4284.925 Allowable Uses of Grant and Matching Funds

Comment: One respondent stated that the final rule does not provide sufficient information on the types of allowable food safety related expenses and recommends making the following items allowable under the food safety project category:

- Easy-to-Clean Food Contact Surfaces to help prevent biological and physical contamination
- Portable Hand washing Stations to strengthen hygiene practices; plumbed dedicated handwashing sinks
- Small-scale box/produce washer (AZS brush washer) to effectively clean produce
- Salad spinner to ensure leafy greens are effectively washed, dried, and cooled in a way that prevents contamination
- Coolbot systems, or any type of refrigeration equipment or forced air cooler to ensure proper cooling of produce
- Cooler thermometer and monitoring to ensure proper cooling of produce
- Electrolux spin dryer to effectively clean produce
- On-site septic systems or alternative waste treatment systems to prevent contamination of product
- Equipment Calibration Services to ensure equipment is maintained and correctly calibrated to meet Current Good Manufacturing Practice guidelines
- Any other equipment that is required to access new markets through a federal, state or local food safety law or a third-party audit
- Water treatment systems and monitoring equipment for post-harvest/processing
- Labeling equipment (for lot codes/traceability)
- Traceability software—FSMA 204 compliance/food safety
- ATP meters for cleaning and sanitation validation
- Food safety recordkeeping software
- Cleaning and sanitizing equipment
- Refrigerated transportation (mobile coolers, refrigerated trucks/vans)

The respondent goes on to state that expenses related to food safety certification, such as GAP certification or pre-harvest food safety certification, should be considered allowable as long as they are a part of a larger project scope that is integral to their marketing of a value-added product. They believe the following certifications should be allowable:

- Training fees (e.g., PCQI training)
- Process validation costs for products—not really certification but not equipment
- Post-harvest HGAP audit fees
- Food safety consultant fees—assist with HACCP plans, post-harvest food safety plans, GMP implementation.

Agency Response: Food safety related expenses associated with the post-harvest processing and/or marketing of

a value-added product are eligible for the program. However, expenses that are unallowable as defined in § 4284.926 of the program regulation will not be allowed. Examples of eligible food safety related expenses will be included in the application material for the program as well as on a fact sheet published on the USDA VAPG website.

Sec. 4284.931 Application Requirements

Comment: One respondent believes that requiring both a feasibility study and business plan for VAPG applications is excessive for most producers. The commenter stated that requiring only a business plan would be sufficient for most applicants. Their second suggestion includes allowing applicants to submit either a feasibility study or a business plan, providing flexibility for producers to choose the appropriate option for their project.

Agency Response: The Agency disagrees. Applicants requesting Emerging Market grants for products they have marketed for two years or less face unknown challenges and obstacles moving a Project forward. A Business Plan will assist with establishing a set of business goals for the Project along with reasons why they are obtainable. The Business Plan will also address the Pro Forma financial goals of the Project. A Feasibility Study is a comprehensive analysis of the economic, market, technical, financial, and management capabilities of a Project or business in terms of the Project's expectation for success. This would include looking at the Business Plan to ensure there is a reasonable expectation of success. Because of this, the Agency believes both a Feasibility Study and Business Plan are necessary.

Comment: One respondent stated that the final rule clarifies that applicant in-kind contributions can fulfill 100 percent of matching fund requirements but is concerned that the requirement that matching funds be spent in advance of grant funding may act as a project barrier, since some in-kind match of the producer will come later in the cycle of the project. They reason that applicants should be able to request reimbursement for approved project costs before the spend-down of their match contribution as to not impede the implementation of the project. The commenter recommends creating an advance payment option, modeled off options offered in the Natural Resources Conservation Service's Environmental Quality Incentives Program. This would allow beginning farmers or ranchers, socially disadvantaged farmers and ranchers, and veteran farmers to be

eligible to receive a portion of the award up front.

Agency Response: Program regulations require that funds be matched at a rate equal to or in advance of grant funds. The VAPG program has historically been a reimbursement-based program. The Agency believes that advanced payments would not be appropriate for the program and could lead to matching requirements not being met. This could result in a recipient being required to repay advanced funds to the Agency. Please note that applicant in-kind contributions of applicant or family members' time being spent on the project is restricted to 50 percent of the Matching Funds amount. Applicant third-party contributions of the Agricultural Commodity inventory to be used in the Project can be used to satisfy up to 49 percent of the Matching Funds requirement.

Sec. 4284.933 Submission Requirements

Comment: One respondent voiced their support of the application submission period included in the final rule and noted a set application period will result in higher quality applications. Another voiced concern about the submission period for the program. The respondent stated that the submission period is problematic because producers are being asked to establish a budget for items and services that will not be purchased before October 1, a full 7½ months after submission of the application, and the likelihood of service providers holding to pricing for that long is unlikely. Also, producers will just be coming off the busiest months of the year (June to October) and typically schedule time off over the holidays so they will have to scramble to complete the application by February 15. The respondent recommends an application submission period of January 15 to April 15, or something close to those dates. They believe this will put the application period in the slowest months of the year for most agricultural producers and allow them to put together a budget with price quotes closer to the time that funds would be spent.

Agency Response: When determining the timing of the application period for VAPG, the Agency considered multiple factors including the impact of the timing on the applicant pool, input from stakeholders, and the resources of the Agency. The Agency believes that the selected application submission period balances these factors by setting the deadline for the applications during what is typically a less busy time for Agricultural Producers while also

allowing approximately 3.5 months for application completion.

Comment: One respondent is concerned that making the application online-only may discourage some rural applicants from applying. The respondent noted that rural areas throughout the United States struggle with broadband access and often lack the infrastructure needed to provide consistent, quality internet coverage. They request that paper applications still be available and considered equally against electronic applications.

Agency Response: The program regulation does not address the format of applications; instead, the application submission process, including where to submit an application and the format of the application will be described in the annual notification for the program. The Agency is currently investing significant resources into developing an accessible application process and commits to considering applicant and Agency resources when setting up the submission process each year.

Sec. 4284.940 Application Processing

Comment: Two respondents recommend that no preferential treatment be given to applicants that provide documentation of cash match, versus in-kind matching contributions.

Agency Response: The Agency believes that it has provided additional flexibility with the allowance of in-kind matching funds contributions from applicants to recognize the value of applicant-provided labor and commodities. However, cash contributions are considered to be a stronger contribution than in-kind because of the financial investment and frequently contribute to more successful project outcomes. It is important to note that applications are not selected for funding based solely on the type of match contributed.

Comment: One respondent stated that food safety applications should be reviewed by a separate panel that has familiarity with the food safety landscape. They suggested that prioritization in the selection of reviewers be oriented towards food safety extension educators and processing educators, nonprofit technical assistance providers, and producers who have a variety of production profiles as regards crop diversity.

Agency Response: Each eligible application will be scored in accordance with § 4284.940(c) by independent reviewers and USDA RD staff as described in the annual notification. The annual notification will include relevant education and experience

requirements for independent reviewers to ensure they are qualified to review VAPG applications, including those in the food safety category.

Sec. 4284.1003 Definitions

Comment: One respondent expressed concerns about the updated definition of Agricultural Producer. Their concerns focused on the percentage of ownership of the agricultural commodity and the percentage of the agricultural commodity that an agricultural producer can purchase. They felt that these percentages may be limiting. The respondent also felt that the definition doesn't necessarily need to be aligned with the VAPG program.

Agency Response: The Agency disagrees. The Agency believes that the AIC program and the VAPG program need to use consistent definitions wherever possible. The AIC program receives a portion of the funds appropriated for the VAPG program and is one of three programs designed to support value-added agriculture in a specific way. Allowing assistance to go to organizations that have minority ownership from agricultural producers or to agricultural producers who are buying the majority of the agricultural commodity needed for the value-added agricultural product dilutes the effect of the program for agricultural producers, who are the legally-mandated beneficiary.

Comment: One respondent stated that the program should explicitly reference aquaculture.

Agency Response: The Agency agrees. The Agency believes that the explicit reference to aquaculture in the definition of Agricultural Commodity in the final rule is sufficient.

Comment: One respondent stated that including the following terms in the definition of Producer Services adds clarity: applied research, product taste-testing, and recipe development.

Agency Response: The Agency agrees. The Agency expects the changes made, in the final rule, to the definition of Producer Services will provide clarity to applicants and recipients.

Comment: One respondent stated that the two changes mandated by the 2018 Farm Bill to the requirements for the Center's Board of Directors (BOD) are beneficial for their Center. The two changes are to allow a State Legislator to provide representation on the BOD in lieu of a representative from the State Department of Agriculture and to allow representation from any four Agricultural Commodity Organizations instead of only from the four highest-grossing commodities in the State.

Agency Response: The Agency agrees. The Agency supports these changes as allowing additional flexibility for Centers to meet the requirements for the BOD.

Sec. 4284.1020 Applicant Eligibility

Comment: One respondent stated that additional space should be created for community colleges to administer AIC awards.

Agency Response: The Agency disagrees. There is no provision in the authorizing statute to give preference or additional accommodation to community colleges. These community colleges are eligible to apply as long as they meet the requirements identified in the regulation.

Sec. 4284.1021 Ultimate Beneficiary Eligibility

Comment: One respondent stated that the program should allow Centers to provide producer services to all value-added producers and processors regardless of ownership structure and percentage of ownership of the agricultural commodity.

Agency Response: The Agency disagrees. First, the authorizing statute for the program restricts Center assistance to only agricultural producers. Second, the program supports the same objectives that the VAPG program does, which are to help agricultural producers increase their revenue and customer base for the value-added agricultural products they make from the agricultural commodities that they grow or raise. Allowing assistance to go to organizations that have minority ownership from agricultural producers or to agricultural producers who are buying the majority of the agricultural commodity needed for the value-added agricultural product dilutes the effect of the program for agricultural producers, who are the legally-mandated beneficiary.

Sec. 4284.1022 Project Eligibility

Comment: One respondent stated that the changes to establish a minimum award amount, a period of performance, and limitations on contracts with other Centers adds greater clarity for applicants and that the minimum and maximum award amounts are appropriate for three-year periods of performance.

Agency Response: The Agency agrees. The Agency supports adding clarity for applicants and establishing appropriate award amounts.

Sec. 4284.1031 Application Requirements

Comment: One respondent stated that the change to streamline the requirements for an application from a narrative format to a form should make applying to the program clearer and less burdensome.

Agency Response: The Agency agrees. Two primary goals of this rulemaking effort were to clarify requirements and make the application process less burdensome for applicants.

Sec. 4284.1040 Application Processing

Comment: One respondent stated that reducing duplication in the merit evaluation criteria is helpful to applicants.

Agency Response: The Agency agrees. The Agency believes that reducing duplication will streamline the application and merit evaluation process.

Sec. 4284.1051 Notification of Successful Applicants

Comment: One respondent stated that moving the burden for some requirements, such as the verification of matching funds and demonstrating that the Center has a qualified BOD, from the application phase to the award phase will significantly reduce the burden for all applicants and especially for successful applicants.

Agency Response: The Agency agrees. The Agency believes that moving this burden will streamline the application process for all applicants. However, it notes that the requirements still exist at the time of application; only the need to verify or demonstrate that the applicant meets the requirement has shifted from the application to the award phase.

No change to the rulemaking is necessary at this time. The Agency appreciates the comments received. The Agency confirms the final rule without change.

Kathryn E. Dirksen Londrigan,

Administrator, Rural Business-Cooperative Service, USDA Rural Development.

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DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Parts 250 and 290

[Docket ID: BSEE-2023-0014 EEEE50000 256E1700D2 ET1SF0000.EAQ000]

RIN 1014-AA57

Bonding Requirements When Filing an Appeal of a Bureau of Safety and Environmental Enforcement Civil Penalty

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior (Interior) is amending regulations administered by the Bureau of Safety and Environmental Enforcement (BSEE) regarding the bonding requirements for entities filing an appeal from a BSEE decision that assesses a civil penalty. The regulations will clarify that entities appealing a BSEE civil penalty decision to the Interior Board of Land Appeals (IBLA) must have a bond covering the civil penalty assessment amount for the IBLA to have jurisdiction over the appeal.

DATES: This final rule is effective on January 13, 2025.

FOR FURTHER INFORMATION CONTACT: For technical questions, contact Janine Marie Tobias at Janine.Tobias@bsee.gov or (202) 208-4657. For procedural questions, contact Kirk Malstrom at (703) 787-1751 or by email at regs@bsee.gov.

SUPPLEMENTARY INFORMATION:

Executive Summary

Pursuant to the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1350), BSEE has the delegated authority to assess civil penalties to certain entities engaged in energy exploration, development, and production operations on the Outer Continental Shelf (OCS) following certain violations by those entities of a statutory provision, regulation, order, or lease, license, or permit term. Interior's implementing regulations for this authority are located at 30 CFR part 250, "Subpart N-Outer Continental Shelf Civil Penalties" (§§ 250.1400-250.1409). Additional relevant regulations regarding the procedures for appealing civil penalty assessments are found at 30 CFR part 290, "Subpart A-Bureau of Safety and Environmental Enforcement Appeal Procedures" (§§ 290.1-290.8).

BSEE recently commenced a review of its regulations for civil penalty