

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1291

[Document Number AMS-FV-08-0057; FV-08-379]

RIN 0581-AC88

#### Specialty Crop Block Grant Program—Farm Bill

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule finalizes regulations to administer the Specialty Crop Block Grant Program—Farm Bill (SCBGP-FB) to enhance the competitiveness of specialty crops. This action finalizes eligibility and application requirements and grant administration procedures for the SCBGP-FB consistent with the Food, Conservation, and Energy Act of 2008 (Farm Bill) amendments to the Specialty Crops Competitiveness Act of 2004. This program is separate from the Specialty Crop Block Grant Program (SCBGP).

**DATES:** Effective March 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Trista Etzig, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0235, Washington, DC 20250-0235; Telephone: (202) 690-4942; Fax: (202) 720-0016; or E-mail: [trista.etzig@usda.gov](mailto:trista.etzig@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

##### Public Law 104-4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state and local governments and the private sector. Under section 202 of the UMRA, the Agricultural Marketing Service (AMS) generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by state and local governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532). When such a statement is needed for a rule, section 205 of the UMRA generally requires federal agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule (2 U.S.C. 1535).

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for state and local governments or the private sector of \$100 million or more in any one year. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

##### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

##### Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.170, Specialty Crop Block Grant Program—Farm Bill.

##### Executive Order 12372

This program is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials (See 7 CFR part 3015, subpart V).

##### Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule would not have a substantial direct effect on states or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

##### Regulatory Flexibility Act

The AMS certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-534, as amended (5 U.S.C. 601 *et seq.*). This rule only will impact state departments of agriculture that apply for grant funds. States, as defined under the SCBGP-FB, mean the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. The States are not small entities under the Act.

##### Authority for a Specialty Crop Block Grant Program

This program is intended to accomplish the goal of enhancing the competitiveness of specialty crops. The SCBGP-FB is authorized under section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note, amended under section 10109 of the Food, Conservation, and Energy Act of 2008, the Farm Bill). Section 10109 directs the Secretary of Agriculture to make grants to states to be used by state departments of agriculture solely to enhance the competitiveness of specialty crops. This program is separate from the Specialty Crop Block Grant Program (SCBGP) found in 7 CFR part 1290.

##### Background

The AMS Fruit and Vegetable Program intends to announce every fiscal year that applications may be submitted for participation in a “Specialty Crop Block Grant Program—Farm Bill”, which will be administered by personnel of AMS.

Mandatory funding is expected to be made available to the Secretary of Agriculture to provide specialty crop block grants of \$49 million for fiscal year 2009 and \$55 million in each of

fiscal years 2010 through 2012, less USDA administrative costs. Each fiscal year, the AMS intends to publish a notice in the **Federal Register** announcing the program and soliciting grant applications. The notice will include the amount of grant funds available to each state and the application period.

For each fiscal year, each state that submits an application that is reviewed and approved by AMS is to receive at least an amount that is equal to the higher of \$100,000, or 1/3 of 1 percent of the total amount of funding made available for that fiscal year to enhance the competitiveness of specialty crops. In addition, each state will receive an amount that represents the proportion of the value of specialty crop production in the state in relation to the national value of specialty crop production using the latest available complete specialty crop production data set in all states whose applications are accepted.

All 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands are eligible to participate. SCBGP–FB applications will be accepted from any state department of agriculture, that means the agency, commission, or department of a state government responsible for agriculture within the state.

“Specialty crops” for the purpose of this rule, means fruits and vegetables, tree nuts, dried fruits, horticulture and nursery crops (including floriculture). The inclusion of horticulture means turfgrass sod is a covered commodity.

Projects that support biobased products and bioenergy and energy programs, including biofuels and other alternative uses for agricultural and forestry commodities (development of biobased products) should see the USDA energy Web site at: <http://www.usda.gov/rus/index2/0208/EnergyPrograms.htm> for information on how to submit those projects for consideration to the energy programs supported by USDA. Also, agricultural cooperatives, producer networks, producer associations, local governments, nonprofit corporations, public health corporations, economic development corporations, regional farmers’ market authorities and Tribal governments that are interested in submitting projects that support farmers’ markets that do not solely enhance the competitiveness of eligible specialty crops should visit the Farmers’ Market Promotion Program (FMPP) Web site at: <http://www.ams.usda.gov/fmpp> for information on how to submit those projects for consideration to FMPP.

Section 1291.4 prescribes that grant funds shall be used solely to enhance the competitiveness of eligible specialty crops and benefit the specialty crop industry and/or the public. For a list of eligible specialty crops and ineligible commodities, please refer to the SCBGP Web site at <http://www.ams.usda.gov/fv>.

Section 1291.6 prescribes application procedures that include a State plan to indicate how grant funds will be utilized solely to enhance the competitiveness of specialty crops. For examples on how to complete the application, please refer to the SCBGP–FB Web site at <http://www.ams.usda.gov/fv>.

State departments of agriculture are required to describe their outreach efforts to specialty crop producers, including socially disadvantaged and beginning farmers, and describe their efforts to conduct a competitive process to ensure maximum public input and benefit.

Section 1291.9 prescribes that states who do not apply for or do not request all available funding during the specified grant application period will forfeit all or that portion of available funding not requested for that application year. Funds not obligated will be allocated pro rata to the remaining states who applied during the specified grant application period to be solely expended on projects previously approved in their State plan.

A technical correction was made to § 1291.10(d) to add the SCBGP–FB to the statement that AMS, after reasonable notice to a State, and opportunity to be heard, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, AMS may disqualify, for one or more years, the State from receipt of future grants under the SCBGP or SCBGP–FB.

An interim final rule was published in the **Federal Register** on September 4, 2008 (73 FR 51585). Interested persons were invited to submit written comments until November 3, 2008. During the comment period, five comments were received. Comments were received from specialty crop organizations, one state department of agriculture and a university. AMS has considered each comment timely submitted, and they are discussed below.

#### Summary of Comments Received

##### *Completed Application*

One commenter suggested that the language in § 1291.6(d)(1), “If outreach was performed to specialty crop producers, including socially

disadvantaged and beginning farmers of specialty crops regarding the SCBGP–FB, provide a description of the affirmative steps taken to perform this outreach to these groups” does not adequately comply with the statement in the Joint Explanatory Statement of the Committee of Conference on pages 239–240 (Farm Bill Managers report) requesting USDA to “encourage each state making applications for funding under the Specialty Crop Block Grant Program to provide a written plan detailing the affirmative steps it will take to perform outreach to specialty crop producers in the development of the state’s overall grant plan, including outreach to socially disadvantaged and beginning farmers of specialty crops.” The commenter requests the language be revised to require an annual written plan and a demonstration of real, iterative progress in funding projects that benefit socially disadvantaged and beginning farmers of specialty crops. While AMS believes the language in the interim final rule adequately addresses the concerns raised in the Farm Bill Managers report, AMS has amended § 1291.6(d)(1) to require the affirmative steps each state has made in conducting outreach to socially disadvantaged and beginning farmers including how the these groups were identified and the methods used to reach out to them. If steps were not taken to conduct outreach to these groups, provide a justification why not. In addition, definitions for both beginning farmers and socially disadvantaged farmers have been added to § 1291.2.

One commenter suggested the language in § 1291.6(d)(1), “Indicate if a competitive process was used to solicit and evaluate grant proposals from all interested parties. If a competitive process was not used to solicit and evaluate grant proposals, explain why not” does not meet the intent of the statement in the Farm Bill Managers report requesting USDA to “encourage state departments of agriculture to develop their grant plans through a competitive process in order to ensure maximum public input and benefit.” The commenter recommends the language be amended to include a clear, positive statement of the expectation that grants will generally be competitive, and that at a minimum, a competitive award should be made by a peer review panel that includes a full range of interested stakeholders and experts and that any exceptions to this should be explained in full. AMS has evaluated this comment and while this comment has merit, AMS believes that the states should have flexibility in

establishing processes for conducting fair and equitable reviews of grant proposals. Nonetheless, AMS is revising § 1291.6(d)(1) to request a description of the fair and equitable grant proposal review process used by the state department of agriculture.

One commenter requested that amendments be made to § 1291.6 to comply with the Farm Bill Managers Report language urging the USDA to “encourage state departments of agriculture to develop their grant plans through a competitive process in order to ensure maximum public input and benefit. The Managers expect the Secretary to ensure that states conduct extensive outreach to interested parties through a transparent process of receiving and considering public comment so that grant applications are developed with proven and justified public support, particularly when developing applications for multistate projects.”

The commenter recommended that states be required to describe the outreach conducted by the state to specialty crop stakeholders and specialty crop organizations to determine their priority needs and to solicit proposals; describe the criteria used by the state to evaluate the projects proposed for funding, including but not limited to how reviews are conducted; and provide a copy of the request for proposals issued in a competitive process or provide justification for not using a competitive process. These comments have merit and § 1291.6(d)(1) has been revised to require states to identify the methods used to solicit proposals that meet specialty crop stakeholders needs and to request a description of the fair and equitable grant proposal review process. The commenter also recommended that states describe how the projects funded will enhance productivity and competitiveness of specialty crop agriculture in their state; and describe any stakeholders and organizations that proposed and/or supported funded projects. The State plan criteria described in § 1291.6(d) requires states to describe how funds will be utilized to enhance the competitiveness of specialty crops and § 1291.6(d)(9) requires states to describe how all grant partners commit to and work towards supporting the goals and outcomes of measures of the proposed projects. Accordingly, no changes have been made as a result of this comment.

The commenter also recommended states delineate whether approved projects received additional funding from state resources. The Specialty Crops Competitiveness Act of 2004, as

amended, does not contain a statutory provision for a matching requirement from the state. In addition, under § 1291.5(c), grant funds shall supplement the expenditure of state funds in support of specialty crops grown in the state, rather than replace state funds. AMS includes this provision in the terms and conditions in each grant agreement and expects to focus on compliance by the states with this provision. Accordingly, no changes have been made as a result of this comment.

The same commenter also requested that states describe “to the extent possible, how the projects will leverage other public and private investments for maximum benefits.” This comment has merit. AMS is amending § 1291.6(d)(1) to require states to include in the description of the competitive grant process, the steps taken to receive and consider public comment to identify specialty crop stakeholders’ priority needs in enhancing the competitiveness of specialty crops and the process used to conduct a fair and equitable grant proposal review process. Therefore, in their grant application to AMS, the states will be responsible for including projects that provide maximum benefit to the specialty crop stakeholders based upon their competitive grant process.

One commenter requested the states describe how funding is being used to strictly promote specialty crops as defined under the Act for projects directed at state marketing programs and to address the Farm Bill Managers report which stated that, “The Managers expect the Secretary to carefully monitor the use of funds under grant awards to ensure that funds are promoting specialty crops as defined under the Specialty Crops Competitiveness Act of 2004 and are not being used in generically cross-marketing other commodities which fall under state marketing programs but are outside the scope of the Act’s definition.” This comment has merit and AMS has clarified § 1291.4(a) to read, “To be eligible for a grant, the project(s) must solely enhance the competitiveness of U.S. grown or U.S. territory grown eligible specialty crops, in either domestic or foreign markets”. In addition, AMS clarified § 1291.6(d)(3) to read, “If funding is being directed at a state marketing program, describe how the state will ensure that funding is being used solely to enhance the competitiveness of specialty crops as defined under § 1291.2(n).”

One commenter recommended states identify if state property is purchased with grant funds. Under § 1291.6(b), for each proposed project, states are

required to submit form SF-424A, “Budget Information—Non-Construction Programs”, which requires a state to specify dollar amounts for each budget category, including categories for types of property. In addition, under § 1291.6(d)(7), states are required to provide for each project a detailed budget narrative providing sufficient information about the budget categories listed on the SF-424A to demonstrate that funds are being expended on eligible grant activities. Furthermore, AMS has amended § 1291.5 to add that “capital expenditures for general purpose equipment, buildings, and land are unallowable as direct and indirect charges” and that “capital expenditures for specialty purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5000 or more have the prior approval of AMS”. Section 1291.5 has also been amended to add that “rental costs of buildings and equipment are allowable as direct costs in accordance with the cost principles in Subpart T of 7 CFR 3015.” Sec. 1291.2 has also been amended to add a definition for “capital expenditures”, “equipment”, “general purpose equipment”, and “specialty purpose equipment”.

One commenter recommended states describe how they are focusing on multi-state and regional projects to comply with the Farm Bill Managers Report language, “The Managers therefore request that the Secretary encourage state departments of agriculture to submit grant plans that include multi-state and regional project proposals.” AMS specifies that multi-state projects are eligible projects under § 1291.4(d) and in the State plan under § 1291.6(d)(10). In addition, we are revising § 1291.6(d)(1) to reiterate that multi-state projects are eligible.

#### *Eligible Grant Projects*

One commenter suggests the language in § 1291.6(d)(1), “Identify if an award was made to either a socially disadvantaged or beginning farmer” be changed to, “Identify if an award was made to an association or organization to be used solely for the benefit of socially disadvantaged or beginning farmers” to conform with the eligible grant project requirements under § 1291.4(c). The language under Sec. 1291.4(c) does not restrict or limit awards to single individuals as subgrantees, but instead states they are eligible if they participate with a project partner to execute a project that benefits the specialty crop industry rather than a single individual. Accordingly, no

changes have been made as a result of this comment.

One commenter requests further guidance from AMS on the eligibility of projects where a state department of agriculture proposes to make further awards of funding to subgrantees. AMS has revised § 1291.6(d)(1) to require state departments of agriculture to include in the description of the competitive grant process the steps taken to solicit proposals that meet specialty crops stakeholders needs.

#### *Purpose and Scope*

One commenter recommended the inclusion of the following items to the definition of “enhancing the competitiveness” of specialty crops: value-added enterprises, entrepreneurship, local and regional food systems, value chain development, marketing infrastructure, consumer labeling, beginning farmers of specialty crops, socially disadvantaged farmers of specialty crops, preservation of farmland dedicated to specialty crop production, and extension. AMS has amended § 1291.1 to encourage states to develop projects pertaining to specific issues affecting the specialty crop industry.

#### *Unobligated Funds*

One commenter requested the language stating unobligated funds will be allocated “pro rata to the remaining states who applied during the specified grant application period to be solely expended on projects previously approved in their State plan” be amended to take into consideration the Farm Bill Managers Report, which states that, “The Managers also request the Secretary to give strong consideration to multi-state projects when reallocating unobligated block grant funding.” The language in § 1291.9(b) reflects the statutory language that appears in Sec. 10109(i) of the Food, Conservation, and Energy Act of 2008. If a state that previously submitted an approved multi-state project receives reallocated block grant funding, the state could give consideration to reallocating funds to that previously approved multi-state project, but not to any new multi-state projects. Accordingly, no changes are made as a result of this comment.

#### *Review of Grant Applications*

One commenter requested further detail be provided in regard to what is expected in the grant application in relation to the language in § 1291.7 that states, “AMS may request the applicant provide additional information or clarification”. This section states grant applications will be reviewed and

approved or rejected for conformance with § 1291.6, a provision that contains details on what documentation should be included in the completed application. Accordingly, no changes are made as a result of this comment.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), AMS submitted the information collection included in this rulemaking to the Office of Management and Budget (OMB) and obtained approval of the information collection under OMB number 0581-0248.

Comments were invited on the information collection in September 4, 2008, interim final rule. The deadline for comments was November 3, 2008. No comments were received on the information collection.

The estimated one-time annual cost for all state departments of agriculture in providing information to the Specialty Crop Block Grant Program—Farm Bill is \$37,097. This total has been estimated by multiplying 1,439 total burden hours by \$25.78, an average of mean hourly earnings by state and local government white collar (excluding sales) employees. Data for computation of this hourly wage were obtained from the U.S. Department of Labor Statistic’s publication “National Compensation Survey: Occupational Wages in the United States, June 2005”, published August 2006 (Bulletin 2581). This publication can also be found at the following Web site: <http://www.bls.gov/ncs/ocs/sp/ncbl0832.pdf>.

#### **Effective Date**

Because the Farm Bill requires the Secretary of Agriculture to make available approximately \$49 million in grant funds in fiscal year 2009, which ends September 30, 2009, pursuant to 5 U.S.C. 553, it is found, and determined, that good cause exists for not postponing the effective date of this final rule until 30 days after publication in the **Federal Register**.

#### **List of Subjects in 7 CFR Part 1291**

Agriculture, Reporting and recordkeeping requirements, Specialty crop block grants.

■ Accordingly, the interim final rule adding 7 CFR part 1291 which was published at 73 FR 51585 on September 4, 2008, is adopted as a final rule with the following changes:

#### **PART 1291—SPECIALTY CROP BLOCK GRANT PROGRAM—FARM BILL**

■ 1. The authority citation for part 1291 continues to read as follows:

*Authority:* 7 U.S.C. 1621 note, as amended.

■ 2. Revise § 1291.1 to read as follows:

##### **§ 1291.1 Purpose and scope.**

(a) Pursuant to the authority conferred by Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note), as amended by Section 10109 of the Food, Conservation, and Energy Act of 2008, Public Law 110-246, AMS will make grants to states to enhance the competitiveness of specialty crops in accordance with the terms and conditions set forth herein and other applicable federal statutes and regulations, including, but not limited to, 7 CFR part 3015 and part 3016.

(b) AMS encourages states to develop projects solely to enhance the competitiveness of specialty crops pertaining to the following issues affecting the specialty crop industry: increasing child and adult nutrition knowledge and consumption of specialty crops; participation of industry representatives at meetings of international standard setting bodies in which the U.S. government participates; improving efficiency and reducing costs of distribution systems; assisting all entities in the specialty crop distribution chain in developing “Good Agricultural Practices”, “Good Handling Practices”, “Good Manufacturing Practices”, and in cost-share arrangements for funding audits of such systems for small farmers, packers and processors; investing in specialty crop research, including organic research to focus on conservation and environmental outcomes; enhancing food safety; developing new and improved seed varieties and specialty crops; pest and disease control; and sustainability.

■ 3. Revise § 1291.2 to read as follows:

##### **§ 1291.2 Definitions.**

(a) AMS means the Agricultural Marketing Service of the U.S. Department of Agriculture.

(b) *Application* means the application for the Specialty Crop Block Grant Program—Farm Bill (SCBGP—FB).

(c) *Beginning farmer or rancher* means an individual or entity who has not operated a farm or ranch for more than 10 years and substantially participates in the operation.

(d) *Capital expenditures* means expenditures for the acquisition cost of capital assets (equipment, buildings,

land), or expenditures to make improvements to capital assets that materially increase their value or useful life. Acquisition cost means the cost of the asset including the cost to put it in place. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired.

Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in, or excluded from the acquisition cost in accordance with the governmental unit's regular accounting practices.

(e) *Equipment* means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or \$5000.

(f) *General purpose equipment* means equipment, which is not limited to research, scientific or other technical activities. Examples include office equipment and furnishings, telephone networks, information technology equipment and systems, reproduction and printing equipment, and motor vehicles.

(g) *Grant period* means the period of time from when the grant agreement is signed to the completion of all SCBGP-FB projects submitted in the State plan.

(h) *Grantee* means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant agreement.

(i) *Indirect costs* means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.

(j) *Outcome measure* means an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public.

(k) *Project* means all proposed activities to be funded by the Specialty Crop Block Grant Program—Farm Bill.

(l) *Socially disadvantaged farmer or rancher* means a farmer or rancher who is a member of a socially disadvantaged group. A "Socially Disadvantaged Group" is a group whose members have been subject to discrimination on the basis of race, color, national origin, age, disability, and where applicable, sex,

marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program.

(m) *Special purpose equipment* means equipment which is used only for research, scientific, or other technical activities.

(n) *Specialty crop* means fruits and vegetables, tree nuts, dried fruits, horticulture and nursery crops (including floriculture).

(o) *State* means the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(p) *State department of agriculture* means the agency, commission, or department of a state government responsible for agriculture within the state.

(q) *Subgrantee* means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of funds provided.

■ 4. Revise paragraph (a) of § 1291.4 to read as follows:

**§ 1291.4 Eligible grant project.**

(a) To be eligible for a grant, the project(s) must solely enhance the competitiveness of U.S. grown or U.S. territory grown eligible specialty crops, in either domestic or foreign markets.

\* \* \* \* \*

■ 5. Add new paragraphs (e), (f), and (g) to § 1291.5 to read as follows:

**§ 1291.5 Restrictions and limitations on grant funds.**

\* \* \* \* \*

(e) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct and indirect charges.

(f) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5000 or more have the prior approval of AMS.

(g) Rental costs of buildings and equipment are allowable as direct costs in accordance with the cost principles in subpart T of 7 CFR part 3015.

■ 6. Revise § 1291.6 to read as follows:

**§ 1291.6 Completed application.**

Completed applications shall be clear and succinct and shall include the following documentation satisfactory to AMS.

(a) One SF-424 "Application for Federal Assistance".

(b) SF-424A "Budget Information—Non-Construction Programs" showing the budget for each project.

(c) One SF-424B "Assurances—Non-Construction Program".

(d) Completed applications must also include one State plan to show how grant funds will be utilized solely to enhance the competitiveness of specialty crops. The State plan shall include the following:

(1) *Cover page and granting processes.*

Include the point of contact and lead agency for administering the plan. Provide a description of the affirmative steps taken to conduct outreach to socially disadvantaged farmers and beginning farmers. Describe how these groups were identified and the methods used to reach out to them. Identify if an award was made to either a socially disadvantaged farmer or a beginning farmer. If steps were not taken to conduct outreach to these groups, provide a justification for why not. Provide a description of the affirmative steps taken to conduct a competitive grant process. Include the steps taken to conduct outreach to specialty crop stakeholders to receive and consider public comment to identify their priority needs in enhancing the competitiveness of specialty crops.

Identify the methods used to solicit proposals that meet specialty crop stakeholders' needs, including any focus on multi-state projects. Include a description of the process used to review proposals in a fair and equitable manner. State departments of agriculture may also provide a copy of the issued request for proposals. If a competitive grant process was not used, provide a justification why not.

(2) *Project title and abstract.* Include the title of the project and an abstract of 200 or fewer words for each project.

(3) *Project purpose.* For each project, clearly state the purpose of the project. Describe the specific issue, problem, interest, or need to be addressed.

Explain why the project is important and timely. If funding is being directed at a state marketing program, describe how the state will ensure that funding is being used solely to enhance the competitiveness of specialty crops as defined in § 1291.2(n). If a project builds on a previous Specialty Crop Block Grant Program (SCBGP) or SCBGP-FB project, indicate clearly how the new project compliments previous work. For each project, indicate if the project will be or has been submitted to or funded by another Federal or State grant program.

(4) *Potential impact.* Discuss the number of people or operations affected, the intended beneficiaries of each

project, and/or potential economic impact if such data are available and relevant to the project.

(5) *Expected measurable outcomes.* For each project, describe at least one distinct, quantifiable, and measurable outcome-oriented objective that directly and meaningfully supports the project's purpose. The measurable outcome-oriented objective must define an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public. Outcome measures may be long term that exceed the grant period. Describe how performance toward meeting outcomes will be monitored. For each project, include a performance-monitoring plan to describe the process of collecting and analyzing data to meet the outcome-oriented objectives.

(6) *Work plan.* For each project, explain briefly the activities that will be performed to accomplish the objectives of the project. Be clear about who will do the work. Include appropriate time lines.

(7) *Budget narrative.* The limit on indirect costs, not to exceed 10 percent, will be published in a **Federal Register** notice each fiscal year. Provide a justification if indirect costs exceed 10 percent or exceed that fiscal year's limit as announced in the **Federal Register**. Provide in sufficient detail information about the budget categories listed on SF-424A for each project to demonstrate that grant funds are being expended on eligible grant activities that meet the purpose of the program.

(8) *Project oversight.* Describe the oversight practices that provide sufficient knowledge of grant activities to ensure proper and efficient administration for each project.

(9) *Project commitment.* Describe how all grant partners commit to and work toward the goals and outcome measures of each proposed project(s).

(10) *Multi-state projects.* If the project is a multi-state project, describe how the states are going to collaborate effectively with related projects with one state assuming the coordinating role. Indicate the percent of the budget covered by each state.

■ 7. Revise the last sentence of § 1291.10(d) to read as follows:

**§ 1291.10 Reporting and oversight requirements.**

\* \* \* \* \*

(d) \* \* \* If AMS, after reasonable notice to a State, and opportunity to be heard, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, AMS may disqualify, for one or more years, the State from receipt

of future grants under the SCBGP or SCBGP-FB.

\* \* \* \* \*

Dated: March 23, 2009.

**Robert C. Keeney,**

*Acting Associate Administrator.*

[FR Doc. E9-6816 Filed 3-26-09; 8:45 am]

**BILLING CODE 3410-02-P**

**DEPARTMENT OF ENERGY**

**10 CFR Part 430**

**[Docket No. EERE-2008-BT-TP-0004]**

**RIN 1904-AB75**

**Energy Conservation Program: Test Procedures for Battery Chargers and External Power Supplies (Standby Mode and Off Mode)**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Department of Energy (DOE) is amending its test procedures for battery chargers (BCs) and external power supplies (EPSs) to include provisions for measuring standby mode and off mode energy consumption, as directed by the Energy Independence and Security Act of 2007 (EISA 2007). Furthermore, DOE is adding to its single-voltage external power supply test procedure specifications for testing switch-selectable external power supplies. Finally, DOE is extending the current certification reporting requirements to the Class A external power supplies for which Congress established energy efficiency standards in EISA 2007.

**DATES:** This rule is effective April 27, 2009. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on April 27, 2009.

**ADDRESSES:** You may review copies of all materials related to this rulemaking at the U.S. Department of Energy, Resource Room of the Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC, (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room. Please note: The Department's Freedom of Information Reading Room no longer houses rulemaking materials.

**FOR FURTHER INFORMATION CONTACT:** Mr. Victor Petrolati, U.S. Department of Energy, Office of Energy Efficiency and

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**SUPPLEMENTARY INFORMATION:** This final rule incorporates by reference, into part 430 the following industry standard:

- California Energy Commission (CEC), "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies," August 11, 2004.

You can obtain free copies of the CEC Test Method from the California Energy Commission, 1516 Ninth Street, MS-25, Sacramento, CA 95814, (916) 654-4091, or <http://www.efficientpowersupplies.org/methods.asp>.

The following standards are referred to in the DOE test procedures and elsewhere in this part, but are not incorporated by reference. These sources are provided solely for information and guidance.

- IEC 62301, "Household electrical appliances—Measurement of standby power," First Edition, June 13, 2005.
- IEC 60050, "International Electrotechnical Vocabulary."

- IEEE 1515-2000, "IEEE Recommended Practice for Electronic Power Subsystems: Parameter Definitions, Test Conditions, and Test Methods," March 30, 2000.

- IEEE 100, "Authoritative Dictionary of IEEE Standards Terms," Seventh Edition, January 1, 2006.

You can purchase copies of IEC Standards 62301 and 60050 from the American National Standards Institute, 11 West 42nd Street, New York, New York 10036, (212) 642-4936, or <http://webstore.iec.ch>.

You can purchase copies of IEEE Standards 1515-2000 and 100 from the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, 17th Floor, New York, NY 10016-5997, (212) 419-7900, or <http://www.ieee.org/web/publications/standards>.

You can also view copies of these standards at the U.S. Department of Energy, Resource Room of the Building Technologies Program, 950 L'Enfant Plaza, SW., 6th Floor, Washington, DC 20024, (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.