

# Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### **Alaska Underground Storage Tank Financial Assistance Program, Tank Cleanup Grant and Loan Program: Determination of Primary Purpose of Program Payments for Consideration as Excludable from Income Under Section 126 of the Internal Revenue Code of 1986**

**AGENCY:** Office of the Secretary, U.S. Department of Agriculture.

**ACTION:** Notice of Determination.

**SUMMARY:** The Secretary of Agriculture has determined that all grant payments made under the Tank Cleanup Grant and Loan Program within the Alaska Underground Storage Tank Financial Assistance Program are made primarily for the purposes of conserving soil and water resources and for protecting or restoring the environment. This determination is made in accordance with section 126 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 126). This determination permits recipients of these payments to exclude the payments from gross income to the extent allowed by the Internal Revenue Service.

**ADDITIONAL INFORMATION OR COMMENTS:** Commissioner, Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Juneau, Alaska 99801, (907) 465-5050; or Director, Conservation Operations Division, Natural Resources Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013, (202) 720-1845.

**SUPPLEMENTARY INFORMATION:** Section 126 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 126), provides that certain payments made to persons under State conservation programs may be excluded from the recipient's gross income for Federal income tax purposes, if the Secretary of

Agriculture determines that the payments are made "primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." The Secretary of Agriculture evaluates these conservation programs on the basis of criteria set forth in 7 CFR Part 14 and makes a "primary purpose" determination for the payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that payments made under these conservation programs do not increase substantially the annual income derived from the property benefitted by the payments.

The State of Alaska Department of Environmental Conservation (ADEC) has a Tank Cleanup Grant and Loan Program within the Underground Storage Tank Financial Assistance Program. This program was established through an amendment to a portion of Alaska Statute 46.03, effective September 5, 1990. The program is administered by ADEC in accordance with Underground Storage Tank Regulations, 18 AAC 78. Funding for the program comes from the Storage Tank Assistance Fund. The objectives of the Tank Cleanup Grant and Loan Program are to clean up existing leaks associated with underground petroleum storage tanks systems in order to conserve soil and water, and to protect or restore the environment. The objectives of this program are achieved by awarding grants to fund a portion of project costs for cleanup activities at facilities that have reported releases. Eligible project costs may include, but are not limited to:

1. Tank removal and soil excavation;
2. Reports, designs, and plans;
3. Boring and monitoring well installation;
4. Soil and water testing;
5. Soil treatment and disposal;
6. Water treatment and disposal;
7. Force account charges;
8. Tank tightness testing;
9. Assessing a site for contamination from underground storage tanks; and
10. Other costs (must be identified).

All costs funded by the Tank Cleanup Grant and Loan Program are for activities described in a workplan or corrective action plan, which is determined by the ADEC to protect

adequately human health, safety, and the environment.

### Procedural Matters

The authorizing legislation, regulations, and operating procedures for the Alaska Tank Cleanup Grant and Loan Program have been examined using criteria set forth in 7 CFR Part 14. The U.S. Department of Agriculture has concluded that the grant payments made under this program are made to provide financial assistance to eligible persons for the conservation of soil and water and to protect or restore the environment. A "Record of Decision, Alaska Tank Cleanup Grant and Loan Program: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Director, Conservation Operations Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013, or from the Commissioner, Alaska Department of Environmental Conservation, 410 Willoughby Street, Juneau, Alaska 99801.

### Determination

As required by section 126(b) of the Internal Revenue Code of 1986, as amended, I have examined the authorizing legislation, regulations, and operating procedures regarding the Alaska Tank Cleanup Grant and Loan Program. In accordance with the criteria set out in 7 CFR Part 14, I have determined that all grant payments for the cleanup of leaks associated with underground petroleum storage tank systems made under this program are primarily for the purposes of soil and water conservation and for protecting or restoring the environment. Subject to further determination from the Secretary of the Treasury, this determination permits grant payment recipients to exclude from gross income, for Federal income tax purposes, all or part of such payments made under the Alaska Tank Cleanup Grant and Loan Program.

Signed at Washington, DC, on August 26, 1998.

**Dan Glickman,**

*Secretary of Agriculture.*

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