

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 210, 215, 220, 225, 226 and 235

RIN 0584-AD16

#### Child Nutrition Programs: Uniform Federal Assistance Regulations; Nondiscretionary Technical Amendments

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule makes technical changes to the regulations governing the National School Lunch Program, the Special Milk Program for Children, the School Breakfast Program, the Summer Food Service Program, the Child and Adult Care Food Program and State Administrative Expense Funds. The United States Department of Agriculture (USDA), Food and Nutrition Service (FNS) is revising its grants management regulations to bring these entitlement programs and their funds under the same regulations that already apply to nonentitlement programs, and to identify exceptions to these general rules that apply only to entitlement programs. This final rule is intended to update FNS program regulations, reflecting the revision of USDA's grants management regulations which brought entitlement programs under the same regulations that already applied to nonentitlement programs. In addition, this final rule also revises references to procurement and audit procedures in FNS's program regulations.

**DATES:** Effective September 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Melissa Rothstein, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service, 3101 Park Center Drive, Room

634, Alexandria, VA 22302, (703) 305-2590.

#### SUPPLEMENTARY INFORMATION:

##### Background

Prior to August 14, 2000, the administrative requirements for awards and subawards for all USDA entitlement programs were located in 7 CFR part 3015, Uniform Federal Assistance Regulations. Those programs covered by 7 CFR part 3015 included the National School Lunch Program (NSLP), the School Breakfast Program (SBP), the Summer Food Service Program (SFSP), the Child and Adult Care Food Program (CACFP), the Special Milk Program for Children (SMP), and State Administrative Expense Funds (SAE). The corresponding requirements for awards and subawards to State and local governmental organizations under USDA nonentitlement programs were found at subparts A through D of 7 CFR part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. The administrative requirements for awards and subawards to nongovernmental, non-profit organizations were found at 7 CFR part 3019, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

On August 14, 2000, USDA published a final rule at 65 FR 49474 revising the Department's grants management regulations to bring its entitlement programs under the same regulations that already applied to nonentitlement programs. The rule expanded the scope of 7 CFR part 3016 and 7 CFR part 3019 to include entitlement programs and deleted administrative requirements for awards and subawards under such programs from the scope of 7 CFR part 3015. It also established, in subpart E to 7 CFR part 3016, certain exceptions to the general administrative requirements that apply only to the entitlement programs.

This final rule makes technical changes to the program regulations governing the NSLP (7 CFR part 210), SMP (7 CFR part 215), SBP (7 CFR part 220), SFSP (7 CFR part 225), CACFP (7 CFR part 226) and SAE (7 CFR part 235) by incorporating those changes made in the August 14, 2000 final rule, and

revising references to procurement and audit procedures.

Previously, program regulations required that State agencies, school food authorities, sponsors and institutions comply with the requirements of 7 CFR part 3015 concerning the procurement of supplies, food, equipment and other services with program funds. As a result of the August 14, 2000 grants management rule, the requirements for procurement procedures are now governed by 7 CFR part 3016 and 7 CFR part 3019, as applicable. This final rule changes program regulations at 7 CFR part 210.21(c), 7 CFR part 215.14a(c), 7 CFR part 220.16(c), 7 CFR part 225.17(a), 7 CFR part 226.22(c), 7 CFR part 235.9(a), 7 CFR part 235.9(c) and 7 CFR part 235.9(d) to reflect this change.

Furthermore, program regulations regarding audit procedures previously required that State agencies, school food authorities and institutions comply with the requirements of 7 CFR part 3015 concerning the audit requirements for recipients and subrecipients of the Department's financial assistance. This final rule makes technical revisions to 7 CFR part 210.22(a), 7 CFR part 215.13(a), 7 CFR part 220.15(a), 7 CFR part 225.10(a), and 7 CFR part 235.8(a) to replace reference to 7 CFR part 3015 with reference to 7 CFR part 3052, Audits of State, Local Governments and Nonprofit Organizations.

#### Specific Changes

- Revises the definition of 7 CFR part 3015 in 7 CFR parts 210, 215, 220, 225, 226 and 235.
- Adds definitions of 7 CFR part 3016 and 7 CFR part 3019 to 7 CFR parts 210, 215, 220, 225, 226 and 235.
- Removes the definition of 7 CFR part 3017 wherever it appears, because this definition is no longer applicable.
- Adds a definition of 7 CFR part 3052 to 7 CFR parts 225 and 226.
- Amends procurement and audit procedures.

#### Definition of 7 CFR Part 3015

One of the purposes of this final rule is to revise the definition of 7 CFR part 3015 in 7 CFR parts 210, 215, 220, 225, 226 and 235. This revision notes the applicability of 7 CFR part 3015 with regards to competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of USDA in support of publications and audiovisuals

produced under USDA programs, intergovernmental review of USDA programs, and certain miscellaneous USDA requirements.

#### *Definition of 7 CFR Part 3016*

A new definition, 7 CFR part 3016, is added by this final rule to 7 CFR parts 210, 215, 220, 225, 226 and 235. 7 CFR part 3016 refers to the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Awards and subawards to State and local governmental organizations under USDA programs are also covered under 7 CFR part 3016.

#### *Definition of 7 CFR Part 3019*

A new definition, 7 CFR part 3019, is added by this final rule to 7 CFR parts 210, 215, 220, 225, 226 and 235. 7 CFR part 3019 refers to the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. Requirements for awards and subawards to nongovernmental, non-profit organizations are also covered under 7 CFR part 3019.

#### *Definition of 7 CFR Part 3052*

A new definition, 7 CFR part 3052, is added by this final rule to 7 CFR parts 225 and 226. 7 CFR part 3052 refers to the Department's regulations implementing OMB Circular A-133.

#### *Procurement Procedure*

This final rule amends the procurement procedures outlined in 7 CFR part 210.21(c), 7 CFR part 215.14a(c), 7 CFR part 220.16(c), 7 CFR part 225.17(a) and 7 CFR part 226.22(c) stating that the school food authority, sponsor or institution, as applicable, may use its own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with Program funds adhere to the standards set forth in 7 CFR part 3016 or 7 CFR part 3019, as applicable. This final rule also amends 7 CFR part 235.9(a) and 7 CFR part 235.9(c) to require State agencies to comply with the procurement procedures of 7 CFR part 3016.

#### *Audits*

This final rule amends the audit procedures outlined in 7 CFR part 210.22(a), 7 CFR part 215.13(a), 7 CFR part 220.15(a), 7 CFR part 225.10(a), and 7 CFR part 235.8(a). According to these procedures, unless otherwise exempt, audits at the State, school food authority and institution levels shall be

conducted in accordance with Office of Management and Budget Circular A-133 and the Department's implementing regulations at 7 CFR part 3052.

#### **Executive Order 12866**

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

#### **Regulatory Impact Analysis**

##### *Need for Action*

This action is needed because of changes to Departmental regulations on grants management. The Departmental regulations on entitlement programs are now under the same regulations that already apply to nonentitlement programs. In addition, this action identifies exceptions to these general rules that apply only to entitlement programs.

##### *Benefits*

The change simplifies grants management regulations for all recipients and is consistent with Departmental policy.

##### *Costs*

These revisions in grants management requirements will have no cost to grant recipients.

#### **Regulatory Flexibility Act**

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Roberto Salazar, Administrator of the Food and Nutrition Service, has certified that this rule will not have a significant economic impact on a substantial number of small entities. This final rule will affect recipients of entitlement programs by placing their grants management requirements under the same regulations that already apply to nonentitlement programs. Uniform requirements will ease the overall administrative burden on recipients.

#### **Unfunded Mandates Reform Act**

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, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures of \$100 million or more in any one year by State, local, or tribal governments, in the aggregate, or

by the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of \$100 million or more in any one year. This final rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

#### **Executive Order 12372**

The National School Lunch Program, Special Milk Program for Children, and School Breakfast Program are listed in the Catalog of Federal Domestic Assistance under No. 10.555, 10.556 and 10.553, respectively. The Child and Adult Care Food Program, the Summer Food Service Program, and the State Administrative Expense Funds are listed under No. 10.558, No. 10.559 and No. 10.560, respectively. For reasons set forth in the final rule in 7 CFR part 3015, subpart V and related Notice (48 FR 29115), these programs are included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

#### **Federalism Summary Impact Statement**

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. FNS has considered the impact of this rule on State and local governments and has determined that this rule does not have Federalism implications. This final rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

#### **Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is intended to have preemptive effect with respect to any State or local laws,

regulations or policies which conflict with its provisions or which would impede its full implementation. This final rule is not intended to have retroactive effect unless that is specified in the **DATES** section of this preamble. Prior to any judicial challenge to the provisions of this final rule or the application of its provisions, all applicable administrative procedures must be exhausted.

### Civil Rights Impact Analysis

FNS has reviewed this final rule in accordance with the Department Regulation 4300-4, "Civil Rights Impact Analysis," to identify and address any major civil rights impacts the final rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, FNS has determined that this final rule will not in any way limit or reduce participants' ability to participate in the Child Nutrition Programs on the basis of an individual's or group's race, color, national origin, sex, age, or disability. FNS found no factors that would negatively and disproportionately affect any group of individuals.

### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; see 5 CFR 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This final rule does not contain any information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995. Existing information collections have been approved under the following OMB control numbers: For the National School Lunch Program—0584-0006; for the Special Milk Program for Children—0584-0005; for the School Breakfast Program—0584-0012; for the Summer Food Service Program—0584-0280; for the Child and Adult Care Food Program—0584-0055; and for State Administrative Expense Funds—0584-0067.

### Government Paperwork Elimination Act

FNS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. This rule

does not require the submission of additional information.

### Public Participation

This action is being finalized without prior notice or public comment under authority of 5 U.S.C. 553(b)(3)(A) and (B) because it only revises references to procurement and audit procedures in the Child Nutrition Programs. Thus, the Department has determined in accordance with 5 U.S.C. 553(b) that Notice of Proposed Rulemaking and Opportunity for Public Comments is unnecessary and contrary to the public interest and, in accordance with 5 U.S.C. 553(d), finds that good cause exists for making this action effective without prior public comment.

### List of Subjects

#### 7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grants programs—social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

#### 7 CFR Part 215

Food and nutrition, Food assistance programs, Grants programs—education, Grant programs—health, Infants and children, Milk, Reporting and recordkeeping.

#### 7 CFR Part 220

Children, Food assistance programs, Grant programs—social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

#### 7 CFR Part 225

Food and nutrition, Food assistance programs, Grant programs—health, Infants and children, Labeling, Reporting and recordkeeping requirements.

#### 7 CFR Part 226

Accounting, Aged, Day care, Food and Nutrition, Food assistance programs, Grant programs. Grant programs—health, American Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

#### 7 CFR Part 235

Food and Nutrition Service, Food assistance programs. Grant programs—education; Grant programs—health, Infants and children, Reporting and recordkeeping requirements, School Breakfast and Lunch Programs.

■ Accordingly, 7 CFR parts 210, 215, 220, 225, 226 and 235 are amended as follows:

### PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for 7 CFR part 210 continues to read as follows:

**Authority:** 42 U.S.C. 1751–1760, 1779.

■ 2. In § 210.2:

■ a. Revise the definition of 7 CFR part 3015;

■ b. Remove the definition of 7 CFR part 3017; and

■ c. Add new definitions, 7 CFR part 3016 and 7 CFR part 3019 in alphabetical order.

The additions and revision read as follows:

#### § 210.2 Definitions.

\* \* \* \* \*

7 CFR part 3015 means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal with competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under Department programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements.

7 CFR part 3016 means the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 7 CFR part 3016 covers requirements for awards and subawards to State and local governmental organizations under Department programs.

\* \* \* \* \*

7 CFR part 3019 means the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. 7 CFR part 3019 covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs.

\* \* \* \* \*

#### § 210.3 [Amended]

■ 3. In § 210.3:

■ a. Amend the third sentence of paragraph (b) by removing the words "part 235; part 245; parts 15, 15a, 15b, and 3015 of Departmental regulations" and adding in their place the words

“parts 235 and 245 of this chapter; parts 15, 15a, 15b, 3015 and 3016 of this title”; and

■ b. Amend the second sentence of paragraph (d) by removing the words “part 245; parts 15, 15a, 15b, and 3015 of Departmental regulations” and adding in their place the words “part 245 of this chapter; parts 15, 15a, 15b, and 3016 or 3019, as applicable, of this title”.

#### § 210.5 [Amended]

■ 4. In § 210.5:

■ a. Amend the second sentence of paragraph (a) by removing the words “7 CFR part 3015” and adding in their place the words “7 CFR part 3016”.

■ b. Amend the last sentence of paragraph (d)(3) by removing the words “7 CFR part 3015” and adding in their place the words “7 CFR part 3016”.

#### § 210.9 [Amended]

■ 5. In § 210.9, amend paragraph (b)(4) by removing the words “7 CFR part 3015” and adding in their place the words “7 CFR part 3015 and 7 CFR part 3016, or 7 CFR part 3019, as applicable”.

#### § 210.19 [Amended]

■ 6. In § 210.19, amend the second sentence of paragraph (a)(2) by removing the words “, as applicable, 7 CFR part 3015” and adding in their place the words “7 CFR part 3015 and 7 CFR part 3016, or 7 CFR part 3019, as applicable”.

■ 7. In § 210.21,

■ a. Amend the first sentence of paragraph (a) by removing the words “7 CFR part 3015” and adding in their place the words “7 CFR part 3016 or 7 CFR part 3019, as applicable,”.

■ b. Amend the first sentence of paragraph (b) by removing the words “7 CFR part 3015” and adding in their place the words “this part and 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, as applicable,”.

■ c. Revise paragraph (c).

The revision reads as follows:

#### § 210.21 Procurement.

\* \* \* \* \*

(c) *Procurement procedure.* State agencies or school food authorities may use their own procedures for procurement with program funds to the extent that:

(1) Procurements by public school food authorities comply with applicable State and local laws and the standards set forth in 7 CFR part 3016; and

(2) Procurements by nonprofit private school food authorities comply with the standards set forth in 7 CFR part 3019.

\* \* \* \* \*

■ 8. In § 210.22, revise paragraph (a) to read as follows:

#### § 210.22 Audits.

(a) *General.* Unless otherwise exempt, audits at the State and school food authority levels shall be conducted in accordance with Office of Management and Budget Circular A-133 and the Department’s implementing regulations at 7 CFR part 3052. For availability of the OMB Circular mentioned in this paragraph, please refer to 5 CFR 1310.3.

\* \* \* \* \*

#### § 210.24 [Amended]

■ 9. In § 210.24, amend the first sentence by removing the words “§ 3015.103 of this title” and adding in their place the words “7 CFR part 3016 and 7 CFR part 3019, as applicable”.

#### § 210.25 [Amended]

■ 10. In § 210.25:

■ a. Amend the third sentence by removing the words “the Department’s Uniform Federal Assistance Regulations, 7 CFR part 3015, subpart N” and adding in their place the words “7 CFR part 3016”; and

■ b. Amend the fourth sentence by adding, after the word “provisions”, the words “, or the parallel provisions of 7 CFR part 3019, as applicable,”.

### PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

■ 1. The authority citation for 7 CFR part 215 continues to read as follows:

*Authority:* 42 U.S.C. 1772 and 1779.

■ 2. In § 215.2:

■ a. Revise paragraph (x-1);

■ b. Remove paragraph (x-2);

■ c. Redesignate paragraph (x-4) and (x-5) as paragraphs (x-5) and (x-6), respectively; and

■ d. Add new paragraphs (x-2) and (x-4).

The additions and revision read as follows:

#### § 215.2 Definitions.

\* \* \* \* \*

(x-1) *7 CFR part 3015* means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal with competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under Department programs, intergovernmental review of Department programs under Executive Order 12372,

and certain miscellaneous Department requirements.

(x-2) *7 CFR part 3016* means the Department’s Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 7 CFR part 3016 covers requirements for awards and subawards to State and local governmental organizations under Department programs.

\* \* \* \* \*

(x-4) *7 CFR part 3019* means the Department’s Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. 7 CFR part 3019 covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs.

\* \* \* \* \*

■ 3. In § 215.3, the first sentence of paragraph (d) is revised to read as follows:

#### § 215.3 Administration.

\* \* \* \* \*

(d) Each State agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part, 7 CFR parts 235, 245, 15, 15a, 15b and, as applicable, 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, and with FNS Instructions. \* \* \*

\* \* \* \* \*

■ 4. In § 215.13:

■ a. Revise paragraph (a);

■ b. Remove paragraph (b) and redesignate paragraphs (c) and (d) as paragraphs (b) and (c), respectively; and

■ c. Amend newly designated paragraph (b) by removing the word “OA”

wherever it appears and adding in its place the word “OIG”.

The revision reads as follows:

#### § 215.13 Management evaluations and audits.

(a) Unless otherwise exempt, audits at the State and school food authority/child care institution levels shall be conducted in accordance with Office of Management and Budget Circular A-133 and the Department’s implementing regulations at 7 CFR part 3052. For availability of the OMB Circular mentioned in this paragraph, please refer to 5 CFR 1310.3.

\* \* \* \* \*

■ 5. In § 215.14a:

■ a. Amend the first sentence of paragraph (a) by removing the words “the Office of Management and Budget

(OMB) Circular A-102 and the Department's Uniform Federal Assistance Regulations, 7 CFR part 3015, subpart S (46 FR 55658)" and adding in their place the words "this part and 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, as applicable,";

■ b. Amend the first sentence of paragraph (b) by removing the words "OMB Circular A-102 and 7 CFR part 3015" and adding in their place the words "this part and 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, as applicable"; and

■ c. Revise paragraph (c).

The revision reads as follows:

#### § 215.14a Procurement standards.

\* \* \* \* \*

(c) *Procurement procedure.* State agencies, school food authorities or child care institutions may use their own procedures for procurement with Program funds to the extent that:

(1) Procurements by public school food authorities/child care institutions comply with applicable State or local laws and the standards set forth in this part and in 7 CFR part 3016 and 7 CFR part 3019, as applicable; and

(2) Procurements by nonprofit private school food authorities/child care institutions comply with standards set forth in 7 CFR part 3019.

\* \* \* \* \*

#### § 215.15 [Amended]

■ 6. In § 215.15:

■ a. Amend the third sentence by removing the words "the Department's Uniform Federal Assistance Regulations, 7 CFR part 3015, subpart N" and adding in their place the words "7 CFR part 3016".

■ b. Amend the fourth sentence by adding, after the word "provisions", the words ", or the parallel provisions of 7 CFR part 3019, as applicable,".

### PART 220—SCHOOL BREAKFAST PROGRAM

■ 1. The authority citation for 7 CFR part 220 continues to read as follows:

**Authority:** 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 2. In § 220.2:

■ a. Revise paragraph (x-1);

■ b. Remove paragraph (x-2);

■ c. Redesignate paragraph (x-4) as paragraph (x-5); and

■ d. Add new paragraphs (x-2) and (x-4).

The additions and revision read as follows:

#### § 220.2 Definitions.

\* \* \* \* \*

(x-1) *7 CFR part 3015* means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal with competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under Department programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements.

(x-2) *7 CFR part 3016* means the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 7 CFR part 3016 covers requirements for awards and subawards to State and local governmental organizations under Department programs.

\* \* \* \* \*

(x-4) *7 CFR part 3019* means the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. 7 CFR part 3019 covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs.

\* \* \* \* \*

■ 3. In § 220.3, revise the first sentence of paragraph (e) to read as follows:

#### § 220.3 Administration.

\* \* \* \* \*

(e) Each State agency desiring to take part in any of the programs shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part, 7 CFR parts 235, 245, 15, 15a, 15b and, as applicable, 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, and with FNS Instructions.\* \* \*

\* \* \* \* \*

#### § 220.13 [Amended]

■ 4. In § 220.13, amend the second sentence of paragraph (i) by removing the words ", as applicable, the cost principles contained in OMB Circular A-87 and 7 CFR part 3015" and adding in their place the words "7 CFR part 3015, and 7 CFR part 3016 or 7 CFR part 3019, as applicable".

■ 5. In § 220.15:

■ a. Revise paragraph (a);

■ b. Remove paragraph (b) and redesignate paragraphs (c) and (d) as paragraphs (b) and (c), respectively; and

■ c. Amend newly redesignated paragraph (b) by removing the word "OA" each time it appears and adding in its place the word "OIG".

The revision reads as follows:

#### § 220.15 Management evaluations and audits.

(a) Unless otherwise exempt, audits at the State and institution levels shall be conducted in accordance with Office of Management and Budget Circular A-133 and the Department's implementing regulations at 7 CFR part 3052. For availability of the OMB Circular mentioned in this paragraph, please refer to 5 CFR 1310.3.

\* \* \* \* \*

■ 6. In § 220.16:

■ a. Amend the first sentence of paragraph (a) by removing the words "the Office of Management and Budget (OMB) Circular A-102 and the Department's Uniform Federal Assistance Regulations, 7 CFR part 3015, subpart S (46 FR 55658)" and adding in their place the words "7 CFR part 3016 or 7 CFR part 3019, as applicable,";

■ b. Amend the first sentence of paragraph (b) by removing the words "OMB Circular A-102 and 7 CFR 3015" and adding in their place the words "7 CFR part 3016 or 7 CFR part 3019, as applicable"; and

■ c. Revise paragraph (c).

The revision reads as follows:

#### § 220.16 Procurement standards.

\* \* \* \* \*

(c) *Procurement procedure.* State agencies or school food authorities may use their own procedures for procurement with program funds to the extent that:

(1) Procurements by public school food authorities comply with applicable State or local laws and standards set forth in 7 CFR part 3016; and

(2) Procurements by nonprofit private school food authorities comply with standards set forth in 7 CFR part 3019.

\* \* \* \* \*

#### § 220.18 [Amended]

■ 7. In § 220.18:

■ a. Amend the third sentence by removing the words "the Department's Uniform Federal Assistance Regulations, 7 CFR part 3015, subpart N" and adding in their place the words "7 CFR part 3016"; and

■ b. Amend the fourth sentence by adding, after the word "provisions", the words ", or the parallel provisions of 7 CFR part 3019, as applicable,".

## PART 225—SUMMER FOOD SERVICE PROGRAM

■ 1. The authority citation for 7 CFR part 225 is revised to read as follows:

**Authority:** Secs. 9, 13 and 14, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1761 and 1762a).

■ 2. In § 225.2, new definitions, *7 CFR part 3015*, *7 CFR part 3016*, *7 CFR part 3019*, and *7 CFR part 3052*, are added in alphabetical order.

The additions read as follows:

### § 225.2 Definitions.

\* \* \* \* \*

*7 CFR part 3015* means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal with competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under Department programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements.

*7 CFR part 3016* means the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. *7 CFR part 3016* covers requirements for awards and subawards to State and local governmental organizations under Department programs.

*7 CFR part 3019* means the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. *7 CFR part 3019* covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs.

*7 CFR part 3052* means the Department's regulations implementing OMB Circular A-133. (To obtain the OMB circular referenced in this definition, see 5 CFR 1310.3.)

\* \* \* \* \*

### § 225.7 [Amended]

■ 3. In § 225.10, amend paragraph (a) by removing the first sentence and by revising the second sentence, to read as set forth below.

■ 4. In § 225.7, amend the first sentence of paragraph (f) by removing the words "the Department's Uniform Financial Assistance Regulations (7 CFR part 3015)" and adding in their place the

words "7 CFR part 3015, and 7 CFR part 3016 or 7 CFR part 3019, as applicable".

### § 225.10 Audits and management evaluations.

(a) \* \* \* Unless otherwise exempt, audits at the State and sponsor levels shall be conducted in accordance with OMB Circular A-133 and the Department's implementing regulations at 7 CFR part 3052. (To obtain the OMB circular referenced in this paragraph, see 5 CFR 1310.3.) \* \* \*

\* \* \* \* \*

■ 5. In § 225.17:

■ a. Revise paragraph (a);

■ b. Amend paragraph (b) by removing the words "7 CFR part 3015" and adding in their place the words "7 CFR part 3016 or 7 CFR part 3019, as applicable".

■ c. Amend the introductory text of paragraph (d) by removing the words "all sponsors are" and adding in their place the words "each sponsor is" and by removing the words "7 CFR part 3015" and adding in their place the words "7 CFR part 3016 or 7 CFR part 3019, as applicable".

The revision reads as follows:

### § 225.17 Procurement standards.

(a) State agencies and sponsors shall comply with the requirements of 7 CFR part 3016 or 7 CFR part 3019, as applicable, concerning the procurement of supplies, food, equipment and other services with Program funds. These requirements ensure that such materials and services are obtained for the program efficiently and economically and in compliance with applicable laws and executive orders. Sponsors may use their own procedures for procurement with Program funds to the extent that:

(1) Procurements by public sponsors comply with applicable State or local laws and the standards set forth in 7 CFR part 3016; and

(2) Procurements by private nonprofit sponsors comply with standards set forth in 7 CFR part 3019.

\* \* \* \* \*

### § 225.18 [Amended]

■ 6. In § 225.18, amend paragraph (a) by removing the words "the Department's Uniform Federal Assistance Regulations (7 CFR part 3015), subpart N" and adding in their place the words "7 CFR part 3016 or 7 CFR part 3019, as applicable".

## PART 226—CHILD AND ADULT CARE FOOD PROGRAM

■ 1. The authority citation for 7 CFR part 226 continues to read as follows:

**Authority:** Secs. 9, 11, 14, 16, and 17, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

■ 2. In § 226.2:

■ a. New definitions, *7 CFR part 3015*, *7 CFR part 3016*, *7 CFR part 3019*, and *7 CFR part 3052*, are added in alphabetical order; and

■ b. The definition of *Uniform Federal Assistance Regulations* is removed.

The additions read as follows:

### § 226.2 Definitions.

\* \* \* \* \*

*7 CFR part 3015* means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal with competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under Department programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements.

*7 CFR part 3016* means the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. *7 CFR part 3016* covers requirements for awards and subawards to State and local governmental organizations under USDA programs.

*7 CFR part 3019* means the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. *7 CFR part 3019* covers requirements for awards and subawards to nongovernmental, nonprofit organizations.

*7 CFR part 3052* means the Department's regulations implementing OMB Circular A-133. (To obtain the OMB circular referenced in this definition, see 5 CFR 1310.3.)

\* \* \* \* \*

■ 3. In § 226.4, revise paragraph (j) to read as follows:

### § 226.4 Payments to States and use of funds.

\* \* \* \* \*

(j) *Method of funding.* FNS shall authorize funds for State agencies in accordance with 7 CFR part 3016.

\* \* \* \* \*

### § 226.7 [Amended]

■ 4. In § 226.7:

- a. Amend the first sentence of paragraph (b) by removing the words “as delineated in the Uniform Federal Assistance Regulations, at 7 CFR part 3015” and adding in their place the words “in accordance with 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, as applicable”; and
- b. Amend the first sentence of paragraph (m) by removing the words “the Uniform Federal Assistance Regulations, 7 CFR part 3015” and adding in their place the words “7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, as applicable”.

#### § 226.10 [Amended]

- 5. In § 226.10, amend paragraph (b)(4) by removing the words “the Department’s Uniform Federal Assistance Regulations (7 CFR part 3015)” and adding in their place the words “7 CFR part 3016 or 7 CFR part 3019, as applicable”.
- 6. In § 226.22:
- a. Revise paragraph (c); and
- b. Revise the second sentence of paragraph (l)(5).

The revisions read as follows:

#### § 226.22 Procurement standards.

(c) Institutions may use their own procedures for procurement with Program funds to the extent that:

- (1) Procurements by public institutions comply with applicable State or local laws and standards set forth in 7 CFR part 3016;
- (2) Procurements by private nonprofit institutions comply with standards set forth in 7 CFR part 3019; and
- (3) All procurements comply with the procurement requirements in paragraphs (d) through (m) of this section.

(l) \* \* \*  
 (5) \* \* \* These requirements are found in § 3015.175. \* \* \*

#### § 226.24 [Amended]

- 7. Amend § 226.24 by removing the words “the Department’s Uniform Federal Assistance Regulations (7 CFR part 3015)” and adding in their place the words “7 CFR part 3016 or 7 CFR part 3019, as applicable”.

#### § 226.25 [Amended]

- 8. In § 226.25, amend paragraph (a) by removing the words “the Uniform Federal Assistance Regulations” and adding in their place the words “7 CFR part 3016 or 7 CFR part 3019, as applicable”.

### PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

- 1. The authority citation for 7 CFR part 235 continues to read as follows:

**Authority:** Secs. 7 and 10 of the Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779).

- 2. In § 235.2:

- a. Revise paragraph (q-1);
- b. Remove paragraph (q-2);
- c. Redesignate paragraph (q-4) as paragraph (q-5); and
- d. Add a new paragraphs (q-2) and (q-4).

The revision and additions read as follows:

#### § 235.2 Definitions.

(q-1) *7 CFR part 3015* means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal with competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under USDA programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements.

(q-2) *7 CFR part 3016* means the Department’s Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 7 CFR part 3016 covers requirements for awards and subawards to State and local governmental organizations under Department programs.

(q-4) *7 CFR part 3019* means the Department’s Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. 7 CFR part 3019 covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs.

- 3. In § 235.3, revise the first sentence of paragraph (b) to read as follows:

#### § 235.3 Administration.

(b) Each State agency desiring to receive payments under this part shall enter into a written agreement with the Department for the administration of the child nutrition programs in accordance with the applicable requirements of this part, 7 CFR parts 210, 215, 220, 225,

226, 245, 15, 15a, 15b, 3015, and 3016.

\* \* \*

- 4. In § 235.8:

- a. Revise paragraph (a);
- b. Remove paragraphs (b) and (d) and redesignate paragraphs (c) and (e) as paragraphs (b) and (c), respectively;
- c. Amend the first sentence of newly redesignated paragraph (b) by removing the word “OA” and adding in its place the word “OIG”; and
- d. Amend newly redesignated paragraph (c) by removing the word “OA” wherever it appears and adding in its place the word “OIG”.

The revision reads as follows:

#### § 235.8 Management evaluations and audits.

(a) Unless otherwise exempt, audits at the State level shall be conducted in accordance with Office of Management and Budget Circular A-133, and the Department’s implementing regulations at 7 CFR part 3052. (To obtain the OMB circular referenced in this definition, see 5 CFR 1310.3.)

\* \* \*

- 5. In § 235.9:

- a. Amend the first sentence of paragraph (a) by removing the words “the Office of Management and Budget (OMB) Circular A-102 and the Department’s Uniform Federal Assistance Regulations, 7 CFR part 3015, subpart S (46 FR 55658)” and adding in their place the words “7 CFR part 3016”;
- b. Remove the second sentence of paragraph (a);
- c. Amend the first sentence of paragraph (b) by removing the words “OMB Circular A-102 and 7 CFR part 3015” and adding in their place the words “7 CFR part 3016”;
- d. Revise paragraph (c); and
- e. Amend paragraph (d) by removing the words “OMB Circular A-102 and 7 CFR part 3015, subpart R (46 FR 55654)” and adding in their place the words “7 CFR part 3016”.

The revision reads as follows:

#### § 235.9 Procurement and property management standards.

\* \* \*

(c) *Procurement procedure.* The State agency may use its own procurement procedures which reflect applicable State laws and regulations, in accordance with 7 CFR part 3016.

\* \* \*

#### § 235.11 [Amended]

- 6. In § 235.11:

- a. Amend the third sentence of paragraph (a) by removing the words “,



as applicable, the provisions of Office of Management and Budget Circular A–102, Attachments F and G and 7 CFR part 3015, subparts G and H” and adding in their place the words “the provisions of 7 CFR part 3016”;

■ b. Amend the first sentence of paragraph (b)(5)(v) by removing the words “7 CFR part 3015, subpart L” and adding in their place the words “7 CFR part 3016”; and

■ c. Amend paragraph (d) by removing the words “the Department’s Uniform Federal Assistance Regulations, 7 CFR part 3015 subpart N” and adding in their place the words “7 CFR part 3016”.

Dated: July 5, 2006.

**Roberto Salazar,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 06–6185 Filed 7–12–06; 8:45 am]

BILLING CODE 3410–30–P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

RIN 3150–AH93

#### List of Approved Spent Fuel Storage Casks: NUHOMS®HD Addition; Withdrawal of Direct Final Rule

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Direct final rule; withdrawal.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is withdrawing a direct final rule that would have added the Transnuclear, Inc., NUHOMS®HD cask system to the “List of Approved Spent Fuel Storage Casks” to add Certificate of Compliance No. 1030. The NRC is taking this action because it has received significant adverse comments in response to an identical proposed rule which was concurrently published with the direct final rule.

**DATES:** The final rule published on May 2, 2006 (71 FR 25740) is withdrawn effective July 13, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219 (e-mail: [jmm2@nrc.gov](mailto:jmm2@nrc.gov)).

**SUPPLEMENTARY INFORMATION:** On May 2, 2006 (71 FR 25740), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR 72.214 to add the Transnuclear, Inc., NUHOMS® HD cask system listing within the “List of Approved Spent Fuel Storage Casks” to add Certificate of

Compliance No. 1030. Holders of power reactor operating licenses would have been allowed to store spent fuel in the NUHOMS®HD cask system under a general license. The direct final rule was to become effective on July 17, 2006. The NRC also concurrently published an identical proposed rule on May 2, 2006 (71 FR 25782).

In the May 2, 2006, direct final rule, NRC stated that if any significant adverse comments were received, a notice of timely withdrawal of the direct final rule would be published in the **Federal Register**. As a result, the direct final rule would not take effect.

The NRC received significant adverse comments on the direct final rule; therefore, the NRC is withdrawing the direct final rule. As stated in the May 2, 2006, direct final rule, NRC will address the comments received on the May 2, 2006, companion proposed rule in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Dated at Rockville, Maryland, this 28th day of June, 2006.

For the Nuclear Regulatory Commission.

**Luis A. Reyes,**

*Executive Director for Operations.*

[FR Doc. E6–11027 Filed 7–12–06; 8:45 am]

BILLING CODE 7590–01–P

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 201

[Regulation A]

#### Extensions of Credit by Federal Reserve Banks

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) has adopted final amendments to its Regulation A to reflect the Board’s approval of an increase in the primary credit rate at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of the Board’s primary credit rate action.

**DATES:** The amendments to part 201 (Regulation A) are effective July 13, 2006. The rate changes for primary and secondary credit were effective on the dates specified in 12 CFR 201.51, as amended.

**FOR FURTHER INFORMATION CONTACT:** Jennifer J. Johnson, Secretary of the Board (202/452–3259); for users of Telecommunication Devices for the Deaf (TDD) only, contact 202/263–4869.

**SUPPLEMENTARY INFORMATION:** The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to the review and determination of the Board.

The Board approved requests by the Reserve Banks to increase by 25 basis points the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby increasing from 6.00 percent to 6.25 percent the rate that each Reserve Bank charges for extensions of primary credit. As a result of the Board’s action on the primary credit rate, the rate that each Reserve Bank charges for extensions of secondary credit automatically increased from 6.50 percent to 6.75 percent under the secondary credit rate formula. The final amendments to Regulation A reflect these rate changes.

The 25-basis-point increase in the primary credit rate was associated with a similar increase in the target for the Federal funds rate (from 5.00 percent to 5.25 percent) approved by the Federal Open Market Committee (Committee) and announced at the same time. A press release announcing these actions indicated that:

Recent indicators suggest that economic growth is moderating from its quite strong pace earlier this year, partly reflecting a gradual cooling of the housing market and the lagged effects of increases in interest rates and energy prices.

Readings on core inflation have been elevated in recent months. Ongoing productivity gains have held down the rise in unit labor costs, and inflation expectations remain contained. However, the high levels of resource utilization and of the prices of energy and other commodities have the potential to sustain inflation pressures.

Although the moderation in the growth of aggregate demand should help to limit inflation pressures over time, the Committee judges that some inflation risks remain. The extent and timing of any additional firming that may be needed to address these risks will depend on the evolution of the outlook for both inflation and economic growth, as implied by incoming information. In any event, the Committee will respond to changes in economic prospects as needed to support the attainment of its objectives.

#### Regulatory Flexibility Act Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies