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## OFFICE OF MANAGEMENT AND BUDGET

### 2 CFR Parts 1 and 182

#### Guidance for Drug-Free Workplace Requirements (Financial Assistance)

**AGENCY:** Office of Federal Financial Management, Office of Management and Budget.

**ACTION:** Final guidance.

**SUMMARY:** The Office of Management and Budget (OMB) is issuing guidance on drug-free workplace requirements for financial assistance. The guidance conforms with the common rule that 31 Federal agencies published on November 26, 2003 and therefore makes no substantive change to Federal policies and procedures in this area. The agencies issued the common rule after resolving public comments received in response to a Notice of Proposed Rulemaking.

OMB is issuing this guidance as an administrative simplification that will streamline the policy framework for drug-free workplace requirements in two ways. First, the guidance is in a form suitable for Federal agency adoption, which will reduce the volume of Federal regulations on drug-free workplace requirements, make it easier for the affected public to use them, and make it easier and less expensive for the Federal Government to maintain them. Second, the guidance is located in the recently established title 2 of the Code

of Federal Regulations (2 CFR). Locating the OMB guidance in 2 CFR will make it easier to find. As a further simplification for the public, the OMB guidance then will be in the same CFR title as the agencies' regulations that implement the guidance.

This notice also makes a minor change to the previously issued 2 CFR part 1, to conform that part with the guidance published today.

**DATES:** The effective date for this final guidance is July 15, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Marguerite Pridgen, Office of Federal Financial Management, Office of Management and Budget, telephone (202) 395-7844 (direct) or (202) 395-3993 (main office) and e-mail: [mpridgen@omb.eop.gov](mailto:mpridgen@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** In a **Federal Register** document published on September 26, 2008 [73 FR 55776], OMB proposed to issue drug-free workplace guidance for grants and cooperative agreements and make a minor conforming change to 2 CFR part 1. The proposal was the first step toward replacing a common rule that Federal agencies issued to implement the Drug-Free Workplace Act of 1988, as it applies to grants (Pub. L. 100-690, title V, subtitle D, enacted November 18, 1988). See the Supplementary Information section of the September 26, 2008, **Federal Register** document for more background information about the agencies' common rule, the proposed OMB guidance, title 2 of the Code of Federal Regulations in which the guidance and agency regulations will be located, and the benefits of replacing a common rule with adoptable guidance.

In response to the September 2008 proposal, OMB received one comment noting a typographical error. We therefore are finalizing the guidance as proposed, with the error corrected.

**Next steps.** Each Federal agency that is a signatory to the drug-free workplace common rule will issue a brief rule in

its chapter of 2 CFR to adopt the OMB guidance on drug-free workplace, as required under sections 182.20 through 182.35 of the guidance. The rule will give regulatory effect to the OMB guidance for the agency's financial assistance awards and recipients. The agency also will remove the full text of the November 2003 common rule from its own CFR title. We expect to complete the process in calendar year 2010.

#### List of Subjects

##### 2 CFR Part 1

Cooperative agreements, Grant programs, Grants administration.

##### 2 CFR Part 182

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

**Danny Werfel,**  
*Deputy Controller.*

#### Authority and Issuance

■ For the reasons set forth above, the Office of Management and Budget amends 2 CFR, subtitle A, as follows:

#### PART 1—[AMENDED]

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

**Authority:** 31 U.S.C. 503; 31 U.S.C. 1111; 41 U.S.C. 405; Reorganization Plan No. 2 of 1970; E.O. 11541, 35 FR 10737, 3 CFR, 1966-1970, p. 939.

■ 2. Section 1.215 is revised to read as follows:

#### § 1.215 Relationship to previous issuances.

Although some of the guidance was organized differently within OMB circulars or other documents, much of the guidance in this subtitle existed prior to the establishment of title 2 of the CFR. Specifically:

Guidance in * * *	On * * *	Previously was in * * *
(a) Chapter I, part 180 .....	Nonprocurement debarment and suspension	OMB guidance that conforms with the government-wide common rule (see 60 FR 33036, June 26, 1995).
(b) Chapter I, part 182 .....	Drug-free workplace requirements .....	OMB guidance (54 FR 4946, January 31, 1989) and a government-wide common rule (as amended at 68 FR 66534, November 26, 2003).
(c) Chapter II, part 215 .....	Administrative requirements for grants and agreements.	OMB Circular A-110.

Guidance in * * *	On * * *	Previously was in * * *
(d) Chapter II, part 220 .....	Cost principles for educational institutions .....	OMB Circular A-21.
(e) Chapter II, part 225 .....	Cost principles for State, local, and Indian tribal governments.	OMB Circular A-87.
(f) Chapter II, part 230 .....	Cost principles for non-profit organizations .....	OMB Circular A-122.
(g) [Reserved].		

## CHAPTER I—[AMENDED]

■ 3. Part 182 is added to Chapter I, to read as follows:

### PART 182—GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

Sec.

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- 182.640 Employee.
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- 182.650 Grant.
- 182.655 Individual.
- 182.660 Recipient.
- 182.665 State.
- 182.670 Suspension.

**Authority:** 41 U.S.C. 701, *et seq.*

#### § 182.5 What does this part do?

This part provides Office of Management and Budget (OMB) guidance for Federal agencies on the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended) that applies to grants. It also applies the provisions of the Act to cooperative agreements and other financial assistance awards, as a matter of Federal Government policy.

#### § 182.10 How is this part organized?

This part is organized in two segments.

(a) Sections 182.5 through 182.40 contain general policy direction for Federal agencies' use of the uniform policies and procedures in subparts A through F of this part.

(b) Subparts A through F of this part contain uniform governmentwide policies and procedures for Federal agency use to specify the—

- (1) Types of awards that are covered by drug-free workplace requirements;
- (2) Drug-free workplace requirements with which a recipient must comply;
- (3) Actions required of an agency awarding official; and
- (4) Consequences of a violation of drug-free workplace requirements.

#### § 182.15 To whom does the guidance apply?

This part provides OMB guidance only to Federal agencies. Publication of this guidance in the Code of Federal Regulations does not change its nature—it is guidance and not regulation. Federal agencies' implementation of the guidance governs the rights and responsibilities of other persons affected by the drug-free workplace requirements.

#### § 182.20 What must a Federal agency do to implement the guidance?

To comply with the requirement in Section 41 U.S.C. 705 for Governmentwide regulations, each Federal agency that awards grants or cooperative agreements or makes other financial assistance awards that are subject to the drug-free workplace requirements in subparts A through F of the guidance must issue a regulation consistent with those subparts.

#### § 182.25 What must a Federal agency address in its implementation of the guidance?

Each Federal agency's implementing regulation:

(a) Must establish drug-free workplace policies and procedures for that agency's awards that are consistent with the guidance in this part. When adopted by a Federal agency, the provisions of the guidance have regulatory effect for that agency's awards.

(b) Must address some matters for which the guidance in this part gives the agency discretion. Specifically, the regulation must—

(1) State whether the agency:

(i) Has a central point to which a recipient may send the notification of a conviction that is required under § 182.225(a) or § 182.300(b); or

(ii) Requires the recipient to send the notification to the awarding official for each agency award, or to his or her official designee.

(2) Either:

(i) State that the agency head is the official authorized to determine under § 182.500 or § 182.505 that a recipient has violated the drug-free workplace requirements; or

(ii) Provide the title of the official designated to make that determination.

(c) May also, at the agency's option, identify any specific types of financial

assistance awards, in addition to grants and cooperative agreements, to which the Federal agency makes this guidance applicable.

**§ 182.30 Where does a Federal agency implement the guidance?**

Each Federal agency that awards grants or cooperative agreements or makes other financial assistance awards that are subject to the drug-free workplace guidance in this part must issue a regulation implementing the guidance within its chapter in subtitle B of this title of the Code of Federal Regulations.

**§ 182.35 By when must a Federal agency implement the guidance?**

Federal agencies must submit proposed regulations to the OMB for review within nine months of the issuance of this part and issue final regulations within eighteen months of the guidance.

**§ 182.40 How is the guidance maintained?**

The OMB publishes proposed changes to the guidance in the **Federal Register** for public comment, considers comments with the help of appropriate interagency working groups, and then issues any changes to the guidance in final form.

**Subpart A—Purpose and Coverage**

**§ 182.100 How is this part written?**

(a) This part uses a “plain language” format to make it easier for the general public and business community to use and understand. The section headings and text, often in the form of questions and answers, must be read together.

(b) Pronouns used within this part, such as “I” and “you,” change from subpart to subpart depending on the audience being addressed.

**§ 182.105 Do terms in this part have special meanings?**

This part uses terms that have special meanings. Those terms are defined in subpart F of this part.

**§ 182.110 What do subparts A through F of this part do?**

Subparts A through F of this part specify standard policies and procedures to carry out the Drug-Free Workplace Act of 1988 for financial assistance awards.

**§ 182.115 Does this part apply to me?**

(a) Portions of this part apply to you if you are either—

(1) A recipient of a Federal assistance award (see definitions of award and recipient in §§ 182.605 and 182.660, respectively); or

(2) A Federal agency awarding official.

(b) The following table shows the subparts that apply to you:

If you are * * *	See subparts * * *
(1) a recipient who is not an individual .....	A, B and E.
(2) a recipient who is an individual .....	A, C and E.
(3) a Federal agency awarding official .....	A, D and E.

**§ 182.120 Are any of my Federal assistance awards exempt from this part?**

This part does not apply to any award to which the agency head, or his or her designee, determines that the application of this part would be inconsistent with the international obligations of the United States or the laws or regulations of a foreign government.

**§ 182.125 Does this part affect the Federal contracts that I receive?**

This part will affect future contract awards indirectly if you are debarred or suspended for a violation of the requirements of this part, as described in § 182.510(c). However, this part does not apply directly to procurement contracts. The portion of the Drug-Free Workplace Act of 1988 that applies to Federal procurement contracts is carried out through the Federal Acquisition Regulation in chapter 1 of Title 48 of the Code of Federal Regulations (the drug-free workplace coverage currently is in 48 CFR part 23, subpart 23.5).

**Subpart B—Requirements for Recipients Other Than Individuals**

**§ 182.200 What must I do to comply with this part?**

There are two general requirements if you are a recipient other than an individual.

(a) First, you must make a good faith effort, on a continuing basis, to maintain a drug-free workplace. You must agree to do so as a condition for receiving any award covered by this part. The specific measures that you must take in this regard are described in more detail in subsequent sections of this subpart. Briefly, those measures are to—

(1) Publish a drug-free workplace statement and establish a drug-free awareness program for your employees (see §§ 182.205 through 182.220); and

(2) Take actions concerning employees who are convicted of violating drug statutes in the workplace (see § 182.225).

(b) Second, you must identify all known workplaces under your Federal awards (see § 182.230).

**§ 182.205 What must I include in my drug-free workplace statement?**

You must publish a statement that—

(a) Tells your employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in your workplace;

(b) Specifies the actions that you will take against employees for violating that prohibition; and

(c) Lets each employee know that, as a condition of employment under any award, he or she:

(1) Will abide by the terms of the statement; and

(2) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than five calendar days after the conviction.

**§ 182.210 To whom must I distribute my drug-free workplace statement?**

You must require that a copy of the statement described in § 182.205 be given to each employee who will be engaged in the performance of any Federal award.

**§ 182.215 What must I include in my drug-free awareness program?**

You must establish an ongoing drug-free awareness program to inform employees about—

(a) The dangers of drug abuse in the workplace;

(b) Your policy of maintaining a drug-free workplace;

(c) Any available drug counseling, rehabilitation, and employee assistance programs; and

(d) The penalties that you may impose upon them for drug abuse violations occurring in the workplace.

**§ 182.220 By when must I publish my drug-free workplace statement and establish my drug-free awareness program?**

If you are a new recipient that does not already have a policy statement as described in § 182.205 and an ongoing

awareness program as described in § 182.215, you must publish the

statement and establish the program by the time given in the following table:

If * * *	Then you * * *
(a) the performance period of the award is less than 30 days .....	must have the policy statement and program in place as soon as possible, but before the date on which performance is expected to be completed.
(b) the performance period of the award is 30 days or more .....	must have the policy statement and program in place within 30 days after award.
(c) you believe there are extraordinary circumstances that will require more than 30 days for you to publish the policy statement and establish the awareness program.	may ask the agency awarding official to give you more time to do so. The amount of additional time, if any, to be given is at the discretion of the awarding official.

**§ 182.225 What actions must I take concerning employees who are convicted of drug violations in the workplace?**

There are two actions you must take if an employee is convicted of a drug violation in the workplace:

(a) First, you must notify Federal agencies if an employee who is engaged in the performance of an award informs you about a conviction, as required by § 182.205(c)(2), or you otherwise learn of the conviction. Your notification to the Federal agencies must—

- (1) Be in writing;
- (2) Include the employee's position title;
- (3) Include the identification number(s) of each affected award;
- (4) Be sent within ten calendar days after you learn of the conviction; and
- (5) Be sent to every Federal agency on whose award the convicted employee was working. It must be sent to every awarding official or his or her official designee, unless the Federal agency has specified a central point for the receipt of the notices.

(b) Second, within 30 calendar days of learning about an employee's conviction, you must either—

(1) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended; or

(2) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

**§ 182.230 How and when must I identify workplaces?**

(a) You must identify all known workplaces under each agency award. A failure to do so is a violation of your drug-free workplace requirements. You may identify the workplaces—

(1) To the agency official that is making the award, either at the time of application or upon award; or

(2) In documents that you keep on file in your offices during the performance of the award, in which case you must make the information available for inspection upon request by agency officials or their designated representatives.

(b) Your workplace identification for an award must include the actual address of buildings (or parts of buildings) or other sites where work under the award takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

(c) If you identified workplaces to the agency awarding official at the time of application or award, as described in paragraph (a)(1) of this section, and any workplace that you identified changes during the performance of the award, you must inform the agency awarding official.

**Subpart C—Requirements for Recipients Who Are Individuals**

**§ 182.300 What must I do to comply with this part if I am an individual recipient?**

As a condition of receiving a Federal agency award, if you are an individual recipient, you must agree that—

(a) You will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity related to the award; and

(b) If you are convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity, you will report the conviction:

- (1) In writing.
- (2) Within 10 calendar days of the conviction.

(3) To the Federal agency awarding official or other designee for each award that you currently have, unless the agency designates a central point for the receipt of the notices, either in the award document or its regulation implementing the guidance in this part.

When notice is made to a central point, it must include the identification number(s) of each affected award.

**Subpart D—Responsibilities of Agency Awarding Officials**

**§ 182.400 What are my responsibilities as an agency awarding official?**

As a Federal agency awarding official, you must obtain each recipient's agreement, as a condition of the award, to comply with the requirements in—

(a) Subpart B of this part, if the recipient is not an individual; or

(b) Subpart C of this part, if the recipient is an individual.

**Subpart E—Violations of This Part and Consequences**

**§ 182.500 How are violations of this part determined for recipients other than individuals?**

A recipient other than an individual is in violation of the requirements of this part if the agency head or his or her designee determines, in writing, that—

(a) The recipient has violated the requirements of Subpart B of this part; or

(b) The number of convictions of the recipient's employees for violating criminal drug statutes in the workplace is large enough to indicate that the recipient has failed to make a good faith effort to provide a drug-free workplace.

**§ 182.505 How are violations of this part determined for recipients who are individuals?**

An individual recipient is in violation of the requirements of this part if the agency head or his or her designee determines, in writing, that—

(a) The recipient has violated the requirements of Subpart C of this part; or

(b) The recipient is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.

**§ 182.510 What actions will the Federal Government take against a recipient determined to have violated this part?**

If a recipient is determined to have violated this part, as described in § 182.500 or § 182.505, the agency may take one or more of the following actions—

(a) Suspension of payments under the award;

(b) Suspension or termination of the award; and

(c) Suspension or debarment of the recipient under the agency's regulation implementing the OMB guidance on nonprocurement debarment and suspension (2 CFR part 180), for a period not to exceed five years.

**§ 182.515 Are there any exceptions to those actions?**

The agency head may waive with respect to a particular award, in writing, a suspension of payments under an award, suspension or termination of an award, or suspension or debarment of a recipient if the agency head determines that such a waiver would be in the public interest. This exception authority cannot be delegated to any other official.

**Subpart F—Definitions****§ 182.605 Award.**

Award means an award of financial assistance by a Federal agency directly to a recipient.

(a) The term award includes:

(1) A Federal grant or cooperative agreement, in the form of money or property in lieu of money.

(2) A block grant or a grant in an entitlement program, whether or not the grant is exempted from coverage under the Governmentwide rule that implements OMB Circular A-102 (for availability of OMB circulars, see 5 CFR 1310.3) and specifies uniform administrative requirements.

(b) The term award does not include:

(1) Technical assistance that provides services instead of money.

(2) Loans.

(3) Loan guarantees.

(4) Interest subsidies.

(5) Insurance.

(6) Direct appropriations.

(7) Veterans' benefits to individuals (i.e., any benefit to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States).

**§ 182.610 Controlled substance.**

Controlled substance means a controlled substance in schedules I through V of the Controlled Substances Act (21 U.S.C. 812), and as further defined by regulation at 21 CFR 1308.11 through 1308.15.

**§ 182.615 Conviction.**

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

**§ 182.620 Cooperative agreement.**

Cooperative agreement means an award of financial assistance that, consistent with 31 U.S.C. 6305, is used to enter into the same kind of relationship as a grant (see definition of grant in § 182.650), except that substantial involvement is expected between the Federal agency and the recipient when carrying out the activity contemplated by the award. The term does not include cooperative research and development agreements as defined in 15 U.S.C. 3710a.

**§ 182.625 Criminal drug statute.**

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance.

**§ 182.630 Debarment.**

Debarment means an action taken by a Federal agency to prohibit a recipient from participating in Federal Government procurement contracts and covered nonprocurement transactions. A recipient so prohibited is debarred, in accordance with the Federal Acquisition Regulation for procurement contracts (48 CFR part 9, subpart 9.4) and agency regulations implementing the OMB guidance on nonprocurement debarment and suspension (2 CFR part 180, which implements Executive Orders 12549 and 12689).

**§ 182.635 Drug-free workplace.**

Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

**§ 182.640 Employee.**

(a) Employee means the employee of a recipient directly engaged in the performance of work under the award, including—

(1) All direct charge employees;

(2) All indirect charge employees, unless their impact or involvement in the performance of work under the award is insignificant to the performance of the award; and

(3) Temporary personnel and consultants who are directly engaged in

the performance of work under the award and who are on the recipient's payroll.

(b) This definition does not include workers not on the payroll of the recipient (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the payroll; or employees of subrecipients or subcontractors in covered workplaces).

**§ 182.645 Federal agency or agency.**

Federal agency or agency means any United States executive department, military department, government corporation, government controlled corporation, any other establishment in the executive branch (including the Executive Office of the President), or any independent regulatory agency.

**§ 182.650 Grant.**

Grant means an award of financial assistance that, consistent with 31 U.S.C. 6304, is used to enter into a relationship—

(a) The principal purpose of which is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the Federal Government's direct benefit or use; and

(b) In which substantial involvement is not expected between the Federal agency and the recipient when carrying out the activity contemplated by the award.

**§ 182.655 Individual.**

Individual means a natural person.

**§ 182.660 Recipient.**

Recipient means any individual, corporation, partnership, association, unit of government (except a Federal agency) or legal entity, however organized, that receives an award directly from a Federal agency.

**§ 182.665 State.**

State means any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

**§ 182.670 Suspension.**

Suspension means an action taken by a Federal agency that immediately prohibits a recipient from participating in Federal Government procurement contracts and covered nonprocurement transactions for a temporary period, pending completion of an investigation and any judicial or administrative proceedings that may ensue. A recipient so prohibited is suspended, in

accordance with the Federal Acquisition Regulation for procurement contracts (48 CFR part 9, subpart 9.4) and agency regulations implementing the OMB guidance on nonprocurement debarment and suspension (2 CFR part 180, which implements Executive Orders 12549 and 12689). Suspension of a recipient is a distinct and separate action from suspension of an award or suspension of payments under an award.

[FR Doc. E9-14019 Filed 6-12-09; 8:45 am]

BILLING CODE P

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 220

[FNS-2005-0008]

RIN 0584-AD50

#### School Breakfast Program: Severe Need Assistance

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department is adopting as a final rule, without change, an interim rule that amended the regulations for the School Breakfast Program. The interim rule addresses and implements amendments made by Section 201 of the Child Nutrition and WIC Reauthorization Act of 2004 and amends the School Breakfast Program (SBP) regulations to eliminate the requirement that a school's costs exceed the rate of reimbursement as a criterion for receiving the higher severe need funding available in the SBP. The rule also allows State agencies to provide severe need reimbursements to certain new schools that are beginning participation in the school feeding programs and therefore have no historical second preceding year participation information, as was previously required. The rule is intended to simplify eligibility for severe need reimbursements by removing previous restrictions on receipt of those payments. This rule does not impose new administrative requirements on State or local governmental entities.

**DATES:** Effective on June 15, 2009, the Department is adopting as a final rule the interim rule published at 70 FR 66247 on November 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melissa Rothstein, Child Nutrition

Division, Food and Nutrition Service at (703) 305-2590.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 2, 2005, the Department published an interim rule on the School Breakfast Program. Section 501(b) of Public Law 108-265 states that FNS may promulgate interim regulations to implement amendments made by Section 201 of the Child Nutrition and WIC Reauthorization Act of 2004. FNS published an interim rule to expedite implementation of the rule's provisions, while allowing public input. Comments were invited on the rule and the comment period ended on May 1, 2006. FNS received four public comments, all in support of the rule: two from State agencies, one from a school district, and one from a school. Commenters commended FNS for helping severe need schools participate in the SBP by:

- Eliminating the paperwork burden associated with documenting costs, and
- Allowing the Secretary to determine severe need funding for new schools that do not have historical participation information.

Commenters did not recommend any changes to the provisions of the interim rule. Therefore, the Department is adopting the interim rule as a final rule without change. Although there are no changes to the rule, the most recent School Breakfast Program information collection package (OMB Information Collection Request 0584-0012), shows that the overall burden hours have increased due to school food authority and school participation. This action also affirms information contained in the interim rule concerning Executive Order 12866, the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act. Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

#### List of Subjects in 7 CFR Part 220

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs.

#### PART 220—SCHOOL BREAKFAST PROGRAM: SEVERE NEED ASSISTANCE

Accordingly, the Department is adopting as a final rule, without change, the interim rule that amended 7 CFR Part 220 and was published at 70 FR 66247 on November 2, 2005.

Dated: June 3, 2009.

**Julia Paradis,**

*Administrator, Food and Nutrition Service.*  
[FR Doc. E9-14021 Filed 6-12-09; 8:45 am]

BILLING CODE 3410-30-P

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

RIN 0563-AC23

#### Common Crop Insurance Regulations, Basic Provisions

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Interim rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) amends the Common Crop Insurance Regulations, Basic Provisions to revise enterprise unit provisions to protect the program from potential abuse as a result of the increased premium subsidies for enterprise and whole farm units provided by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill).

**DATES:** This rule is effective June 15, 2009. Written comments and opinions on this rule will be accepted until the close of business August 14, 2009 and will be considered when the rule is to be made final.

**ADDRESSES:** Interested persons are invited to submit comments, titled "Enterprise Unit Interim Rule", by any of the following methods:

- *By Mail to:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility—Mail Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141-6205.
- *By Express Mail to:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, 9240 Troost Avenue, Kansas City, MO 64131-3055.

- *E-Mail:* [DirectorPDD@rma.usda.gov](mailto:DirectorPDD@rma.usda.gov).
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

A copy of each response will be available for public inspection and copying from 7 a.m. to 4:30 p.m., CST, Monday through Friday, except holidays, at 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133-4676.

**FOR FURTHER INFORMATION CONTACT:** Erin Albright, Risk Management Specialist,