7 CFR Part 220

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

■ Accordingly, 7 CFR Parts 210 and 220 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 § 210.9, revise paragraph (b)(14) to read as follows:

§ 210.9 Agreement with State agency.

* * * * *

(b) * * *

(14) Maintain, in the storage, preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations, and comply with the food safety inspection requirement of § 210.13(b);

* * * * *

■ 3. In § 210.13, revise paragraph (b) to read as follows:

§ 210.13 Facilities management.

* * * * *

(b) *Food safety inspections.* Schools shall obtain a minimum of two food safety inspections during each school year conducted by a State or local governmental agency responsible for food safety inspections. They shall post in a publicly visible location a report of the most recent inspection conducted, and provide a copy of the inspection report to a member of the public upon request. Sites participating in more than one child nutrition program shall only be required to obtain two food safety inspections per school year if the nutrition programs offered use the same facilities for the production and service of meals.

* * * * *

■ 4. In § 210.15,

■ a. Amend paragraph (a)(5) by removing the word ''and'' after the semicolon;

■ b. Amend paragraph (a)(6) by removing the period at the end and adding in its place a semicolon followed by the word ''and'';

■ c. Add a new paragraph (a)(7);

■ d. Amend paragraph (b)(4) by removing the period at the end and adding in its place a semicolon followed by the word ''and''; and

■ e. Add a new paragraph (b)(5).

The additions read as follows:

§ 210.15 Reporting and recordkeeping.

(a) * * *

(7) The number of food safety inspections obtained per school year by each school under its jurisdiction.

(b) * * *

(5) Food safety inspection records to demonstrate compliance with § 210.13(b).

■ 5. In § 210.20:

■ a. Amend paragraph (a)(6) by removing the word ''and'' after the semicolon;

■ b. Amend paragraph (a)(7) by removing the period at the end and adding in its place a semicolon followed by the word ''and'';

■ c. Add a new paragraph (a)(8);

■ d. Amend paragraph (b)(10) by removing the word ''and'' after the semicolon;

■ e. Amend paragraph (b)(11) by removing the period at the end and adding in its place a semicolon followed by the word ''and''; and

■ f. Add a new paragraph (b)(12).

The additions read as follows:

§ 210.20 Reporting and recordkeeping.

(a) * * *

(8) Results of the State agency's review of schools' compliance with the food safety inspection requirement in § 210.13(b) by November 15 following each of school years 2005–2006 through 2008–2009, beginning November 15, 2006. The report will be based on data supplied by the school food authorities in accordance with § 210.15(a)(7).

(b) * * *

(12) Records supplied by the school food authorities showing the number of food safety inspections obtained by schools for each of school years 2005–2006 through 2008–2009.

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 § 220.7:

■ a. Redesignate paragraphs (a-1) and (a-2) as paragraphs (a)(1) and (a)(2);

■ b. Revise the newly designated paragraph (a)(2); and

■ c. Revise paragraph (e)(8).

The revisions read as follows:

§ 220.7 Requirements for participation.

(a) * * *

(2) Schools shall obtain a minimum of two food safety inspections per school year conducted by a State or local governmental agency responsible for food safety inspections. Schools participating in more than one child nutrition program shall only be required to obtain a minimum of two food safety inspections per school year if the food preparation and service for all meal programs take place at the same facility. Schools shall post in a publicly visible location a report of the most recent inspection conducted, and provide a copy of the inspection report to a member of the public upon request.

* * * * *

(e) * * *

(8) Maintain, in the storage, preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations, and comply with the food safety inspection requirement in paragraph (a)(2) of this section;

* * * * *

■ 3. In § 220.13, add paragraph (b)(3) to read as follows:

§ 220.13 Special responsibilities of State agencies.

* * * * *

(b) * * *

(3) For each of school years 2005–2006 through 2008–2009, each State agency shall monitor school food authority compliance with the food safety inspection requirement in § 220.7(a)(2) and submit an annual report to FNS documenting school compliance based on data supplied by the school food authorities. The report must be filed by November 15 following each of school years 2005–2006 through 2008–2009, beginning November 15, 2006. The State agency shall keep the records supplied by the school food authorities showing the number of food safety inspections obtained by schools for each of school years 2005–2006 through 2008–2009.

* * * * *

Dated: May 25, 2005.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 05–11805 Filed 6–14–05; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

RIN 0584–AD69

Child and Adult Care Food Program: Permanent Agreements for Day Care Home Providers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Child and Adult Care Food Program (CACFP) regulations to implement a provision of the Child Nutrition and WIC Reauthorization Act of 2004 which stipulates that the agreement between a sponsoring organization and family or group day care home participating in the CACFP is permanent and remains in effect until terminated by either party. This change will reduce the administrative workload and paperwork burden of sponsoring organizations, by eliminating the periodic renewal of agreements with their family or group day care homes.

DATES: This rule contains information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Food and Nutrition Service will publish a document in the **Federal Register** announcing the effective date once these requirements have been approved.

FOR FURTHER INFORMATION CONTACT: Keith Churchill, Section Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302, phone (703) 305–2590.

SUPPLEMENTARY INFORMATION:

I. Background

What Are Agreements Between the Sponsoring Organizations and the Family or Group Day Care Homes?

The agreements record specific requirements and responsibilities of sponsoring organizations and the family or group day care homes that participate in CACFP under their supervision. The standard form agreements are developed by State agencies. However, a State agency may allow sponsoring organizations to develop agreements for use with their family or group day care homes provided those agreements include all required elements.

What Did the New Law Change About the Agreements?

Prior to reauthorization, the Richard B. Russell National School Lunch Act required each State agency to develop, and provide for use, a standard form of agreement, and that a sponsoring organization must enter into an agreement with each day care home, for the purpose of specifying the rights and responsibilities of each party. The law did not set requirements on the duration of agreements. Currently, the CACFP regulations found at 7 CFR Part 226 make no mention of, nor set limits on, the duration of agreements between the sponsoring organizations and family or group day care homes. As a result, administering State agencies have applied a variety of standards for the duration of the agreements. For example, some State agencies have linked the renewal of agreements between sponsors and family or group day care homes with the renewal of licensing and/or application process. Section 119 of the Child Nutrition and WIC Reauthorization Act of 2004, Public Law 108–265, amended section 17(j) of the Richard B. Russell National School Lunch Act to mandate the use of permanent agreements between sponsoring organizations and family or group day care homes.

When Was This Change Effective?

The change made by Public Law 108–265 was effective on June 30, 2004. The Food and Nutrition Service (FNS) notified CACFP State agencies through an implementation memorandum on July 12, 2004, that all day care homes must have a permanent agreement in place no later than July 1, 2005. Although this provision went into effect on the date of enactment, sponsors are not immediately required to revise currently valid agreements, but must make all agreements permanent as they are updated or revised.

What Guidance Has the Department Provided on This Change?

On July 12, 2004, FNS provided CACFP State agencies with written guidance regarding the permanent agreement provision. In this written guidance, available at *http://www.fns.usda.gov/cnd/Care/Reauth_Memos/2004-07-12.pdf*, FNS explained that the agreement between sponsoring organizations and family or group day care homes must now be made permanent.

What Does This Rule Do?

The rule will stipulate that either party to the permanent agreement may still terminate the agreement. Although the agreement is permanent, it does not remove the right of the sponsoring organization to terminate a family or group day care home for cause (*e.g.*, expired license) or convenience. Additionally, the rule clarifies that the right of a day care home provider to change sponsors in accordance with current regulations is unchanged. Should a family or group day care home be out of compliance with program requirements, the sponsoring organization will follow the serious deficiency process, which may culminate in the termination of the family or group day care home's agreement. Sponsoring organizations will continue to be permitted to amend the permanent agreement when there is a change in program policy or meal services. State agencies and sponsoring organizations are reminded that permanent agreements must stipulate that CACFP payments are contingent upon the availability of Federal funds.

How Will the Change Affect Family or Group Day Care Home Providers?

This change should have a minimal effect on family and group day care home providers. They will no longer be required to sign an annual agreement with their sponsoring organizations.

How Will This Change Affect Sponsoring Organizations?

The primary change for sponsoring organizations of day care homes participating in the CACFP will be a reduction in their administrative workload and paperwork requirements. Sponsoring organizations will benefit from not having to renew agreements and should be able to direct their resources to other Program-related functions. In the past, some State agencies have required sponsoring organizations to link the renewal of agreements to the renewal of their family or group day care homes' licenses and/or applications, which usually occurred either annually or once every 2 or 3 years. The regulation mandates that sponsoring organizations of day care homes must establish permanent agreements with their family or group day care homes.

How Will This Change Affect State Agencies?

The effect on State agencies should be minimal. The annual responsibilities of State agencies, as described in the current CACFP regulations, are unchanged by the permanent agreement between the sponsoring organization and the family or group day care home. To implement this new provision, State agencies may require sponsoring organizations to amend their current agreement or execute a new permanent agreement.

What Changes Does This Rule Make to the CACFP Regulations?

Responsibilities for agreements between sponsoring organizations and family or group day care homes are described in the CACFP regulations at 7 CFR 226.6(p) for State agencies, and at 7 CFR 226.18(b) for day care homes. This final rule amends these two paragraphs to mandate that the agreements between sponsoring organizations and family or group day care homes be permanent, and adds a sentence to each of these paragraphs

stating that the amendment does not change, nor affect, any other requirements of the CACFP regulations. These are the only changes that are made to the CACFP regulations by this rulemaking.

II. Procedural Matters

Executive Order 12866

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

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Roberto Salazar, Administrator for the Food and Nutrition Service, has certified that this rule will not have a significant impact on a substantial number of small entities. This rule will implement a statutory change that decreases the administrative workload and paperwork burden for sponsoring organizations by reducing the frequency with which agreements between sponsors and family or group day care home providers must be renewed. The U.S. Department of Agriculture does not anticipate any negative fiscal impact resulting from the implementation of this final rule.

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, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Food and Nutrition Service generally prepares a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to 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 FNS 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 regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The Child and Adult Care Food Program is listed in the Catalog of Federal Domestic Assistance under No. 10.558. For the reasons set forth in the final rule in 7 CFR part 3015, Subpart V and related Notice (48 FR 29115), this program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 13132

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 regulation describing the agency's considerations in terms of the three categories called for under section (6)(a)(B) of Executive Order 13132. FNS has considered the impact of this rule on State and local governments and has determined that this rule would 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 will have a preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which otherwise impede its full implementation. This final rule does not have retroactive effect unless so specified in the **DATES** section of this preamble. Prior to any judicial challenge to the provisions of this final rule or the application of the provisions, all applicable administrative procedures must be exhausted. In the Child and Adult Food Care Program, the administrative procedures are set forth at 7 CFR 226.6(k), which establishes appeal procedures; and 7 CFR 226.22 and 7 CFR parts 3016 and 3019, which address administrative appeal procedures for disputes involving procurement by State agencies and institutions.

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 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 there is no negative effect on these groups. All data available to FNS indicate that protected individuals have the same opportunity to participate in the CACFP as non-protected individuals. Regulations at 7 CFR 226.6(f)(4)(iv) require that CACFP institutions agree to operate the Program in compliance with applicable Federal civil rights laws, including title VI of the Civil Rights Act of 1964, title IX of the Education amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Department's regulations concerning nondiscrimination (7 CFR Parts 15, 15a, and 15b). At 7 CFR 226.6(m)(1), State agencies are required to monitor CACFP institution compliance with these laws and regulations.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35, see 5 CFR 1320) requires that OMB approve all collections of information by a Federal agency from the public 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. Information collections in this final rule have been previously submitted to OMB for approval under OMB #0584–0055. A 60-day notice was published in the **Federal Register** on May 5, 2005, at 70 FR 23835, which provides an opportunity for the public to submit comments on the reduction to the information collection burden resulting from the changes in the CACFP made by this final rule. This burden change has not yet been approved by OMB. FNS will publish a document in the **Federal Register** once these requirements have been approved.

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. The information collection in this rule involves the agreements that State agencies require sponsoring organizations to enter into with their family and group day care homes in order to participate in the CACFP. FNS encourages all State agencies and sponsoring organizations to automate their process whenever feasible.

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). This rule implements through amendments to current program regulations a nondiscretionary provision mandated by the Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108–265). 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.

List of Subjects in 7 CFR Part 226

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

■ Accordingly, 7 CFR part 226 is amended as follows:

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

■ 1. The authority citation for 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 § 226.6, amend paragraph (p) by adding the words ''written permanent'' before the word ''agreement'' in the first sentence and by adding a new sentence after the first sentence, to read as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(p) * * * Nothing in the preceding sentence shall be construed to limit the ability of the sponsoring organization to suspend or terminate the permanent agreement in accordance with § 226.16(l). * * *

* * * * *

■ 3. In § 226.18, amend paragraph (b) introductory text by adding the word ''permanent'' before the word ''agreement'' in the second sentence and by adding a new sentence after the second sentence, to read as follows:

§ 226.18 Day care home provisions.

* * * * *

(b) * * * Nothing in the preceding sentence shall be construed to limit the ability of the sponsoring organization to suspend or terminate the permanent agreement in accordance with § 226.16(l). * * *

* * * * *

Dated: May 25, 2005.

Roberto Salazar,

Administrator.

[FR Doc. 05–11806 Filed 6–14–05; 8:45 am]

BILLING CODE 3410–30–P

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 2005 –16]

Inflation Adjustments for Civil Monetary Penalties

AGENCY: Federal Election Commission.

ACTION: Final rules.

SUMMARY: The Federal Election Commission (''Commission'') is adopting final rules to apply inflation adjustments to certain civil monetary penalties under the Federal Election Campaign Act of 1971, as amended (''FECA''), the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act. The civil penalties being adjusted are for (1) certain violations of these statutes that are not knowing and willful, involving contributions and expenditures; (2) knowing and willful violations of the prohibition against the making of a contribution in the name of another; (3) knowing and willful violations of the confidentiality provisions of FECA; and (4) failure to file timely 48-hour notices. No other civil penalties are being adjusted. These adjustments are required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. Further information is provided in the supplementary information that follows.

DATES: These penalty adjustments are effective on June 15, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Assistant General Counsel, or Mr. Albert J. Kiss, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990,[1] as amended by the Debt Collection Improvement Act of 1996,[2] (''Inflation Adjustment Act'') requires Federal agencies to adopt regulations at least once every four years adjusting for inflation the civil monetary penalties within the jurisdiction of the agency.

A civil monetary penalty (''civil penalty'') is defined in the Inflation Adjustment Act as any penalty, fine, or other sanction that is for a specific amount, or has a maximum amount, as provided by Federal law, and is assessed or enforced by an agency in an administrative proceeding or by a Federal court pursuant to Federal law.[3] This definition covers the civil penalties provided for in the Federal Election Campaign Act of 1971 (''FECA''), as amended, 2 U.S.C. 431 *et seq.*, for respondents who violate FECA, or violate the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.*, or the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.* (collectively ''chapters 95 and 96 of Title 26''). Under the Inflation Adjustment Act, a civil penalty is adjusted by a cost-of-living adjustment (''COLA''), determined by multiplying the amount of the civil penalty by the percentage (if any) by which the U.S. Department of Labor's Consumer Price Index for all urban consumers (''CPI'') for the month of June for the year preceding the year of adjustment exceeds the CPI for the month of June for the year in which the amount of the civil penalty was last set or adjusted.[4] The amount of the inflation adjustment is subject to rounding rules.[5]

In March 1997, the Commission promulgated new rules to adjust FECA's then-current civil penalties pursuant to the Inflation Adjustment Act. *Final Rules and Explanation and Justification for Adjustments to Civil Monetary Penalty Amounts,* 62 FR 11316 (Mar. 12, 1997) (''1997 Civil Penalty Adjustment E&J''). In January 2002, the Commission again examined its civil penalty rules under the Inflation Adjustment Act, but did not adjust any civil penalty rules because the operation of the Inflation Adjustment Act's rounding rules did not result in increases in any of the civil penalties. Agenda Doc. 02–06 (Jan. 17, 2002). As explained in more detail below, the Commission has determined that certain civil penalties in 11 CFR 111.24 and 111.44 must be increased again in 2005 due to the increases in the CPI and the application of the Inflation Adjustment Act's rounding rules to these civil penalties. However, other civil penalties in 11 CFR 111.24 and 111.43 are not being changed because the rounding rules negate any increases

[1] 28 U.S.C. 2461 note (2005).

[2] Public Law 104–134, 110 Stat. 1321–358, 1321–373, section 31001(s) (1996).

[3] 28 U.S.C. 2461 note (3)(2).

[4] 28 U.S.C. 2461 note (3)(3) and (5)(b).

[5] 28 U.S.C. 2461 note (5)(a).