

**§ 735.202 What are the restrictions on conduct that safeguard the examination process?**

(a) An employee shall not, with or without compensation, teach, lecture, or write for the purpose of the preparation of a person or class of persons for an examination of the Office of Personnel Management (OPM) or other agency to which examining authority has been delegated, or Board of Examiners for the Foreign Service that depends on information obtained as a result of the employee's Government employment.

(b) This section does not preclude the preparation described in paragraph (a) of this section if:

(1) The information upon which the preparation is based has been made available to the general public or will be made available on request; or

(2) Such preparation is authorized in writing by the Director of OPM, or his or her designee, or by the head of an agency to which examining authority had been delegated, or his or her designee, or by the Director General of the Foreign Service, or his or her designee, as applicable.

**§ 735.203 What are the restrictions on conduct prejudicial to the Government?**

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

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BILLING CODE 6325-48-P

**DEPARTMENT OF AGRICULTURE****Food and Nutrition Service****7 CFR Part 235**

RIN 0584-AD53

**State Administrative Expense Funds**

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

**ACTION:** Final rule.

**SUMMARY:** This rule makes changes to the regulations governing State Administrative Expense funds for the Child Nutrition Programs to reflect amendments made by the Child Nutrition and WIC Reauthorization Act of 2004 to the Child Nutrition Act of 1966. This rule implements a provision of the Act that increases the minimum State Administrative Expense grant for each State administering the National School Lunch Program (NSLP), the School Breakfast Program (SBP) and/or the Special Milk Program (SMP) from

\$100,000 to \$200,000 a year, adjusted by an index beginning in fiscal year 2009.

The rule also implements a requirement that for fiscal years 2005 through 2007 no State shall receive less than its fiscal year 2004 allocation for administrative costs. This final rule will increase the available funds to certain States to expand supervision and technical assistance of Child Nutrition Programs.

**DATES:** This rule is effective September 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Melissa Rothstein, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service (FNS) at 703-305-2595.

**SUPPLEMENTARY INFORMATION:****Background**

Section 202 of the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108-265; June 30, 2004) amended section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) regarding State Administrative Expense (SAE) funds for administration of the Child Nutrition Programs which include the National School Lunch Program (NSLP), the School Breakfast Program (SBP) and/or the Special Milk Program (SMP). Section 202 increased the minimum SAE grant amount to States, from \$100,000 to \$200,000 per year and added an annual adjustment to the minimum grant beginning in fiscal year 2009. It also contained a provision that for fiscal years 2005 through 2007, no State shall receive less than its fiscal year 2004 SAE allocation. Regulations for SAE funds are codified at 7 CFR part 235.

**Non-Discretionary SAE Funds**

This final rule amends § 235.4 to include the requirement that for each of fiscal years 2005 through 2007 no State shall receive less than its fiscal year 2004 allocation for administrative expenses.

**Minimum State Grant for Administrative Expenses**

This final rule amends § 235.4(a)(1) by increasing the minimum SAE grant for each State administering the NSLP, the SBP and/or the SMP from \$100,000 to \$200,000 a year. The minimum SAE grant will be adjusted beginning fiscal year 2009 using the Department of Commerce, Bureau of Economic Analysis index for State and local government purchases. The percentage change between the value of the index for the 12-month period ending June 30 of the second preceding fiscal year and the value of the index for the 12-month

period ending June 30 of the preceding fiscal year will be the basis for the annual adjustment.

It should be noted that the annual adjustment prescribed in the law is not a cumulative adjustment. Rather, the adjustment will be made each year, beginning in fiscal year 2009, to the minimum grant amount of \$200,000. Depending on the performance of the Department of Commerce index, the grant amount levels could increase or decrease from one year to the next.

Pursuant to section 502(b)(2) of Public Law 108-265, these requirements were effective October 1, 2004. FNS issued an implementation memorandum informing State agencies of these changes on July 12, 2004.

Use of funds—Technology infrastructure improvement requirement section 202(b) of Public Law 108-265 also amended section 7 of the Child Nutrition Act of 1966 by adding a new subsection (i) which included a requirement that each State agency submit an amendment to the State agency's plan detailing how SAE funds would be used for technology infrastructure improvement. The amendment to the plan was required to describe how SAE funds would be used by the State agency in part to implement information systems that address potential cost savings and improve program integrity by:

- Monitoring the nutrient content of meals served;
- Providing training to local educational agencies, school food authorities, and schools on how to use technology and information management systems for activities including menu planning, collecting point-of-sale data, and the processing of applications for free and reduced-price meals; and
- Using electronic data to establish benchmarks to compare and monitor program integrity, participation and financial data across schools and school food authorities.

Pursuant to section 502(a) of Public Law 108-265, this requirement was effective on June 30, 2004. FNS issued an implementation memorandum informing State agencies of this requirement on August 30, 2004. All required amendments to SAE plans have been submitted to FNS. No change to the existing regulations at 7 CFR part 235 is needed in order to implement this statutory requirement.

**Executive Order 12866**

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

### Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Roberto Salazar, Administrator, Food and Nutrition Service, has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule provides for an increase in the minimum SAE grant to States.

### 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, FNS must generally prepare 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 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

SAE for Child Nutrition is listed in the Catalog of Federal Domestic Assistance under No. 10.560. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V and related Notice (48 FR 29115, June 24, 1983), this program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials. FNS provided information to State agencies on these non-discretionary requirements by conducting informational meetings and training sessions with State officials which allowed for clarification and discussion. Additionally, FNS issued explanatory memoranda to State agencies on July 12 and August 30, 2004.

### 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 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule has a preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the Dates paragraph. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. The administrative process can be found in § 235.11 (f).

### Civil Rights Impact Analysis

FNS has reviewed this final rule in accordance with the Department Regulation 4300–4, “Civil Rights Impact Analysis,” to identify any major civil rights impacts the rule might have on children on the basis of race, color, national origin, sex, religion, or disability. After a careful review of the rule’s intent and provisions, FNS has determined that it does not affect the participation of protected individuals in the Child Nutrition Programs.

### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR part 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 information contained in 7 CFR 235 is cleared under OMB No. 0584–0067. This final rule contains no new

paperwork burden or information collection requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

### E-Government Act Compliance

The FNS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

### 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 codifies through amendment to current program regulations the non-discretionary amendments made by section 202 of the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108–265) to the Child Nutrition Act of 1966. 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.

### List of Subjects in 7 CFR Part 235

Administrative practice and procedure, Child and Adult Care Food Program, Food assistance programs, Grant administration, Intergovernmental relations, National School Lunch Program, Reporting and recordkeeping requirements, School Breakfast Program, Special Milk Program.

■ Accordingly, 7 CFR part 235 is amended as follows:

### PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

■ 1. The authority citation for 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 § 235.4:

- a. Amend paragraph (a)(1) by removing “\$100,000” and adding in its place “\$200,000”;
- b. Further amend paragraph (a)(1) by adding a new sentence at the end; and
- c. Add a new paragraph (a)(3).

The additions read as follows:

#### § 235.4 Allocation of funds to States.

(a) \* \* \*

(1) \* \* \* On October 1, 2008 and each October 1 thereafter, the minimum dollar amount for a fiscal year for administrative costs shall be adjusted to reflect the percentage change between

the value of the index for State and local government purchases, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year, and the value of that index for the 12-month period ending June 30 of the preceding fiscal year.

(3) For each of fiscal years 2005 through 2007 no State shall receive less than its fiscal year 2004 allocation for administrative costs for all child nutrition programs.

Dated: August 3, 2006.

**Roberto Salazar,**

*Administrator, Food and Nutrition Service.*

[FR Doc. E6-13154 Filed 8-10-06; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2006-25153; **Airspace Docket No. 06-AWP-10**]

RIN 2120-AA66

**Amendment to Class D Airspace; Broomfield, CO**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class D airspace area at Broomfield, CO. A review of the legal description revealed that it does not reflect the current airport reference point (ARP) for Jefferson County Airport.

**DATES:** *Effective Date:* 0901 UTC, September 28, 2006.

**FOR FURTHER INFORMATION CONTACT:** Francie Hope, Western Terminal Operations Airspace Specialist, AWP-520.3, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725-6502.

**SUPPLEMENTARY INFORMATION:**

**History**

An examination of the Class D airspace area designation at Broomfield, CO, revealed that the legal description did not reflect the current ARP for Jefferson County Airport. This action will change the latitude of the ARP for the airport. Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9N, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class D airspace

designation listed in this document will be published subsequently in the Order.

**The Rule**

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the latitude in the legal description of Jefferson County Airport's ARP. Accordingly, since this action only involves a change in the airport's legal description of the Broomfield, CO, Class D airspace area, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 533(b) are unnecessary. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

*Paragraph 5000 Class D Airspace.*

\* \* \* \* \*

**ANM CO D Broomfield, CO [Amended]**

Jefferson County Airport, CO  
(Lat. 39°54'32" N., long. 105°07'02" W.)

\* \* \* \* \*

Issued in Los Angeles, California, on July 5, 2006.

**Leonard A. Mobley,**

*Acting Area Director, Western Terminal Operations.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2006-25502; **Airspace Docket No. 06-ACE-10**]

**Modification of Class E Airspace; West Plains, MO**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by modifying the Class E airspace area at West Plains Municipal Airport. The establishment of Area Navigation (RNAV) Global Positioning System (GPS) Instrument Approach Procedures (IAP) to Runways (RWY) 18 and 36 requires the modification of the Class E airspace area beginning at 700 feet above ground level (AGL). In addition, this action corrects the airport reference point (ARP). This airspace area and the legal description are modified to conform to the criteria in FAA Orders.

**DATES:** This direct final rule is effective on 0901 UTC, November 23, 2006. Comments for inclusion in the Rules Docket must be received on or before September 15, 2006.

**ADDRESSES:** Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2006-25502/ Airspace Docket No. 06-ACE-10, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5227) is on the plaza level