

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Office of the Chief Financial Officer

#### 7 CFR Part 3052

#### Audits of States, Local Governments, and Non-Profit Organizations

**AGENCY:** Office of the Chief Financial Officer, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** The United States Department of Agriculture (USDA) is amending 7 CFR part 3052 to implement the Office of Management and Budget (OMB) revisions to Circular No. A-133. These amendments increase the threshold for audit from \$300,000 to \$500,000; increase the threshold for cognizant agency for audit from \$25 million to \$50 million; make related technical changes to facilitate the determination of cognizant agency for audit; and provide for Federal agency reassignment of oversight agency for audit.

**DATES:** This rule will be effective August 15, 2005, unless written adverse comments within the scope of this rulemaking or written notice of intent to submit them are received by August 30, 2005. If USDA receives adverse comments, the **Federal Register** will report on the rule's nullification.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **E-mail:** [matthew.faulkner@usda.gov](mailto:matthew.faulkner@usda.gov). Include Regulatory Information Number (RIN) number 0505-AA12 in the subject line of the message.

- **Fax:** (202) 690-1529.

- **Mail:** OCFO/CTGP Room 3425A-S, Stop 9010, 1400 Independence Avenue, SW., Washington, DC 20250-9020.

- **Hand Delivery/Courier:** OCFO/CTGP Room 3425A-S, Stop 9010, 1400

Independence Avenue, SW., Washington, DC 20250-9010.

**Instructions:** All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

- **Docket:** For access to the docket to read background documents or comments received, contact Matthew Faulkner at [matthew.faulkner@usda.gov](mailto:matthew.faulkner@usda.gov) or at: OCFO/CTGP Room 3425A-S, Stop 9010, Room 1400 Independence Avenue, SW., Washington, DC 20250-9020.

**FOR FURTHER INFORMATION CONTACT:** Matthew Faulkner, Office of the Chief Financial Officer, Credit, Travel and Grants Policy Division, United States Department of Agriculture, (202) 720-1307, [matthew.faulkner@usda.gov](mailto:matthew.faulkner@usda.gov).

**SUPPLEMENTARY INFORMATION:** Previously, USDA promulgated 7 CFR part 3052 to implement OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The Office of Management and Budget (OMB) has published the aforementioned final revisions (68 FR 38401, June 27, 2003). Through this rulemaking, USDA is amending its implementing regulations at part 3052 to conform to the revised circular.

OMB made the following changes in the final revision to Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The revisions (1) increase the threshold for audit from \$300,000 to \$500,000; (2) increase the threshold for cognizant agency for audit from \$25 million to \$50 million; and (3) make related technical changes to facilitate the determination of cognizant agency for audit and provide for Federal agency reassignment of oversight agency for audit. There are not additional substantive changes. For a discussion of the rationale and public comments regarding the OMB revisions, please see the published final OMB notices in the June 27, 2003, **Federal Register** (68 FR 38401).

Through this Direct Final Rule, USDA is implementing these changes verbatim.

#### Impact Analysis

##### Executive Order 12866

Executive Order 12866 requires that a regulatory impact analysis be prepared for "significant regulatory actions." This order defines a significant regulatory action as any rule that affects the national economy by at least \$100 million or has other specified effects.

USDA does not believe that the rule will be a significant regulatory action.

##### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this proposed rule neither preempt State laws nor involve administrative appeals. These amendments are effective retroactively to January 1, 2004.

##### Executive Order 13132

It has been determined that this rule does not have sufficient federalism implications to warrant a Federalism Assessment. The provisions contained in this rulemaking will not affect States or their political subdivisions substantially. They also will not impact the distribution of power and responsibilities among the various levels of government substantially.

##### Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires an analysis to be prepared for each rule with a significant economic impact on a substantial number of small entities. The analysis should describe the rule's impact on small entities and identify any significant alternatives to the rule that would minimize the economic impact on such entities. Section 605 of the Regulatory Flexibility Act allows USDA to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have such an impact.

USDA certifies that this rule would not have the aforementioned impact. The final rule will have a positive impact on small businesses because of the assistance these entities receive from other agencies. It also will ease the administrative requirements for USDA to offer financial assistance.

*Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires agencies to prepare several analyses before proposing any rule that may result in annual expenditures of at least \$100 million annually by State, local and Indian tribal governments, or the private sector. USDA certifies that this rule will not result in expenditures of this magnitude.

*Paperwork Reduction Act of 1995*

This rule will not impose additional reporting or record keeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

**List of Subjects in 7 CFR Part 3052**

Accounting, Grant programs, Intergovernmental relations, Nonprofit organizations, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, part 3052 of Chapter XXX of Title 7 of the Code of Federal Regulations is amended as follows:

**PART 3052—AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS**

■ 1. The authority citation for part 3052 continues to read as follows:

**Authority:** 5 U.S.C. 301.

■ 2. Amend § 3052.105 by revising the definition of “Oversight agency for audit” to read as follows:

**§ 3052.105 Definitions.**

\* \* \* \* \*

*Oversight agency for audit* means the Federal awarding agency that provides the predominant amount of direct funding to a recipient not assigned a cognizant agency for audit. When there is no direct funding, the Federal agency with the predominant indirect funding shall assume the oversight responsibilities. The duties of the oversight agency for audit are described in § 3052.400(b). A Federal agency with oversight for an auditee may reassign oversight to another Federal agency, which provides substantial funding and agrees to be the oversight agency for audit. Within 30 days after any reassignment, both the old and the new oversight agency for audit shall notify the auditee, and, if known, the auditor of the reassignment.

\* \* \* \* \*

■ 3. Amend § 3052.400 by revising paragraph (a) to read as follows:

**§ 3052.400 Responsibilities.**

(a) *Cognizant agency for audit responsibilities.* Recipients expending more than \$50 million in a year in Federal awards shall have a cognizant agency for audit. The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB makes a specific cognizant agency for audit assignment. The determination of the predominant amount of direct funding shall be based upon direct Federal awards expended in the recipient's fiscal years ending in 2004, 2009, 2014, and every fifth year thereafter. For example, audit cognizance for periods ending in 2006 through 2010 will be determined based on Federal awards expended in 2004. (However, for 2001 through 2005, the cognizant agency for audit is determined based on the predominant amount of direct Federal awards expended in the recipient's fiscal year ending in 2000.) Notwithstanding the manner in which audit cognizance is determined, a Federal awarding agency with cognizance for an auditee may reassign cognizance to another Federal awarding agency which provides substantial direct funding and agrees to be the cognizant agency for audit. Within 30 days after any reassignment, both the old and the new cognizant agency for audit shall notify the auditee, and, if known, the auditor of the reassignment. The cognizant agency for audit shall:

(1) Provide technical audit advice and liaison to auditees and auditors.

(2) Consider auditee requests for extensions to the report submission due date required by § 3052.320(a). The cognizant agency for audit may grant extensions for good cause.

(3) Obtain or conduct quality control reviews of selected audits made by non-Federal auditors, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting by the auditee or its auditor of irregularities or illegal acts, as required by GAGAS or laws and regulations.

(5) Advise the auditor and, where appropriate, the auditee of any deficiencies found in the audits when the deficiencies require corrective action by the auditor. When advised of deficiencies, the auditee shall work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency for audit shall notify the auditor, the auditee, and applicable

Federal awarding agencies and pass-through entities of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance by auditors shall be referred to appropriate State licensing agencies and professional bodies for disciplinary action.

(6) Coordinate, to the extent practical, audits or reviews made by or for Federal agencies that are in addition to the audits made pursuant to this part, so that the additional audits or reviews build upon audits performed in accordance with this part.

(7) Coordinate a management decision for audit findings that affect the Federal programs of more than one agency.

(8) Coordinate the audit work and reporting responsibilities among auditors to achieve the most cost-effective audit.

(9) For biennial audits permitted under § 3052.220, consider auditee requests to qualify as a low-risk auditee under § 3052.530(a).

\* \* \* \* \*

**§§ 3052.200, 3052.230, 3052.400 [Amended]**

■ 4. In addition to the amendments set forth above, in 7 CFR part 3052 remove the term “\$300,000” and add, in its place, the term “\$500,000” in the following places:

- (a) Section 3052.200(a), (b), and (d);
- (b) Section 3052.230(b)(2); and
- (c) Section 3052.400 (d)(4).

Dated: May 9, 2005.

**Patricia E. Healy,**  
*Acting Chief Financial Officer.*

Dated: May 11, 2005.

**Mike Johanns,**  
*Secretary, United States Department of Agriculture.*

[FR Doc. 05–11840 Filed 6–15–05; 8:45 am]

**BILLING CODE 3410–90–M**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 95**

[Docket No. 30448; Amdt. No. 455]

**IFR Altitudes; Miscellaneous Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or