

the inspection shield or mark for the appropriate inspection program, the establishment number where appropriate, and the manufacturer's or distributor's name and address. The inspection marking for CN labeled non-meat, non-poultry, and non-seafood products with the exception of juice drinks and juice drink products is established as follows:

<p><b>INSPECTED BY THE U.S. DEPT. OF AGRICULTURE IN ACCORDANCE WITH FNS REQUIREMENTS</b></p>
--

(d) Yields for determining the product's contribution toward meal pattern requirements must be calculated using the *Food Buying Guide for Child Nutrition Programs* (Program AID Number 1331).

5. In the event a company uses the CN logo and CN label statement inappropriately, the company will be directed to discontinue the use of the logo and statement and the matter will be referred to the appropriate agency for action to be taken against the company.

6. Products that bear a CN label statement as set forth in paragraph 3(c) carry a warranty. This means that if a food service authority participating in the Child Nutrition Programs purchases a CN labeled product and uses it in accordance with the manufacturer's directions, the school or institution will not have an audit claim filed against it for the CN labeled product for noncompliance with the meal pattern requirements of 7 CFR 210.10, § 220.8 or § 220.8a, whichever is applicable, §§ 225.20, and 226.20. If a State or Federal auditor finds that a product that is CN labeled does not actually meet the meal pattern requirements claimed on the label, the auditor will report this finding to FNS. FNS will prepare a report of the findings and send it to the appropriate divisions of FSIS and AMS of the USDA, National Marine Fisheries Services of the USDC, Food and Drug Administration, or the Department of Justice for action against the company. Any or all of the following courses of action may be taken:

- (a) The company's CN label may be revoked for a specific period of time;
- (b) The appropriate agency may pursue a misbranding or mislabeling action against the company producing the product;
- (c) The company's name will be circulated to regional FNS offices;
- (d) FNS will require the food service program involved to notify the State agency of the labeling violation.

7. FNS is authorized to issue operational policies, procedures, and instructions for the CN Labeling Program. To apply for a CN label and to obtain additional information on CN label application procedures write to: CN Labels, U.S. Department of Agriculture,

Food and Nutrition Service, Nutrition and Technical Services Division, 3101 Park Center Drive, Alexandria, Virginia 22302.

[51 FR 34874, Sept. 30, 1986, as amended at 53 FR 29164, Aug. 2, 1988; 60 FR 31216, June 13, 1995; 65 FR 26912, May 9, 2000]

## PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

Sec.

- 215.1 General purpose and scope.
- 215.2 Definitions.
- 215.3 Administration.
- 215.4 Payments of funds to States and FNSROs.
- 215.5 Method of payment to States.
- 215.6 Use of funds.
- 215.7 Requirements for participation.
- 215.8 Reimbursement payments.
- 215.9 Effective date for reimbursement.
- 215.10 Reimbursement procedures.
- 215.11 Special responsibilities of State agencies.
- 215.12 Claims against schools or child-care institutions.
- 215.13 Management evaluations and audits.
- 215.13a Determining eligibility for free milk in child-care institutions.
- 215.14 Nondiscrimination.
- 215.14a Procurement standards.
- 215.15 Withholding payments.
- 215.16 Suspension, termination and grant closeout procedures.
- 215.17 Program information.
- 215.18 Information collection/record-keeping—OMB assigned control numbers.

AUTHORITY: 42 U.S.C. 1772 and 1779.

### § 215.1 General purpose and scope.

This part announces the policies and prescribes the general regulations with respect to the Special Milk Program for Children, under the Child Nutrition Act of 1966, as amended, and sets forth the general requirements for participation in the program. The Act reads in pertinent part as follows:

Section 3(a)(1) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (A) nonprofit schools of high school grade and under, except as provided in paragraph (2), which do not participate in a meal service program authorized under this Act or the National School Lunch Act, and (B) nonprofit nursery schools, child care centers, settlement houses, summer

## Food and Nutrition Service, USDA

## §215.2

camps, and similar nonprofit institutions devoted to the care and training of children, which do not participate in a meal service program authorized under this Act or the National School Lunch Act.

(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.).

(3) For the purposes of this section “United States” means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia.

(4) The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by Pub. L. 89-642, as amended, during the fiscal year ending June 30, 1969.

(5) Any school or nonprofit child care institution which does not participate in a meal service program authorized under this Act or the National School Lunch Act shall receive the special milk program upon their request.

(6) Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) be eligible for free milk upon their request.

(7) For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.

(8) Such adjustment shall be computed to the nearest one-fourth cent.

(9) Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.

[52 FR 7562, Mar. 12, 1987]

### §215.2 Definitions.

For the purpose of this part, the term:

*7 CFR part 3015* means the Uniform Federal Assistance Regulations published by the Department to implement

certain policies applicable to all Department programs. The applicable provisions deal with competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under Department programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements.

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

*7 CFR part 3018* means the Department’s Common Rule regarding Governmentwide New Restrictions on Lobbying. Part 3018 implements the requirements established by section 319 of the 1990 Appropriations Act for the Department of Interior and Related Agencies (Pub. L. 101-121).

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

*7 CFR part 3052* means the Department’s regulations implementing OMB Circular A-133, “Audits of State, Local Governments, and Non-Profit Organizations.” (For availability of OMB Circulars referenced in this definition, see 5 CFR 1310.3.)

*Act* means the Child Nutrition Act of 1966.

*Adults* means those persons not included under the definition of children.

*Applicable credits* shall have the meaning established in Office of Management and Budget Circulars A-87, C(4) and A-122, Attachment A, A(5), respectively. For availability of OMB circulars referenced in this definition, see 5 CFR 1310.3.

*Child and Adult Care Food Program* means the program authorized by section 17 of the National School Lunch Act, as amended.