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## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

#### 7 CFR Part 550

RIN-0518-AA06

#### General Administrative Policy for Non-Assistance Cooperative Agreements

**AGENCY:** Agricultural Research Service, (ARS), Research, Education, and Economics (REE), Department of Agriculture (USDA).

**ACTION:** Final rule.

**SUMMARY:** This final rule amends ARS regulations and adopts the Office of Management and Budget (OMB) guidance entitled, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” as the uniform guidance within the REE mission area on the use, award, and administration of non-assistance cooperative agreements awarded pursuant to National Agricultural Research, Extension, and Teaching Policy Act of 1977. It thereby gives regulatory effect to the OMB guidance.

**DATES:** This final rule is effective October 11, 2016.

**FOR FURTHER INFORMATION CONTACT:** Kim Hicks, 301-504-1141, or [Kim.Hicks@ars.usda.gov](mailto:Kim.Hicks@ars.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 1424 of the Food Security Act of 1985, Public Law 99-198, amended Section 1472(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318(b)) to authorize the Secretary to use a cooperative agreement as a legal instrument reflecting a relationship between the Secretary and a State cooperative institution, State department of agriculture, college,

university, other research or educational institution or organization, Federal or private agency or organization, individual, or any other party, if the Secretary determines (a) the objectives of the agreement will serve a mutual interest of the parties to the agreement in agricultural research, extension, and teaching activities, including statistical reporting; and (b) all parties will contribute resources to the accomplishment of those objectives.

The cooperative agreements authorized by 7 U.S.C. 3318(b) have been determined to be neither procurement nor assistance in nature and, therefore, not subject to the provisions of Federal Grant and Cooperative Agreement Act of 1977 or the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards codified at 2 CFR part 200. Many of the standards and provisions of the OMB grants management circulars were adopted in whole or in part in 7 CFR part 550. Subparts A through D of Part 550, consisting of sections 550.1 through 550.62, included specific provisions of Federal assistance regulations and cost principles because they embody principles of good management and sound financial stewardship important to all Federal assistance and non-assistance awards.

Although the non-assistance cooperative agreements described in this rule are substantially different than the Federal assistance-type cooperative agreements used by most Federal awarding agencies, as a matter of good business practice REE is amending 7 CFR part 550 to adopt 2 CFR part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” (78 FR 78589) published on December 26, 2013, as supplemented by this part, and to update and streamline the existing REE administrative requirements applicable to non-assistance cooperative agreements. This rulemaking will reduce administrative burden for non-Federal entities receiving Federal funds under non-assistance cooperative agreements while reducing the risk of waste, fraud, and abuse. Accordingly, proper use of these non-assistance cooperative agreements promote and facilitate partnerships between the REE Agency and the Cooperator in support

of research, extension, and education projects of mutual benefit to each party.

#### List of Subjects in Part 550

Agricultural research, Non-assistance, Procedural rules, Research, Science, Technology.

For the reasons stated in the preamble, the Department of Agriculture, REE, revises 7 CFR part 550 to read as follows:

#### PART 550—GENERAL ADMINISTRATIVE POLICY FOR NON-ASSISTANCE COOPERATIVE AGREEMENTS

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**Authority:** Section 1472(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3318(b)).

#### § 550.100 Purpose and scope.

(a) *Purpose.* This part adopts the OMB guidance in subparts A through F of 2 CFR part 200, as supplemented by this part, as REE policies and procedures for non-assistance cooperative agreements executed under the authority of Section 1472(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3318(b)). It thereby makes applicable for REE non-assistance cooperative

agreements the OMB guidance, as supplemented by this part.

(b) *Scope.* The REE Agencies subject to this rule include ARS, National Agricultural Statistics Service (NASS), Economics Research Service (ERS), and the National Institute of Food and Agriculture (NIFA). These agreements are neither procurement nor assistance in nature, and therefore, are not subject to the Federal Grant and Cooperative Agreements Act of 1977.

#### § 550.101 Definitions.

As used in this part:

*Agency Principal Investigator* means the REE Agency technical representative, acting within the scope of delegated authority, who is responsible for participating with the cooperator in the accomplishment of a non-assistance cooperative agreement's objective(s), and monitoring and evaluating the cooperator's performance (*i.e.*, ARS PI).

*Authorized Departmental Officer (ADO)* means the REE Agency's official with delegated authority to negotiate, award, administer, and terminate non-assistance cooperative agreements.

*Award* means an executed non-assistance cooperative agreement.

*Cooperator* means an eligible entity, as defined in 7 U.S.C. 3318(b), who enters into a non-assistance cooperative agreement with a REE Agency to further research, extension, or teaching programs in the food and agricultural sciences.

*Cooperator resource contributions* means a real and substantial contribution of resources (more than nominal), in furtherance of the objective(s) of the award, in order to evoke a partnership such that all parties to the agreement have a true stake in the project.

*Funding period* means the period of time when Federal funding is available for obligation by the cooperator (start date through end date).

*Non-Assistance Cooperative Agreement (NACA)* means a legal instrument which is neither a procurement contract nor an assistance-type cooperative agreement, that furthers agricultural research, extension, or teaching programs in which the objectives of the agreement serve a mutual interest of the parties in agricultural research, extension, and teaching activities and all parties contribute resources to the accomplishment of those objectives.

*Peer Review* is a process utilized by REE Agencies to determine if agency sponsored research projects have scientific merit and program relevance; to provide peer input, and make

improvements to project design and technical approaches; and to provide insight on how to conduct the highest quality research in support of REE Agency missions and programs.

*Principle Investigator (PI)* means the individual, designated by the cooperator, responsible for directing and monitoring the performance, the day-to-day activities, and the scientific and technical aspects of the cooperator's portion of a REE funded project. The PI works jointly with the REE Agency PI in the development of project objectives and all other technical and performance related aspects of the program or project. See additional responsibilities of PI in § 550.111 of this part.

*REE Agency* means the USDA, REE Mission Area agency (ARS, ERS, NASS, or NIFA) that enters into a non-assistance cooperative agreement.

*State Cooperative Institution* is defined in 7 U.S.C. 3103(18) as institutions designated or receiving funds pursuant to the following eight statutory requirements, as may be amended:

(1) The First Morrill Act—The Land Grant Institutions.

(2) The Second Morrill Act—The 1890 Institutions, including Tuskegee University.

(3) The Hatch Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i)—The State Agricultural Experiment Stations.

(4) The Smith-Lever Act of May 8, 1914 (38 Stat. 372–374, as amended; 7 U.S.C. 341–349)—The State Extension Services.

(5) The McIntire-Stennis Cooperative Forestry Act; 16 U.S.C. 582a *et seq.*—Cooperating Forestry Schools.

(6) Public Law 95–113, Section 1430—A college or university having an accredited college of veterinary medicine or a department of veterinary science or animal pathology or similar unit conducting animal health and disease research in a State Agricultural Experiment Station.

(7) Public Law 95–113, Section 1475(b), as added by Public Law 97–98, section 1440—Colleges, universities, and Federal laboratories having a demonstrated capacity in aquaculture research.

(8) Public Law 95–113, section 1480, as added by Public Law 97–98, section 1440—Colleges, universities, and Federal laboratories having a demonstrated capacity of rangeland research.

#### § 550.102 Applicability.

This part applies to all REE non-assistance cooperative agreements

awarded under the authority of 7 U.S.C. 3318(b).

#### § 550.103 Eligibility.

REE Agencies may enter into a non-assistance cooperative agreements with eligible entities to further research, extension, or teaching programs in the food and agricultural sciences. Eligible entities are any State agricultural experimental station, State cooperative extension service, any college or university, other research or education institution or organization, Federal or private agency or organization, an individual, or other party, either foreign or domestic.

#### § 550.104 Competition.

REE Agencies may enter into non-assistance cooperative agreements, as authorized by this part, without regard to any requirements for competition specified in 2 CFR 200.202 and 200.206. (7 U.S.C. 3318(e)).

#### § 550.105 Duration.

REE Agencies may enter into non-assistance cooperative agreements for a period not to exceed five years. (7 U.S.C. 3318(c)).

#### § 550.106 Mutuality of interest.

The REE Agency must document all parties' interest in the project. Mutual interest exists when all parties benefit in the same qualitative way from the objectives of the award. If one party to the non-assistance cooperative agreement would independently have an interest in the project, which is shared by the other party, and all parties contribute resources to obtain the end result of the project, mutual interest exists.

#### § 550.107 Exceptions.

This part does not apply to:

(a) USDA Federal Financial Assistance agreements subject to 2 CFR parts 400 and 415;

(b) Procurement contracts or other agreements subject to the Federal Acquisition Regulation (FAR) or the Agriculture Acquisition Regulation (AgAR); or

(c) Agreements providing loans or insurance directly to an individual.

#### § 550.108 Conflicting policies and deviations.

This part supersedes and takes precedence over any individual REE regulations and directives dealing with executed and administered non-assistance cooperative agreements entered into under the delegated authority of 7 U.S.C. 3318(b). This part may only be superseded, in whole or in part, by a specifically worded Federal

statute, regulation, or Executive Order. Deviations from specific provisions of part 550 must be authorized by the USDA-REE-Administrative and Financial Management (AFM)-Financial Management and Agreements Division (FMAD), or any successor organization, based on a documented justification. In the interest of maximum uniformity, exceptions from any requirements of this Part will be permitted only in unusual circumstances. Responsibility for developing, interpreting, and updating this Part is assigned to the USDA-REE-AFM-FMAD, or any successor organization.

**§ 550.109 Formation of non-assistance cooperative agreements.**

In lieu of 2 CFR 200.201 through 200.204, 200.206, and 200.306, this section establishes project development, resource contributions, indirect cost reimbursement, and tuition remission provisions for non-assistance cooperative agreements.

(a) *Project development.* REE Agencies provide partial funding to cooperators to support research projects that contribute to REE program objectives and help carry out the REE mission. The project must consist of a project plan and/or statement of work, and a budget as follows:

(1) *Project plan.* A *project plan* must be jointly developed by the Agency PI and the cooperator, and be compliant with a REE program requirement. The REE Agency may include program-specific requirements, as applicable. These requirements should be aligned with Agency strategic goals, strategic objectives, or performance goals that are relevant to the program.

(2) *Statement of work.* A detailed *statement of work* must be jointly planned, developed, and prepared by the cooperator's PI and the Agency PI to address the objective(s), approach, statement of mutual interest, performance responsibilities (which may include specific performance goals, indicators, milestones, or expected outcomes, such as outputs, or services performed or public impacts of any of these, with an expected timeline for accomplishment), and any mutual agreements.

(3) *Budget.* The *budget* is a funding plan that must be jointly developed by the Agency PI and the Cooperator PI. The approved budget must identify the cooperator resource contributions, both direct and indirect, by budget line item. The cooperator must provide a budget justification/narrative.

(b) *Resource contributions.* Each party must contribute resources towards the

successful completion of the non-assistance cooperative agreement.

(1) *Agency resource contributions.* The *Agency's contribution* is the Federal share as reflected in the award.

(2) *Cooperator resource contributions.* The *Cooperator's contribution* may consist of funds, services, or in-kind contributions, must be no less than 20 percent of the total funding provided by the REE Agency, and cannot fall below 20 percent of the total Federal funding throughout the period of performance. All cooperator contributions must consist of a sufficient amount of itemized direct costs to demonstrate a true stake in the project, as determined by the ADO. All contributions must be documented in the budget and be consistent with the cooperator's institution classification of costs.

(i) Cooperator resource contributions must meet all of the following criteria:

(A) Are verifiable from the Cooperator's records;

(B) Are not included as contributions for any other Federal award;

(C) Are necessary and reasonable for accomplishment of project or program objectives;

(D) Are allowable under 2 CFR part 200, subpart E;

(E) Are not paid by the Federal government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to cooperator resource contributions of other Federal programs;

(F) Conform to other provisions of this Part, as applicable.

(ii) Cooperator's share of contributions to the project may include:

(A) Unrecovered indirect costs, including indirect costs of the cooperator's resource contributions. Unrecovered indirect cost means the difference between the amount charged to the award and the amount which could have been charged to the award under the cooperator's approved negotiated indirect cost rate.

(B) Values for cooperator's contributions of services and property, established in accordance with 2 CFR 200.434. If the REE Agency authorizes the cooperator to donate buildings or land for construction/facilities acquisition projects or long term use, the value of the donated property for cooperator contributions must be the lesser of paragraph (b)(2)(ii)(B)(1) or (2) of this section (refer to paragraph (b)(2)(ii)(H) of this section for more on the value of donated property):

(1) The value of the remaining life of the property recorded in the

cooperator's accounting records at the time of donation.

(2) The current fair market value. However, when there is sufficient justification, the REE Agency may approve the use of the current fair market value of the donated property, even if it exceeds the value described in paragraph (b)(2)(ii)(B)(1) of this section at the time of donation.

(C) Volunteer services furnished by third-party professional and technical personnel, consultants, and other skilled and unskilled labor, if the service is an integral and necessary part of an approved project or program. Rates for third-party volunteer services must be consistent with those paid for similar work by the cooperator. In those instances in which the required skills are not found in the cooperator, rates must be consistent with those paid for similar work in the labor market in which the cooperator competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, necessary, allocable, and otherwise allowable may be included in the valuation. (Refer to paragraph (b)(2)(ii)(H) of this section for more on third-party in-kind contributions.)

(D) Donated employee services furnished by third-party organization. These services must be valued at the employee's regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable, and otherwise allowable, and indirect costs at either the third-party organization's approved federally negotiated indirect cost rate, or, a rate in accordance with 2 CFR 200.414(d), provided these services employ the same skill(s) for which the employee is normally paid. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donated services so that reimbursement for the donated services will not be made. (Refer to paragraph (b)(2)(ii)(H) of this section for more on third-party in-kind contributions.)

(E) Donated property from third parties, which may include such items as office supplies, laboratory supplies, or workshop and classroom supplies. Value assessed to donated property included in the cooperator contributions must not exceed the fair market value of the property at the time of the donation. (Refer to paragraph (b)(2)(ii)(H) in this section for more on third-party in-kind contributions.)

(F) Third-party-donated equipment, buildings and land. The method used for determining cooperator contributions for which title passes to the cooperator may differ according to the purpose of the Award, if paragraph

(b)(2)(ii)(F)(1) or (2) of this section apply:

(1) If the purpose of the Federal award is to assist the non-Federal entity in the acquisition of equipment, buildings or land, the aggregate value of the donated property may be claimed as cooperator resource contributions.

(2) If the purpose of the Award is to support activities that require the use of equipment, buildings or land, normally only depreciation charges for equipment and buildings may be made. However, the fair market value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the REE Agency has approved the charges. See also 2 CFR 200.420.

(G) The value of donated property must be determined in accordance with the usual accounting policies of the cooperator, with the following qualifications:

(1) The value of donated land and buildings must not exceed its fair market value at the time of donation to the Cooperator as established by an independent appraiser (*e.g.*, certified real property appraiser or General Services Administration representative) and certified by a responsible official of the cooperator as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601–4655) (Uniform Act) except as provided in the implementing regulations at 49 CFR part 24.

(2) The value of donated equipment must not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment must not exceed its fair rental value.

(H) For third-party in-kind contributions, the fair market value of these goods and services must be documented and to the extent feasible supported by the same methods used internally by the cooperator.

(c) *Indirect costs and tuition remission*—(1) *Reimbursement of indirect costs*. Reimbursement of indirect costs is either prohibited or limited as further described in paragraphs (c)(1)(i) through (iii) of this section, and the limit is identified on the approved budget, when applicable.

(i) *State cooperative institutions*. Payment of indirect costs to State cooperative institutions in connection with a non-assistance cooperative

agreement is prohibited, as described in 7 U.S.C. 3319. This prohibition does not apply to funds for international agricultural programs conducted by a State cooperative institution and administered by the Secretary, or to funds provided by a Federal agency for such cooperative program or project through a fund transfer, advance, or reimbursement.

(ii) *Non-profit organizations*. Payment of indirect costs to non-profit organizations in connection with a non-assistance cooperative agreement is limited to 10 percent of the total direct cost of the Award. (Annual Appropriations Bill for Agriculture and Related agencies, General Provisions.)

(iii) *All other cooperating entities*. With the exception of paragraphs (c)(1)(i) and (ii) of this section, payment of indirect costs is allowable in connection with a non-assistance cooperative agreement. Reimbursement of indirect costs is limited to the percentage(s) established in the cooperator's approved negotiated indirect cost rate or, if applicable, the de minimis indirect cost rate.

(2) *Tuition remission*. Reimbursement of tuition expenses to State cooperative institutions in connection with non-assistance cooperative agreements is prohibited. (7 U.S.C. 3319)

(d) *Terms and conditions*. The Agency may impose award-specific terms and conditions or require additional assurances when appropriate.

**§ 550.110 Certifications and compliance with statutory and national policy requirements; REE conflict of interest policy.**

(a) *Federal statutory and national policy requirements*. The Cooperator must adhere to and comply with, all statutory and national policy requirements of the Federal Government. All signed certifications and assurances must be received by the REE Agency prior to execution of the award.

(b) *REE conflict of interest policy*. (1) The Cooperator must disclose in writing any potential conflict of interest to the REE awarding agency, prior to award, and when a potential conflict arises during NACA period of performance.

(2) The Cooperator must maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award and administration of contracts, and any subawards.

**§ 550.111 Project supervision and responsibilities.**

(a) The Cooperator is responsible and accountable for the performance and

conduct of all its employees assigned to the project. REE Agencies do not have authority to supervise cooperator employees nor engage in the employer/employee relationship.

(b) The Cooperator PI must:

(1) Work jointly with the Agency PI on developing the project statement of work and budget;

(2) Assure that technical project performance and financial status reports are timely submitted in accordance with the terms and conditions of the award;

(3) Advise the Agency PI of any issues that may affect the timely completion of the project (award);

(4) Assure that appropriate acknowledgements of support are included in all publications and audiovisuals, in accordance with § 550.119 of this part;

(5) Assure that inventions are appropriately reported, in accordance with § 550.124 of this part;

(6) Upon request, provide the Agency a project plan for use during external peer reviews; and

(7) When appropriate, work with the Agency PI to prepare findings for peer-reviewed publication in scientific journals, and make presentations/talks to shareholders, etc.

**§ 550.112 Administrative supervision.**

The Cooperator is responsible for employer/employee relations such as personnel, performance, and time management issues. The Cooperator is solely responsible for the administrative supervision of its employees, even when its employees are working in Agency facilities.

**§ 550.113 Rules of the workplace.**

Cooperator employees, while engaged in work at REE facilities, will abide by the Agency's standard operating procedures with regard to the maintenance of laboratory notebooks, dissemination of information, equipment operation standards, facility access, hours of work, Federal agency required training, and the Rules and Regulations Governing Conduct on Federal Property (41 CFR part 102–74, subpart C). Cooperator employees will also undergo any background investigations/clearances, and submit to any health monitoring medical surveillance requirements associated with the REE facility where they will work.

**§ 550.114 Availability of funds.**

Unless otherwise stated in the agreement, the funding period will begin on the start date of the period of performance specified on the Award Face Sheet.

**§ 550.115 Payment.**

Reimbursement is the standard method of payment for non-assistance cooperative agreements. All payments to the Cooperator will be made in U.S. dollars by Electronic Funds Transfer (EFT), utilizing the Cooperator's DUNS number and current SAM registration information. The method of payment will be identified on the Award Face Sheet and includes:

(a) *Electronic payment system.* The Agency-accepted electronic payment system is the default method of payment.

(b) *EFT/Treasury Check.* When the payment method identified on the Award Face Sheet is "EFT/Treasury Check," the Cooperator must submit invoices to the Agency on the OMB-approved SF-270, "Request for Advance or Reimbursement." In addition to the SF-270, the Cooperator must provide:

(1) Total dollar amount requested for reimbursement itemized by approved budget categories, including the indirect cost rate for the award, when applicable.

(2) Name, phone number, email address, and the Cooperator's financial contact, should the ADO or Agency PI have any invoice questions.

**§ 550.116 Prior approvals.**

(a) *Approval.* With regard to 2 CFR 200.308(d)(4), prior documented approval from the REE Agency ADO is required for all prior approval requirements described in paragraph 2 CFR 200.308(d)(2).

(b) *No cost extensions.* With regard to 2 CFR 200.308(d)(2), all time extensions will only be approved by an amendment to the award. The Cooperator shall prepare and submit a written request to the ADO (which must be received no later than 10 days prior to the expiration date of the award). The request must contain, at a minimum, the following information:

(1) The length of additional time required to complete project objectives and a justification for the extension;

(2) A summary of progress to date (a copy of the most recent progress report is acceptable provided the information is current); and,

(3) Signature of the Authorized Representative and the Principal Investigator requesting the extension. Any request received by the ADO that does not meet this requirement will be returned for the necessary signature(s).

(c) *Budget revisions.* Budget revisions among direct cost categories or programs, functions, and activities for awards in which the Federal share of the project exceeds the Simplified Acquisition Threshold and the cumulative amount of such transfers

exceeds or is expected to exceed 10 percent of the total budget as last approved by the REE Agency requires prior documented approval.

(d) *Advertising.* See § 550.121 of this part.

**§ 550.117 Program income.**

(a) *Use of program income.* (1) Program income earned must be added to the non-assistance cooperative agreement, unless otherwise specified in the award.

(2) When specified in the award, program income can be used towards fulfilling the cooperator's resource contributions for the same award.

(b) *Disclosing program income.* The Cooperator must disclose program income in financial reports. Refer to § 550.123 of this part.

(c) *Program income closeout.* The REE Agency and the Cooperator will negotiate appropriate uses of income earned balances, after the period of performance, as part of the agreement closeout process.

**§ 550.118 Peer review.**

Upon request of the REE Agency, Cooperators may be required to provide documentation in support of peer review activities, and Cooperator's personnel may be requested to participate in peer review forums to assist the REE Agency with their reviews.

**§ 550.119 Publications and audiovisuals.**

In addition to 2 CFR 415.2, "Acknowledgement of USDA Support on Publications and Audiovisuals," the Cooperator must adhere to the following:

(a) The REE Agency acknowledgment of support must read: "This material is based upon work supported by the Department of Agriculture, (type Agency name) under Agreement No. (type the Federal Award Identification Number (FAIN) here)."

(b) All material described in 2 CFR 415.2 must also contain the following disclaimer unless the publication or audiovisual is formally cleared by the REE Agency: "Any opinions, findings, conclusion, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the Department of Agriculture."

(c) Any public or technical information related to work carried out under a non-assistance cooperative agreement must be submitted by the developing party to the other for advice and comment. Information released to the public must describe the contributions of both parties to the work

effort. In the event of a dispute, a separate publication or audiovisual may be made with effective statements of acknowledgment and disclaimer.

(d) The Cooperator must submit to the Agency PI copies of all final publications and audiovisuals resulting from the research conducted under the non-assistance cooperative agreement.

(e) REE Agencies and the Federal Government shall enjoy a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, for Federal purposes any materials developed in conjunction with a non-assistance cooperative agreement or contract under such a cooperative agreement.

**§ 550.120 Press releases.**

Press releases or other forms of public notification for a broad public audience will be submitted to the REE Agency for review, prior to release to the public. The REE Agency will be given the opportunity to review, in advance, all written press releases and any other written information (including web content postings) to be released to the public by the Cooperator, and require changes as deemed necessary, if the material mentions by name the REE Agency, or the USDA, or any REE or USDA employee or research unit or location.

**§ 550.121 Advertising.**

The Cooperator will not refer in any manner to the USDA or any REE Agency in connection with the use of the results of the award, without prior specific written authorization by the REE Agency. Information obtained as a result of the award will be made available to the public in printed or other forms by the REE Agency at its discretion. The Cooperator will be given due credit for its cooperation in the project. Prior approval is required.

**§ 550.122 Vesting of title.**

Title to equipment and supplies and other tangible personal property will vest in the Cooperator as described in 2 CFR 200.313 and 200.314, unless otherwise specified in the award. (7 U.S.C. 3318(d))

**§ 550.123 Financial reporting.**

The Cooperator must submit financial reports at the interval required by the REE Agency, as identified on the Award Face Sheet, and may submit financial reports to the ADO electronically (refer to 2 CFR 200.335 Methods for collection, transmission, and storage of information).

(a) The OMB-approved SF-425, "Federal Financial Report," may be

used to report the financial status of an award; however, a financial report must contain an itemization of actual dollar amounts expended on the project during the reporting period (in line with the approved budget), and cumulative totals expended for each budget category from the start date of the award.

(b) Financial reporting due dates:

(1) Quarterly and semi-annual reports are due no later than 30 calendar days after the reporting period.

(2) Annual reports are due no later than 90 days following the end of the award anniversary date (*i.e.*, one year following the month and day when the period of performance begins, and each year thereafter up until a final report is required).

(c) Final financial report:

(1) Requests for extensions must be submitted to the ADO.

(2) Regardless of Agency-provided extensions for submission of the final financial report, funds will not be available for any drawdowns/payments that exceed statutory limits, as well as any expiring appropriations.

#### **§ 550.124 Technical and property reporting requirements.**

(a) *Technical performance report.* The Cooperator must submit technical performance reports at the interval required by the REE Agency, as identified on the Award Face Sheet, and may submit performance reports to the REE Agency electronically.

(1) The performance report must follow the format of the Government wide Research Performance Progress Report, and must include the information described in 2 CFR 200.328(b)(2)(i) through (iii). (2) The final performance report covers the entire period of performance of the award, and must describe progress made during the entire timeframe of the project.

(b) *Intellectual property reporting.* Reporting intellectual property resulting from a REE Agency award will be carried out through Interagency Edison (iEdison). The non-Federal entity must submit Invention Reports and Utilization Reports, including other relevant reports, at the iEdison web interface: [www.iedison.gov](http://www.iedison.gov).

(c) *Tangible personal property report.* Upon termination or expiration of the award, the non-Federal entity must identify personal property/equipment purchased with any Federal funds under the award on the OMB-approved SF-428, "Tangible Personal Property Report and Instructions."

Dated: September 23, 2016.

**Catherine Woteki,**

*Chief Scientist, USDA, Under Secretary, Research, Education, and Economics.*

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## **NUCLEAR REGULATORY COMMISSION**

### **10 CFR Part 72**

**[NRC-2015-0270]**

**RIN 3150-AJ71**

### **List of Approved Spent Fuel Storage Casks: Holtec International HI-STORM 100 Cask System; Certificate of Compliance No. 1014, Amendment No. 10**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule; comment responses.

**SUMMARY:** On May 31, 2016, the U.S. Nuclear Regulatory Commission (NRC) confirmed the effective date of May 31, 2016, for the direct final rule that was published in the *Federal Register* on March 14, 2016. The direct final rule amended the NRC's spent fuel storage regulations by revising the Holtec International (Holtec) HI-STORM 100 Cask System listing within the "List of approved spent fuel storage casks" to include Amendment No. 10 to Certificate of Compliance (CoC) No. 1014. The NRC confirmed the effective date because it determined that none of the comments submitted on the direct final rule met any of the criteria for a significant adverse comment. The purpose of this document is to provide responses to the comments received on the direct final rule.

**DATES:** The comment responses are available on October 11, 2016.

**ADDRESSES:** Please refer to Docket ID NRC-2015-0270 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0270. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System*

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

#### **FOR FURTHER INFORMATION CONTACT:**

Robert MacDougall, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-5175; email: [Robert.MacDougall@nrc.gov](mailto:Robert.MacDougall@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

On March 14, 2016 (81 FR 13265), the NRC published a direct final rule amending its regulations in § 72.214 of title 10 of the *Code of Federal Regulations* (10 CFR) by revising the Holtec HI-STORM 100 Cask System listing within the "List of approved spent fuel storage casks" to include Amendment No. 10 to CoC No. 1014. Amendment No. 10 adds new fuel classes to the contents approved for the loading of 16 × 16 class fuel assemblies into a HI-STORM 100 Cask System; allows a minor increase in manganese in an alloy material for the system's overpack and transfer cask; clarifies the minimum water displacement required of a dummy fuel rod (*i.e.*, a rod not filled with uranium pellets); and clarifies the design pressures needed for normal operation of forced helium drying systems. Additionally, Amendment No. 10 revises Condition No. 9 of CoC No. 1014 to provide clearer direction on the measurement of air velocity and modeling of heat distribution through the storage system.

The NRC received four comment submissions with 22 individual comments on the companion proposed rule (81 FR 13295; March 14, 2016). Electronic copies of these comments can be obtained from the Federal Rulemaking Web site, <http://www.regulations.gov>, by searching for Docket ID NRC-2015-0270. The comments are also available in ADAMS under Accession Nos. ML16105A426, ML16105A425, ML16105A424, and ML16105A423. As explained in the March 14, 2016, direct final rule, the