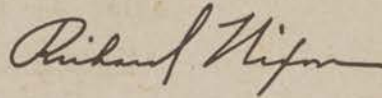


## THE PRESIDENT

I urge the people of the United States to show their reverence and respect for the mothers of this country by special expressions of affection and gratitude.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.



[FR Doc.72-7416 Filed 5-11-72;4:30 pm]

# Rules and Regulations

## Title 4—ACCOUNTS

### Chapter III—Cost Accounting Standards Board

#### PART 331—CONTRACT COVERAGE

#### PART 351—BASIC REQUIREMENTS

#### PART 400—DEFINITIONS

#### PART 401—COST ACCOUNTING STANDARD—CONSISTENCY IN ESTIMATING, ACCUMULATING, AND REPORTING COSTS

#### PART 402—COST ACCOUNTING STANDARD—CONSISTENCY IN ALLOCATING COSTS INCURRED FOR THE SAME PURPOSE

##### Effective Dates

On February 29, 1972, Cost Accounting Standards, rules, and regulations of the Cost Accounting Standards Board were published in the FEDERAL REGISTER (37 F.R. 4139 et seq.).

The following sections, which were reserved to provide for effective dates, are supplemented as shown below:

##### § 400.2 Effective date.

July 1, 1972.

##### § 401.80 Effective date.

July 1, 1972.

##### § 402.80 Effective date.

July 1, 1972.

The effective dates of the regulations at Part 331 and Part 351 of Title 4, Code of Federal Regulations, are confirmed as July 1, 1972.

(84 Stat. 796, sec. 103; 50 U.S.C. App. 2168)

ARTHUR SCHOENHAUT,  
Executive Secretary.

[FR Doc.72-7339 Filed 5-12-72;8:50 am]

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

#### PART 733—POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

To show clearly what part of Part 733 applies to the U.S. Postal Service, § 733.401 is amended as set out below.

##### § 733.401 Jurisdiction.

Sections 733.101 (c), (d), (e), and (f), and 733.124 apply to an employee of the U.S. Postal Service. By agreement with this agency, the Civil Service Commission investigates and adjudicates an allegation of political activity in violation of

these sections by a covered agency employee.

(5 U.S.C. 1308, 3301, 3302, 7301, 7324, 7325, 7327, 42 U.S.C. 2729, E.O. 10577; 3 CFR, 1954-1958 Comp.)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant to  
the Commissioners.

[FR Doc.72-7261 Filed 5-12-72;8:47 am]

## Title 7—AGRICULTURE

### Chapter II—Food and Nutrition Service, Department of Agriculture

[Amdt. 9]

#### PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

##### School Eligibility Criteria and Reimbursement Rates

On February 26, 1972, there was published in the FEDERAL REGISTER (37 F.R. 4091) a notice of proposed rule making to amend the regulations governing the operation of the School Breakfast and Nonfood Assistance Programs (7 CFR Part 220). Responses to the proposed regulations were received from 42 individuals and organizations. The principal comments, recommendations, and suggestions submitted and the changes made from the proposed amendments published on February 26 are discussed below:

1. *Section 220.2 Definitions.* Five respondents recommended revisions in the proposed definition of the "cost of obtaining food." The definition, however, is consistent with the definition of "food costs" as set forth in section 4(c) of the Child Nutrition Act of 1966 and is the same definition that has been used for a number of years in the regulations governing the operation of the National School Lunch Program (7 CFR Part 210). Some respondents suggested that the "cost of obtaining food" should include labor costs incurred in the preparation of food in a breakfast program. Under the Act, costs of preparing food may be included only by schools in need of assistance in meeting the operating costs of their breakfast programs.

Three respondents objected to the definition of "participation rate" used in the proposed amendments to the regulations. Section 4 of the Child Nutrition Act provides that a portion of the funds appropriated for the School Breakfast Program shall be apportioned to States under a formula prescribed in section 4

of the National School Lunch Act. That formula uses "participation rate" as one of its factors, and the definition of the term "participation rate" set forth in section 12 of the National School Lunch Act refers to lunches. Three respondents took exception to the definition of "reduced price breakfast" and thought such breakfasts should be eliminated. The Child Nutrition Act, as amended, clearly contemplates that breakfasts may be served at reduced prices, although they are to be served free to the neediest children. Any State agency or school may eliminate reduced price breakfasts and serve only free meals to those children unable to pay the price of the breakfast established by the school.

There were also three respondents who recommended a clarification of the definition of "school," particularly with respect to eligibility of Headstart and Followthrough programs. Since the definition of "school" used in Part 220 parallels the definition of "school" used in Part 210 for the National School Lunch program, no change has been made. Under that definition, Headstart, Followthrough, and other such programs for children in pre-primary, primary, or secondary grades are included in the definition of "school" for purposes of the School Breakfast Program if such programs are conducted in a school having classes of primary or higher grade, or when they are recognized as a part of the educational system in the State.

A few respondents thought that the definition of "School Food Authority" needed clarification, especially as related to delegations of authority for operating a breakfast program. Since this term directly parallels the National School Lunch Program regulations, it was determined that using a different definition in the School Breakfast Program was impractical.

2. *Section 220.7 Requirements for participation.* The wording of paragraphs (a) and (a-1) of § 220.7 has been revised to take into account questions or comments submitted by 11 respondents. In the final regulations, it is made clear that schools participating in the School Breakfast Program shall, in the service of free and reduced price breakfasts observe all of the terms and conditions required of schools in the service of free and reduced price lunches. Language changes have also been made to make it clear that schools that apply for, or receive, Federal assistance authorized under Parts 210, 220, or 250 or this chapter may submit one free and reduced price policy statement for its lunch and breakfast programs. In addition, language changes have been made in paragraph (a-1) of § 220.7 to make it applicable to schools which receive only commodity assistance for their school lunch programs.

In the proposed regulations, paragraph (b) of § 220.7 was revised to provide that applications for the School Breakfast Program should include data to determine whether the school falls within one of the three classifications of schools to which first consideration for participation is to be given under the enabling legislation. Fifteen respondents objected to the amount of information required or pointed out that the requested data might not be available. In the final regulations, this paragraph provides that a School Food Authority need submit the specified data only if it seeks first consideration of its application because its school is one to be accorded priority consideration. A few respondents indicated it would be difficult for State agencies to select schools for the breakfast program based on the classifications set forth in paragraph (c) of § 220.7. Since the priorities for considering applications for the program are established in the authorizing legislation and since they have previously appeared in program regulations, no change was made in this paragraph.

Three respondents objected to the requirement in paragraph (f) of § 220.7 that where a school serves children from both public and private schools, in a State in which FNSRO administers the program in private schools, the school food authorities of the private school and of the public school respectively, shall file separate claims for the children from their respective schools. The Act requires the Department to withhold a share of breakfast funds apportioned to any State for reimbursement of breakfasts served to children attending nonprofit private schools and to administer the program in such States. If the State agency cannot administer the breakfast program with respect to such schools. Agreements with the nonprofit private schools are entered into by FNSRO on behalf of the Department, while agreements with the public schools are entered into by the State agency. Separate agreements and claims are needed in order to assure that both the public and private schools comply with the free and reduced price meal provisions and other requirements of the program, even though the meals are served in only one of the schools but to children from both schools. The claims submitted for each such school must reflect the number of breakfasts served to their respective participating children. This is consistent with the procedure followed in the school lunch program.

**3. Section 220.9 Reimbursement payment.** Fourteen respondents thought that the proposed rates of reimbursement in paragraph (b) were too low. Some respondents believed that reimbursement ought to cover labor costs in the breakfast program. Others recommended that a uniform rate of reimbursement be continued—some suggesting that such rate be increased. The effect of a higher uniform rate would be to produce revenues from paid and reduced price breakfasts to finance labor and other costs. These comments apparently are based on a misunderstanding of the enabling legislation

with respect to reimbursement rates. Section 4(c) of the Child Nutrition Act of 1966 does not permit States to reimburse schools which are approved for the program at standard rates of reimbursement, for the cost of preparation of foods used in their breakfast programs. No change has been made in this paragraph.

A number of respondents recommended increasing the maximum rate of reimbursement set forth in paragraph (b-1) for free breakfasts served in an especially needy school approved for assistance of up to 100 percent of operating costs. An increase in this maximum rate has been made to permit reimbursement of 30 cents for each free breakfast served in an especially needy school. In addition, six respondents recommended a clarification of this paragraph particularly with respect to the terms "especially needy school" and "effective utilization of commodities." It was determined that without further experience it would not be practical to define especially needy school more specifically. A clarifying change was made with respect to the use of donated commodities.

A number of respondents questioned the provisions of proposed paragraphs (b-2) and (b-3) of § 220.9, which parallel provisions in the regulations governing the operation of the National School Lunch Program. It appeared that a number of the respondents believed that these provisions required that rates of reimbursement be initially assigned, and subsequently adjusted, within their apportioned share of any funds available for the School Breakfast Program, even if other program funds were authorized for distribution to States. Language changes have been made in the final regulations to clarify the intent that all available funds are to be considered by the States in assigning rates of reimbursement.

In paragraph (c), four respondents objected to the exclusion of labor cost from "cost of obtaining food". As indicated under the explanation of comments on paragraph (b) of this section, the law does not permit the payment of reimbursement for labor costs incurred in breakfast programs approved at the standard rates of reimbursement.

**4. Section 220.11 Reimbursement procedure.** With respect to paragraph (b), five respondents objected to what they considered duplication of data on the claim, application, and agreement forms. Some indicated a clarification was necessary, particularly of data that must be reported monthly and that which may be reported semiannually. A new paragraph (d) paralleling the provisions of § 210.13 (d) of the National School Lunch Program regulations has been added to clarify what data are to be reported semiannually. It was also pointed out that in submitting claims the School Food Authority of an especially needy school approved for financial assistance of up to 100 percent of operating cost was not required to report the cost of providing a breakfast. The latter item has been added under paragraph (b) for claims submitted for an especially needy school.

Paragraph (c) has been revised in the final regulations to make clear that

School Food Authorities of schools participating in either the Special Milk Program or in the National School Lunch Program as well as in the School Breakfast Program may submit one Claim for Reimbursement form, covering the income and expenditures incident to all programs.

Five respondents submitted comments on the new authority to advance funds as set forth in the proposed paragraph (d) of § 220.11. In the revised regulations, this paragraph has been relettered (e) and its provisions have been expanded to insure that School Food Authorities to whom funds are advanced continue to make timely submissions of monthly claims for reimbursement. In addition, to better insure that State Agencies or Regional Offices of the Food and Nutrition Service do not advance funds in excess of the amount of reimbursement that will be earned in a fiscal year, any advances covering the month of April in a fiscal year are subjected to certain prescribed conditions.

**5. Section 220.16 Requirements for participation.** Seven respondents thought that the information required in paragraph (a) on the application for Non-Food Assistance funds was too detailed. This paragraph has been revised in the final regulations to make it clear that the language contained in subparagraph (1) represents examples of the types of data that may be used to establish that the school draws its attendance from areas in which poor economic conditions exist. If a school participates in the National School Lunch Program or the School Breakfast Program it may use data on the percentage of children receiving free and reduced price meals to establish that its attendance is drawn from areas in which poor economic conditions exist.

**6. Section 220.24 Special responsibilities of State agencies.** One respondent objected to each School Food Authority having to file a separate free and reduced price policy statement for its lunch program and for its breakfast program. The language of this paragraph has been clarified to permit the submission of policy statements in accordance with the provisions of paragraph (a) of § 220.7. Paragraph (a) of § 220.7 permits a school participating in the National School Lunch Program and in the School Breakfast Program to use the same free and reduced price policy statement for both programs.

**7. Section 220.28 Other provisions.** Seven respondents objected to the Department making any changes, not required by law, in the School Breakfast Program regulations which would increase food costs or decrease maximum reimbursement rates, unless such changes are made effective at the beginning of a fiscal year. This section is essentially the same as the comparable provision in the regulations governing the National School Lunch Program. It is believed that 60 days' notice of any such changes is sufficient to enable schools to make any necessary adjustments. In addition, where time permits, the Department will follow the proposed rule

making procedure, in which event schools will have an opportunity to comment on the changes before they are finally issued.

Accordingly, the School Breakfast Program regulations are amended as follows:

1. In § 220.2, paragraph (b) is revoked, paragraphs (f) and (o) are revised, new paragraphs (i-1), and (o-1) are added, paragraph (q) is revised, and a new paragraph (q-1) is added, as follows:

§ 220.2 Definitions.

(b) [Revoked]

(f) "Cost of obtaining food" means the cost of obtaining agricultural commodities and other food for consumption by children during any fiscal year. Such costs may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the School Breakfast Program.

(i-1) "Free breakfast" means a breakfast for which neither the child nor any member of his family pays or is required to work in the school or in the school's food service.

(o) "Participation rate" means a number equal to the number of lunches meeting the minimum requirements prescribed for a Type A lunch in § 210.10 of this chapter served in the fiscal year beginning 2 years immediately prior to the fiscal year for which the funds are appropriated, by schools participating in the National School Lunch Program, as determined by the Secretary.

(o-1) "Reduced price breakfast" means a breakfast which meets all of the following criteria: (1) The price shall be less than the full price of the breakfast, (2) the price shall not exceed 10 cents, and (3) neither the child nor any member of his family shall be required to supply an equivalent value in work for the school or the school's food service.

(q) "School" means an educational unit of high school grade or under operating under public or nonprofit private ownership in a single building or complex of buildings and, with respect to Puerto Rico, also includes a nonprofit child-care center certified as such by the Governor of Puerto Rico. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or higher grade, or when they are recognized as a part of the educational system in the State, regardless of whether such preprimary grade classes are conducted in a school having classes of primary or higher grade.

(q-1) "School Food Authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a breakfast or a lunch program therein. The term "School Food Authority" also includes a nonprofit

agency to which such governing body has delegated authority for the operation of a breakfast or a lunch program in a school.

2. In § 220.4, paragraph (a) is revised, as follows:

§ 220.4 Apportionment of funds to States.

(a) Except when otherwise authorized by law, any Federal funds made available for the purposes of section 4 of the Act for any fiscal year shall be apportioned among the States in accordance with the provisions of section 4 of the Act.

3. Section 220.5 is amended to delete the word "schools" in the second and fifth sentences and substitute in lieu thereof the words "School Food Authorities". The first sentence of this section is revised, as follows:

§ 220.5 Payments to States.

Funds apportioned or allocated to any State for the School Breakfast Program, except funds withheld for nonprofit private schools, shall be made available by means of Letters of Credit issued by FNS to appropriate Federal Reserve Banks in favor of the State Agency.

§ 220.6 [Amended]

4. Section 220.6 is amended to delete the word "schools" and substitute in lieu thereof "School Food Authorities".

5. In § 220.7, paragraph (d) is amended to delete the word "school" wherever it appears and to substitute in lieu thereof the words "School Food Authority"; and to delete the words "attendance units" and substitute therefor the word "schools"; and paragraphs (a), (a-1), (b), (c), the opening sentence of paragraph (e), subparagraph (4) and subdivision (i) (b) of subparagraph (12) of paragraph (e), and the second sentence of paragraph (f) are revised, as follows:

§ 220.7 Requirements for participation.

(a) The School Food Authority shall make written application to the State Agency, or FNSRO where applicable, for any school in which it desires to operate the School Breakfast Program, if such school did not participate in the Program in the prior fiscal year. The School Food Authority shall also submit for approval, either with the application or at the request of the State agency, or FNSRO where applicable, a free and reduced price policy statement in accordance with Part 245 of this chapter. A School Food Authority which simultaneously makes application for the National School Lunch Program and the School Breakfast Program shall submit one free and reduced price policy statement which shall provide that the terms, conditions, and eligibility criteria set forth in such policy statement shall apply to the service of free and reduced price lunches and to the service of free and reduced price breakfasts. If, at the time application is

made for the School Breakfast Program, a School Food Authority has an approved free and reduced price policy statement on file with the State agency, or FNSRO where applicable, for the National School Lunch Program, it need only confirm in writing that such approved policy statement will also apply to the operation of its School Breakfast Program. Applications for the School Breakfast Program shall not be approved in the absence of an approved free and reduced price policy statement.

(a-1) A school which also either participates in the National School Lunch Program or only receives donations of commodities for its nonprofit lunch program under the provisions of Part 250 of this chapter (commodity only school) shall apply the same set of eligibility criteria so that children who are eligible for free lunches shall also be eligible for free breakfasts and children who are eligible for reduced price lunches shall also be eligible for reduced price breakfasts.

(b) Applications shall include the name and address of the School Food Authority and of each school in which the School Breakfast Program will be operated, and the following information with respect to each such school: (1) The planned beginning date of breakfast service under the program; (2) the estimated average daily enrollment; (3) the full breakfast price to be charged and the reduced price to be charged children eligible for reduced price breakfasts; (4) if the school is not participating in the National School Lunch Program, the estimated number of children in such school who will be eligible for free and reduced price breakfasts under the eligibility standards proposed in the free and reduced price policy statement submitted for approval. The application shall also include such information as is necessary to determine which of the schools included in the application should be given first consideration under the provisions of paragraph (c) of this section. If the School Food Authority seeks first consideration for a school because such school draws its attendance from areas in which poor economic conditions exist, the application shall include data demonstrating that poor economic conditions exist. If the school is already participating in the National School Lunch Program, the percentage of its enrollment receiving free and reduced price lunches will be an indicator of the economic conditions of the area from which it draws its attendance. If the school is not participating in the National School Lunch Program at the time it makes application for the School Breakfast Program, the School Food Authority shall submit such data as is available to demonstrate the poor economic conditions of the area, such as its location within a Model City target area, the number and size of public housing projects which are located within the area or the proportion of families living within the area who receive welfare assistance. If the School Food Authority seeks first consideration for a school be-

cause substantial proportions of the children enrolled must travel long distances daily, the application shall include data to show the percentage of children whose travel time is between 30 minutes and 1 hour and the percentage of children whose travel time to school exceeds 1 hour. If the School Food Authority seeks first consideration for a school because there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families, the application shall include data on the percentage of the mothers of enrolled children who are engaged in work outside the home, the percentage of families whose children meet the school's eligibility criteria for free or reduced price breakfasts or the percentage of the school's average daily enrollment receiving free or reduced price lunches, and available data concerning the nature and the extent of the special need to improve the nutrition and dietary practices as reflected in surveys or other evaluations of the nutritional status, the food consumption patterns, or the food habits of the children from low-income families eligible for breakfast free or at a reduced price and from families with mothers who work outside the home. If the application requests that the school be determined to be an especially needy school under paragraph (b-1) of § 220.9, it must be accompanied by data which will permit the State Agency, or FNSRO where applicable, to make the required determinations.

(c) In selecting schools for participation, the State agency, or FNSRO where applicable, to the extent practicable shall utilize the information supplied by the School Food Authorities to provide first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools to which substantial proportions of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low income families. If sufficient funds are available, consideration shall be given to other schools.

(e) Each School Food Authority for schools selected for participation in the School Breakfast Program shall enter into a written agreement with the State Agency on a form approved by FNSRO, or, in those States in which FNSRO administers the breakfast program with respect to nonprofit private schools, each School Food Authority for such private schools shall enter into a written agreement with the Department. Such agreements shall provide that the School Food Authority shall, with respect to participating schools under its jurisdiction: \* \* \* (4) supply breakfasts without cost or at reduced price to all children who are determined by the School Food Authority to be unable to pay the full price thereof in accordance with the free and reduced price policy statements approved under Part 245 of this chapter; \* \* \* (12) \* \* \*

(i) \* \* \*

(b) Daily number of breakfasts served free and daily number of breakfasts served at a reduced price to children meeting the school's approved eligibility standards.

(f) \* \* \* The School Food Authority of the school in which the breakfast program is operated may request reimbursement in connection with all the breakfasts served, except that, where such school serves children from both public and nonprofit private schools in a State where FNSRO administers the School Breakfast Program with respect to nonprofit private schools, the School Food Authority of the public school shall file a separate claim with the State agency and the School Food Authority of the private school shall file a separate claim with FNSRO for breakfasts served to their respective participating children.

5. In § 220.9, paragraph (b) is revised, new paragraphs (b-1), (b-2), and (b-3) are added, and paragraph (c) is revised, to read as follows:

#### § 220.9 Reimbursement payment.

(b) Reimbursement for free and reduced price breakfasts shall be paid only for such breakfasts served in school to children meeting the school's approved eligibility standards under Part 245 of this chapter. Except as otherwise provided in paragraph (b-1) of this section, the maximum rate of reimbursement for a free breakfast shall be 20 cents and the maximum rate of reimbursement for a reduced price breakfast shall be 15 cents. The maximum rate of reimbursement for all other breakfasts served in school to children shall be 5 cents.

(b-1) A school participating in the School Breakfast Program may be considered for rates of reimbursement in excess of 20 cents for a free breakfast and 15 cents for a reduced price breakfast served in school to children meeting the school's eligibility standards for such breakfasts if it is an especially needy school. An especially needy school is one which establishes to the satisfaction of the State agency, or FNSRO where applicable, that it would be financially unable to support the service of such free and reduced price breakfasts at the maximum rates set forth in paragraph (b) of this section because of:

(1) The need to serve an especially high percentage of such free and reduced price breakfasts; or (2) unusual costs required to provide a breakfast in the school in spite of the observance of good management practices; or (3) other unusual factors indicative of a special financial need. The State agency, or FNSRO where applicable, shall determine that the impact of such factors on the per-breakfast cost of providing a breakfast in the school is such that it is financially unable to support the service of such free and reduced price breakfasts after taking into consideration the per-breakfast revenues available from School Breakfast Program reimbursement, from State and local revenues, including revenues from

the sale of fully paid and reduced price breakfasts, and savings from the effective utilization of commodities available under Part 250 of this chapter. The State agency, or FNSRO where applicable, shall also determine to its satisfaction that revenues available to support the service of breakfasts sold at regular prices in the school are sufficient to cover the cost of such service. Upon such determinations, the State agency, or FNSRO where applicable, may assign rates of reimbursement which are in excess of the rates specified in paragraph (b) of this section and which, together with revenues available from other sources, will finance up to 100 percentum of the cost of operating the school's nonprofit breakfast program: *Provided, however*, That the total reimbursement shall not exceed 30 cents for each free breakfast and 20 cents for each reduced price breakfast served in school to children eligible for such breakfasts. The State agency, or FNSRO where applicable, shall maintain on file for review the data to support its determination that a school is an especially needy school.

(b-2) Following notification of the funds to be initially made available to it for any fiscal year, and within the maximum rates of reimbursement set forth in paragraphs (b), (b-1), and (c) of this section, in each fiscal year, the State agency, or FNSRO where applicable, shall initially assign rates of reimbursement at levels which will permit reimbursement from the available funds for the total number of breakfasts eligible for reimbursement, including free and reduced price breakfasts, which it is estimated will be served in participating schools in the States in such fiscal year. At a minimum, the estimate of the number of such breakfasts to be served in a fiscal year shall take into account the estimated number of such breakfasts to be served in schools which are expected to apply and be approved for participation in the School Breakfast Program during such fiscal year and the estimated number of such breakfasts to be served in schools which participated in the preceding fiscal year.

(b-3) Each fiscal year, promptly following the receipt of claims for reimbursement covering operations for the month of November and for such later months as is necessary, each State agency, or FNSRO where applicable, shall revise its estimates of the total number of breakfasts eligible for reimbursement to be served in participating schools in such fiscal year. Based upon such revised estimates, each State agency, or FNSRO where applicable, shall make such adjustments in assigned rates of reimbursement as are necessary to permit reimbursement from such funds for the total number of such breakfasts it is estimated will be served in participating schools in the State in such fiscal year.

(c) Schools participating in the School Breakfast Program shall be reimbursed on the basis of the number of breakfasts served in school to children times the assigned rate, except that schools not approved for a rate higher

than 20 cents for a free breakfast and 15 cents for a reduced price breakfasts may not be reimbursed in an amount exceeding the cost of obtaining food during the fiscal year.

§ 220.10 [Amended]

6. Section 220.10 is amended to delete the word "schools" and substitute in lieu thereof the words "School Food Authorities".

7. In § 220.11, paragraph (a) is amended to delete the word "schools" and substitute in lieu thereof the words "School Food Authorities", paragraphs (b) and (c) are revised; and new paragraphs (d) and (e) are added, as follows:

§ 220.11 Reimbursement procedure.

(b) Except as otherwise provided in paragraph (c) of this section, the claim for reimbursement shall include the following items: (1) The month and year for which claim is made; (2) the name and address of the School Food Authority and of each school in which the School Breakfast Program operated; (3) the average daily attendance; (4) the number of days that breakfasts were served; (5) the total number of paid breakfasts served to children; (6) the total number of breakfasts served at a reduced price to children meeting the school's eligibility standards for such breakfasts; (7) the total number of breakfasts served free to children meeting the school's eligibility standards for such breakfasts; (8) the amount of reimbursement claimed; (9) income from the sale of breakfasts; and (10) the cost of providing a breakfast if the school is an especially needy school approved for reimbursement under the provisions of paragraph (b-1) of § 220.9. In submitting a claim for reimbursement each School Food Authority shall certify that the claim is true and correct; that records are available to support the claim; and that payment has not been received.

(c) Where a school participates in either the Special Milk Program or the National School Lunch Program as well as the School Breakfast Program, the State agency, or FNSRO where applicable, may authorize the submission of one claim for reimbursement to cover the income and expenditures incident to both programs.

(d) The claim for reimbursement covering operations for the month of December of each fiscal year shall be supplemented by information on the expenditures representing the cost of obtaining food for each school included in such claim, for the 6-month period July-December of such fiscal year. Such supplemental information shall be submitted by February 1. The claim for reimbursement covering the final month of operations for each fiscal year shall be supplemented by the same information on such expenditures for each school included in such claim, for the period between January 1 and the end of the final month of operations for each fiscal year. Such supplemental information shall be submitted within 30 days after

the end of program operations for that fiscal year. State agencies, or FNSRO where applicable, may collect the information required in this paragraph more frequently than semiannually.

(e) Notwithstanding any other provision of this section, the State agency, or FNSRO where applicable, may advance funds available for the School Breakfast Program to a School Food Authority in an amount equal to the reimbursement estimated for the total number of breakfasts, including free and reduced price breakfasts, to be served to children for 1 month. The State agency, or FNSRO where applicable, shall require School Food Authorities who receive advances of funds under the provisions of this paragraph to make timely submissions of claims for reimbursement on a monthly basis and shall suspend advances of funds in the absence of such timely submissions. Following the receipt of claims the State agency, or FNSRO where applicable, shall make such adjustments as are necessary in such advances of funds to insure that the total amount of reimbursement received by a School Food Authority for the fiscal year will not exceed an amount equal to the number of breakfasts, including free and reduced price breakfast, served to children times the respective rates of reimbursement assigned by the State agency, or FNSRO where applicable, in accordance with § 220.9. In no event shall an advance of funds be made by the State agency, or FNSRO where applicable, for the month of April in any fiscal year unless the School Food Authority has submitted claims for reimbursement covering operations through the month of February in such fiscal year and unless the amount of reimbursement earned for the number of breakfasts, including free and reduced price breakfasts, served through February of such fiscal year is equal to at least 80 per centum of the amount of the funds advanced to the School Food Authority for the operations through the month of March in such fiscal year. The advance may be made not more than 30 days prior to the last day of the month for which reimbursement is estimated.

§ 220.14 [Amended]

8. In § 220.14, paragraph (a) is amended to add the words "the School Food Authority of" immediately before the words "any nonprofit private school" and paragraph (b) is amended to delete the word "school" and substitute in lieu thereof the words "School Food Authority."

§ 220.15 [Amended]

9. Section 220.15 is amended to add the words "the School Food Authorities of" immediately before the word "schools", and to add the words "purchase or rental of" after the words "cost of".

10. In § 220.16, paragraphs (a), (b), and (c) are revised, as follows:

§ 220.16 Requirements for participation.

(a) The School Food Authority shall make written application to the State

agency, or FNSRO where applicable, for any school which it desires to participate in the Nonfood Assistance Program. Applications shall include the name and address of the School Food Authority and of each school in which the Nonfood Assistance Program will be operated, and the following information with respect to each such school: (1) Available data to demonstrate that the school draws a substantial portion of its attendance from areas in which poor economic conditions exist, such as the percentage of its enrollment receiving free and reduced price meals if the school is participating in the National School Lunch Program or the School Breakfast Program, its location within a Model City target area, the number and size of public housing projects located within the area, or the proportion of families living within the area who receive welfare assistance; (2) a detailed description of the type(s) of equipment needed to provide a food service to the children; (3) in addition, if the school has some equipment, a list of the equipment which is grossly inadequate and the impact of inadequacies or lack of equipment on the effectiveness of the school's food service program, including, but not limited to, the inability to serve participating children under a timely or reasonable schedule, the inability to effectively utilize commodities donated under Part 250 of this chapter, or the inability to provide the variety or types of food to meet ethnic, religious, or physical needs of children enrolled in the school; (4) the vendor's statement on the estimated rental or purchase cost(s) of such equipment, including installation; (5) if the equipment is to be rented, the reasons why the school does not find that the purchase of such equipment would be more advantageous; (6) the anticipated delivery and installation date; (7) a description of the source of the State or local funds which will be used to meet a share of the cost of the equipment obtained under the Nonfood Assistance Program, and the manner in which payment will be made to the vendor; and (8) the names and addresses of any schools under the jurisdiction of the School Food Authority which will be served by the school in which the Nonfood Assistance Program will be operated, the average daily attendance of each school, and data to demonstrate that such schools do or do not draw their attendance from areas in which poor economic conditions exist.

(b) A school shall be selected for participation in the Nonfood Assistance Program on the basis of: (1) The relative need of the school for assistance in acquiring equipment based upon the information supplied for that school and for other schools in the application submitted by the School Food Authority; and (2) the amount of funds available to the State agency, or FNSRO where applicable.

(c) The School Food Authority of schools selected for participation shall enter into a written agreement, on a form approved by CND, with the State agency, or FNSRO where applicable. The School Food Authority shall agree to: (1) Par-

ticipate in the School Breakfast Program or the National School Lunch Program, or both; (2) if it participates only in the School Breakfast Program, work toward participating in the National School Lunch Program; (3) maintain full and accurate records to account for the receipt and use of all funds in connection with the equipment acquired under the Nonfood Assistance Program; (4) if it is a School Food Authority of a nonprofit private school, provide at least one-fourth of the purchase price of such equipment; (5) if it is the School Food Authority of a nonprofit private school, use such equipment principally in connection with the school's nonprofit feeding programs under the School Breakfast Program and under the National School Lunch Program; (6) if it is a School Food Authority of a nonprofit private school, in the event such equipment is no longer so used, transfer it with the approval of the State agency, or FNSRO where applicable, to another School Food Authority of a nonprofit private school participating in any programs authorized by the Act or the National School Lunch Act, as amended, or to any other school participating in any of the programs authorized by such Acts (failing either of these dispositions, that part of such equipment financed with Federal funds, or the residual value thereof, shall revert to the United States).

11. In § 220.18, paragraph (a) is amended to delete the word "schools" and substitute in lieu thereof the words "School Food Authorities", and paragraph (c) is amended to delete the word "school" and substitute in lieu thereof the words "School Food Authority"; and subparagraph (1) of paragraph (a) and paragraph (b) are revised as follows:

#### § 220.18 Reimbursement procedure.

(a) \* \* \* (1) The name and address of the School Food Authority and of each school participating in the Nonfood Assistance Program; \* \* \*

(b) Each claim shall be accompanied by a copy of the bill, invoice, or other evidence of purchase or rental and shall be made part of the School Food Authority's case file maintained by the State agency or FNSRO, where applicable.

#### § 220.21 [Amended]

12. In § 220.21, paragraph (a) is amended to delete the words "local school districts" and substitute in lieu thereof the words "School Food Authorities and schools", and paragraph (b) is amended to add the words "School Food Authorities," following the words "such distributing agency to".

13. § 220.22 is revised to read as follows:

#### § 220.22 State agency justification for State administrative expense funds.

FNS shall determine the amount of State administrative expense funds needed by each State based on justifi-

cation for such funds as revealed in the State agency plan of child nutrition program operations submitted under § 210.4a of this chapter.

14. In § 220.24, paragraph (a) is amended to delete the word "schools" and substitute in lieu thereof the words "School Food Authorities" and paragraph (e) is amended to delete the word "schools" and substitute in lieu thereof the words "School Food Authorities"; and paragraph (a-1) is revised to read as follows:

#### § 220.24 Special responsibilities of State agencies.

(a-1) Each State agency, or FNSRO where applicable, shall require each School Food Authority of a school participating in the School Breakfast Program to develop and file for approval a free and reduced price policy statement in accordance with paragraph (a) of § 220.7.

15. In § 220.25, the heading and paragraphs (a), (b), and (f) are amended to delete the words "school" or "schools" wherever they appear and to substitute in lieu thereof the words "School Food Authority" or "School Food Authorities", respectively; and paragraph (g) is revised to read as follows:

#### § 220.25 Claims against School Food Authorities.

(g) With respect to School Food Authorities of schools in which the program is administered by FNSRO, when FNSRO disallows a claim or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the School Food Authority of the reasons for such disallowance or demand and the School Food Authority shall have full opportunity to submit evidence or to file a claim for any amounts disallowed or demanded in the same manner as that afforded in this section to School Food Authorities of schools in which the program is administered by State agencies.

16. In § 220.28, paragraph (a) is amended to delete the word "school" and substitute in lieu thereof the words "School Food Authority", and paragraph (b) is revised to read as follows:

#### § 220.28 Other provisions.

(b) Any or all of the provisions of this part may be withdrawn, or amended, at any time by the Department: *Provided, however,* That any withdrawal or amendment shall not be made without due prior notice in writing to the State agencies and to the School Food Authorities of nonprofit private schools with respect to which the program is administered by FNSRO: *And provided further,* That no change in the requirements for breakfasts which increases food costs or which decreases the maximum rates of reimbursement shall become effective

less than 60 days after publication of notice thereof, except when such changes are required by law.

17. In § 220.29, the opening sentence is amended to delete the word "Schools" and substitute in lieu thereof the words "School Food Authorities"; and paragraph (b) is revised to read as follows:

#### § 220.29 Program information.

(b) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, and the Virgin Islands:

Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street NW., Atlanta, GA 30309.

Effective date: July 1, 1972.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: May 11, 1972.

PHILIP C. OLSSON,  
Deputy Assistant Secretary.

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### Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

#### SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

#### PART 859—TEXAS CANE SUGAR PRODUCING AREA

Pursuant to the provisions of section 302 of the Sugar Act of 1948, as amended, and effective upon publication in the FEDERAL REGISTER, Chapter VIII of Title 7 of the Code of Federal Regulations is amended by adding to Subchapter G a new Part 859, as above entitled, and by adding in Part 859 the following sections containing provisions pertaining to allocation of sugarcane acreage for a new sugarcane area:

#### Sec.

- 859.1 Purpose.
- 859.2 Definitions.
- 859.3 Allocation of acreage to farms and conditions of allocation.
- 859.4 Acreage records to be furnished.
- 859.5 Adjustments in acreage.
- 859.6 Revocation of acreage allocation.

AUTHORITY: The provisions of this Part 859 issued under secs. 202, 301, 302, 403, 61 Stat. 924, as amended, 929, as amended, 930, as amended, 932; 7 U.S.C. 1112, 1131, 1132, 1153.

#### § 859.1 Purpose.

The purposes of this part are to provide for a new sugarcane area, to allocate to such area the acreage required to supply an annual quota of not more than 100,000 short tons, raw value, of sugar, as authorized under section 202 of the Sugar Act, and to specify conditions under which such acreage is to be used and is to be protected in subsequent proportionate share determinations.