

Department is not at liberty to vary the requirements should public comments indicate disapproval of this rule.

Accordingly, Part 215 is amended as follows:

1. § 215.2(e-1) is amended to redefine "children" as follows:

§ 215.2 Definitions.

(e-1) "Children" means persons under 19 chronological years of age in child-care institutions as defined in § 215.2(e); or persons under 21 chronological years of age attending schools as defined in § 215.2(v)(2) and (3) of this part; or students, including students who are mentally or physically handicapped as defined by the State and who are participating in a school program established for the mentally or physically handicapped, of high school grade or under as determined by the State educational agency in schools as defined in § 215.2(v)(1) of this part.

2. The existing paragraph of § 215.6 is designated as paragraph (a) and new paragraphs (b) and (c) are added to read as follows:

§ 215.6 Use of funds.

(b) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this part, whether received directly or indirectly from the Department, shall—(1) if such funds, assets, or property are of a value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than 5 years or both; or (2) if such funds, assets, or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year or both.

(c) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this part, whether received directly or indirectly from the Department, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (b) of this section.

3. Paragraphs (a), (b), and (g) of § 215.16 are amended to read as follows:

§ 215.16 Program information.

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, MA 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, 1 Vahlsing Center, Robbinsville, NJ 08691.

(g) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430 D, Denver, CO 80211.

4. Further, paragraph (e) of § 215.16 is amended to change the zip code to 75242. Paragraph (f) is amended to add after "the Trust Territory of the Pacific Islands" the following: The Commonwealth of the Northern Mariana Islands.

(Catalog of Federal Domestic Assistance No. 10.556.)

(Sec. 10(a), Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760; Sec. 10(d)(3), Pub. L. 95-627, 92 Stat. 3624 (42 U.S.C. 1757); Sec. 14, Pub. L. 95-627, 92 Stat. 3625-3626.)

Note.—This regulation has been found "not significant" for the purposes of Executive Order 12044 and Secretary's Memorandum 1955. A copy of the Impact Statement may be viewed at the office of the party identified in the "address" portion of the preamble during regular business hours (8:30 a.m. to 5:00 p.m.)

Dated: June 26, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-20155 Filed 6-28-79; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Part 220

[Amdt. 28]

School Breakfast Program; Final Rule

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final Rule.

SUMMARY: This rule implements nondiscretionary portions of Section 10 of Pub. L. 95-627 by incorporating into the definition of "child" the clarification that mentally or physically handicapped persons enrolled in schools participating in the School Breakfast Program are eligible for program benefits and by establishing criminal penalties for the misuse of funds, assets, or property that are the subject of a grant or other form of assistance under the National School Lunch Act or the Child Nutrition Act of 1966. This rule also expands the definition of breakfast and updates the addresses of the FNS Regional Offices.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-8130.

SUPPLEMENTARY INFORMATION: Section 10 of Pub. L. 95-627 amends the National School Lunch Act and the Child Nutrition Act of 1966 to include in the definition of "child," persons, regardless of age, who are mentally or physically handicapped, as defined by the State, and who are enrolled in a school program for the mentally or physically handicapped in a nonresidential public or nonprofit private school of high school grade or under which participates in the school nutrition programs.

Present regulations define "child" in public or nonprofit private schools other than residential child care institutions by grade level, not by age. The Department does not anticipate that this regulatory change will result in a substantial increase in eligible children because mentally or physically handicapped persons in schools which participate in the school nutrition programs are presently eligible. However, the rule now states specifically that physically or mentally handicapped persons are eligible to receive program benefits. The rule provides that the State educational agency is to determine what constitutes a mental or physical handicap.

Present regulations define "breakfast" to be a meal which meets the nutritional requirements set out in this Part and which is served to a child at the beginning of the child's day at school. This amendment specifies that the meal must be served in the morning hours, but allows schools more flexibility in scheduling the meal by allowing breakfast to be served at or close to the beginning of the child's day at school.

In requiring schools to serve breakfast at the beginning of the child's day at school, the Department wanted to insure that schools would not serve breakfast too close to lunch. Breakfast served too late in the day would contribute to school lunch plate waste. In addition, since breakfast is traditionally eaten at the beginning of the day, children would learn long lasting habits of good nutrition and establish an eating pattern which they would be most likely to follow as adults. However, the Department did not intend to discourage schools from participation in the School Breakfast Program.

In determining their hour of breakfast service, schools should continue to

attempt to provide breakfast as close to the beginning of the child's day at school as administratively feasible. However, schools may allow breakfast to be served later in the morning, as long as they determine, in their best judgment, that the later hour is not close enough to the lunch period to contribute to plate waste.

Section 10 of Pub. L. 95-627 also prescribes criminal penalties for the misuse of funds, assets, or property in connection with federal child feeding programs. Under this provision anyone, whether administering the programs or receiving their benefits, who knowingly misuses funds, assets, or property is subject to federal penalties. This rule adds the fraud penalty language to Part 220. In addition, it deletes and reserves paragraph (a) of § 220.18. The language of that subsection is unique to Part 220 and repeats the intent of Part 220.20(b).

Changes in location of three Regional Offices require that the program information section of this part be updated.

The Department is issuing the fraud penalties and definition of "child" portions of this rule as a final rule in order to implement the statutory mandate of Pub. L. 95-627. Because Section 10 of Pub. L. 95-627 was effective October 1, 1978, the Department considers itself under obligation to implement immediately this rule without the benefit of public comment. Further, because the dictates of Pub. L. 95-627 with regard to these requirements are mandatory, the Department is not at liberty to vary the requirements should public comments indicate disapproval of the rule.

The Department is issuing the definition of "breakfast" portion of this rule as a final rule to remove an unintentional impediment to the growth of the School Breakfast Program.

Accordingly, Part 220 is amended as follows:

1. § 220.2(b) is amended to redefine "breakfast" and § 220.2(c) is amended to redefine "child" as follows:

§ 220.2 Definition.

(b) "Breakfast" means a meal which meets the nutritional requirements set out in § 220.8 and which is served to a child in the morning hours. The meal shall be served at or close to the beginning of the child's day at school.

(c) "child" means either (1) in schools as defined in § 220.2(u)(1), a student of high school grade or under as determined by the State educational agency, including students who are mentally or physically handicapped as

defined by the State and who are participating in a school program established for the mentally or physically handicapped or (2) in schools as defined in § 220.2(u)(2) and (3), a person under 21 chronological years of age.

2. The words "by State agencies" are stricken from the heading of § 220.6, the existing paragraph is designated as paragraph (a), and new paragraphs (b) and (c) are added to read as follows:

§ 220.6 Use of funds.

(b) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this Part, whether received directly or indirectly from the Department, shall—

(1) if such funds, assets, or property are of a value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than 5 years or both; or

(2) if such funds, assets, or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year or both.

(c) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this Part, whether received directly or indirectly from the Department, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (b) of this section.

§ 220.18 [Amended]

3. § 220.18(a) is deleted and reserved.
4. Paragraphs (a), (f), and (g) of § 220.21 are amended to read as follows:

§ 220.21 Program information.

(a) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, 1 Vahlsing Center, Robbinsville, NJ 08691.

(f) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, MA 01803.

(g) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of

Agriculture, 2420 West 26th Avenue, Room 430 D, Denver, CO 80211.

5. Further, paragraph (e) of § 220.21 is amended to add after "Oregon" the following: the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands.

(Catalog of Federal Domestic Assistance No. 10.553.)

(Sec. 10(a) Pub. L. 95-627, 92 Stat. 3623(42 U.S.C. 1760); Sec. 10(d)(3), Pub. L. 95-627, 92 Stat. 3624(42 U.S.C. 1757); Sec. 14, Public Law 95-627, 92 Stat. 3625-3626).

Note.—This regulation has been found "not significant" for the purposes of Executive Order 12044 and Secretary's Memorandum 1955. A copy of the Impact Statement may be viewed at the office of the party identified in the "address" portion of the preamble during regular business hours (8:30 a.m. to 5:00 p.m.)

Dated: June 28, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-20152 Filed 6-28-79; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Part 230

[Amdt. 2]

Food Service Equipment Assistance Program; Final Rule

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final Rule.

SUMMARY: This rule implements nondiscretionary portions of Section 10 of Pub. L. 95-627 by incorporating into the definition of "child" the clarification that mentally or physically handicapped persons enrolled in schools participating in the National School Lunch and School Breakfast programs are eligible for program benefits and by establishing criminal penalties for the misuse of funds, assets, or property that are the subject of a grant or other form of assistance under the National School Lunch Act or the Child Nutrition Act of 1966. It also updates the addresses of the FNS Regional Offices.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-8130.

SUPPLEMENTARY INFORMATION: Section 10 of Pub. L. 95-627 amends the National School Lunch Act and the Child Nutrition Act of 1966 to include in the definition of "child", persons, regardless of age, who are mentally or physically handicapped and who are enrolled in a school program for the mentally or

physically handicapped in a nonresidential public or nonprofit private school of high school grade or under which participates in the school nutrition programs.

Present regulations define "child" in public or nonprofit private schools other than residential child care institutions by grade level, not by age. The Department does not anticipate that this regulatory change will result in a substantial increase in eligible children because mentally or physically handicapped persons in schools which participate in the school nutrition programs are presently eligible. However, the rule now states specifically that physically or mentally handicapped persons are eligible to receive program benefits. The rule provides that the State educational agency is to determine what constitutes a mental or physical handicap.

Section 10 of Pub. L. 95-627 also prescribes criminal penalties for the misuse of funds, assets, or property in connection with federal child feeding programs. Under this provision anyone, whether administering the programs or receiving their benefits, who knowingly misuses funds or property is subject to federal penalties. This rule adds the fraud penalty language to Part 230.

Changes in location of three Regional Offices require that the program information section of this part be updated.

The Department is issuing this rule as a final rule in order to implement the statutory mandate of Pub. L. 95-627. Because Section 10 of Pub. L. 95-627 was effective October 1, 1978, the Department considers itself under obligation to implement immediately this rule without the benefit of public comment. Further, because the dictates of Pub. L. 95-627 with regard to these requirements are mandatory, the Department is not at liberty to vary the requirements should public comments indicate disapproval of the rule.

Accordingly, Part 230 is amended as follows:

1. § 230.2(d) is amended to redefine "child" as follows:

§ 230.2 Definitions.

(d) "Child" means either (1) in schools as defined in § 230.2(aa)(1), a student of high school grade or under as determined by the State educational agency, including students who are mentally or physically handicapped as defined by the State and who are participating in a school program established for the mentally or physically handicapped or (2) in schools

as defined in § 230.2(aa) (2) and (3), a person under 21 chronological years of age.

2. The existing paragraph of § 230.8 is designated as paragraph (a) and new paragraphs (b) and (c) are added to read as follows:

§ 230.8 Use of funds.

(b) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this Part, whether received directly or indirectly from the Department, shall—

(1) if such funds, assets, or property are of a value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than 5 years or both; or

(2) if such funds, assets, or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year or both.

(c) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this Part, whether received directly or indirectly from the Department, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (b) of this section.

3. Paragraphs (a), (b), and (g) of § 230.19 are amended to read as follows:

§ 230.19 Program information.

(a) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, 1 Vahlsing Center, Robbinsville, NJ 08691.

(b) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, MA 01803.

(g) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430 D, Denver, CO 80211.

4. Further, paragraph (f) of § 230.19 is amended to add after "the Trust Territory of the Pacific Islands" the following: the Commonwealth of the Northern Mariana Islands.

(Catalog of Federal Domestic Assistance No. 10.554.)

Note.—This regulation has been found "not significant" for the purposes of Executive Order 12044 and Secretary's Memorandum 1955. A copy of the Impact Statement may be viewed at the office of the party identified in the "address" portion of the preamble during regular business hours (8:30 a.m. to 5:00 p.m.) (Sec. 10(a), Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760); Sec. 10(d)(1), Pub. L. 95-627, 92 Stat. 3625, 3626 (42 U.S.C. 1757); Sec. 14, Pub. L. 95-627, 92 Stat. 3625-3626)

Dated: June 26, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-20154 Filed 6-28-79; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Part 235

[Amendment 1]

State Administrative Expense Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final Rule.

SUMMARY: This rule implements nondiscretionary portions of Section 10 of Public Law 95-627 by establishing criminal penalties for the misuse of funds, assets, or property that are the subject of a grant or other form of assistance under the National School Lunch Act or the Child Nutrition Act of 1966.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Margaret O.K. Glavin, Director, School Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250 (202) 447-8130.

SUPPLEMENTARY INFORMATION: Section 10(a) of Public Law 95-627 prescribes criminal penalties for the misuse of funds, assets, or property in connection with federal child feeding programs. Under this provision anyone, whether administering the programs or receiving their benefits, who knowingly misuses funds, assets, or property in connection with federal child feeding programs is subject to federal penalties. This rule adds the fraud penalty language to Part 235.

The Department is issuing this rule as a final rule in order to implement the statutory mandate of Public Law 95-627. Because Section 10 of Pub. L. 95-627 was effective October 1, 1978, the Department considers itself under obligation to implement immediately this rule without the benefit of public comment. Further, because the dictates of Pub. L. 95-627 with regard to fraud

penalties are mandatory, the Department is not at liberty to vary the penalties should public comments indicate disapproval of the rule.

Accordingly, Part 235 is amended as follows:

The words "by State agencies" are stricken from the heading of § 235.6 and new paragraphs (h) and (i) are added to read as follows:

§ 235.6 Use of funds.

(h) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this Part, whether received directly or indirectly from the Department, shall—

(1) If such funds, assets, or property are of a value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than five years or both; or

(2) If such funds, assets, or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year or both.

(i) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this Part, whether received directly or indirectly from the Department, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (h) of this section.

Note.—This regulation has been found "not significant" for the purposes of Executive Order 12044 and Secretary's Memorandum 1955. A copy of the Impact Statement may be viewed at the office of the party identified in the "address" portion of the preamble during regular business hours (8:30 a.m. to 5:00 p.m.). (Sec. 10(a), Public Law 95-627, 92 Stat. 3623 (42 U.S.C. 1760); Sec. 14, Public Law 95-627, 92 Stat. 3625-3626)

Dated: June 26, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-20151 Filed 6-28-79 8:45 am]

BILLING CODE 3410-30-M

7 CFR Part 245

[Amendment 14]

Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements nondiscretionary portions of Section 10

of Public Law 95-627 establishing criminal penalties for the misuse of funds, assets, or property that are the subject of a grant or other form of assistance under the National School Lunch Act or the Child Nutrition Act of 1966.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Margaret O.K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8130.

SUPPLEMENTARY INFORMATION: Section 10(a) of Public Law 95-627 prescribes criminal penalties for the misuse of funds, assets, or property in connection with federal child feeding programs. Under this provision anyone, whether administering the programs or receiving their benefits, who knowingly misuses funds, assets, or property in connection with federal child feeding programs is subject to federal penalties. In particular, applicants for free meals and milk and reduced price meals must be aware that their applications are made in connection with the receipt of federal funds. This rule adds the fraud penalty language to Part 245.

The Department is issuing this rule as a final rule in order to implement the statutory mandate of Public Law 95-627. Because Section 10 of Public Law 95-627 was effective October 1, 1978, the Department considers itself under obligation to implement immediately this rule without benefit of public comment. Further, because the dictates of the law with regard to fraud penalties are mandatory, the Department is not at liberty to vary the penalties should public comments indicate disapproval of the rule.

Accordingly, Part 245 is amended as follows:

A new section, 245.12, is added to read as follows:

§ 245.12 Fraud penalties.

(a) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this Part, whether received directly or indirectly from the Department, shall—

(1) If such funds, assets, or property are of a value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than five years or both; or

(2) If such funds, assets, or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year or both.

(b) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this Part,

whether received directly or indirectly from the Department, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (a) of this section.

Note.—This regulation has been found "not significant" for the purposes of Executive Order 12044 and Secretary's Memorandum 1955. A copy of the Impact Statement may be viewed at the office of the party identified in the "address" portion of the preamble during regular business hours (8:30 a.m. to 5:00 p.m.). (Sec. 10(a), Public Law 95-627, 92 Stat. 3623 (42 U.S.C. 1760) Sec. 14, Public Law 95-627, 92 Stat. 3625-3626)

Dated: June 26, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-20153 Filed 6-28-79; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 205]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period July 1-7, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McCaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.