

## Food and Nutrition Service, USDA

## § 240.6

year under the food distribution regulations (7 CFR part 250) for use in program schools. If the estimated value is less than the total value of assistance authorized under section 6(e) of the Act for the National School Lunch Program, FNS shall determine the difference between the value of the foods then programmed for each State for the school year and the required value and shall pay the difference to each State agency not later than July 1 of that school year.

(b) Notwithstanding any other provision of this section, in any State in which FNS administers the National School Lunch Program in any of the schools of the State, FNS shall withhold from the funds payable to that State under this section an amount equal to the ratio of the number of lunches served in schools in which the program is administered by FNS to the total number of lunches served in all program schools in the State.

[47 FR 15982, Apr. 13, 1982, as amended at 52 FR 7267, Mar. 10, 1987; 58 FR 39120, July 22, 1993]

### **§ 240.4 Cash in lieu of donated foods for nonresidential child and adult care institutions.**

(a) For each school year any State agency may, upon application to FNS prior to the beginning of the school year, elect to receive cash in lieu of donated foods for use in nonresidential child care or adult care institutions participating in the Child and Adult Care Food Program. FNS shall pay each State agency making such election, at a minimum, an amount calculated by multiplying the number of lunches and suppers served in the State's nonresidential child and adult care institutions which meet the meal pattern requirements prescribed in the regulations for the Child and Adult Care Food Program under part 226 of this chapter by the national average value of donated food prescribed in section 6(e)(1) of the Act. However, if a State agency has elected to receive a combination of donated foods and cash, the required amount shall be reduced based upon the number of such lunches and suppers served for which the State receives donated foods.

(b) Notwithstanding any other provision of this section in any State in which FNS administers the Child Care Food Program in any nonresidential child care institution, FNS shall withhold from the funds payable to such State under this section an amount equal to the ratio of the number of lunches and suppers served in such institutions in which the program is administered by the FNS and for which cash payments are provided to the total number of lunches and suppers served in that program and for which cash in lieu of payments are received, in all nonresidential child care institutions in the State.

[47 FR 15982, Apr. 13, 1982, as amended at 58 FR 39120, July 22, 1993]

### **§ 240.5 Cash in lieu of donated foods for commodity schools.**

(a) The school food authority of a commodity school may elect (1) to receive cash payments in lieu of up to five cents per lunch of the value specified in § 250.4(b)(2)(ii) of this chapter to be used for donated-food processing and handling expenses, or (2) to have such payments retained for use on its behalf by the State agency. The school food authority shall consult with commodity schools before making the election.

(b) When a school food authority makes an election regarding receipt of cash payments and the amount of any payments to be received under this paragraph, such election shall be binding on the school food authority for the school year to which the election applies.

(c) The State agency shall (1) no later than May 14, 1982 for the school year ending June 30, 1982, and no later than August 15 of each subsequent school year, contact all school food authorities of commodity schools to learn their election regarding cash payments under this section and the amount of any such payments, and (2) forward this information to the distributing agency and FNSRO, in accordance with § 210.14(d)(2) of this chapter.

### **§ 240.6 Funds for States which have phased out facilities.**

Notwithstanding any other provision of this part, any State which phased