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out its food distribution facilities prior to June 30, 1974, may, for purposes of the National School Lunch Program, the Summer Food Service Program for Children, and the Child Care Food Program, elect to receive cash payments in lieu of donated foods. Where such an election is made, FNS shall make cash payments to such State in an amount equivalent in value to the donated foods (or cash in lieu thereof) to which the State would otherwise have been entitled under section 6(e) of the Act, if it had retained its food distribution facilities, except that the amount may be based on the number of meals served in the current school year, rather than on the number of meals served in the preceding school year with a subsequent reconciliation.

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

§ 240.7 Payments to States.

(a) Funds to be paid to any State agency under § 240.3 of this part for disbursement to program schools shall be made available by means of United States Treasury Department checks. The State agency shall use the funds received without delay for the purpose for which issued.

(b) Funds to be paid to any State agency under § 240.4(a) for disbursement to nonresidential child care institutions and funds to be paid to any State agency under § 240.6 for disbursement to program schools, service institutions, or nonresidential child care institutions shall be made available by means of Letters of Credit issued by FNS in favor of the State agency. The State agency shall:

(1) Obtain funds needed to pay school food authorities, nonresidential child care institutions, and service institutions, as applicable through presentation by designated State Officials of a Payment Voucher on Letter of Credit (Treasury Form GFO 7578) in accordance with procedures prescribed by FNS and approved by the United States Treasury Department;

(2) Submit requests for funds on a monthly basis in such amounts as necessary to make payments with respect to meals served the previous month;

(3) Use the funds received without delay for the purpose for which drawn.

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(c) FNS shall make any cash payments elected under § 240.5 of this part by increasing the amount of the Letter of Credit or, where applicable, of the Federal Treasury check, in accordance with the information provided under § 240.5(c) of this part.

(d) Funds received by State agencies pursuant to this part for disbursement to program schools and to commodity schools shall not be subject to the matching provisions of § 210.6 of part 210 of this chapter.

§ 240.8 Payments to program schools, service institutions, nonresidential child care institutions and commodity schools.

(a) Each State agency shall promptly and equitably disburse any cash received in lieu of donated foods under this part to eligible program schools, service institutions and nonresidential child care institutions, as applicable. Funds withheld from States under § 240.3 and § 240.4 shall be disbursed to eligible program schools, service institutions, and nonresidential child care institutions by FNSRO's in the same manner.

(b) Unless the school food authority of a commodity school elects to have cash payments for donated-food processing and handling expenses retained for use on its behalf by the State agency, the State agency shall make such payments to the school food authority of such a school on a monthly basis in an amount equal to the number of lunches served (as reported in accordance with § 210.13(a) of this chapter) times the value per lunch elected by the school food authority in accordance with § 240.5 of this part. For the period November 11, 1981, through the close of the month in which this part is published in the FEDERAL REGISTER, a retroactive payment shall be made, where applicable, to the school food authority of a commodity school based on the number of lunches served during that period which meet the nutritional requirements specified in § 210.10 of this chapter.

§ 240.9 Use of funds.

(a) Funds made available to school food authorities (for program schools), service institutions and nonresidential

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child care institutions under this part shall be used only to purchase United States agricultural commodities and other foods for use in their food service under the National School Lunch Program, Child Care Food Program, or Summer Food Service Program for Children, as applicable. Such foods shall be limited to those necessary to meet the requirements set forth in § 210.10 of part 210 of this chapter, § 225.10 of part 225 of this chapter and § 226.10 of part 226 of this chapter, respectively. On or before disbursing funds to school food authorities (for program schools), service institutions and nonresidential child care institutions, State agencies and FNSRO's shall notify them of the reason for special disbursement, the purpose for which these funds may be used, and, if possible, the amount of funds they will receive.

(b) Cash payments received under § 240.5 of this part shall be used only to pay donated-food processing and handling expenses of commodity schools.

(c) Funds provided under this part shall be subject to the Department's Uniform Federal Assistance Regulations (7 CFR part 3015).

§ 240.10 Unobligated funds.

State agencies shall release to FNS any funds paid to them under this part which are unobligated at the end of each fiscal year. Release of funds by any State agency shall be made as soon as practicable, but in any event, not later than 30 days following demand by FNS. Release of funds shall be reflected by a related adjustment in the State agency's Letter of Credit where appropriate or payment by State check where the funds have been paid by United States Treasury Department check.

§ 240.11 Records and reports.

(a) State agencies and distributing agencies shall maintain records and reports on the receipt and disbursement of funds made available under this part, and shall retain such records and reports for a period of three years after the end of the fiscal year to which they pertain, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year

period as long as required for the resolution of the issues raised by the audit.

(b) State agencies shall establish controls and procedures which will assure that the funds made available under this part are not included in determining the State's matching requirements under § 210.6 of part 210 of this chapter.

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

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AUTHORITY: 42 U.S.C. 1752, 1758, 1759a, 1772, 1773, and 1779.

§ 245.1 General purpose and scope.

(a) This part established the responsibilities of State agencies, Food and Nutrition Service Regional Offices (where applicable), and School Food Authorities in providing free and reduced price meals and free milk in the National School Lunch Program (7 CFR part 210), the School Breakfast Program (7 CFR part 220), the Special Milk Program for Children (7 CFR part 215), and commodity schools. Section 9 of the National School Lunch Act, as amended, and sections 3 and 4 of the Child Nutrition Act of 1966, as amended, require schools participating in any of the programs and commodity schools to make available, as applicable, free and reduced price lunches,