

EXHIBIT 1

ESTIMATED ANNUAL BURDEN FOR 0584-NEW—Continued

Description of activities	Regulation citation	Estimated number of respondents	Frequency of response	Total annual responses	Average burden hours per response	Estimated total annual burden hours	Hours currently approved* under OMB# 0584-0006	Estimated change in burden hours due to rulemaking
Recordkeeping								
SA maintains documentation of LEA/SFA compliance with nutrition standards for competitive foods.	210.18(h)(2)(iv)	56	68	3,808	.25	952	1,652	-700
SA maintains records of all reviews and audits (including Program violations, corrective action, fiscal action and withholding of payments). (FNS-640).	210.20(b)(6) & 210.18(o)(f)(k,l,m) & 210.23(c).	56	68	3,808	8	30,472	52,878	-22,406
SA maintains documentation of fiscal action taken to disallow improper claims submitted by SFAs, as determined through claims processing, reviews, and USDA audits.	210.20(b)(7) & 210.19(c) & 210.18(o).	56	68	3,808	.50	1,904	3,304	-1,400
SA completes and maintains documentation used to conduct Administrative Review.	210.18 (c-h)	56	68	3,808	48	182,784	* 304,640 (0)	-121,856
SA completes and maintains documentation used to conduct targeted Follow Up Administrative Review.	210.18(c)	56	23	1,288	16	20,608	0	+20,608
Total SA Recordkeeping		56		16,520		236,720		-125,754
Total Recordkeeping		56		16,520		236,720		-125,754
Public Notification								
State agencies must post a summary of the most recent administrative review results of SFAs on the SA website and make a copy available upon request.	210.18(m)(1)	56	68	3,808	.25	952	1,736	-784
Total SA Public Notification		56		3,808		952		-784
Total Public Notification		56		3,808		952		-784

* Denotes corrected estimate of current burden hours; parenthetical indicates actual approved hours (before pending corrections).

Total Number of Respondents: 3,864.

Average Number of Responses per Respondent: 7.246.

Total Annual Responses: 28,000.

Average Hours per Response: 10.664791.

Total Burden Hours: 298,614.

In summary, although the Information Collection Request for this proposed rule is being submitted as a new information collection, this proposed rule actually impacts existing information and imposes new information collection requirements for OMB# 0584-0006. The current inventory under OMB# 0584-0006 for the information requirements outlined in this proposed rule is 469,986 (165,290) hours.* Once the final rule has been published and the final ICR is approved, these proposals will be merged into OMB# 0584-0006. FNS estimates that these proposed changes will decrease the burden hours by 171,372 hours.

E-Government Act Compliance

The Department is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects

7 CFR Part 210

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Penalties, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 215

Food assistance programs, Grant programs—education, Grant program—health, Infants and children, Milk, Reporting and recordkeeping requirements.

7 CFR Part 220

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs.

7 CFR Part 226

Accounting, Aged, Day care, Food assistance programs, Grant programs, Grant programs—health, American Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 235

State administrative expense funds, Administrative practice and procedure, Food assistance programs, Grant

programs—education, Grant programs—health, Infants and children, Reporting and recordkeeping requirements, School breakfast and lunch programs.

Accordingly, 7 CFR parts 210, 215, 220, 226, and 235 are proposed to be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 42 U.S.C. 1751-1760, 1779.

■ 2. In § 210.2:

- a. Revise the definition of “Child”;
- b. In the definition of “School”, redesignate paragraphs (a), (b), and (c) as paragraphs (1), (2) and (3); and
- c. Add a definition for “State licensed healthcare professional” in alphabetical order.

The revision and addition read as follows:

§ 210.2 Definitions.

* * * * *

Child means—

(1) A student of high school grade or under as determined by the State educational agency, who is enrolled in an educational unit of high school grade or under as described in paragraphs (1) and (2) of the definition of “School,” including students who are mentally or physically disabled as defined by the State and who are participating in a

school program established for the mentally or physically disabled; or

(2) A person under 21 chronological years of age who is enrolled in an institution or center as described in paragraph (3) of the definition of "School;" or

(3) For purposes of reimbursement for meal supplements served in afterschool care programs, an individual enrolled in an afterschool care program operated by an eligible school who is 18 years of age or under at the start of the school year, or a mentally or physically disabled individual, as defined by the State, enrolled in an agency or a child care facility serving a majority of persons 18 years of age or younger.

* * * * *

State licensed healthcare professional means an individual who is authorized to write medical prescriptions under State law. This may include, but is not limited to, a licensed physician, nurse practitioner, and physician's assistant, depending on State law.

* * * * *

§ 210.4 [Amended]

■ 3. Amend paragraph (b)(3) introductory text by removing the words "§ 210.10(n)(1)" and adding, in its place "§ 210.10(o)(1)".

■ 4. In § 210.5, revise paragraph (d)(2)(ii) to read as follows:

§ 210.5 Payment process to States.

* * * * *

(d) * * *
(2) * * *

(ii) Each State agency must also submit an annual report detailing the disbursement of performance-based cash assistance described in § 210.4(b)(1). Such report must be submitted no later than 30 days after the end of each fiscal year. State agencies will no longer be required to submit the annual report once all school food authorities in the State have been certified. The report must include the total number of school food authorities in the State and the names of certified school food authorities.

* * * * *

§ 210.7 [Amended]

■ 5. Amend paragraph (e) by removing "§ 210.10(n)(1)" and adding, in its place "§ 210.10(o)(1)".

§ 210.9 [Amended]

■ 6. Amend paragraph (c) introductory text by removing "§ 210.10(n)(1)" and adding, in its place "§ 210.10(o)(1)".

■ 7. In § 210.10:

■ a. At the end of paragraph (a)(1)(i) add a sentence;

■ b. In paragraph (a)(3), add "through June 30, 2021" at the end of the third sentence;

■ c. In paragraph (b)(1)(ii), remove "Food" and in its place add "Through June 30, 2021, food";

■ d. Revise paragraph (c) introductory text and table;

■ e. Revise paragraph (c)(1);

■ f. At the end of paragraph (c)(2) introductory text, add a sentence;

■ g. Revise the last two sentences of paragraph (c)(2)(iii) introductory text;

■ h. Revise paragraph (c)(3);

■ i. Revise paragraph (d)(3);

■ j. Revise the table in paragraph (f)(1);

■ k. In the first sentence of paragraph (f)(4), remove "Food" and add in its place "Through June 30, 2021, food";

■ l. In paragraph (g), revise the first sentence;

■ m. In paragraph (h)(2) introductory text, add "Through June 30, 2021," at the beginning of the first sentence; and

■ n. Revise paragraphs (j) and (m).

The additions and revisions read as follows:

§ 210.10 Meal requirements for lunches and requirements for afterschool snacks.

(a) * * *

(1) * * *

* * * * *

(i) * * * Potable water must be calorie-free, noncarbonated, and may be unflavored or naturally flavored.

* * * * *

(c) *Meal pattern for school lunches.* Schools must offer the food components and quantities required in the lunch meal pattern established in the following table, except as permitted in paragraph (m) of this section:

Food components	Lunch meal pattern		
	Grades K–5	Grades 6–8	Grades 9–12
	Amount of food ^a per week (minimum per day).		
Fruits (cups) ^b	2½ (½)	2½ (½)	5 (1)
Vegetables (cups) ^b	3¾ (¾)	3¾ (¾)	5 (1)
Dark green ^c	½	½	½
Red/Orange ^c	¾	¾	1¼
Beans and peas (legumes) ^c	½	½	½
Starchy ^c	½	½	½
Other ^{c,d}	½	½	¾
Additional Vegetables to Reach Total ^e	1	1	1½
Grains (oz eq) ^f	8–9 (1)	8–10 (1)	10–12 (2)
Meats/Meat Alternates (oz eq)	8–10 (1)	9–10 (1)	10–12 (2)
Fluid milk (cups) ^g	5 (1)	5 (1)	5 (1)

Other Specifications: Daily Amount Based on the Average for a 5-Day Week

Min-max calories (kcal) ^h	550–650	600–700	750–850
Saturated fat (% of total calories) ^h	<10	<10	<10
Sodium Target 2 (mg) ^e	≤935	≤1,035	≤1,080

Trans fat^{h,i}

Nutrition label or manufacturer specifications must indicate zero grams of *trans* fat per serving (through June 30, 2021).

^a Food items included in each group and subgroup and amount equivalents. Minimum creditable serving is ½ cup.
^b One quarter-cup of dried fruit counts as ½ cup of fruit; 1 cup of leafy greens counts as ½ cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.
^c Larger amounts of these vegetables may be served.
^d This category consists of "Other vegetables" as defined in paragraph (c)(2)(iii)(E) of this section. For the purposes of the NSLP, the "Other vegetables" requirement may be met with any additional amounts from the dark green, red/orange, and beans/peas (legumes) vegetable subgroups as defined in paragraph (c)(2)(iii) of this section.

- ^e Any vegetable subgroup may be offered to meet the total weekly vegetable requirement.
- ^f At least half of the grains offered weekly must be whole grain-rich as specified in FNS guidance, and the remaining grain items offered must be enriched.
- ^g All fluid milk must be fat-free (skim) or low-fat (1 percent fat or less). Milk may be unflavored or flavored provided that unflavored milk is offered at each meal service.
- ^h The average daily calories for a 5-day school week menu must be within the range (at least the minimum and no more than the maximum values). Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, *trans* fat (through June 30, 2021), and sodium. Foods of minimal nutritional value and fluid milk with fat content greater than 1 percent are not allowed.
- ⁱ Sodium Target 1 is effective from July 1, 2014 (SY 2014–2015) through June 30, 2024 (SY 2023–2024). Sodium Target 2 (shown) is effective July 1, 2024 (SY 2024–2025).
- ^j Through June 30, 2021, food products and ingredients must contain zero grams of *trans* fat (less than 0.5 grams) per serving.

(1) *Age/grade groups.* Schools must plan menus for students using the following age/grade groups: Grades K–5 (ages 5–10), grades 6–8 (ages 11–13), and grades 9–12 (ages 14–18), except as permitted in paragraph (m) of this section. If an unusual grade configuration in a school prevents the use of these established age/grade groups, students in grades K–5 and grades 6–8 may be offered the same food quantities at lunch provided that the calorie and sodium standards for each age/grade group are met.

(2) * * * Allowable modifications, exceptions, and variations are listed in paragraph (m) of this section. * * *

(iii) * * * Cooked dry beans and peas (legumes) offered as a meat alternate may also count toward the weekly legumes requirement, but may not count toward the minimum amount of vegetables that must be offered daily

and weekly. Vegetable offerings at lunch over the course of the week must include the following five vegetable subgroups, as defined in this section, in the quantities specified in the meal pattern in this paragraph (c), except as permitted in paragraph (m) of this section:

* * * * *

(3) *Food components in outlying areas.* Schools in American Samoa, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands may serve vegetables such as yams, plantains, or sweet potatoes to meet the grains component.

* * * * *

(d) * * *

(3) *Fluid milk substitutions for non-disability reasons.* If a school food authority chooses to offer one or more substitutions for fluid milk for non-disability reasons, the nondairy beverage(s) must provide the nutrients listed in the following table. Fluid milk

substitutions must be fortified in accordance with fortification guidelines issued by the Food and Drug Administration. A school food authority need only offer the nondairy beverage(s) that it has identified as allowable fluid milk substitutions according to the following chart.

Nutrient	Per cup (8 fl oz)
Calcium	276 mg.
Protein	8 g.
Vitamin A	150 mcg.
Vitamin D	2.5 mcg.
Magnesium	24 mg.
Phosphorus	222 mg.
Potassium	349 mg.
Riboflavin	0.44 mg.
Vitamin B-12	1.1 mcg.

* * * * *

(f) * * *

(1) * * *

	Calorie ranges for lunch		
	Grades K–5	Grades 6–8	Grades 9–12
Min-max calories (kcal) ^{a,b}	550–650	600–700	750–850

^a The average daily amount for a 5-day school week must fall within the minimum and maximum levels.

^b Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for *trans* fat (through June 30, 2021), calories, saturated fat, and sodium.

* * * * *

(g) * * * The State agency and school food authority must provide technical assistance and training to assist schools in planning lunches that meet the meal pattern in paragraph (c) of this section; the *trans* fat (through June 30, 2021), calorie, saturated fat, and sodium specifications established in paragraph (f) of this section; and the meal pattern requirements in paragraphs (o), (p), and (q) of this section as applicable. * * *

(j) *Responsibility for monitoring meal requirements.* Compliance with the meal requirements in paragraph (b) of this section, including dietary specifications for *trans* fat (through June 30, 2021), calories, saturated fat, and sodium and paragraphs (o), (p), and (q) of this section, as applicable, will be monitored by the State agency through

administrative reviews authorized in § 210.18.

* * * * *

(m) *Modifications, exceptions, and variations allowed in reimbursable meals—(1) Reasonable modifications for disability requests.* School food authorities must make reasonable modifications, including substitutions, to lunches and afterschool snacks for students who have a disability under Federal law and 7 CFR 15b.3 and whose disability restricts their diet. The modification requested must be related to the disability or limitations caused by the disability and must be offered at no additional cost to the student or household. In order to receive reimbursement when a modified meal does not meet the meal pattern requirements specified in paragraph (c) of this section, households must submit

to school food authorities a written medical statement from a State licensed healthcare professional that provides sufficient information about the impairment and how it restricts the student's diet. Modified meals that meet the meal pattern requirements in paragraph (c) of this section are reimbursable with or without a medical statement. School food authorities must ensure that parents/guardians and students have notice of the procedure for requesting meal modifications and the process for resolving disputes related to modifications for disabilities. See 7 CFR 15b.6(b) and 15b.25. Expenses incurred when making reasonable modifications that exceed program reimbursement rates must be paid by the school food authority; costs may be paid from the nonprofit food service account.

(2) *Variations for non-disability requests*—(i) *Dietary preferences*. School food authorities should consider cultural, ethical, Tribal, and religious preferences when planning and preparing meals. For example, school food authorities are encouraged to provide meals to accommodate students' religious needs and practices, unless modifications cannot be made for legitimate, non-discriminatory reasons, such as operational constraints. Any variations must be consistent with the meal pattern requirements specified in paragraph (c) of this section. Expenses incurred from meal pattern variations that exceed program reimbursement rates must be paid by the school food authority; costs may be paid from the nonprofit food service account.

(ii) *Option to provide fluid milk substitutions for non-disability reasons*. A school food authority opting to provide fluid milk substitutions for non-disability reasons has discretion to provide the nondairy beverage(s) of its choice, provided the beverage(s) meets the nutritional requirements outlined in paragraph (d) of this section. A school food authority must obtain a written request from a State licensed healthcare professional or a student's parent or legal guardian that identifies the need for the substitute prior to providing a fluid milk substitution. A school food authority must inform the State agency if any of its schools choose to offer fluid milk substitutions for non-disability reasons. Expenses incurred when providing substitutions for fluid milk that exceed program reimbursements must be paid by the school food authority.

(3) *Exceptions for natural disasters*. If there is a natural disaster or other catastrophe, FNS may temporarily allow schools to serve meals for reimbursement that do not meet the requirements in this section.

(4) *Variations for operational reasons*. Schools should consider operational factors when planning and preparing meals. With prior State agency written notification, FNS allows variations as described in this paragraph (m) on an experimental or continuing basis in the food components for the meal pattern in paragraph (c) of this section for operational reasons. Variations allowed under this paragraph (m) must be necessary to meet operational needs.

(i) *Age/grade group variations for operational reasons*—(A) *Age/grade group variations for schools with unique grade configurations*. Schools with unique grade configurations that do not align with the grade groups established in paragraph (c)(1) of this section may use the meal pattern appropriate for the

majority of students to one grade above and/or below the established grade groups. For example, a school with students in grades 5–9 may use the grades 6–8 meal pattern for all student meals.

(B) *Age/grade group variations for schools with unique grade configurations in small school food authorities*. In school food authorities serving fewer than 2,500 students, schools with unique grade configurations that do not align with the grade groups established in paragraph (c)(1) of this section may use one or two meal patterns to plan meals for all students. For example, a school with students in grades K–12 in a small school food authority may use the grades 6–8 meal pattern for all student meals.

(ii) *Vegetable subgroups variations for operational reasons*. School food authorities that experience operational challenges offering varied amounts of vegetable subgroups over a school week, as specified in paragraph (c) of this section, may offer ½ cup of each vegetable subgroup to all age/grade groups over a school week. The total amount of vegetables offered daily and weekly for each age/grade group must reflect the meal pattern in paragraph (c) of this section.

* * * * *

■ 8. In § 210.11:

■ a. In the first sentence of paragraph (c)(3)(i), remove “the school day” and in its place add “two school days”;

■ b. In paragraph (f)(2), remove “trans fat” and in its place add “*trans* fat (through June 30, 2021)”;

■ c. In the first sentence of paragraph (f)(3)(i), remove “trans fat” and in its place add “*trans* fat (through June 30, 2021)”;

■ d. In the first sentence of paragraph (f)(3)(ii), remove “trans fat” and in its place add “*trans* fat (through June 30, 2021)”;

■ e. In paragraph (f)(3)(iii), remove “trans fat” and in its place add “*trans* fat (through June 30, 2021)”;

■ f. In paragraph (g), remove “The” and add in its place “Through June 30, 2021, the”;

■ g. In paragraph (h)(2)(i), remove “, trans fat” and add in its place add “*trans* fat (through June 30, 2021)”;

■ h. In paragraph (h)(2)(ii), remove “trans fat” and add in its place add “*trans* fat (through June 30, 2021)”;

■ i. In paragraph (m)(1)(iv), remove “and” after the semicolon;

■ j. Revise paragraph (m)(1)(v);

■ k. Add paragraph (m)(1)(vi);

■ l. In paragraph (m)(2)(iv), remove the word “and” after the semicolon;

■ m. Revise paragraph (m)(2)(v); and

■ n. Add paragraph (m)(2)(vi).

The additions and revisions read as follows:

§ 210.11 Competitive food service and standards.

* * * * *

(m) * * *

(1) * * *

(v) 100 percent fruit/vegetable juice, and 100 percent fruit and/or vegetable juice diluted with water (with or without carbonation and with no added sweeteners) (no more than 8 fluid ounces); and

(vi) Calorie-free, flavored water, with or without carbonation (no more than 20 fluid ounces).

(2) * * *

(v) 100 percent fruit/vegetable juice, and 100 percent fruit and/or vegetable juice diluted with water (with or without carbonation and with no added sweeteners) (no more than 12 fluid ounces); and

(vi) Calorie-free, flavored water, with or without carbonation (no more than 20 fluid ounces).

* * * * *

■ 9. In § 210.18:

■ a. In paragraph (b), revise the definition of “Administrative reviews”;

■ b. Revise paragraph (c) introductory text;

■ c. In paragraph (c)(1), remove the two occurrences of “3” and in their place add “5”;

■ d. Revise paragraph (c)(2);

■ e. Revise paragraph (e)(5);

■ f. In paragraph (f) introductory text, add a new second sentence;

■ g. Revise paragraph (f)(3);

■ h. In paragraph (g) introductory text, add a new third sentence;

■ i. In paragraph (g)(1)(ii) introductory text, add a sentence at the end;

■ j. Add paragraph (g)(2)(i)(B)(4);

■ k. In paragraph (h) introductory text, add a new second sentence;

■ l. In paragraph (h)(1) introductory text, revise the first sentence;

■ m. Add paragraph (h)(2)(xi);

■ n. In paragraph (l), revise the first sentence;

■ o. Remove paragraph (l)(2)(ii) and redesignate paragraphs (l)(2)(iii), (iv), and (v) as paragraphs (l)(2)(ii), (iii), and (iv), respectively;

■ p. Revise newly redesignated paragraphs (l)(2)(ii) and (l)(2)(iii) introductory text; and

■ q. In newly redesignated paragraph (l)(2)(iv), remove “through (iv)” and in its place add “and (iii)”.

The additions and revisions read as follows:

§ 210.18 Administrative reviews.

* * * * *

(b) * * *

Administrative reviews.

Administrative reviews means the comprehensive off-site and/or on-site evaluation of all school food authorities participating in the programs specified in paragraph (a) of this section. The term "administrative review" refers to a review of both critical and general areas in accordance with paragraphs (g) and (h) of this section, as applicable for each reviewed program. The administrative review may include other areas of program operations determined by the State agency to be important to program performance. In addition, the Secretary shall establish criteria that provides State agencies the option to omit designated areas of the administrative review when a State or school food authority utilizes FNS-specified monitoring efficiencies outside of the administrative review, or adopts FNS-specified error reduction strategies.

* * * * *

(c) *Timing of reviews.* State agencies must conduct administrative reviews of all school food authorities participating in the National School Lunch Program (including the Afterschool Snacks and the Seamless Summer Option) and School Breakfast Program at least once during a 5-year review cycle, provided that each school food authority is reviewed at least once every 6 years. At a minimum, the on-site portion of the administrative review must be completed during the school year in which the review was begun.

* * * * *

(2) *Targeted follow-up reviews.* The State agency must identify school food authorities that are high-risk. High-risk school food authorities include any school food authorities that have had previous findings on an administrative review, findings found through the oversight of Federal procurement regulations, and as otherwise prescribed by the Secretary. Within two years of being designated high-risk, such school food authorities must receive a targeted follow-up review. Targeted follow-up review areas include the critical areas found in (g) and (h)(1) of this section, and as otherwise prescribed by the Secretary. Nothing in this section shall preclude the State agency from conducting additional reviews. The State agency may conduct targeted follow-up and additional reviews in the same school year as the administrative review.

* * * * *

(e) * * *

(5) *Noncompliance with eligibility determinations, meal counting and claiming, and meal pattern*

requirements. If the State agency determines there is significant noncompliance with eligibility determinations or meal counting and claiming requirements set forth in §§ 210.8 and 245.6, or the meal pattern and nutrition requirements set forth in §§ 210.10 and 220.8 of this chapter, as applicable, the State agency must select the school food authority for an administrative review early in the review cycle.

(f) * * * State agencies may omit designated areas of review, in part or entirely, where a school food authority or State agency has implemented FNS-specified error reduction strategies or utilized FNS-specified monitoring efficiencies. * * *

* * * * *

(3) *Audit results.* To prevent duplication of monitoring efforts, the State agency may use any recent and currently applicable results from federally required audit activity or from State-imposed audit requirements. In addition, State agencies may use recent and currently applicable results from local audit activity to assess compliance. Such results may be used only insofar as they pertain to the reviewed school(s) or the overall operation of the school food authority, that they are relevant to the review period, and that they adhere to audit standards contained in 2 CFR part 200, subpart F. The State agency must document the source and the date of the audit.

(g) * * * However, State agencies may omit designated critical areas of review, in part or entirely, where a school food authority or State agency has implemented FNS-specified error reduction strategies or utilized FNS-specified monitoring efficiencies. * * *

(1) * * *

(ii) * * * The State agency may omit the on-site visit for breakfast in extenuating travel circumstances, such that lodging is not available within 50 miles of the reviewed school, and with prior notice to FNS.

(2) * * *

(i) * * *

(B) * * *

(4) The State agency may omit the observation of the on-site breakfast review in extenuating travel circumstances, such that lodging is not available within 50 miles of the reviewed school, and with prior notice to FNS.

* * * * *

(h) * * * However, State agencies may omit designated general areas of review, in part or entirely, where the school food authority or State agency

has implemented FNS-specified error reduction strategies or utilized FNS-specified monitoring efficiencies. * * *

(1) * * * The State agency must conduct an assessment of the school food authority's nonprofit school food service to evaluate the risk of noncompliance with resource management requirements as prescribed in the FNS Administrative Review Manual. * * *

(2) * * *

(xi) *Buy American.* The State agency shall ensure that the school food authority complies with the Buy American requirements set forth in § 210.21(d), as specified in the FNS Administrative Review Manual for the general areas of review.

* * * * *

(l) * * * The State agency must take fiscal action for all Performance Standard 1 violations and specific Performance Standard 2 violations identified during an administrative review, including targeted follow-up or other reviews, as specified in this section. * * *

(2) * * *

(ii) For repeated violations involving food quantities, whole grain-rich foods, milk type, and vegetable subgroups cited under paragraph (g)(2) of this section, the State agency has discretion to apply fiscal action as follows:

(A) If the meals contain insufficient quantities of the required food components, the affected meals may be disallowed/reclaimed;

(B) If no whole grain-rich foods are offered during the week of review, meals for the entire week of review may be disallowed and/or reclaimed;

(C) If insufficient whole grain-rich foods are offered during the week of review, meals for one or more days during the week of review may be disallowed/reclaimed.

(D) If an unallowable milk type is offered or no milk variety is offered, any of the deficient meals selected may be disallowed/reclaimed; and

(E) If one vegetable subgroup is not offered over the course of the week reviewed, the reviewer should evaluate the cause(s) of the error and may determine the appropriate fiscal action. All meals served in the deficient week may be disallowed/reclaimed.

(F) If a weekly vegetable subgroup is offered in insufficient quantity to meet the weekly vegetable subgroup requirement, meals for one day of the week of review may be disallowed/reclaimed; and

(G) If the amount of juice offered exceeds the weekly limitation, meals for the entire week of review may be disallowed/reclaimed.

(iii) For repeated violations of *trans* fat (through June 30, 2021), calorie, saturated fat, and sodium dietary specifications cited under paragraph (g)(2)(ii) of this section, the State agency has discretion to apply fiscal action to the reviewed school as follows:

* * * * *

§ 210.19 [Amended]

■ 10. In § 210.19, in paragraph (a)(5), remove “3” and in its place add “5”.

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

■ 11. The authority citation for part 215 continues to read as follows:

Authority: 42 U.S.C. 1772 and 1779.

■ 12. In § 215.7a, revise paragraph (b) to read as follows:

§ 215.7a Fluid milk and non-dairy milk substitute requirements.

* * * * *

(b) *Fluid milk substitutes.* Non-dairy fluid milk substitutions that provide the nutrients listed in the following table and are fortified in accordance with fortification guidelines issued by the Food and Drug Administration may be provided for non-disabled children who cannot consume fluid milk due to medical or special dietary needs when requested in writing by the child’s parent or guardian. A school or day care center need only offer the non-dairy beverage that it has identified as an allowable fluid milk substitute according to the following table.

Nutrient	Per cup (8 fl oz)
Calcium	276 mg.
Protein	8 g.
Vitamin A	150 mcg.
Vitamin D	2.5 mcg.

Nutrient	Per cup (8 fl oz)
Magnesium	24 mg.
Phosphorus	222 mg.
Potassium	349 mg.
Riboflavin	0.44 mg.
Vitamin B-12	1.1 mcg.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

■ 13. The authority citation for part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 14. In § 220.2:

■ a. Amend the definition of “Breakfast” by removing “§§ 220.8 and 220.23” and adding “§ 220.8” in its place;

■ b. Amend the definition of “Fiscal year” by removing “the period of 15 calendar months beginning July 1, 1976, and ending September 30, 1977; and” and by removing “1977” and adding, in its place “2019”;

■ c. Revise the definition of “Menu item”;

■ d. Remove the definition of “Nutrient Standard Menu Planning/Assisted Nutrient Standard Menu Planning”; and

■ e. Amend the definition of “School week” by removing “and § 220.23”.

The revision reads as follows:

§ 220.2 Definitions.

* * * * *

Menu item means a food offered as part of the reimbursable meal.

* * * * *

■ 15. In § 220.8:

■ a. In paragraph (a)(1), add a sentence at the end;

■ b. In paragraph (a)(3), revise the third sentence;

■ c. In paragraph (b)(1)(ii), remove “Food” and in its place add “Through June 30, 2021, food”;

■ d. In paragraph (b)(1)(iii), add “, except as allowed in paragraph (m)” before the period;

■ e. Revise the table in paragraph (c) introductory text;

■ f. In paragraph (c)(1), revise the last sentence;

■ g. Revise paragraph (c)(2)(i);

■ h. Revise the first sentence of paragraph (c)(2)(ii);

■ i. Remove paragraph (c)(2)(iv);

■ j. Revise paragraph (c)(3);

■ k. Revise the table in paragraph (f)(1);

■ l. In the first sentence of paragraph (f)(4), remove “Food” and in its place add “Through June 30, 2021, food”;

■ m. Revise the first sentence of paragraph (g);

■ n. In paragraph (h)(2) introductory text, add “Through June 30, 2021,” at the beginning of the sentence; and

■ o. Revise paragraph (m).

The addition and revisions read as follows:

§ 220.8 Meal requirements for breakfasts.

* * * * *

(a) * * *

(1) * * * Potable water must be calorie-free, noncarbonated, and may be unflavored or naturally flavored.

* * * * *

(3) * * * Through June 30, 2021, labels or manufacturer specifications for food products and ingredients used to prepare school meals for students in grades K through 12 must indicate zero grams of *trans* fat per serving (less than 0.5 grams). * * *

* * * * *

(c) * * *

Food components	Breakfast meal pattern		
	Grades K–5	Grades 6–8	Grades 9–12
	Amount of food ^a per week (minimum per day)		
Fruits (cups) ^{b,c}	5 (1)	5 (1)	5 (1)
Vegetables (cups) ^c	0	0	0
Dark green	0	0	0
Red/Orange	0	0	0
Beans and peas (legumes)	0	0	0
Starchy	0	0	0
Other	0	0	0
Additional Vegetables to Reach Total ^e	0	0	0
Grains (oz eq) ^d and/or Meats/Meat Alternates (oz eq) ^e	7–10 (1)	8–10 (1)	9–10 (1)
Fluid milk (cups) ^f	5 (1)	5 (1)	5 (1)

Other Specifications: Daily Amount Based on the Average for a 5-Day Week

Min-max calories (kcal) ^{g,h}	350–500	400–550	450–600
Saturated fat (% of total calories) ^h	<10	<10	<10
Sodium Target 2 (mg) ^{h,i}	≤485	≤535	≤570

Food components	Breakfast meal pattern		
	Grades K–5	Grades 6–8	Grades 9–12
<i>Trans fat</i> ^{h)}	Nutrition label or manufacturer specifications must indicate zero grams of <i>trans fat</i> per serving (through June 30, 2021).		

^a Food items included in each group and subgroup and amount equivalents. Minimum creditable serving is 1/8 cup.
^b One quarter cup of dried fruit counts as 1/2 cup of fruit; 1 cup of leafy greens counts as 1/2 cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.
^c Schools must offer 1 cup of fruit daily and 5 cups of fruit weekly, except for service variations allowed under paragraph (m) of this section. Vegetables may be substituted for fruits, but the first two cups per week of any such substitution must be from the dark green, red/orange, beans and peas (legumes) or "Other vegetables" subgroups, as defined in § 210.10(c)(2)(iii) of this chapter. Schools offering breakfast in a non-cafeteria setting may offer 1/2 cup of fruits daily, as permitted in paragraph (m) of this section.
^d At least half of the grains offered weekly must be whole-grain-rich as specified in FNS guidance, and the remaining grain items offered must be enriched.
^e There is a combined grains and/or meal/meat alternate component. Schools may offer meats/meat alternates and/or grains interchangeably to meet the daily and/or weekly ounce equivalents requirement.
^f All fluid milk must be fat-free (skim) or low-fat (1 percent fat or less). Milk may be unflavored or flavored provided that unflavored milk is offered at each meal service.
^g The average daily calories for a 5-day school week must be within the range (at least the minimum and no more than the maximum values).
^h Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, *trans fat* (through June 30, 2021), and sodium. Fluid milk with fat content greater than 1 percent milk fat is not allowed.
ⁱ Sodium Target 1 (shown) is effective from July 1, 2014 (SY 2014–2015) through June 30, 2024 (SY 2023–2024). Sodium Target 2 (shown) is effective July 1, 2024 (SY 2024–2025).
^j Through June 30, 2021, food products and ingredients must contain zero grams of *trans fat* (less than 0.5 grams) per serving.

(1) * * * Age/grade group variations are allowed as specified in § 210.10(m) of this chapter.

(2) * * *
 (i) *Grains and/or meats/meat alternates component.* Schools may offer grains and/or meats/meat alternates interchangeably to meet the daily and weekly ounce equivalents for this component requirement.

(A) *Grains*—(1) *Enriched and whole grains.* All grains offered must be made with enriched and/or whole grain meal or flour. Whole grain-rich products must contain at least 50 percent whole grains and the remaining grains in the product must be enriched.

(2) *Daily and weekly servings.* The grains component is based on minimum daily servings plus total servings over a 5-day school week. Schools serving breakfast 6 or 7 days per week must increase the weekly grains quantity by approximately 20 percent (1/5) for each additional day. When schools operate less than 5 days per week, they may decrease the weekly quantity by approximately 20 percent (1/5) for each day less than 5. The servings for biscuits, rolls, muffins, and other grain/bread varieties are specified in FNS guidance. At least half of the grains offered weekly must meet the whole grain-rich criteria specified in FNS guidance, and the remaining grain items offered must be enriched.

(B) *Meats/meat alternates*—(1) *Enriched macaroni.* Enriched macaroni with fortified protein as defined in

appendix A to part 210 may be used to meet part of the meats/meat alternates requirement when used as specified in appendix A to part 210. An enriched macaroni product with fortified protein as defined in appendix A to part 210 may be used to meet part of the meats/meat alternates component or the grains component but may not meet both food components in the same lunch.

(2) *Nuts and seeds.* Nuts and seeds and their butters are allowed as meat alternates in accordance with program guidance. Acorns, chestnuts, and coconuts may not be used because of their low protein and iron content. Nut and seed meals or flours may be used only if they meet the requirements for Alternate Protein Products established in appendix A to part 220. Nuts or seeds may be used to meet no more than one-half (50 percent) of the meats/meat alternates component with another meats/meat alternates to meet the full requirement.

(3) *Yogurt.* Yogurt may be used to meet all or part of the meats/meat alternates component. Yogurt may be plain or flavored, unsweetened or sweetened. Noncommercial and/or non-standardized yogurt products, such as frozen yogurt, drinkable yogurt products, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruits and/or nuts or similar products are not creditable. Four ounces (weight) or 1/2 cup (volume) of yogurt equals one ounce of the meats/meat alternates requirement.

(4) *Tofu and soy products.* Commercial tofu and soy products may be used to meet all or part of the meats/meat alternates component in accordance with FNS guidance. Noncommercial and/or non-standardized tofu and products are not creditable.

(5) *Beans and peas (legumes).* Cooked dry beans and peas (legumes) may be used to meet all or part of the meats/meat alternates component. Beans and peas (legumes) are identified in this section and include foods such as black beans, garbanzo beans, lentils, kidney beans, mature lima beans, navy beans, pinto beans, and split peas.

(6) *Other meat alternates.* Other meat alternates, such as cheese and eggs, may be used to meet all or part of the meats/meat alternates component in accordance with FNS guidance.

(ii) * * * Schools must offer daily the fruit quantities specified in the breakfast meal pattern in this paragraph (c), except for fruit service variations allowed under paragraph (m) of this section.

* * * * *
 (3) *Food components in outlying areas.* Schools in American Samoa, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands may serve a vegetable such as yams, plantains, or sweet potatoes to meet the grains component.

* * * * *
 (f) * * *
 (1) * * *

CALORIE RANGES FOR BREAKFAST—EFFECTIVE SY 2013–2014

	Grades K–5	Grades 6–8	Grades 9–12
Minimum-maximum calories (kcal) ^{a,b}	350–500	400–550	450–600

^a The average daily amount for a 5-day school must fall within the minimum and maximum levels.

^b Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, *trans* fat (through June 30, 2021), and sodium.

* * * * *

(g) * * * The State agency and school food authority must provide technical assistance and training to assist schools in planning breakfasts that meet the meal pattern in paragraph (c) of this section, the dietary specifications for *trans* fat (through June 30, 2021), calories, saturated fat, and sodium established in paragraph (f) of this section, and the meal pattern in paragraphs (o) and (p) of this section, as applicable. * * *

(m) *Exceptions and variations allowed in reimbursable meals.* (1) With State agency approval, schools that offer breakfast in a non-cafeteria setting may serve students ½ cup of fruit as part of the reimbursable meal.

(2) The modifications, exceptions, variations, and requirements in § 210.10(m) of this chapter also apply to this Program.

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

■ 16. The authority citation for part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

■ 17. In § 226.2, add a definition for “State licensed healthcare professional” in alphabetical order to read as follows:

§ 226.2 Definitions.

State licensed healthcare professional means an individual who is authorized to write medical prescriptions under State law. This may include, but is not limited to, a licensed physician, nurse practitioner, and physician’s assistant, depending on State law.

■ 18. In 226.20, revise the paragraph (g) subject heading and paragraphs (g)(1) introductory text and (g)(1)(i), (g)(2) introductory text, (g)(2)(i), and (g)(3) to read as follows:

§ 226.20 Requirements for Meals.

(g) *Modifications, exceptions, and variations allowed in reimbursable*

meals—(1) *Reasonable modifications for disability requests.* Reasonable modifications, including substitutions, must be made on a case-by-case basis for foods and meals described in paragraphs (a), (b), and (c) of this section for individual participants who have a disability under Federal law and 7 CFR 15b.3 and whose disability restricts their diet. The modification requested must be related to the disability or limitations caused by the disability and must be offered at no additional cost to the child or adult participant. Institutions and facilities must ensure that parents, guardians, adult participants, and persons on behalf of adult participants have notice of the procedure for requesting meal modifications and the process for resolving disputes related to modifications for disabilities. See 7 CFR 15b.6(b) and 15b.25. Expenses incurred when making reasonable modifications that exceed program reimbursement rates must be paid by the institution or facility; costs may be paid from the institution’s nonprofit food service account.

(i) In order to receive reimbursement when a modified meal does not meet the meal pattern requirements specified in paragraphs (a), (b), and (c) of this section, households must submit to the institution or facility a written medical statement from a State licensed healthcare professional that provides sufficient information about the impairment and how it restricts the child or adult participant’s diet. Modified meals that meet the meal pattern requirements in paragraph (a), (b), or (c) of this section are reimbursable with or without a medical statement.

(2) *Variations for non-disability requests*—(i) *Dietary preferences.* Institutions and facilities should consider cultural, ethical, tribal, and religious preferences when planning and preparing meals. For example, institutions and facilities are encouraged to provide meals to accommodate participants’ religious needs and practices, unless modifications cannot be made for legitimate, non-discriminatory reasons, such as operational constraints. Any

variations must be consistent with the meal pattern requirements specified in paragraphs (a), (b), and (c) of this section. Expenses incurred from meal pattern variations that exceed program reimbursement rates must be paid by the institution or facility. These costs may be paid from the institution’s nonprofit food service account.

(3) *Fluid milk substitutions for non-disability reasons.* Non-dairy fluid milk substitutions that provide the nutrients listed in the following table and are fortified in accordance with fortification guidelines issued by the Food and Drug Administration may be provided for non-disabled child and adult participants when requested in writing by a State licensed healthcare professional, the child’s parent or guardian, or by, or on behalf of, an adult participant. Expenses incurred when providing substitutions for fluid milk that exceed program reimbursements must be paid by the participating institution, family or group day care home, or sponsored center. An institution or facility need only offer the non-dairy beverage that it has identified as an allowable fluid milk substitute according to the following table.

Nutrient	Per cup (8 fl oz)
Calcium	276 mg.
Protein	8 g.
Vitamin A	150 mcg.
Vitamin D	2.5 mcg.
Magnesium	24 mg.
Phosphorus	222 mg.
Potassium	349 mg.
Riboflavin	0.44 mg.
Vitamin B-12	1.1 mcg.

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

■ 19. The authority citation for part 235 continues to read as follows:

Authority: Secs. 7 and 10 of the Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779).

■ 20. In § 235.5:

a. Revise the third sentence of paragraph (d);

- b. Revise the second sentence of paragraph (e)(1); and
- c. In paragraph (e)(2), remove “unexpended” and add in its place “unobligated”.

The revisions read as follows:

§ 235.5 Payments to States.

* * * * *

(d) * * * Based on this information or on other available information, FNS

shall reallocate, as it determines appropriate, any funds allocated to State agencies in the current fiscal year which will not be obligated in the following fiscal year and any funds carried over from the prior fiscal year which remain unobligated at the end of the current fiscal year. * * *

(e) * * *

(1) * * * In subsequent fiscal years, up to 20 percent may remain available

for obligation and expenditure in the second fiscal year. * * *

* * * * *

Dated: January 8, 2020.

Stephen L. Censky,

Deputy Secretary.

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