

§ 210.29

copy of the format used to obtain food preferences; the name and address of each school food authority included in the survey; and a record of the data obtained from each school food authority.

(g) *Expenses.* The State educational agency may make payment for justified expenses incurred for or by the SFD Advisory Council from State Administrative Expense funds. In instances when State Administrative Expense funds are used, payments shall be made in accordance with part 235 of this chapter. State agencies which are the same entity as the State distributing agency may also use food distribution assessment funds as provided for in §250.6 (i) and (j) of this chapter. Members of the SFD Advisory Council shall serve without compensation. The State educational agency shall provide compensation for necessary travel and subsistence expenses incurred by Council members in the performance of Council duties. Parent and student participant members, in addition to necessary travel and subsistence expenses, shall be compensated for personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings. The State educational agency shall establish a system whereby expenses are paid in advance for any member who indicates that they cannot financially afford to meet any of the allowed expenses. In instances where members can meet these expenses, a reimbursement shall be provided in a timely manner.

[53 FR 29147, Aug. 2, 1988. Redesignated at 56 FR 32948, July 17, 1991]

§ 210.29 Pilot project exemptions.

Those State agencies or school food authorities selected for the pilot projects mandated under section 18(d) of the Act may be exempted by the Department from some or all of the counting and free and reduced price application requirements of this part and 7 CFR part 245, as necessary, to conduct an approved pilot project. Additionally, those schools selected for pilot projects that also operate the School Breakfast Program (7 CFR part 220) and/or the Special Milk Program for Children (7 CFR part 215), may be exempted from the counting and free

7 CFR Ch. II (1–1–97 Edition)

and reduced price application requirements mandated under these Programs. The Department shall notify the appropriate State agencies and school food authorities of its determination of which requirements are exempted after the Department's selection of pilot projects.

[55 FR 41504, Oct. 12, 1990. Redesignated at 56 FR 32948, July 17, 1991]

§ 210.30 Management evaluations.

(a) *Management evaluations.* FCS will conduct a comprehensive management evaluation of each State agency's administration of the National School Lunch Program.

(b) *Basis for evaluations.* FCS will evaluate all aspects of State agency management of the Program using tools such as State agency reviews as required under §210.18 or §210.18a of this part; reviews conducted by FCS in accordance with §210.18 of this part; FCS reviews of school food authorities and schools authorized under §210.19(a)(4) of this part; follow-up reviews and actions taken by the State agency to correct violations found during reviews; FCS observations of State agency reviews; and audit reports.

(c) *Scope of management evaluations.* The management evaluation will determine whether the State agency has taken steps to ensure school food authority compliance with Program regulations, and whether the State agency is administering the Program in accordance with Program requirements and good management practices.

(1) *Local compliance.* FCS will evaluate whether the State agency has actively taken steps to ensure that school food authorities comply with the provisions of this part.

(2) *State agency compliance.* FCS will evaluate whether the State agency has fulfilled its State level responsibilities, including, but not limited to the following areas: use of Federal funds; reporting and recordkeeping; agreements with school food authorities; review of food service management company contracts; review of the claims payment process; implementation of the State agency's monitoring responsibilities; initiation and completion of corrective action; recovery of overpayments; disallowance of claims that are

not properly payable; withholding of Program payments; oversight of school food authority procurement activities; training and guidance activities; civil rights; and compliance with the State Administrative Expense Funds requirements as specified in 7 CFR part 235.

(d) *School food authority reviews.* FCS will examine State agency administration of the Program by reviewing local Program operations. When conducting these reviews under paragraph (d)(2) of this section, FCS will follow all the administrative review requirements specified in §210.18(a)–(h) of this part. When FCS conducts reviews, the findings will be sent to the State agency to ensure all the needed follow-up activity occurs. The State agency will, in all cases, be invited to accompany FCS reviewers.

(1) *Observation of State agency reviews.* FCS may observe the State agency conduct of any review and/or any follow-up review as required under this part. At State agency request, FCS may assist in the conduct of the review.

(2) *Section 210.18 reviews.* FCS will conduct administrative reviews or follow-up reviews in accordance with §210.18(a)–(h) of this part which will count toward meeting the State agency responsibilities identified under §210.18 of this part.

(3) *School food authority appeal of FCS findings.* When administrative or follow-up review activity conducted by FCS in accordance with the provisions of paragraph (d)(2) of this section results in the denial of all or part of a Claim for Reimbursement or withholding of payment, a school food authority may appeal the FCS findings by filing a written request with the Chief, Administrative Review Branch, U.S. Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, Virginia, 22302, in accordance with the appeal procedures specified in this paragraph:

(i) The written request for a review of the record shall be postmarked within 15 calendar days of the date the appellant received the notice of the denial of all or a part of the Claim for Reimbursement or withholding payment and the envelope containing the request shall be prominently marked "RE-

QUEST FOR REVIEW". FCS will acknowledge the receipt of the request for appeal within 10 calendar days. The acknowledgement will include the name and address of the FCS Administrative Review Officer (ARO) reviewing the case. FCS will also notify the State agency of the request for appeal.

(ii) The appellant may refute the action specified in the notice in person and by written documentation to the ARO. In order to be considered, written documentation must be filed with the ARO not later than 30 calendar days after the appellant received the notice. The appellant may retain legal counsel, or may be represented by another person. A hearing shall be held by the ARO in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. Failure of the appellant school food authority's representative to appear at a scheduled hearing shall constitute the appellant school food authority's waiver of the right to a personal appearance before the ARO, unless the ARO agrees to reschedule the hearing. A representative of FCS shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the ARO;

(iii) If the appellant has requested a hearing, the appellant shall be provided with a least 10 calendar days advance written notice, sent by certified mail, return receipt requested, of the time, date, and place of the hearing;

(iv) Any information on which FCS's action was based shall be available to the appellant for inspection from the date of receipt of the request for review;

(v) The ARO shall be an independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of this section;

(vi) The ARO shall make a determination based on information provided by FCS and the appellant, and on Program regulations;

(vii) Within 60 calendar days of the receipt of the request for review, by written notice, sent by certified mail, return receipt requested, the ARO shall

§210.31

7 CFR Ch. II (1–1–97 Edition)

inform FCS, the State agency and the appellant of the determination of the ARO. The final determination shall take effect upon receipt of the written notice of the final decision by the school food authority;

(viii) The action being appealed shall remain in effect during the appeal process;

(ix) The determination by the ARO is the final administrative determination to be afforded to the appellant.

(4) *Coordination with State agency.* FCS will coordinate school food authority selection with the State agency to ensure that no unintended overlap exists and to ensure reviews are conducted in a consistent manner.

(e) *Management evaluation findings.* FCS will consider the results of all its review activity within each State, including school food authority reviews, in performing management evaluations and issuing management evaluation reports. FCS will communicate the findings of the management evaluation to appropriate State agency personnel in an exit conference. Subsequent to the exit conference, the State agency will be notified in writing of the management evaluation findings and any needed corrective actions or fiscal sanctions in accordance with the provisions §210.25 of this part and/or 7 CFR part 235.

[56 FR 32949, July 17, 1991, as amended at 57 FR 38586, Aug. 26, 1992]

§210.31 Regional office addresses.

School food authorities desiring information concerning the Program should write to their State educational agency or to the appropriate Regional Office of FCS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FCS, U.S. Department of Agriculture, 10 Causeway Street, Room 501, Boston, Massachusetts 02222-1065.

(b) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FCS, U.S. Department of Agriculture, 1100 Spring Street, NW., Atlanta, Georgia 30367.

(c) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Midwest Regional Office, FCS, U.S. Department of Agriculture, 50 E. Washington Street, Chicago, Illinois 60602.

(d) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FCS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5-C-30, Dallas, Texas 75242.

(e) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, the Commonwealth of the Northern Mariana Islands, and Washington: Western Regional Office, FCS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, California 94108.

(f) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FCS, U.S. Department of Agriculture, Mercer Corporate Park, Corporate Boulevard, CN 02150, Trenton, New Jersey 08650.

(g) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FCS, U.S. Department of Agriculture, 1244 Speer Boulevard, Suite 903, Denver, Colorado 80204.

[53 FR 29147, Aug. 2, 1988. Redesignated at 55 FR 41503, Oct. 12, 1990. Further redesignated at 56 FR 32948, July 17, 1991]

§210.32 OMB control numbers.

The following control numbers have been assigned to the information collection requirements in 7 CFR part 210 by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

7 CFR section where requirements are described	Current OMB control No.
210.3(b)	0584-0327
210.5(d)	0584-0006
210.5(d)(1)	0584-0002
210.5(d)(2)	0584-0341
210.5(d)(3)	0584-0341
210.6(b)	0584-0006
210.8	0584-0006
	0584-0284
210.9	0584-0006
	0584-0026
	0584-0329
210.10(b)	0584-0006
210.10(i)(1)	0584-0006