

**USDA, Food and Nutrition Service
Supporting Statement**

OMB No. 0584-0026

7 CFR Part 245, Determining Eligibility for Free and Reduced Price Meals

The Department of Agriculture, Food and Nutrition Service (FNS) is issuing a final rule entitled “Disclosure of Children’s Free and Reduced Price Meals and Free Milk Eligibility Information in the Child Nutrition Programs.” This final rule will establish the requirements for the disclosure of children’s free and reduced price meals or free milk eligibility information. The Child Nutrition Programs include the National School Lunch Program (NSLP), Special Milk Program (SMP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), and Child and Adult Care Food Program (CACFP) at 7 CFR Parts 210, 215, 220, 225 and 226, respectively. Regulations at 7 CFR Part 245, Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools, establish the responsibilities of State agencies 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 Special Milk Program for Children (7 CFR Part 215), and the School Breakfast Program (7 CFR Part 220). Therefore, the burden associated with State agencies and school food authorities disclosing free and reduced price eligibility information for 7 CFR Parts 210, 215 and 220 is carried in the information collection for 7 CFR Part 245.

This submission requests approval of 1,758,167 burden hours for 7 CFR Part 245.

JUSTIFICATION

1.) Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The Richard B. Russell National School Lunch Act (NSLA), as amended, authorizes the National School Lunch Program (NSLP). Under Section 2 thereof, “It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation’s children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs.”

Any child who is a member of household whose income, at the time the application is submitted, is at an annual rate greater than the applicable family-size income level of the income eligibility guidelines for free or reduced price meals are eligible to receive their meals free or at a reduced price. Paragraph 9(b) of the NSLA provides that the income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income levels contained in the non-farm income poverty guidelines prescribed by the Office of Management and budget, as adjusted annually. The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size and income levels contained in the non-farm income poverty guidelines prescribed by the Office of Management and budget, as adjusted annually. 7 CFR Part 245, Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools (OMB No. 0584-0026) sets forth policies and procedures for implementing these provisions. Part 245 requires schools operating the NSLP to determine children’s eligibility for free and reduced-price lunches on the basis of each child’s household income and size, and to establish operating procedures that will prevent physical segregation, or other discrimination against, or overt identification of children unable to pay the full price for meals or milk. Section 9(b)(6) of the NSLA authorizes the limited disclosure of children’s free and reduced price meal or free milk eligibility information to specific programs or individuals, without prior parent/guardian consent. Except that, the parent/guardian must be provided the opportunity to decline to share eligibility information prior to the disclosure for identifying children eligible for benefits under or enrolling children in the State Medicaid Program and the State’s children’s health insurance program. Additionally the statute specifies that for any disclosures not authorized by the statute, the consent of children’s parent/guardian must be obtained prior to the disclosure. Section 9(b)(6) further specifies that certain programs may receive children’s eligibility status only without parental consent. Parental consent must be obtained to disclose any additional eligibility information. The aforementioned section specifies that for State Medicaid or SCHIP , parents must be notified and given an opportunity to elect not to have information disclosed. Social security numbers may only be disclosed if households are given notice of the disclosure and the uses to be made of their social security numbers as required by Sec. 7 of the Privacy Act.

The final rule will reflect the disclosure provisions of the Healthy Meals for Healthy Americans Act of 1994 and comments received on the proposed rule-Disclosure of Children’s Eligibility Information-published July 25, 2000, at 65 FR 45725-45739. Additionally, the final rule includes the regulatory disclosure provisions implementing the Agricultural Risk Protection Act of 2000 and

comments received on the interim rule, Disclosure of Children's Eligibility Information to State Medicaid and the State Children's Health Insurance Program, issued January 11, 2001, at 66 FR 2195-2206. The final rule will also implement nondiscretionary provisions of the Child Nutrition and WIC Reauthorization Act of 2004 that allows certain third party contractors access to children's eligibility status and allow school officials to communicate with Medicaid and SCHIP officials to verify that children are eligible for free and reduced price school meals or free milk.

The regulations will affect State agencies and local program operators that administer the Child Nutrition Programs and households which apply for and/or are approved for free and reduced price meals or free milk.

2.) Indicate how, by whom, how frequently, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

State agencies and local program operators that administer the Child Nutrition Programs and households which apply for and/or are approved for free and reduced price meals or free milk will be provided the specifics on how and when eligibility status may be disclosed. Further, certain third party contractors will be allowed access to children's eligibility status, and school officials will be allowed to communicate with Medicaid and SCHIP officials to verify that children are eligible for free and reduced price school meals or free milk. The purpose of sharing meal benefit eligibility data include reducing redundant means testing, increasing the number of needy families being reached by assistance programs, improving targeting of U.S. Department of Education's programs for needy children and increasing the integrity of certain assistance programs.

3.) Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

FNS 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. To the extent possible, agencies within the States use electronics to transfer information for SFAs and institutions where applicable.

4.) Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in item 2 above.

We are unaware of any other program that has similar information already available or that requires the maintenance of the same records needed to document the proper operation of the programs. No State or local organization collects this same information for other Federal agencies, as the NSLP is administered at the Federal level solely by FNS.

5.) If the collection of information impacts small business or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.

Some local agencies and institutions undoubtedly meet the definition of “small organizations.” However no correlation exists between the applicant’s size and its eligibility to operate the program. Each SA must determine whether the information it requests for use in monitoring compliance can be abridged in the case of small local agencies and small institutions under its jurisdiction. Although smaller agencies and institutions record fewer financial transactions involving the programs, they deliver the same program benefits and perform the same functions as any other small entities. Thus, they maintain the same kinds of information on file. The SA, in its capacity as administering agency must be guided by its responsibility to ensure proper disbursement and accountability for Federal program funds. The disclosure of children’s eligibility information for use other than to determine and verify eligibility for free and reduced price meals or free milk is a State and local decision. Officials are not required to disclose children’s eligibility information.

6.) Consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently.

FNS will not be in compliance with the requirements for disclosing children’s eligibility information as mandated by amendments to the Richard B. Russell National School Lunch Act by Public Law 103-448, Public Law 106-224 and Public Law 108-265.

7.) Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

There are no circumstances that will cause the information collection to be inconsistent with the parameters of 5 CFR 1320.6.

8.) If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the Agency’s notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to Office of Management and Budget (OMB). Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically, address comments received on cost hour burden.

In accordance with the Paperwork Reduction Act of 1995, a 60-day notice was embedded in the proposed rule, Disclosure of Children’s eligibility Information, published on July 25, 2000, at 65 FR 45725. Also, a subsequent 60-day public comment notice, Agency Information Collection Activities: Proposed Collection; Comment Request: Disclosure of Children’s Free and Reduced

Price Meals and Free Milk Eligibility Information in the Child Nutrition Programs, was published in the Federal Register on July 19, 2006, at pages 40985-40987. The notice provided the public an opportunity to submit comments on the information collection resulting from the final rule.

No comments were received in response to the public notice.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The person outside of the Agency with whom we obtained views on this material is Ronald Hill, Assistant General Counsel, Office of the General Counsel, Food and Nutrition division.

Whenever FNS issues an amendment to its regulations, copies are posted on the Agency's website for public view. Comments are received from state directors, local governmental agencies, school food authorities, FNS partners, community groups, private citizens and advocacy groups. All comments are considered in the development of the implementing rules.

9.) Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees..

No payment or gift will be offered to respondents.

10.) Describe any assurance of confidentiality provided to respondents, and the basis for the assurance in statute, regulation, or agency policy.

States and local agencies are generally concerned about protecting the confidentiality of children's eligibility information. The issuance of the regulation regarding disclosure of eligibility information is required by amendments to the Richard B. Russell National School Lunch Act by Public Law 103-448, Public Law 106-224, and Public Law 108-265. Prior to those amendments, program officials could only disclose children's eligibility information with parental consent. With enactment of these laws, disclosure of children's eligibility information for use other than to determine and verify eligibility for free and reduced price meals or free milk is a State and local decision. School officials are not required to disclose children's eligibility information. FNS encourages State and local agencies to work with the receiving agency officials to make the exchange of eligibility information as streamlined as possible. Additionally, FNS has issued prototype materials for use by states and locals to minimize the burden associated with disclosing information.

Section 7 (b) of the Privacy Act of 1974 (P.L. 93-579, 5 U.S.C. 552a) requires that Federal, State or local government agencies which request individuals to disclose their social security number be informed (1) whether that disclosure is mandatory or voluntary, (2) by what statutory authority or other authority each number is solicited, and (3) what uses will be made of the number.

11.) Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no additional questions of a sensitive nature included in this clearance.

12.) Provide estimates of the hour burden of the collection of information.

Currently 1,057,278 burden hours are approved for #0584-0026. The recordkeeping burden (346,253) associated with this collection remains unchanged from that previously approved under OMB #0584-0026. The reporting burden associated with this collection increases by 700,889 hours from that which had previously been approved (693,025) under OMB #0584-0026.

• Reporting Burden Hours:	1,393,914
• <u>Recordkeeping Burden Hours:</u>	<u>364,253</u>
Total Burden Requested	1,758,167

PUBLIC COST

To estimate public cost, we consulted with the U.S. department of Labor, Bureau of Labor Statistics, 2001 and the U.S. Census Bureau, Statistical Abstract of the United States: 2001. Following is the estimate of burden for reporting and recordkeeping:

Reporting

SA Level	=	1,080 hours x \$20.40	\$ 22,032
SFA Level	=	289,616 hours x \$14.73	\$ 4,266,044
School	=	52,520 hours x \$13.29	\$ 697,991
Household	=	1,050,698 hours x \$16.83	\$ 17,683,247
TOTAL			\$ 22,669,314

Recordkeeping

SA Level	=	881 hours x \$13.35	\$ 11,761
SFA Level	=	131,963 hours x \$11.85	\$ 1,563,762
School	=	231,410 hours x \$13.29	\$ 3,075,439
TOTAL	=		\$ 4,650,962

TOTAL COST TO THE PUBLIC: \$27,320,276

13.) Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.

There is no annual start-up or maintenance costs.

14.) Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

FEDERAL COST

The following procedure was used to estimate the Federal cost of collecting and processing data.

- Identified functions performed by the Food and Nutrition Service Regional Office (FNSRO) and Headquarters staff that benefit the programs and obtained estimates of the total number of staff hours spent performing these functions. The tasks are listed in column 1 and the aggregate staff hours spent performing each task are listed in column (1) and the aggregate staff hours spent performing each task are listed in column (3). Column (2) shows where each task is performed.
- Determined for each task the portion of the staff hours spent administering the requirements of Part 245. Headquarters and FNSRO staff (as applicable) estimated the percentage of time spent on each task listed in column (1). For each task, the hourly figure in column (3) was multiplied by the percentage obtained through the interviews. The estimated costs are provided in the table below with a total federal cost of \$296,755.

Estimated Annualized Cost to the Federal Government

(1)	(2)	(3)	(4)	(5)	(6)
Activity	Staff	Total staff Hours	Part 245 Allocation Percentage	Portion to 7 CFR Part 245 column3x4	Federal Cost*
Professional Assistance to State Agencies	FNSRO	99,840	.05	4,992	\$130,242
Drafting/Clearing Regulations	HQ	8,320	.60	4,992	\$156,100
Policy/Guidance Development	HQ	3,328	.10	333	\$10,413
Total Cost					\$296,755

*Salaries: FNSRO: GS-11 = \$26.09 per hour
HQ: GS 12 = \$31.27 per hour

15.) Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-1.

The increase in 700,889 reporting hours is a program change due to new requirements of the rule, “Disclosure of Children’s Free and Reduced Price Meals and Free Milk Eligibility Information in the Child Nutrition Programs” that amends the regulations at 7 CFR Part 245. The rule stipulates the requirements that State agencies and school food authorities must implement if they intend to disclose children’s free and reduced price eligibility information. Specifically, the rule provides that State agencies and school food authorities that plan to use or disclose information about children eligible for free or reduced price meals or free milk in ways

not permitted by law must: 1) obtain written consent from the child's parent or guardian prior to the use or disclosure and 2) must enter a written agreement with the State or local agency or agencies administering Medicaid or SCHIP prior to disclosing children's free and reduced price meal or free milk eligibility information.

16.) Collection of information whose results will be published.

There are no plans to publish a compilation of the results from this information collection. The results will only be used to assess compliance by each State agency.

17.) If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

FNS is not seeking approval to not display the OMB approval number and the expiration date on this information collection.

18.) Explain each exception to the certification statement identified in Item 19.

There are no exceptions to the certification statement.

19.) Collection of information employing statistical methods.

This data collection will not employ statistical methods.