

Supporting Statement for OMB No. 0584-0293

U.S. Department of Agriculture
Food and Nutrition Service
Food Distribution Programs
7 CFR Parts 240, 247, 250, 251, 253, 254

Justification**A1. Explain the circumstances that make the collection of information necessary.**

The Food Distribution Programs of the Department of Agriculture (USDA) assist American farmers and needy people by purchasing commodities and delivering them to State agencies that, in turn, distribute them to organizations for use in providing food assistance to those in need. The commodities help to meet the nutritional needs of: (a) children from preschool age through high school in USDA Child Nutrition Programs and in nonprofit summer camps, (b) needy persons in households on Indian reservations participating in the Food Distribution Program on Indian Reservations, (c) needy households in the nuclear affected islands, (d) needy persons served by charitable institutions, (e) pregnant and breastfeeding women, infants, and children, and elderly persons, participating in the Commodity Supplemental Food Program, (f) low-income, unemployed or homeless people provided foods through household distributions or meals through soup kitchens under the Emergency Food Assistance Program, (g) pre-school and school-age children, and elderly and functionally impaired adults enrolled in child and adult day care centers, participating in the Child and Adult Care Food Program, and (h) victims of Presidentially-declared disasters and other situations of distress.

Authorizing legislation allows the Secretary broad authority to establish regulatory provisions promoting accountability in the use of USDA commodities by Federal, State and private agencies. This authorizing legislation includes:

- Section 4(b) of the Food Stamp Act of 1977, (7 U.S.C. 2013(b))
- Sections 6, 14, and 17 of the National School Lunch Act, as amended (42 U.S.C. 1755, 1762a, and 1766)
- Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1733)
- The Emergency Food Assistance Act of 1983, (Public Law 100-237 (Public Law 98-8, title II); 7 U.S.C. 612c Note) (7 U.S.C. 7501 et. seq.)
- Selected Provisions of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237, 7 U.S.C. 612c note): Sections 1-2, 3(a)-(i), 3(k), 7 and 13-14
- Selected Provisions of the Hunger Prevention Act of 1988 (Public Law 100-435): Sections

110-111, 130, 220, 502-503 and 701

- Selected Provisions of the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624, enacted November 28, 1990): Sections 1771(a)-(b), 1172(a), (c)-(d), (g), 1773(a)-(d), 1774(a), 1775(a)-(b), and 1777
- Section 32 of the Act of August 24, 1935 (Public Law 320, 74th Congress, 7 U.S.C. 612c)
- Section 416 and related provisions:
 - Section 416 of the Agricultural Act of 1949 (Public Law 439, 81st Congress, 7 U.S.C. 1431)
 - Section 202 of the Agricultural Act of 1949 (Public Law 439, 81st Congress, as added by Public Law 690, 83rd Congress, Section 204(d), 7 U.S.C. 1446a)
 - Act of August 19, 1958 (Public Law 85-683, 7 U.S.C. 1431 note)
 - Section 201 of the Act of September 21, 1959 (Public Law 86-341, 7 U.S.C. 1431c)
 - Section 106 of the Agriculture and Food Act of 1981 (Public Law 97-98, 7 U.S.C. 1446c-1)
 - Act of September 13, 1960 (Public Law 86-756, 7 U.S.C. 1431 note)
 - Section 709 of the Food and Agriculture Act of 1965 (Public Law 89-321, 7 U.S.C. 1446a-1)
 - Section 404 of the Agricultural Act of 1949 (Public Law 439, 81st Congress, 7 U.S.C. 1424)
 - Section 1114(a) of the Agriculture and Food Act of 1981 (Public Law 97-98, 7 U.S.C. 1431e)
- Sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86, Section 5 as added by Public Law 95-113, Section 1304(b)(2), 7 U.S.C. 612c note)
- Sections 412 and 413 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, 42 U.S.C. 5142, 5145-48 and 5179-80)
- Act of June 28, 1937 (Public Law 165, 75th Congress, 15 U.S.C. 713c)
- Section 211 of the Agricultural Act of 1980 (Public Law 96-494, 7 U.S.C. 4004)

- Section 9 of the Act of September 6, 1958 (Public Law 85-931, 7 U.S.C. 1431b)
- Section 205 of the Food and Agriculture Act of 1962 (Public Law 87-703, 7 U.S.C. 1431d)
- Section 3 of the Charitable Assistance and Food Bank Act of 1987 (Public Law 100-232, 7 U.S.C. 612c note)
- Section 1336 of the Agriculture and Food Act of 1981 (Public Law 97-98, 7 U.S.C. 1446c-1)
- The Food Security Act of 1985 (Public Law 99-198)
- Section 210, Agricultural Act of 1956
- Section 402, Mutual Security Act of 1954, as amended
- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193)
- The Older Americans Act Amendments of 2000
- The Farm Security and Rural Investment Act of 2002

The regulatory provisions pertaining to Food Distribution Programs are contained in 7 CFR Parts 240, 247, 250, 251, 253, and 254. These provisions include the reporting and recordkeeping requirements that ensure the efficient and effective administration of Food Distribution Programs at Federal, State, and local levels.

State agencies may receive cash or cash in lieu of commodities on behalf of schools or school food authorities, and nonresidential child and adult care institutions, under certain provisions of the National School Lunch Act. The regulatory provisions contained under 7 CFR Part 240 ensure that an accurate determination is made of the amounts of payments that State agencies, schools, school food authorities, or child and adult care institutions are authorized to receive, in lieu of the receipt of commodities.

State agencies are required to report to FNS the number of meals served by commodity schools (schools not participating in the National School Lunch Program but which receive USDA commodities for their nonprofit lunch program under agreement with the State educational agency), and the amount of cash that commodity schools choose to receive in lieu of commodities. State agencies also report to FNS the number of meals served by nonresidential child and adult care institutions to determine the cash to be received by the State agency for this program, in lieu of commodities. The reporting and recordkeeping burden associated with the provisions of Part 240 are located in the OMB dockets 0584-0002 and 0584-0078 which contain the information collection burden (ICB) for the child nutrition programs.

7 CFR Part 247 contains the regulatory provisions that apply to the Commodity Supplemental Food Program (CSFP). CSFP was authorized by Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86), and has been reauthorized several times through subsequent legislation. This program provides USDA commodities to low-income infants, children up to age 6, pregnant, postpartum and breastfeeding women, and persons 60 years of age and over. Participants receive a package of commodities tailored to their nutritional requirements. The program is operated by State agencies, including Departments of Health, Social Services, Education, or Agriculture; and by local agencies, which may be public or private, nonprofit agencies. Local agencies determine eligibility of applicants, distribute foods, provide nutrition education, and refer participants to other welfare and health care programs.

7 CFR Part 250 contains the general regulatory provisions that pertain to all Food Distribution Programs, as well as those that govern the distribution of commodities to schools, charitable institutions, elderly feeding sites, and day care centers. Regulatory provisions cover such areas as warehousing of commodities, the content and duration of contracts and agreements between public and private entities, distribution and handling of commodities, the collection of commodity acceptability data, etc. The reporting and recordkeeping requirements applicable to specific programs are listed under the parts pertaining to those programs.

The regulatory provisions contained under 7 CFR Part 251 include reporting and recordkeeping requirements that ensure the efficient administration and operation of the Emergency Food Assistance Program (TEFAP). Section 202(a) of Title II of Public Law 98-8, the Emergency Food Assistance Act of 1983, authorized TEFAP, providing for the distribution of surplus agricultural commodities from Commodity Credit Corporation (CCC) stocks to State agencies. Section 213 of the Emergency Food Assistance Act of 1983 and Section 27 of the Food Stamp Act of 1977 require the purchase and allocation of additional commodities for distribution to State agencies. State agencies then provide the commodities to eligible recipient agencies (e.g., food banks, food pantries, soup kitchens). These agencies distribute USDA commodities to eligible households, or provide them to other agencies for distribution to households or provision of meals to the needy.

The regulatory provisions contained under 7 CFR Parts 253 and 254 include reporting and recordkeeping requirements that ensure that the Food Distribution Program on Indian Reservations and the Food Distribution Program for Indian Households in Oklahoma (both programs hereinafter referred to as FDPIR) are efficiently administered. Section 4(b) of Public Law 95-113, the Food Stamp Act of 1977, authorizes the distribution of USDA commodities on Indian reservations whenever requested by an Indian Tribal Organization. FDPIR provides a package of commodities to eligible households on Indian reservations, or to Indian households living near reservations. Section 1336 of Public Law 97-98, the Agriculture and Food Act of 1981, authorizes the distribution of USDA commodities to eligible Indian households in Oklahoma--where most of the former reservation land has been conveyed into the public domain. In Oklahoma, FDPIR benefits are available to eligible households in designated "service areas." In most cases, Indian Tribal Organizations (comprised of one or more Indian tribes)

administer the program locally, although in a few cases, State agencies administer FDPIR for Indian tribes. Households may participate in either FDPIR or the Food Stamp Program, but may not participate in both programs simultaneously.

Effective administration of Food Distribution Programs is dependent on the collection, and submission to FNS, of information from State and local agencies. This information includes, for example, the number of households or meals served in the programs, the kinds of commodities most acceptable to recipients, the quantities of foods ordered and where the food is to be delivered, verification of the receipt of a food order, and the amounts of commodities in inventory.

A2. Indicate how, by whom, how frequently, and for what purpose the information is to be used.

The information reported and the records kept for purposes of review under 7 CFR Parts 240, 247, 250, 251, 253, and 254 are used by State and local agencies, and FNS regional and headquarters offices, for the purpose of administering USDA Food Distribution Programs. This section contains a breakdown of the reporting and recordkeeping requirements contained in each of the relevant parts of Federal regulations. Each part is broken down into sections, with a description of the reporting or recordkeeping burden attached to each section. A numerical report of burden hours, by section, is contained in the attached spreadsheet.

THIS SUBMITTAL ONLY MAKES CHANGES TO THE REPORTING AND RECORDKEEPING REQUIREMENTS IN PORTIONS OF PART 7 CFR 250.

ALL OTHER BURDEN HOURS FOR FOOD DISTRIBUTION PROGRAMS REMAIN THE SAME AS IN THE PACKAGE LAST APPROVED UNDER THIS OMB NUMBER. (The paragraphs outlining the portions of 7CFR 250 which have changed are highlighted in bold in the section descriptions below.)

**Reporting Requirements--Part 240
Cash In Lieu of Donated Foods**

All reporting requirements under this Part are contained under ICB #0584-0078 and #0584-0002.

**Recordkeeping Requirements--Part 240
Cash In Lieu of Donated Foods**

240.4, Cash in Lieu of Donated Foods--Nonresidential Child and Adult Care Institutions. State agencies and Child and Adult Care Institutions must keep records of the amount of cash received in lieu of commodities.

240.5, Cash in Lieu of Donated Foods--Commodity Schools. State agencies and the school food authorities of commodity schools must keep records of the amount of cash received in lieu of

commodities.

240.6, Funds for States that Have Phased Out Food Distribution Facilities. State agencies that have phased out receipt of commodities and receive cash instead, along with the school food authorities in those States, keep records of the amount of cash received.

Reporting Requirements--Part 247 Commodity Supplemental Food Program (CSFP)

247.4(a)(1)&(b), Federal/State Agreements. State distributing agencies enter into an agreement with USDA to administer the program. The agreement is effective for 1 year. State agencies are also required by regulation to submit a State plan to FNS on an annual basis; however, by policy memorandum, a complete plan is required once every 3 years, except for the annual submission of parts governing goals and objectives for the coming year, public input in the development of the State plan and caseload requests. The State plan also provides information on participating local agencies, household eligibility criteria, administrative funds accounting, nutrition education plans, and caseload redistributions. Guidance on State plan requirements is provided periodically.

247.4(a)(2)&(b)&(c), State/Local Agreements. State agencies enter into agreements with local agencies approved to participate in the program. These agreements are ongoing. We estimate that these agreements take 2 hours to complete. The duration of agreements between State and local agencies are determined by the State agency, and the duration of agreements between local agencies and other agencies is determined by the local agency. We estimate that an average of 50 agreements between State and local agencies, and between local agencies and other agencies, are completed each year. The total burden for completion of State and local agency agreements is therefore 100 hours.

247.6(a)&(b)&(c), State Plan. The State agency must submit a State Plan to initiate or continue program operations. The State Plan is permanent, with amendments submitted as needed. We estimate that, on average, one State agency per year submits a State Plan, which requires 50 hours to develop.

247.6(d), State Plan Amendments. State Plans are permanent, with amendments submitted as needed. Since participating State agencies must submit amendments to request additional caseload for the following year, and to make any other changes in the Plan, we estimate that approximately 35 State agencies per year submit an amendment to the Plan. We estimate each amendment submission takes about 5 hours. Thus, the total burden for the submission of amendments to the State Plan 175 hours.

247.7(a), Applications of Local Agencies. Local agencies submit a written application to participate in the program.

247.8, Applications & 247.16(a), Certifications/Recertifications. State or local agencies record

data for each applicant, including the basis for deciding eligibility of the applicant. We estimate that, on average, 457,000 elderly individuals participate in the program, each requiring 15 minutes (0.25 hours) to be certified/recertified for a 6 month period. Thus, the burden hours for the twice-annual recertification of elderly individuals are $457,000 \times 2 = 914,000 \times .25 \text{ hrs.} = 228,500 \text{ hours}$.

We also estimate that, on average, 63,000 women, infants, and children (w-i-c) participate in the program, and each individual requires .5 hrs. to be recertified for a 6 month period. Thus, the burden hours for the twice-annual recertification of w-i-c participants are $63,000 \times 2 = 126,000 \times .5 \text{ hrs.} = 63,000 \text{ hours}$.

The total certification/recertification burden for all participants (elderly, women, infants, and children) is therefore $228,5000 \text{ hrs.} + 63,000 \text{ hrs.} = 291,500 \text{ hours}$.

247.19(a). Agreement to Prevent Dual Participation. Local agencies sign written agreements to prevent participation of individuals at more than one CSFP distribution site, or in both CSFP and the Special Supplemental Food Program for Women, Infants, and Children (WIC).

247.23 (b). State Provision of Administrative Funds. The amount of funds that State agencies may retain is determined by a specific formula, and may not exceed \$30,000. States may request, with justification, additional funds through FNS.

247.26. Closeout Procedures. FNS recovers the unused funds at the end of the fiscal year when a State agency does not use all of the funds allocated to it. If, in the following fiscal year, OMB reappropriates the recovered funds, FNS reallocates them to all State agencies. FNS reallocates to each State agency a share of the total reappropriated funds that is proportionate to its share of the total assigned caseload for the year in which the reallocation takes place. State agencies submit preliminary and final closeout reports for each fiscal year.

247.29(a)&(b)(2)(ii). Receipt, Disposal, and Inventory of Donated Foods. State agencies submit Form FNS-153 on a monthly basis, detailing the receipt, disposal, and inventory of donated foods. This information is not, at the present time, available electronically through PCIMS, as similar information is now obtained for other Food Distribution Programs. The FNS-153 also records participation for each category of persons receiving benefits. The data from the FNS-153 plays an integral role in determining prorata shares of caseload ceiling and administrative funding levels for States, as well as serving as a basis for determining current food inventory levels and purchasing needs. It is also used for making budgetary projections.

247.29(a)&(b)(3). Civil Rights Participation Data. Local agencies submit racial/ethnic participation data on an annual basis, utilizing Form FNS-191, Racial/Ethnic Group Participation. This information collection is contained in OMB docket # 0584-0025.

247.31(c). Audit Responses. State agencies submit to FNS responses to audits, including corrective action plans.

247.34, Management Reviews. State agencies are required to conduct on-site reviews of local agencies once every two years. On average, about 144 local agencies participate in the program each year resulting in 72 reviews per year. We estimate each management review takes approximately 8 hours to complete. Thus, the total burden for management evaluations is 72 x 8hrs. = 576 hours.

**Recordkeeping Requirements--Part 247
Commodity Supplemental Food Program (CSFP)**

247.22, Record of Use of Funds. State agencies maintain records to account for expenditures of program funds.

247.28(b), Records of Receipt, Disposal, and Inventory of Donated Foods. State and local agencies maintain records attesting to the receipt, disposal, and inventory of donated foods, including determination of liability for improper use of, or loss of donated foods, and information regarding applicant eligibility.

247.29(a), Records of Fair Hearing Proceedings. State agencies keep records of fair hearing proceedings.

247.30(d)(3), Records of Participant Claims. The State or local agency must pursue a claim against a participant to recover the value of benefits improperly received or used if it determines that the participant, or the parent or caretaker of the participant, received or used the commodities through fraud. The State agency must maintain all records regarding claims actions taken against participants. We estimate that State and local agencies initiate about 500 claims actions against participants each year. The recordkeeping burden is estimated at 5 minutes (0.08 hrs.) for each claims action. The total recordkeeping burden for claims is thus 40 hours.

Reporting Requirements--Part 250 General Food Distribution Program Regulations

250.12(b), Distributing Agency/Recipient Agency Agreements. State distributing agencies enter into agreements with those entities to which USDA donated foods are delivered (e.g., subdistributing agencies, recipient agencies, warehouses, carriers, etc.). These agreements outline USDA and State obligations and responsibilities in delivery, storage, and distribution of donated foods, including the responsibility for loss, damage or improper use of donated foods. Agreements with recipient agencies are permanent, with amendments made as necessary. Agreements with subdistributing agencies, carriers, and other entities are effective for 1 year and may be extended for 2 additional 1-year periods.

250.12(e) & 250.14(d), Storage Facilities. Distributing agencies, subdistributing agencies, and recipient agencies sign contracts with storage facilities for the storage of donated foods. Storage contracts contain provisions to ensure that storage facilities properly identify, store and account for commodities. These contracts are effective for no longer than 5 years.

250.12(f) & 250.30(c), Processor/Processing Agreements with Distributing Agencies/Recipient Agencies. Distributing agencies, subdistributing agencies, and recipient agencies responsible for the processing of donated foods into end products for schools enter into written agreements with processors. These contracts specify the types of records that must be maintained and submitted by the processor (i.e.: the types of end products made and the quantity yielded from the commodities used in their manufacture, and the method in which the end products will be sold to eligible recipient agencies.) These agreements are effective for 1 year, but may be extended for 2 additional 1-year periods.

250.13(a)(6), Destination Data for Delivery of Donated Foods. Distributing agencies arrange for delivery of donated foods to storage facilities. State distributing agencies complete Form FNS-7, Destination Data for Delivery of Donated Foods, for submission to the Kansas City Commodity Office. The form is used in all commodity programs and contains information on the destination point for commodity shipments, including the optimal day and time for deliveries, and the means of shipment. It is submitted whenever changes in destination data are made. The information provided on the form is necessary to ensure that food deliveries are made efficiently.

250.13(f), Report of Shipment Received, Over, Short, and/or Damaged. State agencies are required to report donated foods received that are damaged, out-of-condition, short, or in excess of the amount ordered, through submission of form FNS-57 to FNS Regional Offices. Information on the form serves as the basis for adjudicating claims against carriers and shippers, and is often used to determine vendor liability for foods received out-of-condition. If the form was not completed, it would be difficult for USDA to pursue claims against carriers or vendors. In some instances, foods may be replaced if certain conditions are met.

250.13(i), Notification of Suspected Embezzlement, Misuse, Theft, etc. State distributing agencies report to the FNS Regional Office any suspected violations of anti-fraud provisions of section 12(g) of the National School Lunch Act or Section 4(c) of the Agriculture and Consumer Protection Act of 1973.

250.13(k) & 250.17(d), Commodity Acceptability Reports. Form FNS-663 is used on a biennial basis in some programs to obtain information from State distributing agencies on the types and forms of donated foods most acceptable to recipients. This information is necessary to ensure that commodities provided in food assistance programs are acceptable to program recipients.

250.14(a)(2), Noncommercial Warehouse Evaluations. Every 3 years, State distributing agencies submit to the FNS Regional Office evaluations of noncommercial warehouse and distribution systems.

250.14(a)(4)(iv), Cost Comparisons of Existing Noncommercial Warehouse System with Commercial Systems. Every 3 years, State distributing agencies that utilize a noncommercial warehouse and distribution system submit a cost comparison of the existing storage and distribution system with a commercial system.

250.14(e) & (f), Physical Inventory and Excessive Inventory Reporting. Distributing agencies submit justification to the FNS Regional Office for approval in instances when more than a six-month inventory is needed at the State level. Recipient agencies report excessive inventories to the State distributing agency.

250.15(a), Distribution Charges. State distributing agencies submit a description of their system of assessing distribution charges for recipient agencies. At a minimum, updates are provided to the FNS Regional Office every 3 years.

250.15(f)(4), Excess Funds Justification. State distributing agencies provide sufficient justification for maintaining funds in the operating account in amounts exceeding the previous year's highest 3 months' expenditures.

250.17(a), Commodity Inventory Report (FNS-155). State agencies report, semiannually, commodity inventories that exceed a 6-month supply, which is considered excessive and at risk of spoilage as outlined in 250.14(f). They do this using the FNS-155 Report.

250.17(b) & 250.30(o), Processing Inventory Reports. State distributing agencies submit quarterly processing inventory reports. This report, submitted to the FNS Regional Office within 60 days following the close of each fiscal quarter, shows: (1) beginning inventory; (2) amounts of donated foods received; (3) amounts of donated foods transferred to, or from, existing inventory; (4) amounts of donated food used; (5) the closing quarterly inventory; and (6) each contracting agency, and the location where the processor has processing contracts.

250.17(c), Processors' Performance Reports. When commercial food processors contract with

distributing, subdistributing or recipient agencies to convert donated foods into other end products or repackage the foods, processors submit a performance report for each contract to distributing agencies. The performance report lists: the type, and quantity of, end products purchased by, and delivered to, recipient agencies; complete donated-food inventory at the beginning and end of the reporting month; and, information regarding the utilization of the donated foods. The reports are received by the contracting agencies to ascertain if performance complies with the regulations and the terms of the contract.

250.17(e), Other Reports. State distributing agencies complete and submit other reports relative to distribution operations in such form as may be required by the Department. These include reports for States participating in the State Option Contract Program, and submittal of the Multi-Commodity Food Requisition Form (FNS-53) that allows State distributing agencies to order truckloads containing more than one type of commodity food.

250.18, Multi-State Processor's Response to CPA Audit Deficiencies. Multi-State commodity processors must develop a written response addressing deficiencies which have been identified through CPA audit findings.

250.19(b), Distributing Agency's Management Evaluation System. State distributing agencies establish evaluation and review procedures for their distribution programs. Distributing agencies submit a report of review findings to each entity reviewed. State distributing agencies also submit a copy of the processor's review report in instances when the distributing agency has delegated the responsibility of sales verification to the processor.

250.22, Reporting Irregularities Found Through Complaints. State distributing agencies investigate complaints received in connection with the distribution or use of donated food. The distributing agency reports each instance of serious irregularity to USDA.

250.30(k), Processing Refund Applications. When end products are sold to recipient agencies, these agencies submit refund applications to the processor within 30 days from the close of the month in which the sales were made.

250.30(1), Processing Contract Preparation, Approval and Submission to FNS. State distributing agencies that enter into or approve a processing contract provide a copy of the contract to the processor and to FNS.

250.30(m), Processors' Performance Reports. When commercial food processors contract with distributing, subdistributing or recipient agencies to convert donated foods into other end products or repackage the foods, processors submit a performance report for each contract to distributing agencies. The performance report lists: the type, and quantity of, end products purchased by, and delivered to, recipient agencies; complete donated-food inventory at the beginning and end of the reporting month; and, information regarding the utilization of the donated foods. The reports are received by the contracting agencies to ascertain if performance complies with the regulations and the terms of the contract.

250.30(s), Processing Manual. State distributing agencies develop and provide a processing manual or similar procedural material for guidance to processors, recipient agencies, and contracting agencies at the time of approval of the initial agreement by the distributing agency, when regulatory or policy changes have been made, or upon request.

250.41(b), Reporting Number of Needy Persons Served by Charitable Institutions.

Current regulations require the distributing agency to report to FNS annually on: the number of charitable institutions receiving commodities; the number of needy persons served by charitable institutions; the total population of the charitable institution; and, the estimated number of meals the charitable institution served to the needy. This final rule moves all requirements involving charitable institutions to a new section 250.67, and replaces the above requirement with language allowing distributing agencies to use already existing data that is readily available, such as local socioeconomic data, to determine whether or not an organization serves predominantly needy persons and continues to qualify as a charitable institution. As a result, the 108 reporting hours previously associated with this requirement are being eliminated.

250.53 Contract provisions. In some school districts, recipient agencies enter into a written agreement with food service management companies to conduct food service operations. These agreements were previously addressed in section 250.12(d). This final rule moves all requirements involving agreements with food service management companies to a new section 250.54 entitled “Contract provisions.” This section also sets forth a new requirement. Food service management companies are required to credit recipient agencies for all donated foods not less frequently than annually through invoice reductions, refunds, discounts, or other means of crediting.

In addition, this ICB reflects an increase over the past several years in the number of contracts between recipient agencies and food service management companies. Of the 20,770 school food authorities operating in school year 2004, we estimate that 1,765 had contracts with food service management companies. We estimate the burden needed to meet the new contract requirements to be 1 hour. We estimate that each food service management company will submit one response per year, so that the total annual reporting burden for food service management company contracts is 1,765 hours x 1 response per year = 1,765 burden hours annually. These hours, which are reflected in new section 250.54, represent an increase from the current 25 hours.

250.58 Ordering donated food. This ICB moves the burden hours in section 250.17(e) associated with form FNS-52 to the new section 250.58 in this final rule. (The reporting burden found in 250.17(e) for form FNS-53 and the State Option Contract Program continues to be reported under 250.17(e)).

The reporting burden for the FNS-52 is also reduced to reflect the fact that FNS has implemented a web-based system called the Electronic Commodity Ordering System

(ECOS), which allows distributing agencies using the FNS-52 to submit orders for donated foods electronically. With ECOS, the number of submissions has increased, but the time needed for each submission is substantially reduced. We estimate that each distributing agency submits 642 orders per year (one for each donated food ordered) instead of the 112 paper submittals (with multiple food orders) previously submitted annually. Each submission takes an estimated 30 seconds to report, rather than the current 2 hours. Hence, the reporting burden for the FNS-52 is reduced to 416 hours from the current 18,144 hours.

250.69(a) & 250.70(a), Emergency Feeding Organization Applications Feeding During Disasters and Situations of Distress. These sections require Emergency Feeding Organizations feeding disaster victims to submit applications to the State distributing agency. This final rule redesignates sections 250.43 and 250.44 as new sections 250.69 and 250.70 respectively, but leaves the text unchanged. Consequently 250.43(a) and 250.44(a) become 250.69(a) and 250.70(a), and the ICB burdens remain the same as in the last approved submittal.

250.69(f), State Report for Commodities Distributed for Disaster Relief. This section requires State distributing agencies to submit a summary report to the FNS Regional Office within 45 days following termination of a disaster. Form FNS-292 “Report of Coupon Issuance and Commodity Distribution for Disaster Relief,” is utilized. Submissions total less than ten per year. This final rule redesignates section 250.43 as section 250.69, but leaves the text unchanged. Consequently 250.43(f) becomes 250.69(f), and the ICB burden hours associated with Form FNS-292 (reported in a separate ICB package under OMB # 0584-0037) remain unchanged from the last approved submittal.

250.69(g), State Request to Use Commodities for Disaster Feeding. This section requires State distributing agencies to submit a written request to the FNS Regional Office for replacement of foods used for disaster and other emergencies within 30 days of termination of the disaster assistance. Submissions total no more than 10 per year. This final rule redesignates section 250.43 as section 250.69, but leaves the text unchanged. Consequently 250.43(g) becomes 250.69(g), and the ICB burden hours remain unchanged from the last approved submittal.

Recordkeeping Requirements--Part 250 General Food Distribution Regulations

250.10(b) & 250.12(a), USDA Agreements with Private Agencies/Distributing Agencies. USDA signs an agreement (FNS-74) with State agencies and appropriate private agencies to serve as “Distributing agencies” for the provision of commodity foods. The burden hours for the FNS-74 are addressed in the ICB Docket #0584-0067.

250.12(b), Distributing Agency Agreements with Recipient Agencies. Distributing agencies must maintain a copy of the agreement on file.

250.12(e) & 250.14(d), Storage Facility Agreement. Recipient agencies must maintain on file a copy of all agreements with storage facilities.

250.12(f) & 250.30(c)(1), Processing Contracts. Distributing agencies and recipient agencies must sign contracts with companies which further process commodity foods.

250.13(a)(1)(v), State Documentation for the Transfer of Donated Foods. Recipient agencies must receive authorization from State Distributing agencies prior to transferring donated foods between recipient agencies. Distributing agencies must receive approval from the FNS Regional Office prior to transferring donated foods for use in a program other than the one for which the foods were originally allotted. Records for the above transfers of donated foods are maintained by State Distributing agencies.

250.13(a)(5), Commodity Values. Distributing agencies must document and maintain on file the method used to determine the values of the commodities offered to schools and nonresidential child and adult care institutions.

250.14(c), Storage Facility Reviews. All storage facilities are reviewed annually by distributing, subdistributing, and recipient agencies to ensure compliance with storage facility standards. Documentation of compliance is maintained by the appropriate agency.

250.14(e), Physical Inventory Records. Distributing, subdistributing, and recipient agencies must perform a physical inventory of all storage facilities and reconcile their inventory with the facility’s inventory records. The contracting agency maintains records reflecting inventory reconciliation. Documentation of efforts to reduce any excessive inventories must be provided to and maintained by the Distributing agency.

250.15(f), Segregating Operating Funds. Distributing and subdistributing agencies must maintain two separate operating accounts. The first for account of funds accrued from the collection of distribution charges. The other for funds accrued from the sale of containers, salvage of foods, insurance, and recoveries of claims.

250.16 & 250.30, Maintenance of Records (Including Processor Contracts). Distributing, subdistributing, and recipient agencies must maintain records relating to the receipt, distribution and inventory of donated foods. These records must address end products processed from donated foods, and determinations of liability for improper use of, or damage to, foods resulting from the pursuit of claims. These records, including reports submitted to FNS, are maintained on file for 3 years.

250.18(b), Multi-State Processor CPA Audits. Multi-State processors must maintain records pertaining to donated food acquisition, storage, distribution as well as financial information for required periodic CPA audits.

250.19(b), Maintain Management Evaluation and Review Records. Distributing agencies must maintain a copy of each report of review findings for all programs receiving commodities, including recipient agencies, processors, warehouses, and food service management companies.

250.22, Distributing Agency Complaint Records. Distributing agencies must maintain evidence of investigations and actions on serious irregularities involving commodities.

250.30(c)(4), Recordkeeping Requirements for All Processors. All processors contracting with a Distributing agency or Recipient agency to process commodities must maintain accurate and complete records for review pertaining to the receipt, distribution, use, and inventory of donated foods.

250.42(c)(5), Cash-in-lieu of Donated Foods for State Agencies on Aging. Distributing agencies are required to retain specific records related to the “Nutrition Program for the Elderly” for 3 years. The *Older American Act Amendments of 2000* changed the name of the program to the “Nutrition Services Incentive Program” (NSIP), and transferred it to the Department of Health and Human Services (HHS). This final rule eliminates the 6 hours associated with this recordkeeping burden since FNS is no longer responsible for establishing such requirements. The final rule also moves the remaining provisions referencing NSIP to a new section 250.68.

250.54 Recipient Agency Food Service Management Contracts. Recipient agencies must maintain a copy of contracts with foodservice management companies. The previous ICB submittal addressed this recordkeeping requirement in section 250.12(d). This final rule moves this requirement to a new section 250.55 entitled “Recordkeeping and reviews.” The final rule also adds a new provision requiring recipient agencies to maintain documentation showing how the donated food used by food service management companies was credited, as well as the value that was credited. We estimate that 1,765 recipient agencies have contracts with food service management companies, and the recordkeeping burden for each is 0.25 hours. Hence, the recordkeeping burden for recipient agencies increases from the current 24 hours to 441 hours.

250.64(f), Records and Reports in the Pacific Islands. This section requires distributing

agencies in the Pacific Islands to retain complete and accurate records for 3 years on all amounts of donated food received and disbursed. It also requires the recipient agencies to keep accounts and records reflecting the receipt and expenditure of administrative funds. This final rule redesignates section 250.46 as section 250.64, but leaves the text unchanged. As a result, 250.46(f) becomes 250.64(f), and the ICB burden hours remain unchanged from the last approved submittal.

250.67(a)(2)(ii), Correctional Institutions. This section requires distributing agencies to maintain a written statement certifying that correctional institutions receiving commodities conduct a rehabilitation program for the majority of inmates. This final rule redesignates section 250.41 as section 250.67, but leaves the text unchanged. As a result, 250.41(a)(2)(ii) becomes 250.67(a)(2)(ii), and the ICB burden hours remain unchanged from the last approved submittal.

250.69(a) & 250.70(a), Records for Disasters and Situations of Distress. These sections require distributing agencies and Emergency Feeding Organizations to maintain applications for the receipt and distribution of donated foods for victims of disasters and situations of distress. This final rule redesignates sections 250.43 and 250.44 as sections 250.69 and 250.70 respectively, but leaves the text unchanged. As a result, 250.43(a) and 250.44(a) become 250.69(a) and 250.70(a) respectively, and the ICB burden hours remain unchanged from the last approved submittal.

Reporting Requirements--Part 251 The Emergency Food Assistance Program (TEFAP)

251.2(c) & 251.5(a), Federal/State Distributing Agency Agreements and State Agreements with Eligible Recipient Agencies (ERAs). State distributing agencies enter into an agreement with USDA to administer TEFAP. State distributing agencies also enter into written agreements with ERAs to administer the Program. As with State agency/recipient agency agreements in Part 250, the agreements are permanent, with amendments provided as needed.

251.4(g), Availability and Control of Donated Commodities. State distributing agencies must document transfers of donated commodities from one ERA to another.

251.4(j), Inter-Agency Agreements. State distributing agencies must enter into interagency cooperative agreements to jointly provide commodities to an ERA, or to transfer commodities to an ERA when such organization serves needy persons in a contiguous area that crosses State borders.

251.4(l), Commodity Losses and Claim Determinations. State distributing agencies must initiate claims action for lost, damaged, or improperly distributed commodities and reimburse the FNS Regional Office if they are the responsible party.

251.6(b) State Agency Distribution Plan. State distributing agencies must submit a plan to the FNS Regional Office that designates the State agency responsible for distributing the commodities; identifies the administrative funding provided; describes the plan of operation; describes the standards of eligibility for recipient agencies; and, describes the criteria to be used by recipient agencies for determining household eligibility. The plan must be submitted every 4 years.

& 251.9(e) & 251.10(d)(1), State Agency Matching Contribution and Use of Program Funds. On a quarterly basis, State distributing agencies must identify funds obligated and disbursed to cover administrative costs associated with the program at the State and local level. State distributing agencies identify their matching administrative contribution on Form FNS-667 "Report of TEFAP Administrative Costs." The Form FNS-667 is used in TEFAP in place of the Standard Form 269.

251.10(d)(2), Commodity Inventories. TEFAP State distributing agencies report semi-annually on their inventories of donated foods that exceed a 6-month supply using Form FNS-155 "Inventory Management Register". These burden hours are part of those outlined in this ICB for Form FNS-155 under 250.17(a).

251.10(e), Monitoring of Eligible Recipient Agencies (ERAs) and Distribution Sites. Each State distributing agency must perform an annual review of at least 25% of all recipient agencies they have signed an agreement with. The frequency of reviews of ERAs that have signed agreements

with other ERAs is one-tenth or 20, whichever is fewer. A report to the ERA of review findings is only required if deficiencies are noted.

Recordkeeping Requirements--Part 251 The Emergency Food Assistance Program (TEFAP)

251.2(c)(1) Federal-State Agreements. The State distributing agency must keep a copy of the agreement it has made with the Department to administer TEFAP.

251.2(c)(1) & 251.5(a), State Agency- Eligible Recipient Agency (ERA) Agreements. The State distributing agency must keep a copy of its agreement with eligible recipient agencies to administer TEFAP at the local level.

251.4(g), Documentation of Transfer of Section 32 Commodities. State distributing agencies document transfers of Section 32 commodities by ERAs or recipient agencies to other ERAs or recipient agencies.

251.4(j), Inter-Agency Agreements. State distributing agencies keep a copy of all agreements addressing the joint provision or transfer of commodities to ERAs that serve persons in contiguous areas crossing State borders.

251.4(l)(5), Claims and Adjustments. State distributing agencies maintain records and substantiating documents on all claims actions and adjustments including documentation of those cases in which no claim was asserted because of the minimal amount involved.

251.10(a)(1), Receipt, Disposal, and Inventory of Commodities. State distributing agencies and ERAs maintain records to document the receipt, disposal, and inventory of commodities received under Part 251. This requirement includes the maintenance of Forms FNS-155, FNS-52, FNS-7 and FNS-57.

251.10(a)(2), Funds Paid to ERAs for Storage and Distribution. State distributing agencies maintain records to document the amount of funds paid to ERAs for the actual storage and distribution costs incurred by them. State distributing agencies must ensure that ERAs maintain the required records.

251.10(a)(3), Eligibility Determination and Collection of Participating Household Information. Each distribution site must collect and maintain records of each household receiving commodities for home consumption. The records must contain: the name of the household member receiving the commodities; the address of the household; the number of persons in the household; and, the basis for determining that the household is eligible for commodities.

Reporting Requirements
Part 253--Food Distribution Program on Indian Reservations (FDPIR) and
Part 254-- Food Distribution Program for Indian Households in Oklahoma (FDPIHO)

Part 253 contains a general provision under Section 253.5(h) requiring that the State agencies keep records and submit reports and other information related to the Food Distribution Program on Indian Reservations as required by FNS. All of the ICB reporting requirements in Part 253 also apply to Part 254 (Indian Households in Oklahoma). The reporting requirements as follows:

253.5(a) & 254.3(a), Plan of Operation. The Indian Tribal Organization (ITO) or State agency submits a plan of operation to the FNS Regional Office for approval. The plan describes: the means by which the ITO or State agency will provide for the storage and distribution of commodities; the method of determining household eligibility; a description of survey instruments to determine commodity preferences of households; and, other steps taken to assure that the program will be administered in an efficient manner. Plans of operation are ongoing and amended as necessary.

253.7 & 254.3(a), Certification of Households to Participate. Households complete an application to participate in the program. The State agency or ITO reviews the application to determine household eligibility. Participating households report changes in household circumstances as they occur.

253.3(c), The Prime Vendor Pilot Project Evaluation. Twenty three reporting burden hours are associated with this project which was implemented to test methods of streamlining commodity ordering and delivery to Indian Tribal Organizations (ITOs) participating in FDPIR in the Midwest Region. Results have been obtained and FNS plans to eliminate the burden hours associated with this Pilot Project in a future submission.

253.8(b) & 254.3(a), Commodity Inventories. The ITO or State agency, in coordination with the FNS Regional Office, tracks commodity inventories at storage facilities, utilizing Form FNS-152 “Monthly Distribution of Donated Foods to Family Units.” This form is also used to report monthly participation of households.

253.8(f) & 254.3(a), Damaged or Out-of-Condition Commodities. Damaged and out-of-condition commodities are reported to the FNS Regional Office utilizing Form FNS-57. These commodities may be replaced after the conditions set forth in Section 250.13(g) are met.

253.9(c) & 254.3(a), Application for Funds to Administer FDPIR. State agencies and ITOs complete an application for funds to administer the program, utilizing Forms SF-424 and SF-424A “Application for Federal Assistance, and Budget Information.”

Recordkeeping Requirements
Part 253--Food Distribution Program on Indian Reservations (FDPIR) and
Part 254-- Food Distribution Program for Indian Households in Oklahoma (FDPIHO)

253.5(h) & 254.3(a), Records and Reports. Records of required information collections are maintained for a period of 3 years including certifications, applications, and documentation of the granting or denial of household eligibility.

253.5(i) & 254.3(a), Monitoring and Reviews of Program Operations. The ITO or State agency must review program operations annually, document deficiencies, and implement corrective action.

253.5(j) & 254.3(a), Investigations and Complaints. The ITO or State agency must keep a record of investigations and actions taken in response to complaints received relating to the handling, distribution, receipt, or use of commodities.

253.7(h) & 254.3(a), Fair Hearings. Records of fair hearings affecting household eligibility for commodities must be maintained.

253.11(b) & 254.3(a), Management of Administrative Funds. Records are kept to account for all administrative funds received from the Department.

Standard Forms Used in USDA's Commodity Programs:

In addition to the Agency-developed forms above, FNS also uses OMB Standard Forms SF-269 and SF-424 in the commodity programs. The burden hours associated with the activities reported on these forms are cleared in other OMB packets and are not included in the total burden hours listed in this statement. However, at OMB's request, a description of the forms is listed below:

247.13(b) & 247.18(a), Receipt and Disbursement of Administrative Funds. State agencies submit Form SF-269, Financial Status Report, on a monthly basis to report disposition of administrative funds, and also at the close of the fiscal year to report cumulative expenditures.

253.4(d), Application by an Indian Tribal Organization (ITO) or State agency. The ITO wishing to administer FDPIR on one or more Indian reservations completes an application, utilizing Form SF-424 "Application for Federal Assistance," and submits it to the FNS Regional Office, along with pertinent information. The application includes projected administrative costs for the program, of which 75 percent may be met by Federal grant. Applications are completed annually using Form SF-424.

253.9(h)(2), Accounting for Funds Received. ITOs or State agencies receiving funds through a Letter of Credit submit to the FNS Regional Office quarterly reports, utilizing Form SF-269 "Financial Status Report," to document the use of such funds.

A3. Describe whether and to what extent the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques.

In compliance with the Government Paperwork Elimination Act, FNS is in the process of converting all hard copy forms to electronic submissions; however, none have been completed to date. Consequently, the Agency does not require States agencies to integrate advanced information technology into their management information systems, but does encourage them to do so. FNS expects that much of the data currently collected on hard copy forms will soon be computer generated.

Within the past few years, FNS developed a web-based commodity ordering system called the Electronic Commodity Ordering System (ECOS). Use of the system is growing. As of FY 2005 all State agencies that provide commodities to schools and elderly nutrition programs were either using ECOS, or electronic systems that are compatible with ECOS. Some State agencies that administer the Emergency Food Assistance Program and the Commodity Supplemental Food Program are also using ECOS. The number of local agencies using ECOS also continues to grow. Since ECOS is a paperless system, it has reduced the program reporting burden for States.

A4. Describe efforts to identify duplication.

Information collected in Food Distribution Division forms is relevant to FDD programs only. It is not collected by other divisions within the Food Nutrition and Consumer Service or by other agencies within the Department of Agriculture.

A5. Impacts on small businesses or other small entities.

There is no impact on these entities.

A6. Consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The principal consequences of less frequent collection would be the loss of management control. The data relates to statutory and regulatory terms and conditions of the grant. Its collection assists the Agency in being a good steward of Federal funds and in detecting and correcting problems that result from a State agency's failure to satisfy statutory and regulatory requirements.

A7. Circumstances that would cause an information collection to be conducted in a manner that is inconsistent with 5 CFR 1320.6.

Forms FNS-52, Food Requisition; FNS-53, Multi-Food Requisition; FNS-152, Monthly Distribution of Donated Foods to Family Units; and FNS-153, Monthly Report of the Commodity Supplemental Food Program and Quarterly Administrative Financial Status Report,

are collected monthly to ensure efficient management of the Food Distribution programs. Timely ordering, receipt, inventory control, and accounting of commodities and funds are necessary to ensure the programs continue operating and the funds are spent during the appropriate time periods.

A8. Provide a copy and identify the date and page number of publication in the Federal Register of the agency's proposed rule.

Attached is the Proposed Rule entitled “Management of Donated Foods in Child Nutrition Programs, the Nutrition Services Incentive Program, and Charitable Institutions” (RIN 0584-AD45).

(a) Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection.

Persons outside the agency have the opportunity to comment through the public comment period whenever a regulation is proposed.

(b) Consultation with representatives of those from whom information is to be obtained.

State and local agencies may make recommendations through: (1) a public comment period for any revision of regulations; (2) participating in meetings of Regional, State, and local public and private organizations involved in various areas of commodity distribution; and, (3) consultation with the Education Information Advisory Committee (EIAC), one of several committees of the Council of Chief State School Officers. One of EIAC's subcommittees, comprised of State and local program directors, is responsible for making recommendations on reducing the paperwork burden for nutrition assistance programs.

A9. Explain any decisions to provide any payment or gift to respondents.

Respondents are not paid or provided with gifts.

A10. Assurances of confidentiality provided to respondents.

The confidentiality of applicants and recipients of Food Distribution Programs is maintained by not divulging names, addresses, or telephone numbers, or any other information to the public, except as required by the Freedom of Information Act, or through appropriate legal procedures.

A11. Justification for any questions of a sensitive nature.

There are no sensitive questions involved in this information collection.

A12. Estimates of the hour burden of the collection of information.

(a) Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

Respondents - 370,111

Average Number of Responses Per Respondent - 4.29

Total Annual Responses – 1,588,778

Annual hour burden - 1,070,452

The number of hours for responding to each reporting requirement were estimated based on the following: (1.) An analysis of each provision or reporting requirement to determine the steps involved in completing the task, (2.) An evaluation of existing information from reviews, etc.; and, (3.) A survey at various times of a limited number of our cooperative agencies involved in completing each reporting requirement.

The number of responses prepared annually was multiplied by the estimated number of man-hours required for completion of each report. (See attached spreadsheet.)

(b) Provide separate hour burden estimates for each form and aggregate the hour burdens in item 13 of OMB Form 83-1.

See attached spreadsheet entitled “FNS Food Distribution Programs Burden Hour Estimate.”

(c) Provide estimates of annualized cost to respondents for the hour burdens for collections of information.

At \$11.00 per hour, we estimate the total cost to respondents to be 1,070,452 hours x \$11.00 = \$11,774,972 per year for reporting and recordkeeping combined for all Food Distribution Programs.

A13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.

(a)-(b) Total capital and start-up cost component and operation, maintenance, and purchases of services component.

There are no capital, start-up, or annual maintenance costs to respondents of the food distribution programs.

A14. Provide estimates of annualized cost to the Federal government.

The Federal cost equals the cost of Federal worker time (headquarters and regional) in providing guidance and assistance in the collection and submittal of information for all the Food Distribution Programs, and in reviewing and analyzing the collected information.

Headquarters Staff	2.00 staff years
Regional Staff	<u>5.00 staff years</u>
Total Staff Years	7.00 staff years

7 staff years or 14,560 hours at \$22.00 per hour =	\$320,320
Printing of Forms (\$30.00 per thousand copies):	\$750
Distribution of Forms:	\$175
Warehousing of Forms:	<u>\$600</u>
Total Federal Cost:	\$321,845

A15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

Current OMB Inventory: 1,085,814

Annual Hours Requested: 1,070,452

Changes included in the new inventory:

Only selected parts of Section 250 of the Food Distribution Program regulations are affected by this submission. The current recordkeeping and reporting burdens pertaining to the Food Distribution Programs under Parts 240, 247, 251, 253 and 254 are not affected.

The revision in burden hours under Section 250 reflects the changes created by the Final Rule “*Management of Donated Foods in Child Nutrition Programs, the Nutrition Services Incentive Program, and Charitable Institutions.*” A reduction of 15,684 hours is due to this program change.

However, since our last approved submission, we converted our chart of burden hours into an Excel spreadsheet to provide for automatic, accurate calculations, rather than the calculations with a calculator that were used when the chart was in a Word table. During this process, various minor math errors were discovered, which, as of our last approved submission, had resulted in a cumulative 322 additional burden hours. Therefore the above reduction of 15,684 hours due to the Final Rule is offset to a very small extent, resulting in our total request of a 15,362 reduction in hours.

A16. For collection of information whose results will be published, outline plans for

tabulation, and publication.

This submission does not involve the collection of information through statistical methods. Also, there are no plans to publish any of the information collected.

A17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

It would not be cost effective to display the expiration date for OMB approval on reports forms. Report forms are seldom changed, and having the expiration date on the forms would result in considerable paper waste when the old forms would become obsolete due solely to the expiration date. The agency would also incur the cost in reprinting the forms just to reflect the new expiration date.

A18. Explain each exception to the certification statement identified in Item 19.

No exceptions are made to the certification statement.