

**NATIONAL SCHOOL LUNCH PROGRAM: DIRECT CERTIFICATION
CONTINUOUS IMPROVEMENT PLANS REQUIRED BY
THE HEALTHY, HUNGER-FREE KIDS ACT OF 2010 (0584-AE10)**

7 CFR PART 245 AND 272

OMB CLEARANCE NUMBER 0584-NEW

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Note: For this new information collection, no supporting statement was provided for the proposed rule, which was published on January 31, 2012. At the time of publication, competing Agency priorities prevented the completion of a supporting statement for the proposed rule. The attached supporting statement is being provided with the Final Rule and encompasses all elements of the information collection associated with the rule 0584-AE10.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information).

This is a new information collection for annually reporting data to FNS for calculating direct certification rates. A new form has been created titled *State Agency Direct Certification Rate Data Element Report (FNS-834)*, which is an interagency form that would be used to report data to FNS by both the SNAP State agency and the State agency administering the National School Lunch Program (NSLP). The data reported on this new form will be used to calculate State agency direct certification rates. Due to rulemaking, in no specific format, State agencies that do not meet direct certification benchmarks must submit a continuous improvement plan. FNS will merge the burden hours for State agencies that must submit a continuous improvement plan into OMB control number 0584-0026, titled Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools, Expiration Date 03/31/2013. FNS intends for the information collection associated with the new form FNS-834 to remain under a new OMB control number.

The final rule, published February 21, 2013 in the Federal Register, incorporates into 7 CFR Part 245 provisions from Section 101(b) of the Healthy, Hunger-Free Kids Act of 2010 (HHFKA),

Public Law 111-296 (<http://www.gpo.gov/fdsys/pkg/PLAW-111publ296/pdf/PLAW-111publ296.pdf>), to conform to requirements regarding direct certification in schools.

The Richard B. Russell National School Lunch Act (NSLA), as amended, authorizes the NSLP. Section 101(b) of the HHFKA, amended section 9(b)(4) of the NSLA (42 U.S.C. 1758(b)(4)) to define required percentage benchmarks for directly certifying children who are members of households receiving assistance under Supplemental Nutrition Assistance Program (SNAP) and further amended the NSLA to require, beginning with SY 2011-2012, that each State agency that does not meet the benchmark for a particular school year develop, submit, and implement a continuous improvement plan (CIP) to fully meet the benchmarks and to improve direct certification for the following school year.

2. Indicate how, by whom, 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.

The purpose of this data collection associated with rulemaking is to comply with the requirements of Section 101(b) of Public Law 111-296. The final rule, “National School Lunch Program: Direct Certification Continuous Improvement Plans Required by the Healthy, Hunger-Free Kids Act of 2010,” makes revisions designed to encourage State agencies to improve direct certification efforts with SNAP and to provide for the collection of data elements needed to compute each State’s direct certification performance rate to compare with the new benchmarks. The provisions require State agencies to meet certain direct certification performance benchmarks and to develop and implement continuous improvement plans if they fail to do so.

State agencies are to submit data to FNS by December 1 each year using a new form titled *State Agency Direct Certification Rate Data Element Report (FNS-834)* which can be used by both the SNAP State agency and the State agency administering the NSLP.

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 of 2002, 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. The *State Agency Direct Certification Rate Data Element Report (FNS-834)* will be submitted via email to FNS.

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

There is no similar data collection available. Every effort has been made to avoid duplication. FNS has reviewed USDA reporting requirements, state administrative agency reporting requirements, and special studies by other government and private agencies. FNS solely monitors and administers the Child Nutrition Programs. The new data required for this information collection is not currently reported by State agencies on a regular basis in a standardized form. However, the first data element is collected on the FNS-742, *Verification Summary Report*, and the burden for that data is

captured in the information collection for OMB control number 0584-0026 titled Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools, Expiration Date 03/31/2013. That data collected in the FNS-742 will be used in the direct certification rate calculation and will not be collected again to avoid duplication. The other data elements are being added as new data elements for information collection and are needed for the revised method of calculating the State agency's direct certification rate. Using these new data elements would allow for a timelier and more straightforward, accurate, and transparent methodology.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Information being requested or required has been held to the minimum required for the intended use. Although smaller SAs will be involved in this data collection effort, they deliver the same program benefits and perform the same function as any other SA. Thus, they report the same kinds of information. FNS estimates that approximately three or fewer of the 54 SAs are considered small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information is collected annually for the purpose of administering an on-going program. If this information is collected less frequently, inaccurate eligibility information could cause inaccurate direct certification rate calculations for State agencies. In addition, the data is used for statistical studies and research regarding program trends to determine appropriate management of the

program. FNS is also required to file an annual direct certification status report to Congress which uses the annual data submitted through 7 CFR Part 245.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner that is inconsistent with 5 CFR 1320.5:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no circumstances that will cause the information collection to be inconsistent with the guidelines of 5 CFR 1320.5

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.

A 60-day Federal Register Notice was embedded in the Proposed Rule, 7 CFR Parts 245 and 272, "National School Lunch Program: Direct Certification Continuous Improvement Plans Required by the Healthy, Hunger-Free Kids Act of 2010," published January 31, 2012, in the Federal Register, Vol. 77, No. 20, p. 4688-4698. The comment period for the information collection ended on April 2, 2012.

FNS received 26 comments on the proposed rule with a few commenting on information collection. These comments received were responded to in the final rule. Most comments were supportive of the reporting methodology and did not find the reporting of these data elements to be burdensome for States agencies and LEAs. Some State agencies reported having significant but unquantifiable numbers of dropouts, homeschoolers, or children in non-public or charter schools which may not participate in the NSLP resulting in data element #2 being too high causing their direct certification rate to appear lower. FNS acknowledged that the best scenario would be to obtain the count of children who not only live in households receiving SNAP

benefits but also attend schools that participate in the NSLP. This data, however, is not available. In order to address this issue, FNS added a check box to the new form FNS-834 to indicate special circumstances that may affect the direct certification rate calculation. Some State agencies also commented they are not able to run the match for special provision schools. FNS is providing an alternative phase-in procedure. FNS is also allowing CEO schools to use the results of the CEO match with SNAP in lieu of running a match again for this data element requirement in or near October. FNS also responded to a concern that 60 days may not be enough time for a State agency to formulate and submit a CIP by setting the due date for submitting the CIP to FNS at 90 days after notification, instead of the 60 days that was proposed.

- **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 form, and on the data elements to be recorded, disclosed, or reported.**

When FNS revises an information collection package, the information is posted on the Agency Web page for review and comment by Regional Offices, SAs, community groups, and the public. FNS also consults with Regional Offices regarding any proposed changes as the result of legislative, regulatory or administrative changes. Regional offices are in contact with State agencies which provide feedback on processes and procedures for the information collection.

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 provided to respondents.

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

The Department complies with the Privacy Act of 1974. No confidential information is associated with the burden related to the analysis, implementation, record maintenance and reporting of direct certification data by the State agency to FNS.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

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

12. Provide estimates of the hour burden of the information collection. The statement should include:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-1.**

FNS is requesting an estimated increase of 63 hours for reporting and recordkeeping for the potential additional time for some State agencies to submit and maintain records for a continuous

improvement plan. In addition, FNS is requesting 53 burden hours for reporting the new information collection to calculate the State agency direct certification rate on form FNS-834.

The following table reflects burden associated with the information collection requirements.

**ESTIMATED ANNUAL BURDEN FOR 0584-NEW,
DIRECT CERTIFICATION REQUIREMENTS, 7 CFR 245**

Reporting (State Agencies)						
	Section	Estimated Number of Respondents	Frequency of Response	Average Annual Responses	Average Burden per Response	Annual Burden Hours
State agencies that fail to meet the direct certification benchmark must develop and submit a <i>Continuous Improvement Plan</i> within 60 days of notification.	7 CFR 245.12 (e) and (g)	18	1	18	3	54
New Reporting Burden		18	1	18	3	54

Recordkeeping (State Agencies)						
	Section	Estimated Number of Respondents	Frequency of Response	Average Annual Responses	Average Burden per Response	Annual Burden Hours
State agencies that fail to meet the direct certification benchmark must maintain a <i>Continuous Improvement Plan</i> .	7 CFR 245.12 (e) and (g)	18	1	18	0.5	9
Recordkeepers				0*		
New Recordkeeping Burden		18	1	18	0.5	9

*The 18 recordkeepers are a subset of the recordkeeper responses currently included in 0584-0026.

SUMMARY OF BURDEN (OMB #0584-NEW)	
TOTAL NO. RESPONDENTS	18
AVERAGE NO. RESPONSES PER RESPONDENT	2
TOTAL ANNUAL RESPONSES	36
AVERAGE HOURS PER RESPONSE	1.75

TOTAL BURDEN HOURS FOR NEW RULE	63
CURRENT OMB INVENTORY	0
DIFFERENCE (NEW BURDEN REQUESTED WITH NEW RULE)	63

**ESTIMATED ANNUAL BURDEN FOR 0584-NEW
DIRECT CERTIFICATION RULE DATA ELEMENT REPORT, FNS-834**

Reporting (State Agencies)						
	Section	Estimated Number of Respondents	Frequency of Response	Average Annual Responses	Average Burden per Response	Annual Burden Hours
NSLP State agencies must annually report data to FNS for calculating direct certification rates.	7 CFR 245.12(c)	54	1	54	0.5	27
SNAP State agencies must annually report data to FNS for calculating direct certification rates.	7 CFR 272.8(a)(5)	52	1	52	0.5	26
Reporting Burden for New Rule		106	1	106	0.5	53

SUMMARY OF BURDEN (OMB #0584-NEW) FNS-834	
TOTAL NO. RESPONDENTS	106
AVERAGE NO. RESPONSES PER RESPONDENT	1
TOTAL ANNUAL RESPONSES	106
AVERAGE HOURS PER RESPONSE	.5
TOTAL BURDEN HOURS FOR FNS-834 WITH NEW RULE	53
CURRENT OMB INVENTORY FOR FNS-834	0
DIFFERENCE (NEW BURDEN REQUESTED WITH NEW RULE)	53

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

The estimate of respondent cost is based on the burden estimates and utilizes the U.S. Department of Labor, Bureau of Labor Statistics, May 2011 National Occupational and Wage Estimates Statistics, Occupational Group 25-0000 (<http://www.bls.gov/bls/wages.htm>). The hourly mean wage (for education-related occupations) for functions performed by State agency staff is estimated at \$24.46 per staff hour.

TOTAL COST TO THE PUBLIC = 116 hours X \$24.46 per hour = \$2,837

13. Provide estimates of the total annual cost burden to respondents or recordkeepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components:

- (a) a total capital and start-up cost component annualized over its expected useful life; and**
- (b) a total operation and maintenance and purchase of services component.**

There is no start-up or annual maintenance costs for this collection of information.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

It is estimated that federal employees receiving an average General Schedule (GS) grade 12 step 6 wage based on the Washington DC-Northern Virginia locality area take approximately 12 hours to analyze data received from SAs to determine the direct certification rates for each SA and identify

which SAs need to submit Continuous Improvement Plans and approximately 18 hours to review those plans: $\$42.00 \times 30 = \1260.00 (estimated annualized cost to federal government)

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

This is a new information collection. This information collection will increase the OMB inventory by 116 burden hours for reporting and recordkeeping due to program changes to comply with the statutory requirements in Section 101(b) of Public Law 111-296. Of the 116 burden hours requested, 63 hours will be merged into OMB Control Number 0584-0026; 53 burden hours will remain in the new collection upon approval.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

This collection does not entail planned statistical use and there are no plans to publish the results of this collection for statistical analyses.

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.

We are not seeking approval concerning the display of the expiration date.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act."

There are no exceptions to the certification statement.