

NATIONAL SCHOOL LUNCH PROGRAM

OMB CLEARANCE NUMBER 0584-New

Certification of Compliance with Meal Requirements for the National School Lunch

Program under the Healthy, Hunger-Free Kids Act of 2010

RIN 0584-AE15

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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 collection, though once OMB approval is complete the Food and Nutrition Service (FNS) will merge the burden hours with OMB control number 0584-0006 titled, “7 CFR Part 210 National School Lunch Program”, expiration date 05/31/2012. The Healthy, Hunger-Free Kids Act of 2010 (HHFKA) made significant changes to the National School Lunch Act (NSLA). Section 201 of the HHFKA amended Section 4(b) of the NSLA, 42 USC 1753(b), by requiring the Secretary to update the meal patterns and nutrition standards for the National School Lunch Program (NSLP) and School Breakfast Program (SBP) and to issue regulations requiring all School Food Authorities (SFA) to comply with the updated meal patterns and nutrition standards. In addition, section 201 authorized the provision of performance-based cash assistance for each lunch served in SFAs certified to be in compliance with the updated meal patterns and nutrition standards. This rule requires State agencies to certify whether participating SFAs are in compliance with meal requirements and, therefore, eligible to receive performance-based reimbursement for each reimbursable lunch served (an additional six cents per lunch, adjusted annually, available beginning October 1, 2012). This rule also requires States to disburse performance-based cash assistance to certified SFAs, and withhold the performance-based reimbursement if an SFA is found to be out of compliance with meal pattern or nutrition

standards during a subsequent administrative review. The intended effect of this rule is to incentivize SFAs to implement new meal pattern requirements to increase the healthfulness of meals served to school children.

This new information collection request incorporates the information collection burden associated with requirements contained in the FNS Interim Rule, titled 7 CFR Part 210 “Certification of Compliance With Meal Requirements for the National School Lunch Program Under the Healthy Hunger-Free Kids Act of 2010,” published April 27, 2012, Federal Register, Vol. 77, No. 82, p. 25024. The “Estimate of the Collection of Information Burden” describes program changes and adjustments in detail, as well as describing in detail all the information collections set forth under OMB #0584-NEW and will be merged with 0584-0006 once approved by OMB. In addition, we will publish another notice in the Federal Register announcing OMB’s decision.

The information collection and reporting burden included in this rule is necessary to ensure State agency compliance with legislative and regulatory requirements contained in HHFKA.

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 the HHFKA Public Law 111-296. The rule offers performance based reimbursement to SFAs who are certified as compliant with meal pattern and nutrition standards. As a part of ensuring compliance, SFAs are required to submit certification

materials (menus, menu worksheet, nutrient analysis of calories and saturated fat for each menu (no specific format determined at this time) and annual attestation of compliance to State agencies. State agencies are required to review certification materials submitted by SFAs to determine compliance. State agencies are also required to submit a quarterly report (specific format is not determined) to FNS regarding a list of certified SFAs so that FNS can disburse reimbursement. FNS would not be able to properly monitor State agency and SFA compliance without this data collection.

- 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, 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. There is currently no existing electronic method for all State agencies to submit a quarterly report indicating the SFA certification list to FNS. FNS is considering the use of information technology in the future to reduce this burden.

- 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 requirements. FNS solely administers and monitors the Child Nutrition Programs.

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 SFAs will be involved in this data collection effort, they deliver the same program benefits and perform the same function as any other SFA. Thus, they maintain the same kinds of information. FNS estimates that 1-3% of the respondents 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 for the purpose of ensuring compliance related to meal pattern and nutrition standard requirements. If the SFAs comply with requirements, they are deemed eligible to receive performance-based cash assistance (additional 6 cents per each reimbursable lunch). Collecting data less frequently would not allow FNS to properly monitor program compliance and determine eligibility for the additional reimbursement. If the information collection is not conducted or conducted less frequently FNS would not be

able to ensure compliance, allocate and reimburse claims in a timely manner.

7. 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 other special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 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 is embedded in the Interim Rule, 7 CFR Part 210

“Certification of Compliance With Meal Requirements for the National School Lunch Program

Under the Healthy Hunger-Free Kids Act of 2010,” published April 27, 2012, Federal

Register, Vol. 77, No. 82, p. 25024. The comment period will end June 26, 2012 and

comments will be responded to in the final rule.

- **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.**

FNS 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 FNS 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 was 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 this information collection.

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 information collection.

12. Provide estimates of the hour burden of the collection of information. 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-I.**

The estimated average number of respondents for this rule is 20,914 (State agencies and school food authorities). The following table reflects burden associated with the information collection requirements. FNS estimated the burden hours for reporting and recordkeeping for the increase in burden time resulting from the certification requirements. The reporting tasks for State agencies include: review submitted certification materials and notify SFAs of the certification determination and submit a quarterly report to FNS detailing the disbursement of performance-based reimbursement to SFAs. The reporting tasks for SFAs include: submit certification materials to State agencies to support receipt of performance-based reimbursement and an annual attestation of compliance with the meal pattern and nutrition requirements. The recordkeeping tasks for SFAs include: maintaining documentation to support performance-based reimbursement documentation related to the attestation of compliance submitted to State agencies as an attachment to the written agreement required in 210.9(b).

ESTIMATED ANNUAL BURDEN FOR 0584-NEW, CERTIFICATION OF COMPLIANCE WITH MEAL REQUIREMENTS FOR THE NATIONAL SCHOOL LUNCH PROGRAM

Reporting						
	Section	Estimated Number of Respondents	Frequency of Response	Average Annual Responses	Average Burden per response	Annual Burden Hours
SAs review submitted certification materials and notify SFAs of the certification determination.	210.7(d)(1)(iv)	56	372	20,832	2	41,664
SAs submit a quarterly report to FNS detailing the disbursement of performance-based reimbursement to SFAs.	210.5(d)(2)(ii)	56	4	224	1.0	224
Total SA Reporting		56	---	21,056	---	41,888
SFAs must submit certification materials to State agency to support receipt of performance based reimbursement.	210.7(d)(2)	20,858	1	20,858	4.5	93,861
SFAs must submit an annual attestation of compliance with meal pattern and	210.7(d)(2)	20,858	1	20,858	0.25	5,215

nutrition requirements.						
Total SFA Reporting		20,858	---	41,716	---	99,076
Total Reporting for interim rule		20,914	---	62,772	---	140,964
Recordkeeping						
	Section	Estimated Number of Respondents	Frequency of Response	Average Annual Responses	Average Burden per Response	Annual Burden Hours
SFAs maintain documentation to support performance-based reimbursement.	210.7(d) (2)	20,858	2	41,716	0.25	10,429
SFAs maintain documentation related to the attestation of compliance submitted to the SA as an attachment to the written agreement required in 210.9(b).	210.7(d) (2)	20,858	1	20,858	0.25	5,215
Total Recordkeeping for interim rule		20,858	---	83,432	---	15,644

SUMMARY OF BURDEN (OMB #0584-NEW)	
TOTAL NO. RESPONDENTS	20,914
AVERAGE NO. RESPONSES PER RESPONDENT	7.00
TOTAL ANNUAL RESPONSES	146,204
AVERAGE HOURS PER RESPONSE	1.071
BURDEN REQUESTED WITH 6 cents RULE)	156,608

- **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 2010 National Occupational and Wage 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 and local education agency staff are estimated at \$24.25 per staff hour.

TOTAL COST TO PUBLIC = 156,608 hours X \$24.25 per hour = \$3,797,744.00

- 13. Provide estimates of the total annual cost burden to respondents or record keepers 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, operating 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 24 hours (approximately 6 hours quarterly) to analyze quarterly reports related to certification of compliance with meal pattern and nutrition requirements for the NSLP: $\$41.85 \times 24 = \$1,004.40$.

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 collection. As a result of program changes, this rulemaking will add 156,608 burden hours for reporting (140,964) and recordkeeping (15,644) in the OMB information collection inventory.

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

This collection does not employ statistical methods and there are no plans to publish the results of this collection for statistical use.

- 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.