

**INDEPENDENT REVIEW OF APPLICATIONS REQUIRED BY THE HEALTHY,
HUNGER-FREE KIDS ACT OF 2010**

7 CFR PARTS 210 AND 245

RIN 0584-AE17

OMB CLEARANCE NUMBER 0584-NEW

Susan Weeks, Program Analyst

Food and Nutrition Service, USDA

Child Nutrition Division

Program Analysis and Monitoring Branch

Special Nutrition Programs

3101 Park Center Drive

Alexandria, VA 22302

PH: 703-305-1506

susan.weeks@fns.usda.gov

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 a final rule titled “Independent Review of Applications Required By the Healthy, Hunger-Free Kids Act of 2010.” OMB filed a comment, under OMB No. 0584-0573, for the Information Collection Request (ICR) for the proposed rule that was published September 13, 2012, Federal Register, Vol. 77, No. 178, p. 56565- 56571. The final rule incorporates into 7 CFR Parts 210 and 245 provisions from section 304 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>).

Section 304 of the HHFKA amended section 22 of the Richard B. Russell National School Lunch Act (NSLA), which authorizes the National School Lunch Program (NSLP). The provisions in section 304 of the HHFKA concern the requirements for identifying local educational agencies (LEAs) participating in the National School Lunch Program that demonstrate high levels of, or a high risk for, administrative error associated with certification, verification, and other administrative processes to have an independent review of the initial eligibility determinations for free and reduced price school meals for accuracy prior to notifying households of eligibility or ineligibility. This final rule addresses requirements for both State agencies and LEAs, including criteria for identifying LEAs that must conduct a second review of applications; requirements for the second review of applications process, including timeframes and duration of second reviews; and requirements for reporting review results. This final rule creates a new

section 7 CFR §245.11 entitled “Second review of applications” and would redesignate the current §245.11 through §245.14 as §245.12 through §245.15, respectively.

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 information collection associated with rulemaking is to comply with the requirements of Section 304 of Public Law 111-296 for State agencies and local educational agencies. The final rule, “Independent Review of Applications Required By the Healthy, Hunger-Free Kids Act of 2010,” incorporates requirements intended to reduce administrative errors in eligibility determinations for free and reduced price school meals made during the application review process. State agencies are required to identify certain local educational agencies participating in the National School Lunch Program that are required to conduct an independent review of initial eligibility determinations for free and reduced price school meals.

The new requirements necessitate the submission of a report to the State agency from each local educational agency that is required by the State agency to conduct a second review of eligibility determinations based on demonstrating high levels of, or a high risk for, administrative error associated with the certification process. This report must describe the results of the second review of applications, including the number of reviewed applications for which the eligibility determinations changed and a summary of the types of changes made. State agencies are required to report this information to the USDA using a new form titled State Agency Second

Review of Applications Report (FNS-742a). USDA must publish annually the results of the reviews of initial eligibility determinations by State, number, percentage, and type of error.

Upon approval of the final rule, FNS will merge the reporting burden hours for State agencies and local educational agencies participating in the National School Lunch Program into OMB control number #0584-0026 titled Determining Eligibility for Free and Reduced Price Meals (7 CFR Part 245), expiration date 04/30/2016.

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. All State agencies participating in the National School Lunch Program maintain a website to communicate electronically and report electronically to FNS. The FNS-742a will be available electronically at <https://fprs.fns.usda.gov>.

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.

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 reporting requirements will be reported in a new form (FNS-742a) which will allow the State agency and the Department to monitor the potential decrease in administrative error associated with certification created by the second review of applications requirement.

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 state agencies and local educational agencies will be involved in this data collection effort, they deliver the same program benefits and perform the same function as any other state agency and local educational agency. Thus, they report the same kinds of information. FNS estimates that approximately 1%, or approximately 41, of the 56 State agencies and estimated affected 4,000 local educational agencies 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 collected annually is required only for local educational agencies identified by the State agency that must conduct a second review of applications. If this information is not collected or is collected less frequently, the identification of local educational agencies participating in the school meals programs that require a second review of applications and the results of those reviews would be unavailable. In addition, the data is used for statistical studies and research regarding program trends to determine appropriate management of the program.

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 titled "Independent Review of Applications As Required By the Healthy, Hunger-Free Kids Act of 2010", published September 13, 2012, Federal Register, Vol. 77, No. 178, p. 56565-56571. The comment period for the information collection ended on November 13, 2012.

FNS received 65 comments total on the proposed rule. The final rule includes a discussion of the public comments and FNS response. Regarding information collection, one comment acknowledged that there will be additional reporting and recordkeeping, but inquired if the independent review was necessary considering that SAs are now required to review LEAs more frequently and also conduct additional administrative or follow-up reviews for LEAs identified to be at risk. FNS responded that since the publication of the proposed rule, it had updated the administrative review process, as required by section 207 of the HHFKA. The updated administrative review makes a number of changes, including eliminating the requirement to conduct a follow-up review and the corresponding follow-up review thresholds. FNS will issue a proposed rule to address the changes in the administrative review process. Three comments stated that the estimates for reporting and recordkeeping burden were low. FNS agrees that LEAs will need to track how many applications were approved in error compared to total applications and the reasons for the errors and that SAs will need to collect and report the data collected from LEAs to FNS. FNS also acknowledges that the independent second review of all applications has administrative burden for LEAs that are at risk for eligibility determination errors. However, reviewing applications as mandated by this rule is considered a normal (usual and customary) operating task. Therefore, training and technical assistance is necessary to ensure that LEAs accurately determine eligibility for free and reduced price school meals, minimizing administrative burden associated with a second review of applications.

- **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-I.**

FNS is requesting an estimated increase of 378 hours for reporting the results of the second reviews conducted by local educational agencies. The following table reflects burden associated with the new information collection requirements.

**ESTIMATED ANNUAL BURDEN FOR 0584-0573,
INDEPENDENT REVIEW OF APPLICATIONS FOR FREE SCHOOL MEALS,
7 CFR PART 245**

Reporting (State agencies and Local educational agencies)						
	Section	Estimated Number of Respondents	Frequency of Response	Average Annual Responses	Average Burden per Response	Annual Burden Hours
State agencies must annually report the results of the second reviews conducted by LEAs each school year.	7 CFR 245.11(b)(2)	56	1	56	0.5	28

Local educational agencies must annually report the results of the second reviews conducted each school year.	7 CFR 245.11(c)(3)	1,400	1	1,400	0.25	350
Total Reporting Burden for New Rule		1,456	1	1,456	0.26	378

SUMMARY OF BURDEN (OMB #0584-0573) 7 CFR 245	
TOTAL NO. RESPONDENTS	1,456
AVERAGE NO. RESPONSES PER RESPONDENT	1
TOTAL ANNUAL RESPONSES	1,456
AVERAGE HOURS PER RESPONSE	0.26
TOTALNEW BURDEN REQUESTED WITH NEW RULE)	378*

* These 378 hours will be merged with OMB #0584-0026

- **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 2012 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 \$24.62 per staff hour.

TOTAL COST TO THE PUBLIC = 378 hours X \$24.62 per hour = \$9,306.

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 will spend approximately 40 hours in communication with State agencies (SA) regarding the results of second reviews reported on the FNS-742A: $\$42.00 \times 20 = \$1,680$ (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-I.

This is a new information collection associated with rulemaking for 0584-AE17, Independent Review of Applications Required by the Healthy, Hunger-Free Kids Act of 2010. This information collection will increase the OMB inventory by 378 burden hours for reporting and recordkeeping due to program changes to comply with the statutory requirements in Section 304 of Public Law 111-296.

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.