

NATIONAL SCHOOL LUNCH PROGRAM

OMB CLEARANCE NUMBER 0584-0006

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Note: For this information collection revision, which is associated with the final rule “Nutrition Standards in the National School Lunch and School Breakfast Programs (0584-AD59),” no information collection package was provided for the proposed or interim final rules, which were published on January 13, 2011 and June 17, 2011, respectively. At the time of publication, competing Agency priorities prevented the completion of an Information Collection Request package for the proposed and interim rules. This Information Collection Request package is being provided with the Final Rule and encompasses all elements of the information collection associated with the rule 0584-AD59.

- 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 revision to an existing collection, OMB control number 0584-0006 titled, “7 CFR Part 210 National School Lunch Program”, expiration date 08/31/2015. The Richard B. Russell National School Lunch Act (NSLA) in Section 9(a)(4), 42 U.S.C. 1758(a)(4), requires that school meals reflect the latest “Dietary Guidelines for Americans” (Dietary Guidelines). In addition, section 201 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>) amended Section 4(b) of the NSLA, 42 U.S.C. 1753(b), to require the Department of Agriculture (USDA) to issue regulations to update the meal patterns and nutrition standards

for school lunches and breakfasts based on the recommendations issued by the Food and Nutrition Board of the National Research Council of the National Academies of Science, part of the Institute of Medicine (IOM). On January 13, 2011, USDA published a proposed rule in the Federal Register (76 FR 2494) to update the meal patterns and nutrition standards for the National School Lunch Program (NSLP) and the School Breakfast Program (SBP) to align them with the 2005 Dietary Guidelines. The rule also increases the scope of State Agency administrative reviews of School Food Authorities by combining the current Coordinated Review Effort (CRE) with the requirements of the School Meals Initiative (SMI) reviews, and increases their frequency to once every three years rather than two reviews (one CRE and one SMI) every five years. On January 26, 2012, USDA published a final rule in the Federal Register (77 FR 4088) which amends the NSLP regulations (7 CFR Part210) to incorporate these provisions, with an effective date of July1, 2012.

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 increases the scope of State Agency (SA) administrative reviews of School Food Authorities (SFA) by combining the current Coordinated Review Effort (CRE) with the requirements of the School Meals Initiative (SMI) reviews, and increases their frequency to once every three years as required by the HHFKA. FNS would not be able to properly monitor SA 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 method for all SAs to utilize information collection resulting from an administrative review of a SFA. 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 administering an ongoing program. Collecting data less frequently would not allow FNS to properly monitor program compliance. This information collection allows a SA to identify findings of non-compliance with meal pattern requirements and allows the SFA to respond with the necessary corrective actions to ensure compliance.

- 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 notice was embedded in the Proposed Rule, “Nutrition Standards in the National School Lunch and School Breakfast Programs” published in the Federal Register at 76 FR 2494 on January 13, 2011. USDA received a total of 133,268 public comments during the comment period January 13 – April 13, 2011. Approximately three submissions expressed concern regarding the added burden the regulation may impart due to increased information collection and reporting requirements. A State Department of Education commented that the paperwork burden for increasing the number of weeks of lunch and breakfast menu analysis is underestimated. Several comments requested that USDA keep the current administrative review cycle (every 5 years) and maintain the requirement to analyze menus for one week only. In response to the comments received, the requirement to analyze the menus for two weeks was reduced to one week in the Final Rule. Burden calculations in this ICR for the Final Rule reflect this change.

- **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.**

FNS is requesting an estimated increase in burden hours for reporting and recordkeeping for the increase in burden time resulting from the increased number of administrative reviews conducted annually due to the change in frequency of the administrative review cycle and the associated documentation of corrective actions. The estimated average number of respondents for this rule is 7,040 (State agencies and school food authorities). The following table reflects burden associated with the information collection requirements.

Reporting						
	Section	Estimated Number of Respondents	Frequency of Response	Average Annual Responses	Average Burden per response	Annual Burden Hours
SA shall verify compliance with critical and general areas of review.	7 CFR 210.18(g) & 210.18(h)	57	1	57	33	1,881
SFA shall submit to SA documented corrective action, no later than 30 days from the deadline for completion, for violations of critical or general area identified on administrative follow-up review.	7 CFR 210.18(k)(2)	6,983	1	6,983	6	41,898
Total Reporting for final DGA rule		7,040		7,040	6.2186	43,779
Total Existing Reporting Burden for 0584-0006						954,207
Total Reporting Burden for 0584-0006 with final DGA rule						997,986

Recordkeeping						
	Section	Estimated Number of Respondents	Frequency of Response	Average Annual Responses	Average Burden per Response	Annual Burden Hours
SA establishes guidelines and approves School Food Authorities menu planning alternatives. (Burden removed)	7 CFR 210.10 (1)	0	0	0	0	(0) ^A
SA modifies menu planning alternatives or develops menu planning alternatives. (Burden removed)	7 CFR 210.10 (1)	0	0	0	0	(0) ^B
SA records document the details of all reviews and the degree of compliance with the critical and general areas of review. To include documented action on file for review by FNS.	7 CFR 210.18 (k), 210.18 (p), & 210.20 (b)(6)	57	93.23	5,314	2.0	10,628
SA documentation of fiscal action taken to disallow improper claims submitted by SFAs, as determined through claims	7 CFR 210.19 (c) & 210.18 (p)	57	139	7,923	0.50	3,962

processing, CRE reviews, and USDA audits. Contracts awarded by SFAs to FSMCs.	7 CFR 210.10(1)	0	0	0	0	(0) ^c
SFAs adopt menu planning alternatives, modify menu planning alternatives or develop menu planning alternatives and submit them to the State agency for approval at SFA level. (Burden removed)		6,983	1	6,983	6	41,898
SFA documentation of corrective action taken on program disclosed by review or audit.	7 CFR 210.18 (k)(2)					
Total Recordkeeping for final DGA rule		7,040		20,220	2.7936	56,487.72
Total Existing Recordkeeping Burden for 0584-0006						8,793,590
Total Recordkeeping Burden for 0584-0006 with final DGA rule						8,850,077
<p>A: As a result of this provision, 57 hours of record keeping burden would be removed, however, as it was not previously captured in an approved information collection, there is no impact to the information collection burden.</p> <p>B: This burden was previously removed from OMB#: 0584-0006, thus there is no impact to the information collection burden.</p> <p>C: As a result of this provision, 26,261 hours of record keeping burden would be removed, however, this burden was not previously captured in an approved information collection thus, there is no impact to the information collection burden.</p>						

SUMMARY OF DGA RULE BURDEN (Revision to OMB #0584-0006)	
TOTAL NO. RESPONDENTS	7,040
AVERAGE NO. RESPONSES PER RESPONDENT	3.87216
TOTAL ANNUAL RESPONSES	27,260
AVERAGE HOURS PER RESPONSE	3.678
DIFFERENCE (NEW BURDEN REQUESTED WITH FINAL RULE)	100,266.72

SUMMARY OF TOTAL BURDEN (#0584-0006)	
TOTAL NO. RESPONDENTS	122,661
AVERAGE NO. RESPONSES PER RESPONDENT	523.32
TOTAL ANNUAL RESPONSES	64,190,701.1
AVERAGE HOURS PER RESPONSE	1
DIFFERENCE (NEW BURDEN REQUESTED WITH FINAL RULE)	.15
	9,848,063.66

- 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 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 \$24.46 per staff hour.

TOTAL COST TO PUBLIC = 100,267 hours X \$24.46 per hour = \$2,452,530.82

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 60 hours (15 SAs x 4 hours each) to analyze administrative review data related to cycle frequency and meal pattern compliance during management evaluations of SAs and approximately 60 hours for this task conducted by Regional Office and National Office staff participating on administrative reviews of SFAs (60 reviews x 1 hour each): $\$41.85 \times 120 = \$5,022$ (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 revision to OMB Collection 0584-0006, Expiration date: August 31, 2015. This rulemaking will add 100,267 burden hours for reporting and recordkeeping in the OMB information collection inventory. See the Burden Narrative for details on the program changes.

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.