

**NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM:
ELIMINATING APPLICATIONS THROUGH COMMUNITY ELIGIBILITY AS
REQUIRED BY THE HEALTHY, HUNGER-FREE KIDS ACT OF 2010**

7 CFR PART 245

RIN 0584-AE16

OMB CLEARANCE NUMBER 0584-0026

USDA, Food and Nutrition Service

Child Nutrition Programs

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A. JUSTIFICATION

A1. Circumstances that make the collection of information necessary.

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 request for revision of a currently approved information collection, OMB control number 0584-0026, titled “Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools”, expiration date 04/30/2016, for the final rule titled “National School Lunch Program and School Breakfast Program: Eliminating Applications through Community Eligibility as Required by the Healthy, Hunger-Free Kids Act of 2010” (RIN 0584-AE16). OMB filed a comment, under OMB control number 0584-0026, for the Information Collection Request (ICR) for the proposed rule that was published November 4, 2013, Federal Register, Vol. 78, No. 213, pages 65890-65903. The final rule incorporates into 7 CFR Part 245 provisions from section 104(a) 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>), published December 13, 2010.

Section 104(a) of the HHFKA amended section 11(a)(1) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1759a(a)(1)) by adding a new subparagraph (a)(1)(F) to establish the community eligibility provision, also known as the community eligibility option. The community eligibility provision is a 4-year reimbursement alternative for high poverty local educational agencies (LEAs) and schools participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP). It is intended to improve access to free school

meals in eligible high poverty LEAs and schools, and eliminate the administrative burden associated with collecting household applications. This final rule promulgates language in 7 CFR 245.9 to codify the statutory provision that establishes the community eligibility provision.

A2. Purpose and Use of the Information.

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 104(a) of Public Law 111-296. The final rule titled “National School Lunch Program and School Breakfast Program: Eliminating Applications through Community Eligibility as Required by the Healthy, Hunger-Free Kids Act of 2010” amends the eligibility regulations for free and reduced price meals under the NSLP and SBP in 7 CFR Part 245.9, Special Assistance Certification and Reimbursement Alternatives, to codify the statutory provision that establishes the community eligibility provision.

To use community eligibility, LEAs and schools would be required to have a minimum percentage of identified students (who are certified for free school meals without the use of individual household applications) in the school year prior to implementing the provision. LEAs and schools participating in the community eligibility provision serve lunches and breakfasts at no cost to all enrolled students, and cover any costs exceeding reimbursement with non-Federal funds.

Any LEA intending to elect the community eligibility provision would be required to submit to the State agency documentation demonstrating that the LEA or school meets the minimum identified student percentage threshold. The State agency is required to review and confirm the eligibility documentation submitted by the LEA prior to approval to participate in the provision. Reimbursement for breakfasts and lunches is based on free and paid claiming percentages applied to the total number of reimbursable lunches and breakfasts served, respectively, each month. The free claiming percentage is determined by a multiplier factor of 1.6 (intended to estimate the number of free and reduced price meals that would have been served at the school) and the percentage is capped at 100%.

State agencies are required to promote and disseminate information about community eligibility and must publish a list of schools and notify eligible or potentially eligible LEAs no later than May 1 each year. LEAs are required to submit to the State agency by April 15 a list of schools eligible or potentially eligible for the community eligible provision. These requirements are part of a public notification and outreach effort. State agencies are required to make both the list of schools and the list of LEAs readily accessible on the State agency Web site in a format prescribed by FNS. State agencies must submit to FNS the list of LEAs receiving notices, however, FNS intends in lieu of having the State agencies submit the list of LEAs to FNS for publication, to develop a Community Eligibility Provision Web site which would link to the applicable portion of the State agencies' Webs site as that contains these lists.

LEAs and schools are required to keep documentation and records related to calculations. State agencies must verify the identified student percentage used during the year in which an

administrative review is conducted and review documentation and records from each year used to establish the identified student percentage.

For eligible LEAs electing to participate in the provision, this information collection eliminates certain LEA and household reporting and administrative burdens associated with individual household applications for free and reduced price meals.

A3. Use of the Information Technology and Burden Reduction.

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 NSLP submit information electronically to FNS. State agencies collect participation and meal count data via their own electronic systems. There is a small amount of non-electronic submissions that are sent via email, flash drive or facsimile. FNS estimates that 98% of the information submitted in this collection is collected electronically and only a negligible amount is submitted non-electronically. Overall, out of the total 16,245,251 responses for this collection, FNS estimates that approximately 98% (15,920,346 responses) will be submitted electronically.

A4. Efforts to Identify Duplication.

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.

FNS solely monitors and administers the Child Nutrition Programs. The community eligibility is a new provision. Every effort has been made to avoid duplication. There are no other similar information collections available for the notification requirement or for calculating the reimbursement rates using the identified student percentage.

A5. Impacts on Small Businesses or Other Small Entities.

If the collection of information impacts small businesses or other small entities (item 5 of the OMB Form 83-I), describe any methods used to minimize burden.

School food authorities, LEAs, and schools generally meet the definition of a “small governmental jurisdiction” which meets the definition of “small entity” in the Regulatory Flexibility Act. FNS estimates that 98% (approximately 19,426 of the LEAs) of respondents are small entities impacted by this collection of information. Information being requested or required has been held to the minimum required for the intended use.

A6. Consequences of Collecting the Information Less Frequently.

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 for LEAs and State agencies. If this information is not collected or is collected less frequently, the identification of LEAs and schools that are eligible or potentially eligible to participate in the community eligibility provision would be unavailable. The ability to participate in the community eligibility provision, and thus eliminate household applications for meal benefit determinations and provide free meals to all students is dependent on the claiming percentage that is generated from this data collection. Notifications are critical for dissemination of eligibility status. The data is also used for statistical studies and research regarding program trends.

A7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5.

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 special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5.

A8. Comments to the Federal Register Notice and Efforts for Consultation.

If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), 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. Specifically address comments received on cost and hour burden.

A 60-day Federal Register Notice was embedded in the Proposed Rule titled, “National School Lunch Program and School Breakfast Program: Eliminating Applications through Community Eligibility as Required by Healthy, Hunger-Free Kids Act of 2010” published November 4, 2013,

Federal Register, Vol. 78, No. 213, pages 65890-65903. The comment period for the information collection ended on January 3, 2014.

FNS received 78 total comments on the proposed rule. The final rule includes a discussion of the public comments and FNS response. Regarding information collection, 31 comments addressed the public notification requirements recommending that FNS ensures the lists of eligible and near eligible schools and LEAs are publically available because the deadline for publishing these lists will not leave much time for outreach to eligible LEAs. One comment recommended adding guidelines on how long public notification must be posted. One comment requested clarification on the public notification requirements.

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 has phased in the community eligibility provision over a three year period as required by the HRFKA. Community eligibility was made available in eligible LEAs and schools in three States (Illinois, Kentucky and Michigan) starting with the school year beginning July 1, 2011. An additional four States (Ohio, New York, District of Columbia, and West Virginia) were added for the school year beginning July 1, 2012. Four more States (Florida, Georgia, Maryland, and Massachusetts) were added for the school year beginning July 1, 2013. By the end of the pilot phase, CEP was operating in more than 4,000 schools and serving more than 1.5 million students in 10 States and the District of Columbia.

Throughout the CEP phase-in period, FNS provided technical assistance via a webinar series and monthly conference calls with State agencies and Regional Offices. FNS has presented on CEP at national conferences and received feedback from key stakeholders, including State child nutrition directors, school food service staff, the Council of Great City Schools, and several professional organizations, including the National Association of State Title I Directors, the Council of Chief State School Officers, the National Association of Federal Education Program Administrators, the National Parent Teacher Association, the National School Boards Association, and the National Association of Elementary School Principals.

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

Explain any decisions to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift will be provided to respondents.

A10. Assurances of Confidentiality Provided to Respondents.

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 (5 USC 552a), which requires the safeguarding of individuals against invasion of privacy. No confidential information is associated with this information collection.

A11. Justification for any questions of a sensitive nature.

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.

A12. Estimates of the Hour Burden of the Collection of Information.

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

A. 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.

This is a revision of a currently approved information collection, OMB control number 0584-0026, titled "Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools", expiration date 04/30/2016. As a result of rulemaking, the revisions result in an overall reduction of 6,242 hours from the currently approved burden. A decrease of 6,321 reporting burden hours is realized through an overall reduction in household and LEA reporting requirements associated with preparing and processing student eligibility for free and reduced price school meals. A slight increase of 79 hours of public notification and recordkeeping burden and is realized due to new

notification requirements for State agencies and LEAs. The attached burden narrative (Attachment A) and burden table (Attachment B) detail the estimated burden associated with this information collection for each type of respondent. A summary follows:

Burden Summary (Recordkeeping, Reporting, and Public Notification):

Affected Public: State agencies, Local Educational Agencies, and Individuals/Households

Estimated Number of Respondents: 5,394,876

Estimated Number of Responses per Respondent: 3.011

Estimated Total Annual Responses: 16,245,251

Estimated Time per Response: 0.058

Estimate Total Annual Burden on Respondents: 939,501

B. 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 United States Department of Labor, Bureau of Labor Statistics, May 2015 National Occupational Employment and Wage Statistics, Occupational Group (25-0000)

(<http://www.bls.gov/oes/current/oes250000.htm>). The hourly mean wage (for education-related occupations) for functions performed by State agency and local education agency staff is estimated at \$25.48 per staff hour. The net cost is 939,501 burden hours x \$25.48 or \$23,938,484.26. However, for this final rule, there is an overall reduction in burden due to implementation of a provision which reduces more burden than it creates; therefore, there is no annualized cost to respondents for the revisions due to rulemaking that are being made to this collection of information .

A13. Estimate of Other Total Annual Cost Burden.

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 or annual maintenance costs for this collection of information.

A14. Provide Estimates of Annualized Cost to the Federal Government.

Provide estimates of annualized cost to the Federal government. 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 FNS employees receiving an average General Schedule (GS) grade 12 step 6 wage based on the 2016 Washington DC-Northern Virginia locality area spend approximately 1,200 hours collecting and analyzing data received from State agencies for 7 CFR Part 245: $\$43.32 \times 1,200 = \$51,984$ (estimated annualized cost to the Federal government).

It is estimated that federal employees receiving an average General Schedule (GS) grade 12 step 6 wages based on the Washington DC-Northern Virginia locality area will spend approximately 200 hours annually in communication with State agencies (SA) regarding the notification, reporting, recordkeeping, and monitoring of community eligibility:

$\$43.32 \times 200 = \$8,664$ (estimated annualized cost to federal government).

Total cost to Federal Government: \$60,648.

A15. Explanation of Program Changes or Adjustments.

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

As a result of program changes due to rulemaking, the revisions result in an overall reduction of 6,242 hours from current approved burden in the OMB information collection inventory.

The burden hours for the final rule have been modified slightly from those in the proposed rule.

A decrease of 6,321 reporting burden hours is realized through an overall reduction in household and LEA reporting requirements associated with preparing and processing student eligibility for free and reduced price school meals. A slight increase of 79 hours of public notification and recordkeeping burden and is realized due to new notification requirements for State agencies and LEAs. These changes are identified in the burden narrative (Attachment A).

A16. Plans for tabulation, and publication and project time schedule.

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.

A17. Displaying the OMB Approval Expiration Date.

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.

A18. Exceptions to the Certification Statement Identified in Item 19.

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

There are no exceptions to the certification statement.