

## Attachment DD

### Supporting Statement A - Appendix

#### **Further information on A1.**

##### NSLP

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) requires the Secretary of Agriculture to prescribe such regulations as deemed necessary to carry out this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.). The NSLA, as amended, authorizes the NSLP to safeguard the health and well-being of the nation's children and provide free or reduced-price school lunches to eligible students through subsidies to schools. As required, the Secretary of Agriculture issued 7 CFR Part 210 (Attachment J), which sets forth policies and procedures for the administration and operation of the NSLP. The United States Department of Agriculture (USDA) provides States with general and special cash assistance and donations of foods to assist schools in serving nutritious lunches to children each school day. Participating schools must serve lunches that are nutritionally adequate and maintain menu and production records to demonstrate compliance with the meal requirements.

This rule simplifies monitoring requirements in the NSLP (7 CFR 210.18). The changes, including optional flexibilities, are customer focused and intended to help State and local Program operators overcome operational challenges that limit their ability to manage these Programs efficiently. The rule also requires State agencies and SFAs to maintain records documenting compliance with procurement training requirements (7 CFR 210.15, 210.21), as well as to maintain records and complete recordkeeping requirements related to fines and

specific violations (7 CFR 210.26). The rule will reduce the submission frequency of the performance-based reimbursement report from quarterly to annually (7 CFR 210.5).

The final rule will revise existing information requirements that are currently approved under OMB# 0584-0006 7 CFR Part 210 National School Lunch Program. This is in addition to imposing new burdens related to the types of activities covered under this collection.

#### SFSP

Section 13 of the Richard B. Russell National School Lunch Act, 42 U.S.C. § 1758, authorizes SFSP for service of meals and snacks to children in low-income areas during the summer months. The collection of this information is required to administer and operate SFSP in accordance with the NSLA. The SFSP is directed toward children in low-income areas when school is not in session and is administered by FNS in partnership with State agencies and local program sponsors. Approved sponsors may include public or private non-profit SFAs; public or private non-profit residential summer camps; units of local, municipal, county, or State governments; or other private non-profit organizations that develop a special summer program and provide meal service similar to that available to children during the school year under the NSLP and SBP.

The rule allows fines to be established against SFAs and State agencies in the operation of any Child Nutrition Program, and so State agencies must notify SFAs of fines and submit a notice to FNS, and SFAs may appeal the State agency's determination of fines (7 CFR 225.18(k)).

The final rule will impose new burdens in addition to those that are currently approved under OMB# 0584-0280 7 CFR Part 225 Summer Food Service Program, related to the types of activities covered under this collection.

#### CACFP

Section 17 of the Richard B. Russell National School Lunch Act, 42 U.S.C. § 1758, authorizes CACFP to provide aid to child and adult care institutions and family or group day care homes for the provision of nutritious foods that contribute to the wellness, healthy growth, and development of young children and the health and wellness of older adults and chronically impaired disabled persons. The collection of this information is required to administer and operate CACFP in accordance with the NSLA. The CACFP is administered by FNS in partnership with State agencies and local program sponsors. Approved entities may include local governments and businesses.

#### Provisions from the Child Nutrition Program Integrity Final Rule

These provisions codify requirements that will ensure that Child Nutrition Programs are carried out with a high level of integrity. Many of the proposals in this rule were based on

nondiscretionary provisions of the Healthy, Hunger-Free Kids Act of 2010 (HHFKA), Public Law 111-296.

The final rule expands the definition of “termination for convenience” and thereby adds reporting requirements for the State agency (7 CFR 226.6(b)(4)(ii)). Additionally, the rule modifies review requirements at 7 CFR 226.6 and 226.7 in order to strengthen integrity measures, including increasing the frequency of reviews and requiring additional financial oversight. To support these changes, the rule increases the amount of audit funds available to State agencies (7 CFR 226.4(j)).

With the rule, fines can now be established against SFAs and State agencies (7 CFR 226.25), and State agencies must pay all valid claims for reimbursement, from non-Federal sources, if the 60-day timeframe for a child care institution’s fair hearing is not met (7 CFR 226.6(k)).

Provisions from the Child and Adult Care Food Program: Amendments Related to the Healthy, Hunger-Free Kids Act of 2010 Proposed Rule.

The provisions of this rule codify several provisions of the Healthy Hunger-Free Kids Act (HHFKA) of 2010 (Public Law 111-296) that affect management of the CACFP. The rule’s proposals are all statutory requirements.

To alleviate burden, the rule allows for annual updates, rather than a renewal application, for renewing institutions (7 CFR 226.6(b)), and the rule amends 7 CFR 226.12(a) to simplify the calculation of monthly administrative reimbursement that sponsoring organizations of day care homes are eligible to receive. Further, sponsoring organizations may carry over and obligate a maximum of 10 percent of administrative funds into the succeeding fiscal year, with State agency approval (7 CFR 226.7(g)(2)).

To improve integrity, the rule requires sponsoring organizations to vary both the timing of unannounced reviews and the types of meal service that are subject to review (7 CFR 226.6(m)). State agencies are required to develop/revise and provide a sponsoring organization agreement between sponsor and facilities, which must have standard provisions (7 CFR 226.6(p)). Finally, the rule allows tier II day care homes to assist in collecting meal benefit forms from households and transmitting the forms to the sponsoring organization on the household's behalf (7 CFR 226.18(b)).

The final rule will revise existing information requirements that are currently approved under OMB Control Number 0584-0055 7 CFR Part 226 Child and Adult Care Food Program. This is in addition to imposing new burdens related to the types of activities covered under this collection.

**Further information on A8.**

In the proposed rule, Child and Adult Care Food Program: Amendments Related to the Healthy, Hunger-Free Kids Act of 2010, FNS proposed to amend 7 CFR 226 to codify several provisions

of the Healthy Hunger-Free Kids Act (HHFKA) of 2010 (Public Law 111-296) that affect management of the Child and Adult Care Food Program. FNS received 26 comments on the rule. Overall, the commenters supported the proposed rule. Accordingly, FNS has merged the statutory provisions of the proposed rule into this final rule, Child Nutrition Program Integrity, with only clarifying changes. No provisions are discretionary.

In the Child Nutrition Program Integrity Proposed Rule, FNS received 5,659 comments, and respondents expressed concern that compliance with the State agency review requirements provision would require additional State agency funding and staffing to address the substantial increase in burden. In developing this rulemaking, FNS recognizes that a more frequent schedule of reviews will require State agencies to also prioritize funding and staffing resources. Comments from State agencies and other respondents stress this point. However, FNS has found that some States are not making full use of SAE and CACFP audit funds that are available to support the performance of reviews, audits, and other oversight activities. That is why FNS continues to encourage all State agencies to make wider use of these funds. Full use of these funds will help ease any potential burden.

Many respondents also argued that completing annual financial reviews, particularly annual bank account reviews, would create an administrative burden for State agencies. While comments to the proposed rule included a number of alternatives that may offer a small reduction in burden, FNS believes that an annual review of bank account activity will more effectively uncover and prevent the misuse of funds than a less frequent review cycle. The review of bank account

activity provides the most reliable and effective means to verify and document costs. Unlike receipts that show the reviewer who is owed the payments, statements of bank account activity inform the reviewer of who actually received the payments. The State agency has discretion to obtain statements of bank account activity with the annual budget submission, as part of the application renewal, or through a monitoring review.

Regarding the provision for annual NSLP procurement training, opponents were concerned that this provision would increase program costs and create burden. FNS does not intend to require all personnel to complete annual procurement training, nor to take time away from other relevant training topics. This requirement only applies to State directors and school nutrition program directors, management, and staff who work on NSLP procurement activities. FNS will not require a specific number of annual training hours. Consistent with the professional standards training requirements, a variety of training formats may be used, such as webinars, classroom training, and seminars. State agencies may use SAE funds to pay for the costs of receiving or delivering annual NSLP procurement training. Generally, training is an allowable use of school food service funds.

Regarding Simplifying Meal Service and Monitoring Requirements in the National School Lunch and School Breakfast Programs, FNS received approximately 160 unique submissions, which addressed requirements, which would impact the information collection burden of the rule. Approximately 100 commenters (Attachments P, Q, R, S, U, and V) wrote in support of proposed changes to the administrative review cycle. Multiple commenters, including State

agencies, school districts, individual commenters, and a form letter campaign expressed general support for the proposed changes from a 3 to 5-year review cycle, with most discussing the positive benefit of reducing administrative burdens. Approximately 40 commenters (Attachments T, W, and Y) wrote in opposition to the proposal. Multiple commenters, including State agencies and a health advocacy group, opposed a 5-year review cycle, stating that it is too long. In response to these comments, this final rule allows State agencies to return to a 5-year administrative review cycle while adopting a risk-based approach. Many respondents support requiring targeted follow-up reviews for high-risk SFAs, asserting that additional oversight could improve their performance and that a risk-based approach would target limited State oversight resources where they are most needed. Several State agencies recommend that FNS provide guidance on the consideration and weighting of risk factors, but ultimately allow State agency discretion in selecting risk factors or selecting SFAs for more frequent reviews. Multiple respondents recommend that the scope of the targeted follow-up review focuses only on the identified areas of noncompliance. In response to these comments, the final rule requires State agencies that move to a review cycle longer than 3 years to identify high-risk SFAs for additional oversight and technical assistance. Each of these State agencies must develop a State plan describing the high-risk criteria that it will use to identify high-risk SFAs for targeted follow-up reviews, to be approved by USDA.

Approximately 20 submissions (Attachments P, Q, U, V, and X) supported the proposal to change the performance-based reimbursement quarterly report to an annual report. Multiple commenters, including several State agencies, generally supported relaxing the reporting requirements, with most commenters stating that it would reduce administrative burden. A State

agency in support of the proposal said a single Annual Report would provide sufficient data to enable USDA to evaluate performance-based reimbursement nationally. In response to these comments, the final rule amends the reporting requirement for performance-based reimbursement from a quarterly requirement to an annual requirement.

**Summary Charts from A.12**

	<b>OMB# 0584-0006 Due to Final Rule</b>	<b>Once Merged with OMB# 0584-0006</b>
TOTAL NO. RESPONDENTS	19,075	115,935
AVERAGE NO. RESPONSES PER RESPONDENT	3.47	411.04
TOTAL ANNUAL RESPONSES	66,217	47,653,662
AVERAGE HOURS PER RESPONSE	2.22	.21
TOTAL BURDEN HOURS	146,803	9,793,720
CURRENT OMB INVENTORY	0	9,808,454
DIFFERENCE DUE TO RULEMAKING	146,803	-14,734

	<b>OMB# 0584-0280 Due to Final Rule</b>	<b>Once Merged with OMB# 0584-0280</b>
TOTAL NO. RESPONDENTS	58	63,942
AVERAGE NO. RESPONSES PER RESPONDENT	1.08	6.13
TOTAL ANNUAL RESPONSES	63	391,858
AVERAGE HOURS PER RESPONSE	1.29	1.181
TOTAL BURDEN HOURS	80.81	462,779.78

CURRENT OMB INVENTORY	0	462,698.97
DIFFERENCE DUE TO RULEMAKING	80.81	80.81

	<b>OMB# 0584-0055 Due to Final Rule</b>	<b>Once Merged with OMB# 0584-0055</b>
TOTAL NO. RESPONDENTS	31,235	3,794,949
AVERAGE NO. RESPONSES PER RESPONDENT	5	4
TOTAL ANNUAL RESPONSES	158,925.04	16,328,263.76
AVERAGE HOURS PER RESPONSE	0.28	.26
TOTAL BURDEN HOURS	44,039.72	4,235,401.61
CURRENT OMB INVENTORY	0	4,213,210.886
DIFFERENCE DUE TO RULEMAKING	44,039.72	22,190.72