

**SUPPORTING STATEMENT – PART A for**

**OMB CONTROL NUMBER 0584-0697:**

**Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools**

**Final Rule – Child Nutrition Programs: Community Eligibility Provision – Increasing  
Options for Schools (RIN 0584-AE93)**

**Tina Namian**

**Food and Nutrition Service, USDA**

**School Meals Policy Division**

**Child Nutrition**

**1320 Braddock Place**

**Alexandria, VA 22314**

**703.305.2634**

**[Tina.Namian@usda.gov](mailto:Tina.Namian@usda.gov)**

Table of Content

**s**

A1. Circumstances that make the collection of information necessary.....4

A2. Purpose and Use of the Information.....6

A3. Use of the Information Technology and Burden Reduction.....8

A4. Efforts to Identify Duplication.....9

A5. Impacts on Small Businesses or Other Small Entities.....10

A6. Consequences of Collecting the Information Less Frequently.....10

A7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5.....11

A8. Comments to the Federal Register Notice and Efforts for Consultation.....12

A9. Explain any decision to provide any payment or gift to respondents.....14

A10. Assurances of Confidentiality Provided to Respondents.....15

A11. Justification for any questions of a sensitive nature.....17

A12. Estimates of the Hour Burden of the Collection of Information.....19

A13. Estimate of Other Total Annual Cost Burden.....27

A14. Provide Estimates of Annualized Cost to the Federal Government.....28

A15. Explanation of Program Changes or Adjustments.....30

A16. Plans for tabulation, and publication and project time schedule.....32

A17. Displaying the OMB Approval Expiration Date.....32

A18. Exceptions to the Certification Statement Identified in Item 19.....32

-

**Attachments**

- A. Burden Chart for OMB Control Number 0584-00XX, final rule, *Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools*
- B. Estimate of the Information Collection Burden (Narrative) for OMB Control Number 0584-New associated with Final Rule, *Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools RIN 0584-AE93*
- C. The final rule, *Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools*
- D. Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.)
- E. Section 10 of the Child Nutrition Act of 1966

- F. 7 CFR Part 245 – Determining Eligibility For Free And Reduced Price Meals And Free Milk In Schools
- G. Comment from the California Department of Education
- H. Comment from the Texas Department of Agriculture
- I. Burden Chart Showing Impact of Final Rule, *Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools* After Merge into OMB Control Number 0584-0026 - 7 CFR Part 245 Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools
- J. Additional Information for A.2 Purpose and Use of Information
- K. Proposed Rule CEP – Increasing Options for Schools 88 FR 17406

## 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 a new information collection that contains the existing information collection requirements, which are being impacted by the final rule, *Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools* (RIN 0584-AE93) (Attachment C). These existing information collection requirements are currently approved in OMB Control Number 0584-0026 7 CFR Part 245 – Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (expiration date 9/30/2026). Although FNS requested a new new OMB control number for the information collections associated with this rulemaking, FNS intends to merge this information collection into OMB Control Number 0584-0026 after the final rule submission is reviewed and approved by OMB. Once approved by OMB, the agency will publish another notice in the Federal Register announcing OMB’s approval. After the merge has been completed, FNS will delete this new collection from our inventory.

The final rule amends Program regulations associated with the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). The final rule expands access to CEP by lowering the minimum identified student percentage participation threshold from 40 percent to 25 percent, which would give States and schools greater flexibility to choose to invest non-Federal funds so that no-cost meals can be offered to all enrolled students. As a result, more students, families, and schools would have an opportunity to experience the benefits of the Community Eligibility Provision, including access to meals at no cost and reducing paperwork for school nutrition staff and families.

The proposed rule, *Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools*, was published in the Federal Register on March 23, 2023 (Vol. 88, No. 56, page 17414). FNS is revising the estimated numbers of respondents, responses, and burden hours for the information collection requirements published in the proposed rule in this final rule. The revisions to these estimates are not due to public comments received on the proposed rule; instead, they are based on more recent data that became available after publication of the proposed rule. Using more recent data, FNS re-evaluated the number of schools in States that have committed to offering healthy school meals for all children that would be eligible to elect CEP in accordance with the lowered identified student percentage threshold. FNS also analyzed a publication from the Food Research and Action Center that indicated States offering free meals to all students in SY 2022-2023 experienced significant increases in CEP uptake and analyzed trends in CEP participation in recent years. As a result, FNS obtained more accurate and recent data that better reflects the number of respondents that will comply with the collection of information requirements that are impacted by this final rule and has updated the estimated number of respondents, responses, and burden hours accordingly.

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) (Attachment E) 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 (NSLA) (42 U.S.C. 1751 et seq.) (Attachment D). 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 245 (Attachment F), which sets forth policies and procedures for determining eligibility for free and reduced-price meals, as well as for operating special reimbursement provisions such as the Community Eligibility Provision (CEP). The School Meals Programs (NSLP and SBP) safeguard the health and well-being of the Nation's children via the provision of free or reduced-price meals at school and the service of meals and snacks to children. This information collection is required to administer and operate the School Meals Programs in accordance with the NSLA.

## **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 how the agency has actually used the information received from the current collection.**

Local Educational Agencies (LEAs) and schools participating in CEP serve all meals at no charge to all enrolled students for one or more 4-year cycles. To participate, the LEA or school must meet the minimum identified student percentage (students certified for free school meals without the use of a household\_application divided by enrolled students, multiplied by 100). State agencies must confirm the eligibility of an LEA or school that elects to participate. Additionally, State agencies are required to disseminate information about CEP to eligible and potentially eligible LEAs and schools through an

annual third-party disclosure (public notification) requirement. This rulemaking does not include any new information collection requirements, but the changes made to the CEP eligibility threshold will impact the number of respondents/responses for existing reporting and recordkeeping requirements that are currently approved under OMB Control Number 0584-0026, 7 *CFR Part 245 - Determining Eligibility For Free And Reduced Price Meals And Free Milk In Schools*.

The rule is not expected to impact public notification requirements because the requirement for the State agencies to make the lists of LEAs and schools receiving notifications of their eligibility status is already approved in OMB Control Number 0584-0026 for all of the State agencies.

The information collected is required to administer and operate this program in accordance with the NSLA. These requirements are explained in the “Estimate of the Information Collection Burden (Narrative) for OMB Control Number 0584-NEW associated with Final Rule: Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools RIN 0584-AE93 (Attachment B). The Program is administered at the State agency and LEA levels and the NSLA requires that accounts and records must be kept as may be necessary to enable FNS to determine whether the program is in compliance with this Act and the regulations. The information collections associated with this final rule occur at the State agency and local program operator levels in the form of recordkeeping and reporting requirements. FNS does not collect or share the required information at the Federal level.

For details concerning the information being collected, the burden categories impacted by the final rule, the obligation to respond, from whom and how the information will be collected, how the information will be used, the frequency of the information collection, whether the information will be shared with any other organization inside or outside USDA, and how the information requirements are being impacted, please see *Additional Information for A.2 Purpose and Use of Information* (Attachment J). To review the requirements that cause information to be collected in further detail and how frequently each collection occurs, please see the *Estimate of*

*the Information Collection Burden (Narrative) for OMB Control Number 0584-NEW associated with Final Rule: Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools RIN 0584-AE93 (Attachment B).*

**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.

Each State agency maintains its own website to communicate electronically with LEAs. School districts tend to allow, and often encourage, household applications for SBP and NSLP participation to be submitted electronically via schools' websites or email; however, submissions of household applications in paper form is acceptable. FNS does not expect that households experience a difference in the time needed to complete applications between the paper and electronic applications. The number of household applications submitted for Program participation throughout the years has significantly decreased in response to an increase in the number of children directly certified for SBP and NSLP participation. Direct certification allows LEAs to establish student eligibility for free meals using participant data from other means-



tested programs, eliminating the need for an application. The direct certification process uses information provided by State or local agencies administering assistance programs and other source categorically eligible programs. The data exchange, most often completed by using either State or local-level matching, may use automated data matching, an e-mail exchange, or an exchange of faxes with appropriate agency officials. Automated data matching is required for the Supplemental Nutrition Assistance Program (SNAP) and encouraged for Temporary Assistance for Needy Families (TANF) and the Food Distribution Program on Indian Reservations (FDPIR) [7 CFR 245.6(b)(4)]. Improvements of direct certification methods in past years have resulted in a decrease in paper application submissions. Overall, out of the total 12,064,195 responses in this collection, FNS estimates that approximately 70% (8,444,937 responses) will be submitted electronically. Electronic submissions are primarily related to communications between State agencies and LEAs, though households also may submit household applications 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 purposes described in Question 2.**

Every effort has been made to avoid duplication. FNS has reviewed USDA reporting requirements, State agency reporting requirements, and special studies by other government and private agencies. FNS solely monitors and administers the Child Nutrition Programs.

LEAs/SFAs obtain eligibility information for free school meals directly from other agencies, such as SNAP, TANF, FDPIR, and foster care agencies to reduce duplicative paperwork for households who have already established their need for assistance through other programs that serve low-income children. Households are required to submit sensitive information including

child name, adult name, adult last 4 digits of SSN, child income, adult income, and receipt of public assistance. This information is statutorily required to be on household applications by the Sec. 9(b)(3) of the NSLA.

**A5. Impacts on Small Businesses or Other Small Entities.**

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

Information being requested or required has been held to the minimum necessitated by Federal Requirements. State agencies are not considered small entities as State populations exceed the 50,000 threshold for a small government jurisdiction. However, SFAs, LEAs, and schools generally meet the definition of a “small governmental jurisdiction,” which meets the definition of “small entity” in the Regulatory Flexibility Act. Out of the 14,869 LEA respondents, FNS estimates that 98% or approximately 14,572 are small entities. Therefore, out of the total 3,454,060 respondents for this collection, less than 1% are small entities.

**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.**

This is a new information collection request which contains existing information requirements currently approved under OMB Control Number 0584-0026. These mandatory and required to obtain/retain a benefit requirement are related to a final rule *Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools* (RIN 0584-AE93). State

agencies and LEAs are required to report information that is used to determine eligibility for free and reduced-price meals, which is required by law in order to meet mandatory statutory reporting requirements. If households wish to receive free or reduced-price meal benefits, they need to submit an application. This information collection enables FNS to monitor the methods used to make eligibility determinations, the number of schools operating under the CEP, and changes in the number of children directly certified, the number of household applications submitted, and the number of children participating in school meal programs. FNS collects most data on an annual basis, with the sole exception of the free and reduced-price policy statements which State agencies collect occasionally when LEAs make revisions to their eligibility policy. If the data were collected less frequently, FNS would not be able to properly monitor SA and SFA compliance, fund Programs, ensure program integrity, or monitor funding and 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:**

- **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;**

This collection includes a requirement that LEAs must notify households of their eligibility status within 10 days of receiving household applications for free or reduced price meals. This is necessary to ensure households are notified of Program

eligibility in a timely manner. If FNS were not to require LEAs to notify households within 10 days, households may experience delays in obtaining Program benefits.

- **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.

#### **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 45-day Federal Register Notice was embedded in the proposed rule, *Child Nutrition Programs: Community Eligibility Provision—Increasing Options for Schools*, which published in the Federal Register on March 23, 2023 (Vol. 88, No. 56, page 17414). The comment period ended on May 8, 2023. FNS received two comments concerning possible system costs related to the rule provisions. These comments suggested that the State agencies may need to modify their existing systems to accommodate the lowering of the minimum ISP. In response to feedback, FNS is including an estimated one-time cost to cover system modifications for the lowered ISP. Additional information concerning these costs can be found in A.13. Copies of the comments are provided in Attachments G and H.

**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 format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior years. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

Because FNS provided notice and opportunity to comment through the 45-Day notice embedded in the proposed rule, which specifically included the solicitation of comments on the proposed collections of information, FNS did not consult with members of the public and affected agencies outside the rule's notice to obtain views on the proposed information collections, including the availability of data, frequency of collections, or recordkeeping and reporting requirements. FNS conducted webinars for state agencies and local educational agencies explaining the provisions of the rule and encouraged the submission of comments. Interested members of the public and program operators had the opportunity to provide FNS with comments concerning the necessity, practical utility, accuracy, and merit of the information collection activities proposed via the 45-day notice embedded in the rule.

When FNS finalizes an information collection package, the package will be available through [www.reginfo.gov](http://www.reginfo.gov) for review of the changes resulting from legislative, regulatory, or administrative changes. FNS consults with FNS Regional offices (FNSROs) regarding any proposed changes as the result of legislative, regulatory, or administrative changes. FNSROs are in daily contact with State agencies, which provide feedback on FNS processes and procedures for this information collection. Feedback from the State agencies is then used by FNS to help shape the burden estimates for this collection.

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

**Explain any decision to provide any payment or gift to respondents, other than re-enumeration 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. Section 9 of the NSLA, 42 U.S.C. 1758 (Attachment D), and title 7 CFR 245.6 limit the disclosure of all student eligibility information obtained through the free and reduced-price meals eligibility process (including all information on the application or obtained through direct certification).

Solicited information from households via program benefit applications include income and household size, names of all household members; income received by each household member, identified by source of the income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, and social security and other cash income); the signature of an adult household member; and the last four digits of the social security number of the adult household member who signs the application or an indication that the adult does not possess a social security number. Household applications also solicit SNAP, TANF, or FDPIR case numbers or identifiers from families receiving benefit assistance from one of these programs.

Only the Comptroller General of the United States for purposes of audit and examination; federal, state, and local law enforcement officials for the purpose of investigating any alleged violation of the programs; and persons directly connected with the administration or enforcement of the SBP and NSLP can obtain, as appropriate, all eligibility information solicited via household applications, eligibility documentation sheets, or direct certification methods without parental consent.

Information retrieved by direct certification methods, such as information that a household is

receiving benefits from SNAP, FDPIR or TANF or that a child is participating in another program which makes children categorically eligible for free school meals, must be used solely for the purposes of determining children's eligibility for free school meals. Additionally, title 7 CFR 245.6(f)(2) limits the disclosure of the names of program participants and their eligibility status (whether they are eligible for free or reduced-price meals). State agencies and LEAs may disclose, as appropriate, only the names and eligibility status of participants to persons directly connected with the administration or enforcement of a federal education program; a state health program or state education program administered by the state or LEA; a federal, state, or local means-tested nutrition program with eligibility standards comparable to the NSLP; or a third party contractor assisting in verification of eligibility efforts by contacting households who fail to respond to requests for verification of their eligibility. These limited disclosures assist program operators to determine participant eligibility efficiently and administer the SBP and NSLP, while providing confidentiality to respondents. Disclosure is required to be in written form, typically with consent forms designed by schools. Schools are responsible for following confidentiality requirements found at 7 CFR 245.6(f)

The penalties for unauthorized disclosure or misuse of information is specified in 7 CFR 245.6(k): “In accordance with section 9(b)(6)(C) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(6)(C)), any individual who publishes, divulges, discloses or makes known in any manner, or to any extent not authorized by statute or this section, any information obtained under this section will be fined not more than \$1,000 or imprisoned for up to 1 year, or both.”

This ICR does not include any forms that require a Privacy Act Statement. Due to time constraints,



the information collection associated with the final rule did not undergo a privacy review. The last review conducted occurred during the proposed rule process. The FNS Privacy Officer provided approval of the proposed information collection without further questions on January 9, 2023. FNS did not make any changes to the provisions of the rule between the proposed and final rule.

**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.**

The USDA has a responsibility to comply with Federal requirements set forth by Title VI of the Civil Rights Act of 1964. Title 28 CFR Part 42 *Subpart C—Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964* requires recipients of Federal financial assistance, such as state agencies, LEAs, and schools, to maintain and provide racial and ethnicity data upon request to FNS, showing the extent to which members of minority groups are participants of federally funded programs, such as the SBP and NSLP. Therefore, household applications for free and reduced-price school meals provide program applicants the option to identify the race and ethnicity of program participants. While household applications solicit this information, applicants are ensured that failure to provide race and ethnicity data will not affect students' eligibility to participate in the SBP or NSLP.

Race and ethnicity data are collected in household applications for free and reduced-price meals to ensure compliance with USDA nondiscrimination requirements for federally-assisted programs. These data are used to evaluate the SBP and NSLP to ensure that they equitably serve the needs of all racial groups and to monitor program compliance with antidiscrimination laws and regulations.

Additional sensitive data solicited through household applications includes household income information and the last four digits of an adult's social security number. This information is statutorily required to be on household applications by the Sec. 9(b)(3) of the NSLA (Attachment H). SFAs are responsible for following FNS regulations found at 7 CFR 245.6(f) which details confidentiality requirements. Assurance of confidentiality associated with collected income data is detailed in question A10 of this document.

The application for free and reduced-price meals notifies applicants that solicited information will be used to determine the eligibility of schoolchildren. Applicants are also made aware that information collected through household applications may be shared with auditors for program reviews; law enforcement officials to help them look into violations of program rules; and education, health, and nutrition programs to help them evaluate, fund, or determine benefits for their programs. FNS obtains consent by requiring the signature of program applicants on household applications, which attests to the submission of accurate information and acknowledgement of the notices therein.

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

**Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.**

- 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.**

Although FNS is requesting a new information collection request for the information collection requirements included in the final rule, *Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools* (Attachment C), these requirements are actually existing requirements that are currently approved under OMB Control Number 0584-0026. Once this final rule submission is approved, FNS plans to merge these requirements into OMB Control Number 0584-0026. FNS estimates that this new collection will have 3,454,061 respondents, 12,064,195 responses, and 621,036 hours. This collection includes reporting and recordkeeping requirements; but it does not include any third-party disclosure (public notification) requirements because they are not impacted by the final rule. To estimate the number of respondents, Program Analysts analyzed each provision involving information collection and assessed the number of schools that would become newly eligible to operate CEP. The estimates have changed since the proposed rule because of two states passing legislation that makes it more financially viable for schools in those states to elect CEP.

FNS is making a technical correction to a typographical error that was identified in the proposed rule's PRA section. Specially, the table that showed the reporting requirements impacted by this rulemaking and their associated burden indicated that an estimated 628,673 burden hours were currently approved under OMB Control Number 0584-0026, instead of the correct number of burden hours, which is approximately 639,788 burden hours. FNS has updated the reporting burden hours in the table.

In addition, the burden estimates shown in this supporting statement differ from those published in the final rule. Since publication of the final rule in September 2023, FNS updated some of the decimal conversions used in OMB Control Number 0584-0026 for consistency in the estimates. Accordingly, the decimal conversions used in this submission were updated to ensure that the impact of the final rule (which FNS estimates will be a decrease in burden) is accurately captured.

The hour burden and response estimates for each information requirement are reflected in the attached Burden Chart (Attachment A) and in the Burden Narrative (Attachment B), as well as summarized below. A Burden Chart showing the estimates for OMB Control Number 0584-0026 after these provisions are merged into the collection is also included in this submission (Attachment I).

### **Burden Summary of Reporting Requirements**

Affected Public (Respondents): Individual/Households; and State, Local and Tribal Government.

The respondent groups identified include households, State Agencies, and LEAs.

Estimated Number of Respondents: 3,454,061

Estimated Number of Responses per Respondent: 3.49

Estimated Total Annual Responses: 12,048,384

Estimated Time per Response: 0.051 (approximately 3 minutes)

Estimate Total Annual Burden on Respondents: 619,330 hours

Reporting									
Description of Activities	Regulation Citation	Estimated # of Respondents	Freq. of Response	Total Annual Responses	Average Burden Hours per Response	Estimated Total Annual Burden Hours for OMB# 0584-00xx Due to Final Rulemaking	Hours Currently Approved Under OMB# 0584-0026	Estimated Future Burden Hours for OMB# 0584-0026 After the Merge with OMB# 0584-00xx	Estimated Future Burden Hours for OMB# 0584-00xx
State agency to notify LEAs of their community eligibility status as applicable.	245.9(f)(6)	55	93.29	5,131	0.050	257	437	694	
<b>Total State Agency Reporting</b>		55	93.29	5,131	0.050	257	437	694	
LEAs submit to State agency documentation of acceptable identified student percentage of LEA/school electing the provision.	245.9(f)(4)(i)	471	1.00	471	0.250	118	125	243	
LEAs notify households of approval of meal benefit applications.	245.6(c)(6)(i)	14,869	219.00	3,256,311	0.017	54,380	56,290	54,380	
LEAs must notify	245.6(c)(6)(ii)	14,869	332.00		0.017		85,099		

households in writing that children are eligible for free meals based on direct certification and that no application is required.				4,936,508		82,440		82,440	
LEAs provide written notice to each household of denied free or reduced-price benefits.	245.6(c)(7)	14,869	11.56	171,886	0.017	2,870	2,963	2,870	
LEAs notify households of selection for verification.	245.6a(f)	14,869	6.50	96,649	0.250	24,162	25,092	24,162	
LEAs must provide households that failed to confirm eligibility with 10 days' notice for receiving a reduction or termination of free or reduced-price meal benefits.	245.6a(j)	14,869	2.65	39,403	0.100	3,948	4,078	3,948	
LEA to submit to the State agency for publication a list of eligible and potentially eligible schools and their eligibility status; unless otherwise exempted by State agency.	245.9(f)(5)	5,131	1.00	5,131	0.084	428	698	1,126	
LEAs to amend free and reduced policy statement and certify that schools meet eligibility criteria.	245.9(g)	471	1.00	471	0.100	47	50	97	

<b>Total Local Education Agency Reporting</b>		14,869	572.12	8,506,829	0.020	168,394	174,395	169,267
<b>Total State and Local Agency Level Reporting Total</b>		14,924	665.41	8,511,960	0.070	168,651	174,832	169,961
Households complete application form for free or reduced-price meal benefits.	245.6(a)(1)	3,439,137	1.00	3,439,137	0.117	402,035	414,770	402,035
Households assemble written evidence for verification of eligibility for free and reduced-price meals and send to LEA.	245.6a(a)(7)(i)	97,287	1.00	97,287	0.500	48,644	50,185	48,644
<b>Total Household Reporting</b>		3,439,137	1.03	3,536,424	0.127	450,679	464,955	450,679
<b>Total Reporting</b>		3,454,061	3.49	12,048,384	0.051	619,330	639,788	620,640

### **Burden Summary of Recordkeeping Requirements**

Affected Public (Respondents): State, Local and Tribal Government. The respondent groups identified include State Agencies and LEAs.

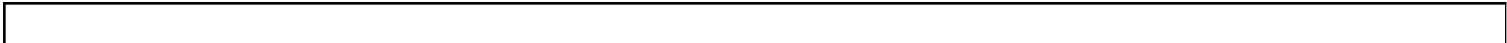
Estimated Number of Respondents: 14,924

Estimated Number of Responses per Respondent: 1.06

Estimated Total Annual Responses: 15,811

Estimated Time per Response: .108 (approximately 6 minutes)

Estimate Total Annual Burden on Respondents: 1,706 hours



Recordkeeping									
Description of Activities	Regulation Citation	Estimated # of Respondents	Frequency of Responses	Total Annual Responses	Average Burden Hours per Response	Estimated Total Annual Burden Hours for OMB# 0584-00xx Due to Final Rulemaking	Hours Currently Approved Under OMB# 0584-0026	Estimated Future Burden Hours for OMB# 0584-0026 After the Merge with OMB #0584-00xx	Estimated Future Change in Burden Hours for OMB# 0584-0026 Due to Rulemaking
State Agency to review and confirm LEAs eligibility to participate in Provisions 1, 2, or 3 or the Community Eligibility Provision.	245.9(f)(4)(ii)	55	8.56	471	.084	39	40	79	39
<b>Total State Agency Recordkeeping</b>		55	8.56	471	0.084	39	40	79	39
LEA must maintain documentation substantiating eligibility determinations for 3 years after the end of the fiscal year.	245.6(e)	14,869	1	14,869	0.084	1,242	1,281	1,242	-39
LEA to maintain documentation related to methodology used to calculate the identified student percentage and determine eligibility.	245.9(h)(3)	471	1	471	.902	425	451	876	425
<b>Total Local Education Agency Recordkeeping</b>		14,869	1.03	15,340	0.109	1,666	1,732	2,117	385



Total Recordkeeping		14,924	1.06	15,811	0.108	1,706	1,722	2,197	425
---------------------	--	--------	------	--------	-------	-------	-------	-------	-----

**Summary of Total Burden (Reporting and Recordkeeping)**

Affected Public (Respondents): State, Local, and Tribal Government and Individual/Households.

The respondent groups identified include State Agencies, LEAs, and households.

Estimated Number of Respondents: The total estimated number of respondents in the collection is 3,454,061. This includes: (1) 55 State agencies, (2) 14,869 local educational agencies, and (3) 3,439,137 Individuals/Households.

Estimated Number of Responses per Respondent: The overall frequency of responses across the entire information collection is approximately 3.493 annual responses per respondent.

Estimated Total Annual Responses: The total estimated number of responses in the collection is 12,064,195.

Estimated Time per Response: The average estimated time per response for all respondents across the collection is approximately .051 hours.

Estimated Total Annual Burden: 621,036 hours.

	OMB# 0584-00xx Due to Final Rule	OMB # 0584-0026 Once Merged with OMB# 0584-00xx
TOTAL NO. RESPONDENTS	3,454,061	3,462,371
AVERAGE NO. RESPONSES PER RESPONDENT	3.493	3.514
TOTAL ANNUAL RESPONSES	12,064,195	12,165,689
AVERAGE HOURS PER RESPONSE	0.051	.053
TOTAL BURDEN HOURS	621,036	642,075
CURRENT OMB INVENTORY	0	660,799
TENTATIVE DIFFERENCE DUE TO RULEMAKING	621,036	-18,724

**B. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

FNS estimates that the total cost to respondents for this collection will be \$11,234,812.23. The estimate of respondent cost is based on the burden estimates and utilizes the U.S. Department of Labor, Bureau of Labor Statistics, May 2022 National Occupational and Wage Statistics, Occupational Group 25-0000 ([http://www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm)). The hourly mean wage for education-related occupations for functions performed by State agency and local program staff are estimated at \$30.41 per staff hour. For household level burdens, the federal minimum wage of \$7.25 was used,

**TOTAL COST TO PUBLIC** = 170,357 hours x \$30.41 per hour = \$5,180,556.37.

450,679 hours x \$7.25 per hour = \$3,267,422.75

To account for fully-loaded wages, an additional \$2,787,833.11 (33% of \$8,447,979.12) has been added to \$8,447,979.12 for a total respondent cost of \$11,235,812.23. When this collection is merged into OMB Control Number 0584-0026, FNS estimates that the total cost to the public will be \$37,962,026.03.

**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.**

In recognition that State agencies may have to update or reprogram systems to accommodate the proposed minimum ISP, FNS is adding an estimated one-time, system modification cost. FNS received two comments that suggested State agencies may modify existing systems in response to this rulemaking. In addition, FNS met with another State agency on August 16, 2023, and discussed how lowering the minimum ISP would impact that State's system. FNS received feedback indicating updates to State systems could be done efficiently and in time to allow LEAs the opportunity to implement CEP at the lower ISP threshold soon after the final rule was effective and encouraged FNS to allow mid-year election.

Given the wide variation of systems in place, programming and maintenance costs across State agencies varies. After considering feedback and analyzing different systems States have in place, FNS is including an estimated one-time cost of \$2,000 per State agency to make system modifications in response to the lowered ISP. As a result of the proposals outlined in this final rule, FNS estimates that this collection is expected to have \$108,000 in one-time, annual costs related to system modifications. Currently, OMB Control Number 0584-0026 does not have any annual costs, so when this information collection is merged later, OMB Control Number 0584-0026 will have \$108,000 in these one-time, annual costs.

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

**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.**

FNS national office (NO) employees spend time drafting the sections of the rule and regulations that pertain to the proposed collections of information. While the information collection requirements included in the final rule would not occur at the federal level, FNS NO staff would be responsible for providing technical assistance webinars and policy guidance that would cover best practices for how respondents can meet the proposed collection of information requirements. FNS regional offices (FNSROs) would also provide technical assistance in the form of answering questions submitted on behalf of program administrators at all levels about the collections of information.

The 2024 Federal Wage Salary Tables (2024 General Schedule (GS)) for Washington, DC-Northern Virginia areas were used to estimate the hourly wages for FNS staff both in the National Office and in the Regional Offices (<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2024/general-schedule>). The GS for Washington DC – Northern Virginia areas was used to calculate the rates for the seven Regional Offices due to the variations among the offices. FNS estimates the hourly wage rate is \$58.41 (GS 13, Step 2) for FNS NO staff responsible for drafting rules and regulations. The estimated hourly wage rate for FNS NO staff who work on collection of information requests and technical assistance resources is \$55.45 (GS 12, Step 6). The estimated average hourly rate for FNS Regional Office (FNSRO) staff who provide technical assistance by responding to inquiries received from program administrators at all levels is \$51.55 (GS 11, Step 10). It is estimated GS 13, Step 2 employees spend approximately 320 hours drafting, reviewing, and revising the proposed rule’s language and its regulations on sections that pertain to the collections of information. It is estimated GS 12, Step 6 employees spend approximately 40 hours developing and presenting technical assistance webinars, and 80 hours drafting, reviewing, revising

policy guidance to provide information about the collection of information requirements and how they may be met. Lastly, it is estimated GS 11, Step 10 employees would spend an estimated 80 hours developing responses and responding to incoming inquiries from program administrators at all levels. These estimates are based on FNS employees who complete these tasks. The table below shows estimations of the annualized sums of federal salary wages for each function FNS employees perform and the estimated total annual costs to the federal government. To account for fully loaded wages, an additional 33 percent of the totaled salary wages is added to estimate the total annualized costs to the federal government. When this collection is merged into the baseline collection, FNS estimates that the total federal costs will be \$178,226.39.

<b>FEDERAL COSTS OF CNP PERSONNEL</b>					
<b>FUNCTION</b>	<b>FNS NO/FNSRO</b>	<b>PAY SCALE</b>	<b>HOURLY PAY</b>	<b>ANNUAL STAFF HOURS</b>	<b>TOTAL COST</b>
Developing the Rule and Regulations	FNS NO	GS 13, Step 2	\$58.41	320 Hours	\$18,691.20
Developing and Presenting TA Webinars	FNS NO	GS 12, Step 6	\$55.45	40 Hours	\$2,218.00
Developing Policy Guidance	FNS NO	GS 12, Step 6	\$55.45	80 Hours	\$4,436.00
TA – Responding to Program administrators	FNSRO	GS 11, Step 10	\$51.55	80 Hours	\$4,124.00
<b>TOTAL SALARY WAGES</b>					\$29,469.20
<b>FULLY LOADED WAGES (33%)</b>					\$9,724.84
<b>TOTAL ANNUALIZED COST</b>					\$39,194.04

**A15. Explanation of Program Changes or Adjustments.**

**Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.**

Although FNS is requesting a new information collection for the information collection requirements related to the lowering of the minimum identified student percentage participation threshold from 40 to 25 percent that are discussed in this final rule, these information requirements are actually existing requirements that are currently approved in OMB Control Number 0584-0026. After OMB has approved the information collection requirements submitted in conjunction with the final rule, FNS plans to later merge the requirements and their burden into OMB Control Number 0584-0026.

FNS estimates that this new information collection resulting from the final rule will initially add 621,036 burden hours, 12,064,195 responses, 3,454,061 respondents, and a total of \$108,000 in system modification costs to the inventory due to a program change.

FNS estimates that once merged, the final rule will decrease the reporting burden by 19,148 hours and increase the recordkeeping burden by 424 hours, for an overall decrease of 18,724 burden hours. FNS estimates the reporting burden will decrease by 384,993 responses and increase the recordkeeping burden by 471 responses for an overall decrease of 384,522 responses. The number of household respondents is also expected to decrease by 108,941 respondents. The decreases in overall burden hours, responses, and respondents are due to additional LEAs expected to elect CEP as a result of this rule. With more LEAs operating CEP, there will be fewer LEAs required to process free and reduced-price school meal applications and fewer households will be required

to submit applications. Though there are small increases in line items related to operating CEP, the significant decreases related to LEAs processing applications and households submitting applications result in an overall decrease in burden hours, responses, and respondents. The \$108,000 in system modification costs will also be merged into the collection. The decreases in the burden hours and responses and the addition of the one-time system modification costs are due to a program change. After the merge, FNS estimates that OMB Control Number 0584-0026 will have 12,165,689 responses, 642,075 burden hours, 3,462,371 respondents, and \$108,000 in system modification costs. Please refer to Attachments A and B for the specific burden revisions made due to rulemaking requirements.

**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 employ statistical methods and there are no plans to publish the results of this collection for statistical use.

**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.**

The agency plans to display the expiration date for OMB approval of the information collection on related instruments.

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

**Explain each exception to the certification statement identified in Item 19 of the OMB 83-I**

**“Certification for Paperwork Reduction Act.”**

There are no exceptions to the certification statement.