

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service announces its intention to request the Office of Management and Budget's (OMB) review of the information collections related to the School Breakfast Program, OMB number 0584-0012.

**DATES:** Comments on this notice must be received by December 13, 1999 to be assured of consideration.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments and requests for copies of this information collection may be sent to Mr. Terry Hallberg, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1006, Alexandria, Virginia 22302.

All responses to this Notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Mr. Terry Hallberg, at (703) 305-2600.

**SUPPLEMENTARY INFORMATION:**

*Title:* School Breakfast Program.

*OMB Number:* 0584-0012.

*Expiration Date:* 10/31/99.

*Type of Request:* Extension of a currently approved collection.

*Abstract:* Section 4 of the Child Nutrition Act of 1966 (CNA), as amended, authorizes the School Breakfast Program. The School Breakfast Program is a nutrition assistance program whose benefit is a breakfast meeting nutritional requirements prescribed by the Department in accordance with section 4(e) of the CNA. That provision requires that "[b]reakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis

of tested nutritional research." Section 10 of the CNA requires the Secretary of Agriculture to prescribe such regulations as he may deem necessary to carry out this Act and the National School Lunch Act. Pursuant to this provision, the Food and Nutrition Service has issued 7 CFR part 220 to implement the School Breakfast Program.

*Respondents:* State agencies, school food authorities and schools.

*Estimated Number of Respondents:* 58 State agencies, 10,018 school food authorities, and 71,672 schools.

*Average Number of Responses per Respondent:* The number of responses is estimated to be 16 responses per respondent per year.

*Estimated Total Annual Burden on Respondents:* The recordkeeping burden hours are estimated at 4,674,185, and the reporting burden hours are estimated at 220,516, for an estimated total annual burden of 4,894,701.

Dated: October 5, 1999.

**Samuel Chambers, Jr.,**

*Administrator.*

[FR Doc. 99-26731 Filed 10-13-99; 8:45 am]

BILLING CODE 3410-30-P

**DEPARTMENT OF AGRICULTURE****Food and Nutrition Service**

**Agency Information Collection  
Activities: Proposed Collection;  
Comment Request—7 CFR Part 210,  
National School Lunch Program**

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this Notice announces the Food and Nutrition Service's (FNS) intention to request Office of Management and Budget (OMB) review of the information collections related to the National School Lunch Program, OMB number 0584-0006.

**DATES:** To be assured of consideration, comments must be received by December 13, 1999.

**ADDRESSES:** Send comments and requests for copies of this information collection to: Mr. Terry Hallberg, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1006, Alexandria, Virginia 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included in the request for OMB approval, and will become a matter of public record.

**FOR FURTHER INFORMATION:** Contact Mr. Terry Hallberg at (703) 305-2600.

**SUPPLEMENTARY INFORMATION:**

*Title:* 7 CFR part 210, National School Lunch Program.

*OMB Number:* 0584-0006.

*Expiration Date:* October 31, 1999.

*Type of Request:* Extension of a currently approved collection.

*Abstract:* The National School Lunch Act (NSLA), as amended, authorizes the National School Lunch Program. The National School Lunch Program is a nutrition assistance program whose benefit is a lunch that meets the nutritional requirements prescribed by the Department of Agriculture in accordance with Subsection 9(a) of the NSLA. That provision requires that "[l]unches served by the schools participating in the school lunch program under this Act shall meet minimum requirements prescribed by the Secretary on the basis of tested nutritional research. \* \* \*" Section 10 of the Child Nutrition Act of 1966, as amended, requires the Secretary of Agriculture to prescribe such regulations as he may deem necessary to carry out this Act and the NSLA." Pursuant to that provision, FNS has issued Part 210 implement the recordkeeping and reporting requirements of the NSLP.

*Respondents:* State agencies, school food authorities, schools.

*Estimated Number of Respondents:* 58 State agencies, 20,348 school food authorities, 96,506 schools.

*Average Number of Responses per Respondent:* The number of responses is estimated to be 19 responses per respondent per year.

*Estimated Total Annual Burden on Respondents:* The recordkeeping hours are estimated at 8,497,780, and the reporting burden hours are estimated at 1,099,001, for an estimated total annual burden of 9,596,781.

Dated: October 5, 1999.

**Samuel Chambers, Jr.,**  
Administrator.

[FR Doc. 99-26732 Filed 10-13-99; 8:45 am]

BILLING CODE 3410-30-P

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

[Docket No. 99-041N]

#### Exemption of Retail Store Operations From Inspection Requirements

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is publishing this notice to advise interested persons of a change in the application of the requirements for inspection under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA). The United States Court of Appeals for the District of Columbia Circuit recently decided that retail stores exempt from federal inspection requirements do not become subject to those requirements when they supply their own kiosks with cooked hams and cooked turkeys that the retail stores have sliced, glazed, and packaged. As a result, inspection under the FMIA or the PPIA is not required if an otherwise exempt retail store transports products such as these to additional locations before it sells them to consumers.

FSIS is reviewing its regulations on the exemption of retail operations from requirements for inspection under the FMIA and the PPIA. After completing this review, the Agency intends to initiate notice-and-comment rulemaking on the application of these requirements and on the handling conditions necessary to ensure that products delivered to consumers are not adulterated or misbranded.

**FOR FURTHER INFORMATION CONTACT:** Philip Derfler, Deputy Administrator, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, Washington, DC 20250-3700; (202) 720-2710.

**SUPPLEMENTARY INFORMATION:** The Food Safety and Inspection Service (FSIS) administers a regulatory program under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) to protect the health and welfare of consumers by preventing the distribution of products that are unwholesome, adulterated, or misbranded. Both the FMIA and the

PPIA include requirements for federal inspection, and they prohibit selling or transporting, offering for sale or transportation, or receiving for transportation, in commerce, products that are adulterated or misbranded and products required to be inspected unless they have been inspected and passed (21 U.S.C. 458(a)(2) and 610(c)).

Intrastate operations and transactions are effectively subject to the same requirements and prohibitions, pursuant to a State inspection program or designation for federal inspection (21 U.S.C. 454(c)(1) and 661(c)(1)).

In *The Original Honey Baked Ham Company of Georgia, Inc. v. Glickman, et al.*, 172 F.3d 885, 886 (D.C. Cir. 1999), the United States Court of Appeals for the District of Columbia Circuit decided that Honey Baked Ham retail stores that are exempt from federal inspection requirements do not become subject to those requirements when they supply their own temporary kiosks (booths with refrigeration units) with cooked hams and cooked turkeys that the retail stores have sliced, glazed, and packaged. According to the Court of Appeals:

\* \* \* That the company's retail stores supply temporary kiosks during holiday seasons does not \* \* \* transform them into "hybrid retail/wholesale" establishments to which the federal inspection requirements apply. A wholesaler does not sell to the ultimate consumer; a wholesaler is a middleman who sells to a retailer. To the extent that Honey Baked Ham's retail stores supply the company's kiosks, they still do not fit within the category of "wholesalers." The stores do not sell their products to the kiosks; the kiosks are simply an extension of the stores' retail operations. According to the \* \* \* Department's own regulations, the company's stores fit within the description of retail establishments, kiosks or not. Their operations, of the sort "traditionally and usually conducted at retail stores," will not change when they supply kiosks. The stores glaze, slice and package products. See 9 CFR §§ 303.1(d)(2)(i)(a), (c), (e), 381.10(d)(2)(i). They sell to consumers only, not to retailers. See 9 CFR §§ 303.1(d)(2)(iii)(a), 381.10(d)(2)(iii)(a). They use meat and poultry products that are federally- or State-inspected and passed. See 9 CFR §§ 303.1(d)(2)(iii)(c), 381.10(d)(2)(iii)(c). \* \* \* [T]here is no indication that [Honey Baked] sales \* \* \* will exceed normal retail quantities. See 9 CFR §§ 303.1(d)(2)(ii), 381.10(d)(2)(ii). Because the company's retail stores will not lose their retail character or become "similar" to wholesale establishments when the kiosk system is fully implemented, the stores are not required to submit to federal inspection.

172 F.3d at 889.

Therefore, otherwise exempt retail store operations do not become subject to inspection requirements because a retail store transports products such as these to additional locations for sale to

consumers. Retail stores that believe their operations have been subjected to federal inspection solely because they transport products to additional locations before sale may request that inspection be terminated. (The request should be directed to the district office for the district in which a store is located.) The Agency is informing State inspection program officials, as well as FSIS personnel, of this change.

In addition, FSIS is reviewing its regulations on the exemption of retail operations from requirements for inspection under the FMIA or the PPIA. After completing this review, the Agency intends to initiate notice-and-comment rulemaking on the application of these requirements and on the handling conditions necessary to ensure that products delivered to consumers are not adulterated or misbranded. (See 21 U.S.C. 454, 455, 463(a), 464, 603 through 606, 623, 624, and 661.)

#### Additional Public Notification

Pursuant to Departmental Regulation 4300-4, "Civil Rights Impact Analysis," dated September 22, 1993, FSIS has considered the potential civil rights impact of this notice on minorities, women, and persons with disabilities. FSIS anticipates that this notice will not have a negative or disproportionate impact on minorities, women, or persons with disabilities. However, notices generally are designed to provide information and public awareness of policy developments is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce the publication of this **Federal Register** notice in the FSIS Constituent Update.

FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at <http://www.fsis.usda.gov>. The web page is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included.

Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to