

**SUMMARY OF CLEARANCE
CHILD AND ADULT CARE FOOD PROGRAM
REGULATIONS - 7 CFR PART 226
OMB CLEARANCE NUMBER 0584-0055**

The purpose of this submission is to obtain a revision of the currently approved information collection cleared under OMB number 0584-0055 of the Child and Adult Care Food Program 7 CFR Part 226.

This revision of a currently approved collection is due changes associated with Final Rule, 7 CFR Parts 210, 215, 220, 225, 226, and 245, "Disclosure of Children's Free and Reduced Price meals and Free Milk Eligibility." This rule has recently cleared OMB and is pending OMB clearance on this collection before the rule can be published in the Federal Register.

The total burden would increase the currently approved burden of 5,779,223 hours by 86,026 (80,751 due to program change and 5,275 due to an adjustment). The total hours requested for this collection is 5,865,249. Explanation of the burden hours are explained in questions 12 and 15.

JUSTIFICATION STATEMENTS
7 CFR PART 226

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

Section 17 of the National School Lunch Act, as amended (42 U.S.C. 1766), authorizes the Secretary of Agriculture to provide cash reimbursement and commodity assistance, on a per meal basis, for food service to children in nonresidential child care centers and family or group day care homes, and to eligible adults in nonresidential adult day care centers. The U.S. Department of Agriculture, through the Food and Nutrition Service (FNS), has established application, monitoring, recordkeeping, and reporting requirements to manage the Program effectively, and ensure that the legislative intent of this mandate is responsibly implemented.

The information collected is necessary to enable institutions wishing to participate in the CACFP to submit applications to the administering agencies, execute agreements with those agencies, and claim the reimbursement to which they are entitled by law. The information collected also ensures that institutions accept, as mandated by Congress, their responsibilities and liabilities in connection with the CACFP, and provide the legal basis for their participation. Some information collected is essential to conduct reviews which determine whether or not institutions are observing the requirements of the Program established by regulations and statute. It is also necessary for administering agencies to monitor these operations to ensure compliance with legislative and regulatory requirements.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Part 226 sets forth policies and procedures for use by State agencies and local level organizations administering the CACFP to ensure that institutions meet the standards for participation under Section 17 of the National School Lunch Act. The information collected is used by FNS and State agencies administering the Program to determine eligibility of institutions to participate in the CACFP, ensure acceptance of responsibility in managing an effective food service, implement systems for appropriating Program funds, and ensure compliance with all statutory and regulatory requirements. Serious legal and accountability questions would be raised if the collection of information for the CACFP were not conducted.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The information is collected for use in administering an ongoing food assistance program. Each State agency and institution must be prepared to establish, through appropriate records, that it has complied with Program policies and regulations. Since each State agency and institution's

performance (i.e. number of meals or supplements served) determines the amount of Federal funds it will receive, each respondent's performance must be determined individually. Thus, the information described in this supporting statement pertains to transactions between the Food and Nutrition Service (FNS) and the primary recipient organization, and between the primary recipient and its subrecipients. It is not collected to identify the characteristics of the universe of potential respondents. Although, FNS is committed to compliance with the E-Government Act the recipient organization may use their information technologies to collect this information where feasible. Family day care home providers submit information to sponsoring organizations and sponsoring organizations submit information to their respective state agencies. FNS has no authority to regulate automation at the local level.

4. 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 Item 2 above.

Each organization administering or operating the CACFP is requested to report information on its program results. No State or local organization collects this same information for other Federal agencies, as applications, agreements, review forms and claims for other programs are not applicable to the CACFP. Applying for participation in the CACFP and executing an agreement to operate it does not involve a duplication of effort.

Similar data is not available to fulfill these requirements. Applications, agreements, review forms, records, and reports used in the administration and operation of other child nutrition programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966 are not applicable to the CACFP.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.

FNS, recognizing the potential burden for day care home providers, acted to minimize burden by requiring day care homes to operate under the auspices of a sponsoring organization. As a result, each sponsor is required to accept final administrative and financial responsibility for all food service operations, and day care homes and the organizations sponsoring them are exempt from maintaining records on home operating costs.

Some sponsoring organizations and institutions undoubtedly meet the definition of "small organizations". The information collection on these organizations generally cannot be modified through probability sampling because the information collected pertains to either (a) the eligibility of individual households for Federal benefits, or (b) the performance of individual grantees or subgrantees under Federal grants. Each organization administering or operating the programs must establish to the satisfaction of the Federal government that it has done so in accordance with applicable legislation, regulations, and directives.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing the burden.

The information is collected for the purpose of administering an ongoing program. Serious legal and accountability questions would be raised if the collection of information required under existing regulations were further reduced.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

Quarterly collections will not suffice because states get reimbursed on a monthly basis for participating in the Program. Therefore, monthly collections constitute collection periods that are more frequent than that outlined in 5 CFR 1320.6, which requires quarterly or less frequent collections.

8. 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 hour burden.

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, and on the data elements to be recorded, disclosed, or reported.

A 60-day notice was published in the Federal Register on July 19, 2006, at page 40985 (copy attached), which provided an opportunity for the public to submit comments on the burden. The comment period ended September 18, 2006, and no comments were received.

All discretionary provisions of Part 226 are published in the Federal Register for public comment, in accordance with Federal rulemaking procedures. Persons outside the agency from whom we obtained their views on this material include Ronald W. Hill, Assistant General Counsel, USDA, Office of the General Counsel (OGC), Food and Nutrition Division.

Whenever FNS proposes an amendment to its regulations, individual copies are available to all seven regional offices, State Directors, local officials, advocacy groups and the public for comment. All comments are considered in the development of interim and final rules.

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

No payment or gift was provided to respondents.

10. Describe any assurance of confidentiality provided to respondents, and the basis for the assurance in statute, regulation, or agency policy.

The Department will comply with the Privacy Act of 1974.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature included in this clearance.

12. Provide estimates of the hour burden of the collection of information.

To estimate reporting and recordkeeping burdens for this submission, we analyzed each provision involving information collection to identify tasks necessary for compliance. We then identified the frequency with which a “typical” SA, sponsoring organization, etc., performs each task and estimated the amount of time doing so.

In this instance, we recognize that no “typical” SA, sponsoring organization, etc., exists. Therefore, our estimates must fairly represent the aggregate work generated by 55 different State level, and approximately 21,224 different local level program management systems. For example, each SA carries out the process of approving claims and reimbursing institutions for meals served. We have attempted to make generalizations about the entire universe, in all its variety, on the basis of the information available.

In making this analysis, we considered information about State and local operations drawn from our files and past experiences. The results of our analysis are presented in the attached worksheets.

RECORDKEEPING

The number of recordkeeping burden hours in inventory is currently 123,300 hours. Implementation of the disclosure rule would not change the recordkeeping requirements, except for an adjustment for an increase in the number of State Agencies would result in an increase of 3.80 hours. The total recordkeeping burden requested for this submission is 123,304 hours.

REPORTING

The number of reporting burden hours in inventory is 5,655,923 hours. The implementation of the disclosure rule would result in an increase of the reporting burden by 80,751 hours and an additional increase of 5,271 is due to the adjustment of State agencies reporting from 53 to 55. The total reporting burden requested for this submission is 5,741,945 hours.

TOTALS

Total Reporting Hours	5,741,945
<u>Total Recordkeeping Hours.....</u>	<u>123,304</u>
Total Hours Requested.....	5,865,249

PUBLIC COST

To estimate public cost, we consulted with the U.S. Department of Labor's 1998 National Compensation Survey. The average hourly rate of State and local government employees, along with private sector employees, is \$17.61. We assumed that an appropriate portion of State level cost would be funded under the State Administrative Expense (SAE) Program (7 CFR Part 235). During the most recent fiscal year for which we have data on SA expenditure of both SAE and State appropriated funds, SAs funded a percent from State sources. Therefore, we computed SA compliance cost at a rate of \$4.40 per hour rather than \$17.61. The household cost was obtained through the Study of the Child Care Food Program Study Final Report issued in August 1988.

Estimated income of children served in family day care homes and child care centers was obtained in the study. Given this, we made the following computations.

Reporting

SA level	144,960.750 hours x \$ 4.40	=	\$637,877.30
Sponsor/Institutions	2,742,487.192 hours x \$17.61	=	\$48,295,199.45
Household	375,731.653 hours x \$16.83	=	\$6,323,563.72
<u>Facility</u>	<u>2,478,765 hours x \$17.61</u>	<u>=</u>	<u>\$43,651,052</u>
TOTAL	5,741,945 hours		\$98,907,692.47

Recordkeeping

SA level	104.5 hours x \$4.40	=	\$459.80
<u>Sponsor/Institutions</u>	<u>123,199.878 hours x \$17.61</u>	<u>=</u>	<u>\$2,169,549.85</u>
TOTAL	123,304.378 hours		\$2,170,009.65

TOTAL COST TO THE PUBLIC: \$101,077,702.12

The results of our analysis are presented in the attached burden accounting worksheets.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

There are no annual start-up or maintenance costs.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expenses that would not have been incurred without this collection of information.

Federal Costs. We identified functions performed by FNSRO and Headquarters staff related to the CACFP and obtained estimates of the number of staff hours spent performing these functions.

For FNSRO staff, we obtained data on the total staff time (for all programs) spent on each function. We then allocated an appropriate portion of each of these functional burdens to CACFP. The estimated percentage of time spent performing duties involving CACFP matters are presented below.

FEDERAL COSTS OF CACFP - PERSONNEL				
(1)	(2)	(3)	(4)	(5)
Function	Done by	Total Staff Hours	CACFP Allocation Percentage	Portion to CACFP (3x4)
Professional Assistance to State Agencies	FNSRO	216,842	.33	71,558
Drafting/Clearing Regulations	HQ	8,320	.70	5,824
Policy Development Guidance	HQ	14,976	.45	6,739
TOTAL				84,121

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

An increase of 80,751 hours is attributed to a program change associated with Parts 226.23(m) and 226.23(l) in final rule, “Disclosure of Children’s Free and Reduced Price Meals and Free Milk Eligibility Information in the Child Nutrition Programs.” An additional increase of 5,275 hours is due to an adjustment of State agencies from 53 to 55. The total increase in the burden associated with this collection is 86,026, with the total annual hours requested at 5,865,249 hours.

Explanation of Program Changes

The Richard B. Russell National School Lunch Act (NSLA), as amended, authorizes the National School Lunch Program (NSLP). Under Section 2 thereof, “It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation’s children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs.”

Any child who is a member of household whose income, at the time the application is submitted, is at an annual rate greater than the applicable family-size income level of the income eligibility guidelines for free or reduced price meals are eligible to receive their meals free or at a reduced price. Paragraph 9(b) of the NSLA provides that the income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and budget, as adjusted annually. The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size and income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and budget, as adjusted annually. 7 CFR Part 245, Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools (OMB No. 0584-0026) sets forth policies and procedures for implementing these provisions. Part 245 requires schools operating the NSLP to determine children's eligibility for free and reduced-price lunches on the basis of each child's household income and size, and to establish operating procedures that will prevent physical segregation, or other discrimination against, or overt identification of children unable to pay the full price for meals or milk. Section 9(b)(6) of the NSLA authorizes the limited disclosure of children's free and reduced price meal or free milk eligibility information to specific programs or individuals, without prior parent/guardian consent. Except that, the parent/guardian must be provided the opportunity to decline to share eligibility information prior to the disclosure for identifying children eligible for benefits under or enrolling children in the State Medicaid Program and the State's children's health insurance program. Additionally the statute specifies that for any disclosures not authorized by the statute, the consent of children's parent/guardian must be obtained prior to the disclosure. Section 9(b)(6) further specifies that certain programs may receive children's eligibility status only without parental consent. Parental consent must be obtained to disclose any additional eligibility information. The aforementioned section specifies that for State Medicaid or SCHIP , parents must be notified and given an opportunity to elect not to have information disclosed. Social security numbers may only be disclosed if households are given notice of the disclosure and the uses to be made of their social security numbers as required by Sec. 7 of the Privacy Act.

The final rule will reflect the disclosure provisions of the Healthy Meals for Healthy Americans Act of 1994 and comments received on the proposed rule-Disclosure of Children's Eligibility Information-published July 25, 2000, at 65 FR 45725-45739. Additionally, the final rule includes the regulatory disclosure provisions implementing the Agricultural Risk Protection Act of 2000 and comments received on the interim rule, Disclosure of Children's Eligibility Information to State Medicaid and the State Children's Health Insurance Program, issued January 11, 2001, at 66 FR 2195-2206. The final rule will also implement nondiscretionary provisions of the Child Nutrition and WIC Reauthorization Act of 2004 that allows certain third party contractors access to children's eligibility status and allow school officials to communicate with Medicaid and SCHIP officials to verify that children are eligible for free and reduced price school meals or free milk.

The regulations will affect State agencies and local program operators that administer the Child Nutrition Programs and households which apply for and/or are approved for free and reduced price meals or free milk.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

There are no plans to publish the results of this collection of information for statistical use. The collection does not employ statistical methods.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There are no longer any Federal forms associated with this information collection.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.

There are no exceptions to the certification statement.