

**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, 7 CFR Part 226, Child and Adult Care Food Program. The final rule, Afterschool Snacks in the Child and Adult Care Food Program, will amend the program regulations to establish the eligibility of at-risk afterschool care centers to serve free snacks to children who participate in afterschool programs.

The total burden would increase the currently approved burden of 5,865,249 hours by 37,746 hours due to program change. The total hours requested for this collection is 5,902,995.

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.

At-Risk Afterschool Snack Rule

The William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) provided for the nationwide availability of snacks in the National School Lunch Program (NSLP), and expanded the availability of snacks to children from age 13 to 18 in the Child and Adult Care Food Program (CACFP) through at-risk afterschool care centers (at-risk centers). CACFP at-risk centers must be located in the attendance area of a school where 50 percent or more of the enrolled children are certified as eligible to receive free or reduced price school meals (low income areas). Hence at-risk centers are reimbursed at the free rate for snacks.

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.

These regulatory changes will authorize certain afterschool care centers to be reimbursed for snacks served to at-risk children 18 years of age and younger. The burden associated with the service of snacks to at-risk children will only affect institutions that participate in afterschool care programs under the CACFP. The information collected is used by FNS, State agencies and sponsoring organizations administering the Program to determine eligibility of afterschool care programs to serve snacks free to at-risk children, implement systems for providing appropriate reimbursements, and ensure compliance with all statutory and regulatory requirements. Serious legal and accountability questions would be raised if the collection of information 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.

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 snacks served) determines the amount of Federal funds it will receive, each respondent's performance must be determined individually. Further as program participants vary considerably in level of sophistication, information related to the use of improved information technology to reduce burden is limited. FNS is committed to compliance with the E-Government Act. To the extent possible, agencies within the recipient organization are encouraged to use their information technologies to collect this information where feasible.

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. 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 Child Nutrition Act of 1966 are not applicable to the CACFP. Similar data is not available to fulfill these requirements.

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. Child care centers may operate under a sponsoring organization and as an independent center. For providers and centers that operate under a sponsoring organization, the sponsor is required to accept administrative and financial responsibility for their food service operations.

Some sponsoring organizations and institutions meet the definition of "small organizations". Each organization administering or operating the program must establish to the satisfaction of the Federal government that it has done so in accordance with applicable legislation, regulations, and directives. Due to the drop-in nature of many afterschool programs and consistent with the objective of keeping program administration minimal, the Department proposed only one additional reporting requirement. Hence at-risk centers must report the total number of snacks served to eligible children in order to receive appropriate reimbursement.

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. Child care centers submit claims for reimbursement every month they operate the afterschool snack program. The data on the claim is used to calculate the amount of funds each center operating the afterschool snack program is entitled to receive.

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 CACFP. Therefore, monthly collections constitute collection periods that are more frequent than that outlined in 5 CFR 1320.6, which requires quarterly or less frequently 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 September 13, 2006, Volume 71, Number 177, pages 54018-540199 (copy attached.) The notice provided an opportunity for the public to submit comments of the proposed burden. The comment period ended November 13, 2006 and one comment was received. The commenter stated that records should be maintained for 7 years; inspections and audits of programs should be conducted every 3 months; and no tax dollars should be spent on children who are in the United States illegally. We believe the record retention and inspection/audit requirements recommended by the commenter would cause undue burden on program operators. Also, the recommended requirements are not in compliance with the Federal recordkeeping and audit requirements as established by the Office of Management and Budget. Hence the inspection/audit requirements remain as published in the notice in the Federal Register. The commenter did not address the estimated hour burden.

The agency solicited comments and recommendations from persons outside the Agency. Persons from whom we obtain their views on notices and regulations include Ronald W. Hill, Assistant General Counsel, USDA, Office of the General Counsel, Food and Nutrition Division and his staff. Whenever FNS proposes an amendment to its regulations, a copy is posted on the FNS website for comment from other Federal agencies, States and local governments, other FNS partners and the general public.

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 21,000 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.

REPORTING

The number of reporting burden hours in inventory is 5,741,945 hours. Implementation of Afterschool Snacks in the Child and Adult Care Food Program rule would increase the reporting hours for institutions by 7,249.90. The increase is due to a new requirement that institutions applying to participate in the at-risk program submit documentation to meet the program eligibility

–age limitation- and area eligibility requirements. This would result in an increase of 460 burden hours. Further institutions would submit documentation to support compliance with the licensing/approval criteria for an increase of 6,789 hours. The total reporting burden requested for this submission is 5,749,194 hours.

RECORDKEEPING

The number of recordkeeping burden hours in inventory is currently 123,304 hours. Implementation of Afterschool Snacks in the Child and Adult Care Food Program rule would increase the recordkeeping requirements by 30,496.326 hours. States participating in the program are required to process and maintain agreements and other source documents to determine program compliance. This requirement increased the recordkeeping hours by 27.50 hours at the state agency level. Institutions participating in the program must maintain all records related to the service of afterschool snacks for a three year period. This provision added an additional 30,469 hours to recordkeeping at the institution level. The recordkeeping hours requested for this submission is 153,801 hours.

TOTALS

Total Reporting Hours	5,749,194
<u>Total Recordkeeping Hours.....</u>	<u>153,801</u>
Total Hours Requested.....	5,902,995

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. 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	144,961	hours x \$ 4.40	=	\$637,828
Sponsor/Institutions	2,749,737	hours x \$17.61	=	\$48,422,868
Household	375,731	hours x \$16.83	=	\$6,323,553
<u>Facility</u>	<u>2,478,765</u>	<u>hours x \$17.61</u>	<u>=</u>	<u>\$43,651,052</u>
TOTAL	5,749,194	hours		\$99,035,301

Recordkeeping

SA level	132	hours x \$4.40	=	\$581
<u>Sponsor/Institutions</u>	<u>153,669</u>	<u>hours x \$17.61</u>	<u>=</u>	<u>\$2,706,111</u>
TOTAL	153,801	hours		\$2,706,692

TOTAL COST TO THE PUBLIC: \$101,741,993

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.

The increase of 37,746 hours to the currently approved burden of 5,865,249 hours is due to new statutory requirement prescribed in Public Law 105-336. These new requirements are being codified under 7 CFR Part 226, Child and Adult Care Food Program (CACFP), Afterschool Snacks in the CACFP. Total burden hours requested for this ICR is 5,902,995.

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.