

**SUPPORTING STATEMENT
SENIOR FARMERS' MARKET NUTRITION PROGRAM (SFMNP)
FINAL RULE
REPORTING AND RECORDKEEPING REQUIREMENTS**

Justification

1. Explain the circumstances that make the collection of information necessary.

The SFMNP is authorized by Section 4402 of the Public Law 107-171, the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007). The purposes of the SFMNP are to provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, and herbs from farmers' markets, roadside stands, and community supported agriculture (CSA) programs to low-income seniors; to increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers' markets, roadside stands, and CSA programs; and to develop or aid in the development of new and additional farmers' markets, roadside stands, and CSA programs.

Public Law 107-171 established the SFMNP as an independent program and authorized the Secretary to promulgate regulations as deemed necessary for the SFMNP. Administered by the Food and Nutrition Service (FNS) heretofore as a competitive grant program, the information collection burden for State agencies receiving SFMNP grants has been minimal – basic financial data, period of operation, number of recipients, and number of authorized outlets (farmers' markets, roadside stands, and CSA programs). The SFMNP as a permanent nutrition assistance program entails an expanded, more structured system for collecting and reporting program information on an ongoing basis. As a non-entitlement program, the SFMNP is subject to the government wide grants management common rule entitled Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR Part 3016. Part 3016 requires the annual closeout and reconciliation of grants under non-entitlement programs. Under 7 CFR 3016.23(b), a State agency must liquidate all obligations under a grant "... not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Report."

The SFMNP is designed to be administered in a manner consistent with the administration of the WIC Farmers' Market Nutrition Program (FMNP) whenever possible. The SFMNP is intended to benefit both the coupon recipients, by enhancing their diets to include fresh fruits and vegetables, and farmers who sell their produce at farmers' markets and roadside stands, and through CSA programs, by increasing their incomes.

2. Indicate how, by whom, and for what purpose the information is to be used.

The financial information provided annually to FNS by participating SFMNP State agencies will be used to reconcile and close out grants in accordance with the requirements of §3016.23(b) and §3016.41(a)(1). Program information will be used by FNS for program planning purposes, and for reporting to Congress as needed.

SFMNP State Plans will be used by FNS as the principal source of information on how each State agency SFMNP operates. Local agency and authorized outlet (farmer, farmers' market, roadside stand, and/or CSA program) applications and agreements are necessary to delineate responsibility, and to ensure the accountability of State agencies, local agencies, and authorized outlets.

In accordance with title VI of the Civil Rights Act of 1964, State and local SFMNP agencies will be required to collect and document racial and ethnic participation data for all program participants who are not certified for the SFMNP based on participation in or certification for another means-tested program that has already collected such data. This data collection requirement is included in the information collection burden as part of the certification process.

State agency nutrition education agreements facilitate the provision of nutrition education to SFMNP recipients, and allow FNS to assess the quality and quantity of the nutrition education that is provided. Reports from monitoring activity for authorized outlets enable FNS to evaluate trends and to assess State agency efforts to control fraud and abuse in such outlets. Minimum documentation for routine monitoring promotes effective monitoring by mandating a consistent level and quality of State agency monitoring nationwide. Documentation of recipient and farmer complaints enables FNS and the State agency to identify problems at the local agency/market/roadside stand/CSA program level. The requirements for the State agency to document eligibility for all SFMNP recipients; identify the disposition of food coupons; request approval for specified costs; submit final closeout reports and recipient reports to FNS; and report the status of recipient claims ensures the accountability of Federal funds, and promotes efficient program management.

Information collected and maintained regarding fair hearings offered to applicants, participants, local agencies and farmers, farmers' markets, roadside stands, and/or CSA programs adversely affected by certain actions of the State agency will help to identify issues of general concern, as well as to ensure that SFMNP regulations and policies are applied to constituents at every level of Program operation in a fair and equitable fashion.

The requirement for State agency corrective action plans ensures that problem areas of Program management are rectified. The requirements for oversight and

monitoring farmers/farmers' markets/ roadside stands/CSA programs assist in controlling fraud and abuse, and in protecting the integrity of the SFMNP.

FNS will use the collection of this information to assess how each State agency operates and to ensure the accountability of State agencies, local agencies, and authorized farmers/farmers' markets, roadside stands, and CSA programs in administering the SFMNP.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, and mechanical or other technological collection techniques.

The Food and Nutrition Service makes every effort to comply with the Government Paperwork Elimination Act (GPEA). FNS encourages its State agency partners to offer electronic submission to participants whenever it is feasible.

Because many of the State agencies that administer the SFMNP also administer the FMNP, we expect the SFMNP to be able to take advantage of any advances that have been implemented for FMNP technology and reporting. Currently, some grantees use automated systems for some SFMNP operations. For example, several SFMNP State agencies use paperless systems that are essentially electronic debit programs. Participants present their identification cards at the market outlet and the value of the produce they select is deducted from their account. Given that under this final rule SFMNP State agencies will be allowed for the first time to use up to 10 percent of their Federal grant for administrative costs, new electronic or other technological collection initiatives and other improvements to current systems may occur. In addition, State agencies will be able to prepare and transmit the State Plans using simplified electronic formats developed by FNS.

4. Describe efforts to identify duplication.

The SFMNP is a new permanent nutrition assistance program. As such, State agency information similar to that required by this final rule does not currently exist. However, the SFMNP regulations would allow State agencies that administer both the SFMNP and the FMNP to consolidate certain aspects of their State Plans, as well as their monitoring responsibilities for both programs, e.g., one visit to authorize a farmers' market for both programs would be allowable.

5. Impact of the collection of information on small businesses.

Several policies help minimize Federal regulatory burdens for farmers, farmers' markets, roadside stands, and CSA programs participating in the SFMNP. Authorization of such outlets is delegated to State agencies, which collect only the minimum amount of data necessary to make a determination of the outlet's

eligibility to accept SFMNP coupons. Design and operation of food coupon payment systems is delegated to State agencies that in many instances use a retail banking system already in place for the FMNP (or other State-administered program) to ensure prompt payment for SFMNP coupons. State agencies have implemented training programs to familiarize farmers/farmers' market managers/CSA operators with SFMNP rules, thus minimizing the time that must be spent in transacting and processing each SFMNP coupon.

6. Describe the consequence to Federal programs or policy activities if the collection is not conducted or is conducted less frequently.

Grant closeout and recipient reporting are annual events. Therefore, the information needed would not be meaningful if it were collected less frequently than annually, as required in this rule. If the information in this final rule were collected less frequently, the effectiveness of the program would be jeopardized; program funds could be improperly used by State and local agencies; and the incidence of fraud and abuse could increase. This could result in fewer recipients being served with available SFMNP funds.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner that is inconsistent with 5 CFR 1320.6.

All of the recordkeeping and reporting requirements covered in this collection are consistent with 5 CFR 1320.6.

8. Provide a copy and identify the date and page number of publication in the *Federal Register* of the SFMNP Proposed Rule.

A 60-day notice was embedded in the proposed rule that was published in the Federal Register on May 26, 2005, at 70 FR 30558. The comment period ended July 25, 2005, and no comments were received. A second, separate notice was published on July 12, 2006, at 71 FR 39281. The comment period ended September 11, 2006, and no comments were received.

(a) 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.

FNS consulted with the National Association of Farmers' Market Nutrition Programs (NAFMNP), which represents SFMNP State agencies on such topics as reporting and the required collection of information, in the process of developing the proposed rule. The NAFMNP's views and suggestions were taken into consideration as the information collection requirements of the SFMNP were designed.

Over 400 comments were received during the 90-day comment period, from a variety of sources including SFMNP participants, State agency grantees, State agencies not currently participating in the Program but interested in doing so, local agencies, farmers, professional organizations and associations, Congressional delegations, advocacy groups, nutritionists, and private citizens.

(b) Consultation with representatives of those from whom information is to be obtained.

Consultation is conducted on a regular basis with members of the NAFMNP on all aspects of SFMNP operation and administration, including such topics as reporting, recordkeeping, and the required collection of information.

9. Explain any decision to provide any payment or gift to respondents.

No payment or gift was provided to respondents.

10. Describe any assurance of confidentiality provided to respondents.

Under the final rule, SFMNP State agencies are required to restrict the use or disclosure of information collected from applicants and recipients and generated by the program. Information must be carefully safeguarded and may only be shared with: (a) persons directly connected with the administration or enforcement of the Program, including those persons investigating or prosecuting violations under Federal, State or local authority; (b) other public organizations designated by the chief State agency officer that administer food, nutrition, or other assistance programs that serve persons categorically eligible for the SFMNP with which a written agreement is executed to share information to establish eligibility for such programs or for outreach purposes; and (c) the Comptroller General of the United States for audit and examination authorized by law. These assurances are provided in Section 249.24 of the final rule.

11. Provide additional justification for any questions of a sensitive nature.

FNS does not propose to ask questions related to sexual behavior, attitudes, religious beliefs, or health conditions.

OMB mandates that racial/ethnic information be collected from each program applicant, to indicate both the applicant's ethnicity (Hispanic/Latino or Not Hispanic/Latino) and racial category (American Indian, Alaskan Native, Asian, Black/African American, Native Hawaiian/Other Pacific Islander, and/or White). The SFMNP Final Rule acknowledges that most participants are deemed eligible to receive SFMNP benefits by virtue of their certification for or participation in another qualifying means-tested program (such as CSFP, TEFAP, or FDPIR), and that the required racial/ethnic information is likely to have already been collected during that initial certification process. Therefore, FNS will not require that

duplicate racial/ethnic information be collected a second time from such participants. However, the necessary racial/ethnic data must be collected from all SFMNP participants who do not come into the program through another assistance program.

Racial/ethnic data for all SFMNP participants must be maintained on file, either by the program that confers automatic SFMNP eligibility or by the SFMNP local agency that collects such information. The SFMNP State agency must be able to provide FNS with aggregate racial/ethnic data for all SFMNP participants when it is requested. FNS is developing a user-friendly form that will simplify this process.

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

(a) Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

The narrative that accompanies this justification explains the estimated burden associated with the individual reporting and recordkeeping requirements covered in this submission. It includes a chart that shows how the burden hours associated with each requirement were calculated.

(b) Provide separate hour burden estimates for each form and aggregate the hour burden in Item 13 of OMB Form 83-1.

Please refer to the narrative that accompanies this justification for the aggregate burden hours.

(c) Provide estimates of the annualized cost to respondents for the hour-burdens for collections of information.

Respondent Costs

Estimated reporting burden hours:	235,153
Estimated recordkeeping burden hours:	<u>2,256</u>

Total respondent burden hours:	237,256
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TOTAL RESPONDENT COSTS: \$5,271,828*

* At \$22.22 per burden hour. This rate was obtained from the U.S. Department of Labor, Bureau of Labor Statistics, National Compensation Survey: Occupational Wages in the United States, July 2003.

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

(a) Include a total capital and start-up component (annualized over its expected useful life), and a total operation and maintenance and purchase of services component.

(b) Present ranges of cost burdens and explain the reasons for the variance.

There are no startup or annualized maintenance costs to respondents or record keepers resulting from the collection of information. All costs associated with the hour burden are shown in the responses to Items 12 and 14 of this document.

14. Provide estimates of annualized cost to the Federal government.

(a) Federal cost of rulemaking (promulgation, preparation of guidance, and implementation):

(1) FNS Headquarters staff 1 staff year @ \$80,000	\$ 80,000
FNS Regional staff 3.5 staff years @ 70,000	<u>245,000</u>
Sub-Total:	\$325,000

(2) Overhead costs, travel, office supplies, etc.	0
Mailing and phone	0
Publication costs	0
Distribution costs	0

TOTAL FEDERAL RULEMAKING COSTS: \$325,000

(b) Federal cost of program maintenance (reporting and recordkeeping, monitoring, technical assistance, review and analysis):

(1) FNS Headquarters staff 0.5 staff year @ \$80,000	\$ 40,000
FNS Regional office staff 7 staff years @ \$70,000	<u>490,000</u>
Sub-Total:	\$530,000

(2) Overhead costs, travel, office supplies, etc.	0
Mailing and phone	0
Sub-Total:	0

Federal Program Maintenance Costs: \$530,000

TOTAL FEDERAL COSTS: \$855,000 (\$530,000 + \$325,000)

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

The SFMNP is a new program. There have been no changes or adjustments because this is the first information collection burden that has been proposed for the SFMNP.

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

There are no plans to publish the results of this information collection burden for statistical use. The results will only be used to assess SFMNP compliance by each State agency.

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

We are not seeking OMB approval for permission not to display the expiration date.

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

There are no exceptions to the certification statement.