

**FOOD STAMP PROGRAM REPAYMENT DEMAND AND PROGRAM
DISQUALIFICATION**

OMB NUMBER: 0584-0492

Dawn Washington, Project Officer

Food Stamp Program

Food and Nutrition Service, USDA

3101 Park Center Drive, Room 820

Alexandria, VA 22302

Phone: 703-305-2450 and Fax: 703-605-0795

Dawn.Washington@fns.usda.gov

A. Justification

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

This statement supports the request for a revision of the currently approved information collection associated with initiating collection actions against households who received an overissuance in the Food Stamp Program (FSP). Section 13 of the Food Stamp Act of 1977 (the Act) requires that State agencies pursue collection action against overissued households. In addition, this statement also extends the currently approved information collection requirements relating to intentional Program violation (IPV) determinations. Section 6 of the Act requires taking action against those individuals who intentionally violate FSP rules.

Initiating Collection Action – Section 13 (b) of the Act and FSP regulations at 7 CFR 273.18 require State agencies to initiate collection action against households that have been overissued benefits. To initiate collection action, State agencies need to provide an affected household with written notification informing the household of the claim and demanding repayment.

Intentional Program Violations (IPV) – Section 6 of the Act and FSP regulations at 7 CFR 273.16 requires State agencies to investigate any case of suspected fraud, and, where applicable, make an IPV determination either administratively or judicially. This activity is vital to protect and enhance the integrity of the FSP.

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

Initiating Collection Action – To initiate collection action, State agencies need to provide written notification to all households that were overissued FSP benefits inform them of the claim and demand repayment. This process is automated in most State agencies. The notification must conform to the requirements of 7 CFR 273.18(e)(3)(iv) to include the bulleted data below:

- The amount of the claim;
- The intent to collect from all adult household members;
- The type of and reason for the claim;
- The time period associated with the claim;
- How the claim was calculated;
- A listing of payment procedures and applicable options;
- A listing of appeal and due process rights; and
- A listing of actions that may be taken if the claim is not timely paid.

Intentional Program Violations (IPV) – FSP regulations at 7 CFR 273.16 require State agencies to investigate any case of suspected fraud, and, where applicable, make a determination of an IPV either administratively or through the court. A State agency may determine an IPV by:

- The individual accepting the penalty by signing a waiver of right to an administration disqualification hearing (ADH);
- The individual signing a disqualification consent agreement in cases of deferred adjudication; or
- An administrative hearing official or a court of appropriate jurisdiction determining that the individual committed the IPV.

FSP regulations at 7 CFR 273.16(e)(3) require that State agencies provide written notification of an impending ADH to the individual suspected of committing an IPV. The notification contains an explanation of the charge against the individual, the potential penalties, and a listing of the rights and options afforded to the individual. A similar notification is sent to individuals who are being prosecuted through the court.

In some State agencies, one of the options available to the individual under 7 CFR 273.16(e)(3) is the ability for the individual to waive the right to an ADH and accept the disqualification penalty. The disqualification waiver may be included in the advance notification or provided as a separate attachment for the individual to sign and submit to avoid having the ADH. Similarly, under 7 CFR 273.16(h), State agencies may establish procedures to provide the accused individual with the option to consent to a Program disqualification to avoid criminal prosecution.

Once a determination is made regarding an IPV, the State agency must send notification to the affected individual of the action taken on the ADH or court decision. This includes notifying the person that he/she will be disqualified and when the disqualification will become effective.

One of the factors used by a State agency to determine the appropriate disqualification penalty to assign to an individual is whether or not the individual was found to have committed any prior IPV's. The way that State agencies determine this is by accessing and checking the Electronic Disqualified Recipient Subsystem (eDRS). eDRS is an automated system developed by FNS that contains records of disqualifications in every State. State agencies are responsible for updating the system and checking it to determine the appropriate length of each disqualification.

The burden associated with eDRS involves State agencies updating eDRS with disqualification data, correcting and resubmitting any incorrect entries, and accessing the system to determine the proper disqualification penalty. In addition to entering data, State agencies need to correct and resubmit disqualification data that contained an error when the data were originally entered. This process is the same as in previous years, except for the 22 States that submit data directly through the eDRS website, data entry errors are identified at the point of entry and corrections can be made immediately.

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

In accordance to the Government Paperwork Elimination Act (GPEA) of 1998 and E-Government Act 2002 Federal agencies are to provide for electronic submission of information as an alternative to paper submission. State agencies have the authority to use information technology that best suits the needs of their individual or unique systems of operations to comply with this information collection. For initiating collection action, this process is automated in many State agencies. The tracking and notification process for IPV's is also automated in many State agencies. FNS makes every effort to comply with these requirements for this information collection. eDRS is an automated system developed and maintained by FNS and made available to State agencies.

4. Describe efforts to identify duplication:

Based on research conducted during the life cycle of this information collection, there was no other information collection that existed that would serve the Agency's purpose.

5. Impact of the collection on small businesses:

This information collection does not affect small businesses or other small entities. The collection is limited to what is necessary to comply with statutory requirements and to protect Program integrity.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently:

By not initiating the collection actions, the Federal program would not be in compliance with 7 CFR 273.18. Claims collections have a direct financial impact on State and Federal government. By not identifying and noticing households with overissuances, both entities stand to lose an opportunity to reduce Program costs by millions of dollars. There is also a negative impact on recipients. Not adequately notifying a household of an overissuance or an individual of an impending IPV compromise the respondent's right to due process.

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:

There are no special circumstances that require information collection that is inconsistent with 5 CFR 1320.6.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice. 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. Consultation should take place with representatives of those from whom the information is to be obtained:

The 60-day notice was published in the Federal Register on February 28, 2008, Volume 73 Number 40, and Page 10740. We did not receive any comments on the proposed information collection. Informal discussions with State agencies have indicated that they generally support the initiating collection action and IPV procedures. The advocacy community also

generally supports this activity as it provides households and recipients advance notice of an impending adverse action.

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

No payments or gifts to respondents are provided under this information collection.

10. Describe any assurance of confidentiality provided to respondents:

The Privacy Act of 1974 requires that before personal identifying information (such as social security numbers) may be shared with other entities, a Privacy Act notice must first be published. Therefore, the Food and Nutrition Service published such a Privacy Act notice March 27, 1998 in the Federal Register Volume 63, Number 59 Pages 14894-96 titled “*Claims Against Food Stamp Recipients*” USDA/FNS-3 in the system of records notices (SORN) to specify the uses to be made of the information in this collection.

Food Stamp Act, Section 11(e)(8) and regulations at 7 CFR 272.1 limit the use or disclosure of information obtained from applicant households to persons directly connected with either the administration or safeguarding the integrity of the FSP. The information will be kept confidential the activities covered by this action are to be used by those directly connected with the administration of the FSP. Access to records is limited to those persons who process the records or conduct research in a investigation as stated in this Privacy Act notice except as otherwise required by law.

11. Provide any justification for any question of a sensitive nature:

This information collection does not ask any question of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, and annual hour burden. If this request for approval covers more than one form, provide separate hour burden for each form. Provide estimates of annualized cost to respondents for the hour burdens for the collection of information:

Demand Letter for Overissuance – State agencies provide an affected household with written notification informing the overissued household of the claim and demanding repayment. We are estimating the annual reporting and recordkeeping burden for State agencies and households to be 111,199 hours. This estimated burden is based on the assumption that it takes the State agency an average of 8 minutes to produce an automated demand letter, 2 minutes for State agency recordkeeping and about 2 minutes for the household to read the letter. The total number of notifications used in this estimate was based on FY 2006 data and is 556,000 per year. The annual burden on the State agency is 74,133 hours to produce the letter and 18,533 hours for recordkeeping. The burden on the households to read the letter is 18,533 hours per year.

Action taken on Hearing and Court Decision for Intentional Program Violation – State agencies must provide written notification of an impending ADH to the individual suspected

of committing an IPV. A similar notification is sent to individuals who are being prosecuted through the court. We estimate, based on FY 2006 data that about 44,898 of these notifications are sent by State agencies each year. In addition, we assume that it will take the State agency an average of 8 minutes to produce a notification for a hearing or prosecution and the household about 1 minute to read the notification. The annual reporting and recordkeeping burden associated with this activity then computed to be 5,986 hours for the State agency and 748 hours per household.

In some State agencies, one of the options available is the ability for the accused individual to waive the right to an ADH and accept the disqualification penalty. Similarly, State agencies may establish procedures to provide the accused individual with the option to consent to a Program disqualification to avoid criminal prosecution. Based on FY 2006 data, we are estimating that 25,557 households will use either of these options. We are estimating that it takes a household about 2 minutes to respond to either of these options. The resulting household burden is estimated to be 851 hours per year.

Once a determination is made regarding an IPV, the State agency must send notification to the affected individual of the action taken on the ADH or court decision. Based on FY 2006 data, we estimate that about 43,351 notifications are sent by State agencies each year to individuals who were found to have committed an IPV. In addition, we assume that it will take a State agency an average of 10 minutes to produce a notification for a hearing or prosecution, 2 minutes for recordkeeping, and the household about 1 minute to read the notification. The annual reporting and recordkeeping burden associated with this activity is then computed to be 7,224 hours for the State agency reporting, 2,941 for the State agency recordkeeping and 722 hours for the household.

In addition, based on FY 2006 data, we estimate that about 1,547 individuals will receive notices after their hearings that they have not committed an IPV. We estimate that this activity takes the State agency an average of 5 minutes to produce a notification for hearing or prosecution and the household about 1 minute to read the notification. The additional annual burden associated with this activity is broken out into 128 hours for the State and 25 for the household. For a total of 153 estimated burden hours.

The burden associated with eDRS involves State agencies updating eDRS with disqualification data, correcting and resubmitting any incorrect entries, and accessing the system to determine the proper disqualification penalty. We estimate based on FY 2006 data that it takes a State agency about 5 minutes to enter a disqualification into eDRS. The annual burden associated with the eDRS process is 3,612 hours.

In addition to entering data, State agencies need to correct and resubmit disqualification data that contained an error when the data were originally entered. We estimate that eDRS initially rejects about 2 percent or 867 disqualifications because of missing or improperly entered data. We also estimate that it takes about 10 minutes for the agency to correct and re-enter this data. The total annual burden associated with this activity is 144 hours.

Since the disqualification period is longer if the individual is a repeat offender, the State agency needs to access eDRS each time an individual is disqualified to determine whether the individual has any prior disqualifications. Currently, 31 State agencies use their own database (which is periodically updated with eDRS data) to perform this function. We estimate that it takes an average of 2.5 minutes to check each of the estimated 43,351 disqualifications that were attributed to State agencies that download eDRS data in FY 2006. The total hourly burden associated with this task for these 31 State agencies is 1,806 hours.

13. Provide an estimate to the total annual cost burden to respondents or recordkeepers resulting from the collection of information. The cost estimate should be split into two components, total capital and start-up cost and total operation, maintenance and purchase of services. If the cost estimates are expected to vary widely, present ranges of cost burdens and explain the reason for the variance:

There are no capital, start-up and/or annualized maintenance costs associated with this burden.

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

The estimated annual cost to the Federal government is \$846,390. This is 50 percent of the total annualized cost to State agencies and their issuance agents. No other Federal costs are anticipated.

15. Explain the reasons for any program changes or adjustments:

Despite an increase in food stamp participation, there is a total decrease of -30,936 burden hours reported in this information collection. The replacement of the Voice Response Unit by the eDRS website caused a reduction of -1,011 burden hours. In addition, FSP policies to simplify the Program have resulted in fewer payment errors and IPVs which also lead to fewer recipient claims, resulting in -29,924 burden hours.

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

Aggregate data on the number of claims established and disqualification are included in the FSP State activity report that is released on an annual basis.

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

There is no form associated with this information collection on which to place an expiration date. To display the expiration date on any notice developed by the State agency would be inappropriate since in many instances the State employs a generic notice that is also used for a number of State public assistance programs.

18. Explain each exception to the certification statement identified in item 19, “Certification Requirement for Paperwork Reduction Act.”

There are no exceptions to the certification statement.