

**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM REPAYMENT DEMAND
AND PROGRAM DISQUALIFICATION**

OMB NUMBER: 0584-0492

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A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

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 Supplemental Nutrition Assistance Program (SNAP). Section 13 of the Food and Nutrition Act of 2008 (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 SNAP rules.

Section 4001-4002 of the Food, Conservation and Energy Act of 2008 (Public Law 110-246) renames the Food Stamp Act of 1977 to the Food and Nutrition Act of 2008 and the Food Stamp Program to the “Supplemental Nutrition Assistance Program “ or SNAP.

Initiating Collection Action – Section 13 (b) of the Act and SNAP 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 SNAP 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 SNAP.

2. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Initiating Collection Action – To initiate collection action, SNAP regulations at 7 CFR 273.18 require all 53 State agencies to provide written notification as needed to all households that were overissued SNAP benefits informing them of the claim and a demand for 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 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) – SNAP 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 administrative 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.

SNAP 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 System (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 data that was entered incorrectly, and accessing the system to determine the proper disqualification penalty. Many States use a batch process for correcting and resubmitting data and 21 States 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 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.

FNS is committed to complying with the E-Government Act, 2002 to promote the use of technology. 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 most State agencies. The tracking and notification process for IPV's is also automated in most 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 is made available to all 53 State agencies so that they may submit and retrieve data efficiently; 100 percent of the States submit data electronically.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.

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. FNS solely monitors over-issuance and intention violations of SNAP benefits. The information required for eDRS and repayment demands is not currently reported to any other entity outside of FNS. Every effort has been made to avoid duplication. FNS has reviewed USDA reporting requirements, state administrative agency reporting requirements and special studies by other government and private agencies.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information required has been held to the minimum requirement for the intended use.

Circumstances limit the flexibility in modifying the reporting and recordkeeping requirements to comply with statutory requirements and to protect Program integrity. FNS estimates that one percent of our respondents are small entities, approximately 5 respondents.

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 burden.

If FNS did not initiate these 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. If these overissuance were not identified and households not notified about 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. Further, States are responsible for assigning the appropriate penalty lengths to those found guilty of an IPV. Individuals who have committed prior IPV's are assigned longer penalty lengths. States access eDRS in order to determine if any prior IPV's have been committed. States are responsible for updating the system so that it may be used for this purpose.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances that require information collection that is inconsistent with 5 CFR 1320.5.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, 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.

The 60-day notice was published in the Federal Register on March 24, 2011, Volume 76 Number 57, and Page 16598. We received one comment that was not relevant to the data collection.

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

Consultation should take place with representatives of those from whom the information is to be obtained:

Informal discussions with State agencies and advocates during annual conferences, such as at the United Council on Welfare Fraud (UCOWF) conference and the Public Assistance Information Reporting System (PARIS) conference, 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, other than reenumeration of contractors or grantees.

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

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

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.

The Food and Nutrition Act of 2008, 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 SNAP. The information will be kept private; the activities covered by this action are to be used by those directly connected with the administration of SNAP. 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 additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

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

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

Demand Letter for Overissuance – State agencies provide an affected household with written notification informing the overissued household of the claim and demanding repayment as required under 7 CFR 273.18. We are estimating the annual reporting and recordkeeping burden for State agencies and reporting households to be 137,584 hours. There is no recordkeeping burden imposed on the households. 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 2009 data and is 687,922 per year. The annual burden on the State agency is

91,723 hours to produce the letter and 22,931 hours for recordkeeping. The reporting burden on the households to read the letter is 22,931 hours per year.

Action taken on Hearing and Court Decision for Intentional Program Violation (7 CFR 273.16) – 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 2009 data that about 51,694 households received these notifications 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 6,892 hours for the State agency and 862 hours for the households.

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 2009 data, we are estimating that 29,606 households (21,334 Administrative Disqualification Hearing Waiver and 8,272 Disqualification Consent Agreement) 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 987 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 2009 data, we estimate that about 50,178 households receive notifications 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 8,363 hours for the State agency reporting, 3,396 for the State agency recordkeeping and 836 hours for the household reporting.

In addition, based on FY 2009 data, we estimate that about 1,516 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 126 hours for the State and 25 for the household. For a total of 151 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 2009 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 4,181 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 12 percent or 6,021 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 1,003 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, State agencies use their own database (which is periodically updated with eDRS data) or connect directly to eDRS online to perform this function. We estimate that it takes an average of 2.5 minutes to check each of the estimated 50,178 disqualifications in eDRS in FY 2009. The total hourly burden associated with this task for State agencies is 2,091 hours.

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

Based on the Bureau of Labor Statistics May 2009 Occupational and Wage Statistics – 43-4061 (<http://www.bls.gov/oes/current/oes434061.htm>), hourly mean wage for Eligibility Interviewers, Government Programs functions performed by State and local agency staff are valued at \$19.56 per staff hour. Based on the total estimated burden hours for State agency reporting and recordkeeping of 140,706.22, the total cost to the State is \$1,376,106.73, for a grand total of \$2,752,213.47.

According to the Bureau of Labor Statistics, the average National minimum wage rate is \$7.35 an hour. Based on the total estimated burden hours for household reporting of 25640.367, the total cost to households is \$188,456.70.

13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.

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. Also, provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

The estimate of respondent cost is based on the burden estimates in the table above. Based on the Bureau of Labor Statistics May 2009 Occupational and Wage Statistics – 43-4061 (<http://www.bls.gov/oes/current/oes434061.htm>), hourly mean wage for Eligibility

Interviewers, Government Programs functions performed by State and local agency staff are valued at \$19.56 per staff hour. Based on the total estimated burden hours for State agency reporting and recordkeeping of 140,706.22, the total cost is \$2,752,213.47.

The annual cost to the Federal Government for is \$35.88 an hour for a Program Analyst's GS 12, step 1 and \$50.41 an hour for a Branch Chief GS 14, step 1 to collect and use data. Based on 12 hours of work on this burden collection the cost for the Analyst is \$430.56 and 4

hours of work for the Branch Chief the cost is \$201.64. No other Federal costs are anticipated.

Therefore this brings the estimated annual cost to the Federal government is \$1,376,106.73.

This is 50 percent of the total annualized cost to State agencies and their issuance agents.

ACTIVITY	HOURS REVIEWING AND MONITORING	COST PER HOUR	Total Cost of Hours	TOTAL FEDERAL COSTS (50% of the Total Amount)
Demand Letter Over Issuance - SA Reporting 273.18	91,722.931	\$19.56	\$1,794,100.53	\$897,050.27
Initiating Collection Action – SA Record Keeping 273.18	22,930.504	\$19.56	\$448,520.66	\$224,260.33
Intentional Program Violation (IPV) Notices and Actions on Hearing and Prosecutions–SA Reporting 273.16	15,381.354	\$19.56	\$300,859.28	\$150,429.64
SA Record Keeping for IPV's 273.16	3,395.699	\$19.56	\$66,419.87	\$33,209.94
SA Reporting - Electronic Disqualified Reporting System (eDRS) reporting, editing and penalty checks 237.16	7,275.72	\$19.56	\$155,837.10	\$77,918.55
Total	140,706.21	\$19.56	\$2,752,213.47	\$1,376,106.73

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

This is a revision of a currently approved collection. These adjustments are a result of an increase in SNAP participation and the participation of State agencies using eDRS. There is

a total increase of 30,954 burden hours reported in this information collection. The IPV-related State agency and household annual reporting and recordkeeping burden has only increased slightly from 18,630 hours to 21,487 hours to reflect the higher number of disqualifications. eDRS has allowed States to better identify and track recipients disqualified from the Program. As a result of these program changes, the annual burden associated with the eDRS process reflects a total increase from 5,563 hours to 7,275 hours per year. This increase is due to the higher participation rates leading to a higher number of intentional Program violations.

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

Aggregate data on the number of claims established and disqualification are included in the SNAP State activity report that is released on an annual basis on the United States Department of Agriculture web site.

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 is no form associated with this information collection; therefore, this submission is not seeking OMB approval to not display the expiration date.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act."

There are no exceptions to the certification statement.

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