

## **SUPPORTING STATEMENT JUSTIFICATION FOR PETITIONS FOR RULEMAKING**

### **1. Circumstances Making Collection Of Information Necessary:**

This is a request for a revised information collection, which addresses the regulatory requirements governing the submission to FSIS of petitions for rulemaking.

The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 et seq.). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

The Administrative Procedures Act requires that Federal agencies give interested persons the right to petition for issuance, amendment, or repeal of a rule (5 U.S.C. 553 (e)).

FSIS has regulations (9 CFR 392) governing petitions to the Agency to issue, amend, or repeal its regulations.

### **2. How, By Whom and Purpose Information Is To Be Used:**

The following is a discussion of the required information collection and recordkeeping activities.

#### *Petitions for Rulemaking*

FSIS has regulations that govern the submission to FSIS of petitions for rulemaking (9 CFR 392). FSIS uses the information associated with petitions to assess the merits of the petition and to determine whether to issue, amend, or repeal its regulations.

There are 400 total burden hours for the information collection request relating to the development and submission of petitions for rulemaking.

### **3. Use Of Improved Information Technology:**

Under the Government Paperwork Elimination Act, petitions and accompanying information may be submitted electronically to FSIS.

#### **4. Efforts To Identify Duplication:**

No FSIS office, USDA agency, or any other Government agency requires information relating to petitions for rulemaking with meat, poultry, and egg products regulations. There is no available information that can be used or modified.

#### **5. Methods To Minimize Burden On Small Business Entities:**

Data required of small businesses are the same as for large ones. The information collections must apply to all petitioners. FSIS estimates that 5 small businesses will annually petition the Agency to amend its regulations.

#### **6. Consequences If Information Were Collected Less Frequently:**

To conduct the information collections less frequently will reduce the effectiveness of the meat, poultry, and egg products inspection program.

#### **7. Circumstances That Would Cause The 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 confiden-

tial 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.

All information collection and recordkeeping activities in this submission are consistent with the guidelines listed above.

## **8. Consultation With Persons Outside The Agency:**

In accordance with the Paperwork Reduction Act, FSIS published a 60-day notice requesting comments on this information collection request (77 FR 16804; March 22, 2012). FSIS received two public comments. One was not directly related to the information collection. The other comment did not think that the guidelines the Agency had previously established for submitting petitions is a good idea because she believes that they may make it more difficult to submit a petition. But FSIS believes that the guidelines are necessary to assist the petitioners in assuring that their petitions are complete.

FSIS also contacted three persons regarding the information collection: Lenny Lang, 540/659-9737; Bruce Wagman, 415/901-8700; Trish Marsh Johnson, 706/613-8843. One person said it took him 30 hours to compile a petition and another person said it took 100 hours. One person thought that 40 hours was an appropriate estimate. The Agency decided to maintain its estimate of 40 hours to compile and submit a petition.

## **9. Payment or Gifts to Respondents:**

Respondents will not receive any gifts or payments.

## **10. Confidentiality Provided To Respondents:**

No assurances other than routine protection provided under the Freedom of Information Act have been provided to respondents.

## **11. Questions Of A Sensitive Nature:**

The applicants are not asked to furnish any information of a sensitive nature.

## 12. Estimate of Burden

The total burden estimate for the reporting and recordkeeping requirements associated with this information collection is 400 hours.

The Agency estimates that 10 petitioners will respond one time taking each petitioner 40 hours to develop and submit petitions for rulemaking for an annual total of 10 responses and 400 burden hours.

### DEVELOPING & SUBMITTING PETITIONS FOR RULEMAKING (9 CFR 392)

Type of Establish- Ment	No. of Respon- dents	No. of Responses per Respondent	Total Annual Responses	Time for Response in Mins.	Total Annual Time in Hours
Ests.	10	1	10	2,400	400

The cost to the respondents is estimated at \$14,800 annually. The Agency estimates that it will cost respondents \$37 an hour in fulfilling these paperwork and recordkeeping requirements. Respondents will spend an annual total of 400 hours and \$14,800.

## 13. Capital and Start-up Cost and Subsequent Maintenance

There are no capital and start-up costs and subsequent maintenance burdens.

## 14. Annual Cost To Federal Government And Respondents:

The cost to the Federal Government for these information collection requirements is \$14,800

annually. The costs arise primarily from the time spent by FSIS staff reviewing petitions. The Agency estimates a cost of \$37 per hour.

**15. Reasons For Changes In Burden:**

There is an adjustment increase in the information collection resulting in an increase in respondents from 5 to 10, the number of responses from 5 to 10 and the burden from 200 to 400 due to more people submitting petitions for rulemaking.

**16. Tabulation, Analyses And Publication Plans:**

There are no plans to publish the data for statistical use.

**17. OMB Approval Number Display:**

FSIS will display the OMB approval number on any instructions it publishes relating to recordkeeping activities.

**18. Exceptions to the Certification:**

There are no exceptions to the certification. This information collection accords with the certification in item 19 of the OMB 83-I.