

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: MAJOR SYSTEM

FAILURES

PROPOSED RULE (RIN 0584-AD98)

SUPPORTING STATEMENT

OMB CLEARANCE NUMBER 0584-NEW

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This information collection request supports a proposed rule which published on August 18, 2011. At the time of publication, competing Agency priorities prevented the completion of a supporting statement for the proposed rule.

- 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 is a request for a new information collection. Section 4133 of the Food, Conservation, and Energy Act of 2008, Pub. L. 110-234 (“FCEA”), “Major System Failures”, amends Section 13(b) of the Food and Nutrition Act of 2008 (“the Act”) to require the United States Department of Agriculture (USDA) to determine when a systemic State error is resulting in the overissuance of benefits to a substantial number of SNAP households and the actions the Department may take if such a determination were made.

USDA published a proposed rule in the Federal Register to amend the Supplemental Nutrition Assistance Program (SNAP) regulations to implement Section 4133 of FCEA. The rule would allow the Department to require that States with potential major systemic error situations collect specific data concerning the systemic error. Such data may be obtained from the State’s information management system or it may be necessary for the State to select and review a statistical (random) sample of cases and report the results to the Department. The rule proposed criteria for determining if a State experienced a systemic

error that resulted in the overissuance of benefits to a substantial number of households and specifies the steps that the Department may take to collect data, instruct the State to terminate claims collection from the affected households, and issue a bill to the State for the value of the over-issuances. The rule also identified the review and appeal process for any such billing. USDA will ultimately publish a final rule in the Federal Register to amend the SNAP regulations (7 CFR Part 273) to incorporate these provisions.

- 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.**

The purpose of this information collection associated with rulemaking is to comply with the requirements of the FCEA. The rule would establish a new reporting burden for State Agencies (SAs) when FNS determines that a major systemic error in their SNAP operations may exist. Without data from the State(s), FNS would not be able to determine if a major systemic error exists and take the action required in the Act.

- 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.**

While FNS is committed to complying with the E-Government Act, 2002 to promote the use of

the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, the reporting burden required by the proposed regulations is dependent upon each individual State's compliance problems. Since FNS' information needs will vary depending upon the States' issues, it is not practicable to standardize and automate reporting.

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.

FNS solely administers and monitors SNAP. FNS has reviewed USDA reporting requirements, state administrative agency requirements and there is no similar reporting requirement for States to provide data on a specific type of overissuance error.

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

Information being requested or required has been held to the minimum for the intended use. No small business entities would be affected by the proposed regulation.

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.

The information is collected for the purpose of administering an ongoing program. If this

information was not collected, or collected less frequently, FNS would not be able to properly monitor States for compliance with the Act. As proposed, this information collection only requires reporting when there is an identified need based upon implementation of a major change in a States SNAP.

7. Circumstances that would cause an information collection to be conducted in a manner that is inconsistent with 5 CFR 1320.5:

- **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. The collection of information is conducted in a manner consistent with the guidelines in 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.**

FNS published the proposed rule, "Major System Failures" (0584-AD98) on August 18, 2011 in the Federal Register (76 FR 51274). The proposed rule provided a 60-day comment period on the information collection. During this time, interested members of the public had the opportunity to provide FNS with their input concerning the necessity, practical utility, accuracy, and merit of the information collection activities FNS proposed.

- **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.

FNS consults with Regional offices regarding any proposed changes as the result of legislative, regulatory or administrative changes. Regional offices are in contact with State agencies which provide feedback on FNS processes and procedures for the information collection. In addition, after the FCEA was enacted on June 18, 2008, FNS held a series of conference calls with State agencies and FNS regional offices to explain the SNAP provisions included in the law and to answer questions that State agencies had about implementing the changes to the program. On July 3, 2008, FNS issued an implementation memorandum that described each SNAP-related provision in the FCEA and provided basic information to assist State agencies in meeting statutorily-mandated implementation timeframes. FNS responded to additional questions that State agencies submitted and posted the answers on the FNS website. Another forum for consultation with State officials on implementation of the FCEA provisions included various conferences hosted by FNS regional offices, State agency professional organizations, and program advocacy organizations. During these conferences, held in the latter part of 2008 and early months of 2009, FNS officials responded to a range of questions posed by State agency officials related to implementation of FCEA provisions.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift will be 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 complies with the Privacy Act of 1974. No confidential information is associated with this information collection.

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.

There are no questions of a sensitive nature included in this information collection.

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

- **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.**

FNS is requesting an increase of 2,040 new burden hours for reporting on major systems failures in States' SNAP operations. The estimated average number of respondents for this rule is one State agency per year.

Respondents to this requirement are the 53 state agencies that administer SNAP. Based on experience from the past twenty years (1990-2010) and considering the need for replacement of legacy systems in many States, out of the 53 State Agencies, FNS estimates that one state agency will experience one systemic error every other year. If this provision had been in effect (using the proposed definition for a systemic error and States' history of overissuance in SNAP), there were two or three instances between 1990 and 2010 in which the Department may have required States to provide additional data following implementation of a new information management system. While there is no hard data that would indicate an increase in the frequency of such situations, the implementation of new systems with new technology may introduce additional risk. FNS' estimate represents the highest number of systemic error situations that can be expected.

The following assumptions and calculations were used to determine the estimated burden:

- IMS data—Production of a data file containing case level information and/or summary reports that would provide the necessary information concerning a systemic error should not require more than 80 hours given the growing sophistication of States'

systems.

- Sample of cases—FNS believes that the number of sample cases required for Quality Control (QC) each year would be sufficient to measure the cost of a systemic error but would be needed for a 6-month period rather than annually. While this rule does not specify the number of cases a State will select for review, the maximum FNS would require based upon this rulemaking would be 500 over a 6-month period. Since the number required for a large State's QC sample is about 1,000 cases annually, FNS and the State would have 500 cases available from QC to measure a systemic error in a 6-month period and would need an additional 500 cases in a 6-month period to reach a sample size comparable to the QC sample. In the smaller States (14-16 States) the number would be between 300 and 400 additional cases. The QC reporting burdens have already been approved by OMB as shown in the following chart.

OMB Approval No.	Expiration date	Title
OMB 0584-0303	12/31/2013	Supplemental Nutrition Assistance Program Regulations, Part 275 - Quality Control
OMB 0584-0034	1/31/2016	Negative QC Review Schedule; Status of Sample Selection and Completion
OMB 0584-0074	5/31/2016	FNS-380, Worksheet for the Supplemental Nutrition Assistance Program Quality Control Reviews
OMB 0584-0299	2/29/2016	Quality Control Review Schedule

It is estimated that it would take a State about 10 staff days to construct a sample frame, and select and assign the sample. An additional 20 staff days would be necessary to develop the review guidance and forms. Since desk reviews of case files together with some phone interviews with households and collateral contacts should provide sufficient

information, each case review should require no more than one staff day to complete (for example, given an average of 450 case reviews, the average burden to complete the case reviews would be 450 staff days). Another 20 staff days would be needed to compile and report the results of the sample including examination of the cases originally selected for QC review. Based upon the above, the average requirement would be 500 staff days when a sample of cases is required.

Averaging the 80 hours (10 staff days) with the 500 staff days yields 255 days per systemic error if the frequency of using IMS data and reviews of case samples were equal (there is no information to suggest otherwise).

Based upon the above estimate of one systemic error situation every other year, an individual State might be expected to be required to provide additional data under the authority of 7 CFR 273.19 about once every 53 years.

Proposed Section 273.19 requires States to provide the data specified by FNS when a systemic error that affects a substantial number of households occurs. Such data is expected to either be available from a State's Information Management System (IMS) or the State will be required to collect the information from reviewing a sample of its case files for the systemic error. As noted above it is expected that there would be one respondent once every year. The average number of staff days required per systemic error occurrence is expected to be 255 so the total annual burden would be 2040 hours.

ESTIMATED ANNUAL BURDEN FOR 0584-NEW, 7 CFR PART 273
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: MAJOR SYSTEM
FAILURES

MAJOR SYSTEM FAILURES					
<i>Affected Public: State, Local, Tribal Governments</i>					
Regulation Section	Number of Potential Respondents	Estimated Annual Report/ Record Filed	Total Annual Responses	Estimated Hours Per Response	Estimated Total Burden Hours
REPORTING BURDEN ESTIMATES					
273.19	53	.019	1	2040	2040
Subtotal - REPORTING	53	.019	1	2040	2040
RECORDKEEPING BURDEN ESTIMATES					
	0	0	0	0	0
GRAND TOTAL	53	.019	1	2040	2040

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

The estimate of respondent cost is based on the burden estimates and utilizes the U.S. Department of Labor, Bureau of Labor Statistics, May 2011 National Occupational and Wage Statistics, Occupational Group (25-0000) (<http://www.bls.gov/bls/wages.htm>).

The hourly mean wage (for education-related occupations) for functions performed by State agency and local education agency staff are estimated at \$24.46 per staff hour.

TOTAL COST TO PUBLIC = 2040 hours X \$24.46 per hour = \$49,898.40

- 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 start-up, operating or annual maintenance costs for this collection of information.

- 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.**

It is estimated that federal employees receiving an average General Schedule (GS) grade 12 step 6 wage based on the Washington DC-Northern Virginia locality area take approximately 100 hours (1 major systemic error x 100 hours) to analyze data related to major systemic error made to States' SNAP: $\$41.85 \times 100 = \$4,185$ (estimated annualized cost to federal government).

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

This is a new information collection. This information collection will increase the OMB inventory by 2,040 burden hours for reporting due to program changes to comply with the

requirements in Section 4133 of the Food, Conservation, and Energy Act of 2008, Pub. L. 110-234.

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

This collection does not employ statistical methods and there are no plans to publish the results of this collection.

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.

We are not seeking approval concerning the display of 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.