

**SUPPORTING STATEMENT FOR**

“Administrative Review Requirements – Food Retailers  
and Wholesalers Data Collection, OMB No. 0584-0520”

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### List of Attachments:

- Attachment A: Legal Authority
- Attachment B: FNS Comment Anonymous
- Attachment C: FNS Comment Abby Decker
- Attachment D: FNS Comment Robert Pepper
- Attachment E: FNS Comment American Food Store Association
- Attachment F: FNS Comment Andrew Tapp

## **Justification- Part A**

- 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 revision of a currently approved data collection. The Food and Nutrition Service (FNS) of the U.S. Department of Agriculture is the Federal agency responsible for the Supplemental Nutrition Assistance Program (SNAP). The Food and Nutrition Act of 2008 (7 U.S.C. 2011-2036), as codified under 7 CFR Parts 278 and 279, requires that the FNS determine the eligibility of retail food stores and certain food service organizations to participate in the SNAP. If a retail or wholesale firm is found to be ineligible by FNS, or is otherwise aggrieved by certain FNS action(s), that firm has the right to file a written request for review of the administrative action with FNS.

- 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 Branch Chief of Administrative Review in FNS receives the signed letter with official signatures, in no specific format, from the firm requesting an administrative review and maintains it as part of the official review record. Once the request is received, the designated Review Officer will adjudicate the appeals process and make a final determination regarding the aggrieved action. If the request for administrative review includes additional information, the Review Officer will also consider that information along with the official FNS file.

- 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 makes every effort to comply with the Government Paperwork Reduction Act by providing electronic submission in lieu of paper where feasible. This collection of information does not involve the use of electronic submission. The request for administrative review is a formal letter, provided by the requestor, with an original signature. The requestor may use an automated medium, such as facsimile or email, to prepare the request.

- 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.**

There is no duplication involved with a request for an administrative review. FNS solely monitors issuance and administrative reviews of SNAP benefits. The information required for official review 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 entities, describe any methods used to minimize burden.**

This information collection does not adversely impact small business or other

small entities. A small business is treated like other firms in that only a written request for an administrative review is needed to obtain an administrative review. Of the 1,282 respondents, FNS estimates that approximately 1,248 are considered small entities.

**6. Describe the consequences 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.**

This is an ongoing, voluntary information collection request. If this collection is not conducted or conducted less frequently, FNS would not be able to determine if a retail or wholesale firm is ineligible and businesses would not get an opportunity to become eligible to participate in SNAP or appeal decision made by FNS.

Should a firm disagree with the decision by FNS, they would initiate a formal request only once. This request is a means for the respondents to initiate a formal review of the agency's decision on its determination of ineligibility to participate in the SNAP, or other certain aggrieved actions taken against the subject firm.

When a firm agrees with the decision by FNS, there would not be a request for an administrative review. The decision by FNS would stand in accordance with program policy.

**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. 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.**

- (a) A 60-day comment notice was published in the Federal Register on April 10, 2018, at 83 FR 15354. There were five (5) public comments received in response to this Notice. Attachments B, C, D, E and F were public comments which were not

germane to the Agency Information Collection Activities for Administrative Review however; comments in Attachments E and F addressed the procedures of an Administrative Review, as well as other SNAP retailer management proceedings. Although the comments were out of the scope of the purpose of this notice, which is to inform the public that only a written request for an administrative review is needed in order to obtain an administrative review; those comments were reviewed for consideration. FNS acknowledges that the concerns in Attachments E and F have been raised in other forms. The collection of information is voluntary and conducted in a manner consistent with the guidelines in 5 CFR 1320.5. No action was required to be taken on these comments.

**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.**

- (b) The Food and Nutrition Service (FNS) used a collaborative approach when conducting Meetings with the Administrative Review Officers (AROs) to determine if a formal report or form was needed. In a meeting held on January 25, 2018, the AROs concluded that, because each response was unique to the individual retailer's circumstances, no specific form or format was required from respondents requesting Administrative Review action. The AROs determined that a form would bring greater complexity to the process than necessary.

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

We do not provide any payment or gifts to the respondents for their submission of data or 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 requires that before personal identifying information (such as SSN or EIN) may be shared with other entities, a Privacy Notice must first be published. FNS published such a Privacy Act notice (System of Records (SORNs)) to specify the uses to be made of the information in this collection. This notice was titled USDA/FNS-9 Supplemental Nutrition Assistance Program Retailer Information published in the Federal Register on December 27, 2010, Volume 75, Number 247, and is located on pages 81205-81209. The request for an administrative review is considered to be a private part of the firm's FNS record, protected by the Supplemental Nutrition Assistance Program regulations and the Privacy Act.

The following personal information regarding owners and officers is contained in the system: Name, home address, Social Security Number (SSN) or Employer Identification Number (EIN), and date of birth (DOB). The SSNs/EINs are collected only from owners of sole proprietorships, partnerships, principal shareholders of private corporations, and officers of cooperatives. Financial data (i.e., food sales, gross sales, and SNAP data) relative to each business entity currently authorized or



previously authorized is also included in the STARS database.

Section 9 of the Act, U.S.C. 2018, authorizes collection of the information on the application. Section 278.1(b) of the SNAP regulations provides for the collection of the owners' SSN/EIN and tax information.

- 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 required to be included in a request for an administrative review.

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

The affected public is business-for-profit and farms. The estimated number of respondents is 1,282. There are 1.2 responses per respondent, for a total of 1,538.4 total annual responses and it is estimated that a response will take an average of 0.17 hours per request. The total annual reporting burden is estimated at 262 hours.

REPORTING BURDEN									
Affected Public	Respondent Type	Instrument	Number of Respondents	Frequency of Annual Responses	Total Annual Responses	Estimated Time per Response	Estimated Total Annual Burden Hours	Hourly Wage Rate	Total Annual Cost to Respondents
Business-for-and-not-for-profit	Public benefit corporations; Economic development corporations; non-profit	Administrative Review Request	1,281	1.2	1,537.20	0.17	261.32	\$59.35	\$15,509.34
<b>SUBTOTAL</b>			<b>1,281</b>		<b>1,537.20</b>		<b>261.32</b>		
Farms	Farmers' markets, Farmers' market, associations, Regional farmers' market authorities	Administrative Review Request	1	1.2	1.20	0.17	0.20	\$59.35	\$11.87
<b>SUBTOTAL</b>			<b>1</b>		<b>1.20</b>		<b>0.20</b>		
<b>Total Reporting Burden</b>			<b>1,282</b>		<b>1,538.40</b>		<b>261.52</b>		<b>\$15,521.21</b>

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

There are no forms involved. The respondent simply writes a letter requesting an administrative review. Their cost should be approximately \$59.35 per hour with a total annual cost to retailers estimated to be \$15,503.04 (General and Operations Managers @ \$59.35 per hour x 0.17 = \$10.08 x 1,538 Annual Responses = \$15,503.04).

For hourly cost estimation, we went to the Bureau of Labor Statistics (BLS) website at [www.bls.gov/oes/](http://www.bls.gov/oes/) and <http://www.bls.gov/oes/current/oes111021.htm> and used the May, 2017 data which is the most recent data available from the National Compensation Survey: Occupational Wages in the United States,

May 2017, Industry-Specific Occupational Employment and Wage Estimates for Retail Trade. Within this group, we further used the Standard Occupational Classification code number 11-1021 – General and Operations Manager (<http://www.bls.gov/oes/current/oes111021.htm>). Based on this data, the mean hourly wage estimate was \$59.35. This wage amount was used as our basis for computing total annual cost burden to the respondents, as it is the most current data provided by the BLS.

- 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 or ongoing operation/maintenance costs associated with this information collection.

- 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 cost to the Federal Government to read and respond to requests for administrative reviews is approximately 0.30 hours per response. For hourly cost estimation, we went to the Office of Personnel and Management website at <http://www.opm.gov> and [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB_h.pdf) used the 2018 General Schedule Locality Pay Tables for the Washington, DC, metropolitan area. Based on this data, the hourly wage

was \$65.89 (GS 14/7). This wage amount was used as our basis for computing total annual cost burden to the Federal Government. Approximately 1,282 responses are made annually requiring approximately 385 hours at an estimated cost of \$25,341.29 to the Federal Government (1,282 respondent x 0.30 = 384.6 x \$65.89 [GS 14/7] = \$25,341.29). No other Federal costs are anticipated.

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

This is a revision of a currently approved collection.

Adjustments

Our estimates for the number of respondents requesting an administrative review are subject to change in each FY as the number of aggrieved retailers fluctuates. The previously approved burden of 298 hours was based on data from FY 2014. This submission utilized FY 2017 data to establish a more accurate account for this collection for the next three (3) years.

Based on our historical data, the number of respondents requesting administrative reviews, the total annual responses and the total annual burden hours decreased. The request also reflects a decrease in the number of respondents who requested administrative review. The currently approved number of respondents is 1,459 the revised number of respondents in this request is 1,282, a decrease of -177 aggrieved retailers. The currently approved total annual responses is 1,751 the, we are requesting 1,538 total annual responses for

this revision, this reflects a decrease of 213 responses. Lastly, the currently approved burden hours of 298 with this revision FNS is seeking 261.5, rounded to 262 burden hours for this request which reflects a decrease of -36 burden hours.

These decreases are attributed to the adjustments in the actual number of retailers who request administrative review.

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

There are no plans for publication of this collection of information.

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

The request for an administrative review does not involve any forms or other collection instruments.

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

There are no exceptions to this certification statement. The agency is able to certify compliance with all provisions under Item 18 of OMB Form 83-I.

**Collection of Information Employing Statistical Methods**

This collection does not use any statistical methods.