

**SUPPORTING STATEMENT - PART A for**

**OMB Control Number 0584-[NEW]:**

**Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)**

**Program and WIC Farmers' Market Nutrition Program (FMNP) Waivers**

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**A1. 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.**

*American Rescue Plan Act of 2021*

On March 11, 2021, President Biden signed into law the American Rescue Plan Act of 2021 (ARPA; PL 117-2) (Appendix A). The Act provides \$390 million for fiscal year (FY) 2021, to remain available through FY 2024, to carry out outreach, innovation, and program modernization efforts, including appropriate waivers and flexibility, to increase participation and redemption of benefits. The Act is applicable to both the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and the WIC Farmers' Market Nutrition Program (WIC FMNP), both of which are authorized under Section 17 of the Child Nutrition Act of 1966 (PL 89-642) (42 USC 1786) (Appendix B), as amended. The waiver authority provided under the Act does not apply to the content of the WIC food packages or regulatory nondiscrimination requirements. In order to request and utilize approved waivers under the authority of ARPA, WIC and WIC FMNP State agencies will be required to perform administrative tasks that will contribute to their reporting burden hours.

*Access to Baby Formula Act of 2022 Waiver Authority*

On May 21, 2022, President Biden signed into law the Access to Baby Formula Act of 2022 (ABFA; PL 117-129) (Appendix C). ABFA amends Section 17 of the CNA to establish waiver authority for the Secretary of Agriculture to address certain emergencies, disasters, and supply chain disruptions impacting WIC.

USDA has authority under ABFA to waive or modify any statutory requirement under Section 17 of the CNA or any regulatory requirement, provided that the following two conditions are met: 1) such requirements cannot be met by WIC State agencies under the conditions that prompted either the emergency period or the supply chain disruption, including a supplemental food product recall, and 2) exercising the waiver authority is necessary to serve participants and does not substantially weaken the nutritional quality of supplemental foods. ABFA also provides USDA with the ability to issue the waiver or modification to multiple WIC State agencies or on a nationwide basis. To request and utilize approved waivers under the authority of ABFA, WIC State agencies will be required to perform administrative tasks that will contribute to their reporting burden hours. This collection of information is necessary in order for FNS to grant waivers under ARPA and ABFA authority.

## **A2. Purpose and Use of the Information.**

**Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate how the agency has actually used the information received from the current collection.**

### *American Rescue Plan Act of 2021*

ARPA waivers are intended to provide flexibility to WIC and WIC FMNP State agencies as they carry out outreach, innovation, and program modernization efforts. In coordination with ARPA-funded projects, FNS anticipates that WIC and WIC FMNP State agencies will request waivers that will allow them to implement the grant-funded projects. Additionally, FNS anticipates that WIC and WIC FMNP State agencies will be interested in testing modernization projects that will not require funding, such as extending WIC certification periods to align household certification periods. FNS will offer three types of waivers to State agencies under ARPA's authority: (1)

waivers requiring additional information, (2) accelerated waivers, and (3) ad hoc waivers.

1. **Waiver requests requiring additional information** are waivers identified and pre-cleared by FNS as allowable under ARPA's waiver authority for State agencies to request but require State agencies to provide supplemental information to support their request. This supplemental material will depend on the waiver being requested.
2. **Accelerated waivers** are waivers identified and pre-cleared by FNS as allowable under ARPA's waiver authority. Unlike waiver requests requiring additional information, these waivers will not require State agencies to submit additional information along with their request.
3. **Ad hoc waivers** will be offered at the request of State agencies. These waivers do not fall under the waivers requiring additional information and accelerated waivers as they have not already been identified and pre-cleared by FNS as allowable under ARPA's waiver authority. These ad hoc waivers will meet the specific needs of the State agency to implement innovative and modern WIC and WIC FMNP enhancements.

#### *Access to Baby Formula Act of 2022 Waiver Authority*

To request and utilize approved waivers under the authority of ABFA, WIC State agencies submit a waiver request to FNS via email. Because ABFA waivers often involve emergency situations that could include issues with accessing the internet some State agencies may submit a request using alternate methods. Any additional information required will depend on the specific circumstances of the State agency and the waiver being requested.

### **A3. Use of information technology and burden reduction.**

**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 (E-Gov) Act, 2002. Improved and extended use of automated approaches for program management is a priority for WIC and WIC FMNP.

#### *American Rescue Plan Act of 2021*

FNS will offer three types of waivers to State agencies under ARPA's authority: (1) waivers requiring additional information, (2) accelerated waivers, and (3) ad hoc waivers. State agencies will submit waiver requests for pre-cleared waivers (accelerated waivers and waivers requiring additional information) to FNS using a web-based form (Appendix E). State agencies requesting a waiver that requires additional information will submit that additional information to FNS via email. Requests for ad hoc waivers will also be submitted electronically to FNS via email. FNS intends to transition to using a web-based form for ad hoc waiver requests in the immediate future to streamline the waiver request process and further reduce burden on State agencies.

#### *Access to Baby Formula Act of 2022 Waiver Authority*

Currently, State agencies submit ABFA waiver requests and accompanying information via e-mail. Given that these waivers often involve emergency situations that could include issues with accessing the internet FNS is flexible on the format a waiver request is submitted in. In the future FNS hopes to make an online form available.

**A4. Efforts to identify duplication.**

**Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Question 2.**

There is no similar information collection. Every effort has been made to avoid duplication.

FNS is solely responsible for granting ARPA and ABFA waiver requests from State agencies.

**A5. Impacts on small businesses or other small entities.**

**If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

Information being requested or required has been held to the minimum required for the intended use. No small entities are impacted by this collection of information.

**A6. Consequences of collecting the information less frequently.**

**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 this collection is not conducted, FNS will be unable to streamline State agency applications and the review and granting of State agency waiver requests under ARPA and ABFA authority.

**A7. Special circumstances relating to the Guidelines of 5 CFR 1320.5.**

**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 cause this information collection to be conducted in a manner that is inconsistent with 5 CFR 1320.5.

#### **A8. Comments to the Federal Register Notice and efforts for consultation.**

**If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), 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. Specifically address comments received on cost and hour burden.**

**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 format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior years. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The invitation for comments was set forth in a 60-Day Notice on page 32176 of the Federal Register (Vol. 88, No. 97) on Friday, May 19, 2023. The public comment period ended on July 26, 2022. We received one comment in response to the 60-Day Notice. This comment is included as 'Appendix F' in this Information Collection Request.



Comment provided under ‘Appendix F’ was not directly related to the revised reporting and recordkeeping burden associated with the WIC and WIC FMNP. The commenter asked how they could determine their eligibility and apply to receive WIC FMNP benefits.

FNS provided a response to this comment (Appendix G) advising that WIC FMNP is a State agency run program and referring the commentor to the WIC FMNP contact person for their State agency for further information on signing up to receive benefits.

FNS actively solicited input on the proposed ICR from key stakeholders (Appendix H). On June 9, 2023, FNS contacted the individuals/organizations listed below about burden estimates and/or other characteristics associated with this data collection.

1. Phil Blalock, Executive Director  
National Association for Farmers Market Nutrition Programs  
[phil@triangleassociatesinc.com](mailto:phil@triangleassociatesinc.com)
2. Sharon Parrott, President  
Center on Budget and Policy Priorities  
[parrott@cbpp.org](mailto:parrott@cbpp.org)
3. Dr. Jamila Taylor, President & CEO  
National WIC Association  
[jtaylor@nwica.org](mailto:jtaylor@nwica.org)

We did not receive any comments about the burden associated with this collection.

Additionally, FNS National Office consults with its seven FNS Regional Offices (ROs) regarding any proposed changes to information being collected as the result of legislative, regulatory, or policy changes. FNS ROs communicate regularly with State agencies on FNS

processes and information collection that may impact them as a result of legislative, regulatory, or policy changes. Feedback that is received from State agencies regarding the frequency of information collected, the clarity of instructions and recordkeeping, reporting format, etc. is reported through the FNS Regional Office to the FNS National Office. The FNS National Office considers feedback from State agencies when revising or updating the format or forum through which program information is collected. The development of an online form for the ARPA Waiver Process was largely based off feedback from State agencies who expressed the need for a streamlined waiver process that would expedite review and cut down on the number of emails needed per waiver. FNS has solicited feedback on this new proposed waiver process from Regional Offices and State Agencies and has received a positive response, and no known barriers have been raised to the FNS National Office.

**A9. Explain any decisions to provide any payment or gift to respondents.**

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

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

**A10. Assurances of confidentiality provided to respondents.**

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

FNS does not offer any assurance of confidentiality to the respondents.

**A11. Justification for any questions of a sensitive nature.**

**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.**

No private or sensitive questions will be asked.

**A12. Estimates of the hour burden of the collection of information.**

**Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.**

**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.**

*American Rescue Plan Act of 2021*

**1. Waiver requests requiring additional information**

These waiver requests are estimated to take 1 hour to complete. FNS estimates that all 89 WIC State agencies and 51 WIC FMNP State agencies will request an average of 5 waivers requiring additional information annually. The estimated total burden for waiver requests requiring additional information is 700 hours.

**2. Accelerated waivers**

It is estimated that State agencies will take 10 minutes to fill out a request form for an accelerated waiver. FNS estimates that all 89 WIC State agencies and 51 WIC FMNP State agencies will request an average of 4 accelerated waivers annually. The estimated total burden for accelerated waivers is 94.52 hours.

**3. Ad hoc waivers**

It is estimated that the ad hoc waiver requests will take 2 hours to complete. FNS anticipates that 10 WIC State agencies and 5 WIC FMNP State agencies will request

an average of 1 ad hoc waiver annually. The estimated total burden for ad hoc waivers is 30 hours.

The estimated total burden for ARPA waiver requests is 823.52 burden hours.

*Access to Baby Formula Act of 2022 Waiver Authority*

FNS estimates that 10 WIC State agencies will request an average of three ABFA waivers each in response to emergencies, disasters, and supply chain disruptions. It is estimated that State agencies will take 15 minutes to fill out one request form. The estimated total burden is 7.5 burden hours.

<i>WIC and WIC FMNP Waiver Burden Table - OMB# 0584-NEW</i>						
<b>Affected Public</b>	<b>Instruments</b>	<b>Est. No. of Respondents</b>	<b>No. of Responses per Respondent</b>	<b>Total Annual Responses</b>	<b>Est. Total Hours per Response</b>	<b>Est. Total Burden</b>
<i>ARPA</i>						
WIC State Program Staff	Accelerated waivers	56	4	224	0.17	37.41
WIC State Program Staff	Waivers requiring additional information	56	5	280	1	280.00
WIC State Program Staff	Ad hoc waivers	7	1	7	2	14.00
WIC FMNP State Program Staff	Accelerated waivers	44	4	176	0.17	29.39
WIC FMNP State Program Staff	Waivers requiring additional information	44	5	220	1	220.00
WIC FMNP State Program Staff	Ad hoc waivers	3	1	3	2	6.00
<b>Subtotal State ARPA Reporting</b>		56	16.25	910	0.64	586.80
WIC ITO Program Staff	Accelerated Waivers	33	4	132	0.17	22.04
WIC ITO Program Staff	Waivers requiring additional	33	5	165	1	165.00

	information					
WIC ITO Program Staff	Ad hoc waivers	3	1	3	2	6.00
WIC FMNP ITO Program Staff	Accelerated waivers	7	4	28	0.17	4.68
WIC FMNP ITO Program Staff	Waivers requiring additional information	7	5	35	1	35.00
WIC FMNP ITO Program Staff	Ad hoc waivers	2	1	2	2	4.00
<b>Subtotal Indian Tribal Organization (ITO) ARPA Reporting</b>		<b>33</b>	<b>11.06</b>	<b>365</b>	<b>.65</b>	<b>236.72</b>
<b>Subtotal ARPA Reporting</b>		<b>140</b>	<b>9.11</b>	<b>1275</b>	<b>0.65</b>	<b>823.52</b>
<i>ABFA</i>						
WIC State Program Staff	Waiver request form	7	3	21	0.25	5.25
WIC ITO Program Staff	Waiver request form	3	3	9	0.25	2.25
<b>Subtotal ABFA Reporting</b>		<b>10</b>	<b>3</b>	<b>30</b>	<b>0.25</b>	<b>7.5</b>
<b>Grand Total Reporting Burden</b>		<b>140</b>	<b>9.32</b>	<b>1275</b>	<b>0.64</b>	<b>831.00</b>

**B. 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 2022 National Occupational and Wage Statistics, Occupational Group NAICS 999200 - State Government, excluding schools and hospitals mean of ‘all occupations’ ([https://www.bls.gov/oes/current/naics4\\_999200.htm](https://www.bls.gov/oes/current/naics4_999200.htm)). The hourly mean wage for functions performed by state program staff is estimated at \$31.28 per staff hour. With a burden of 831.00 hours at \$31.28 per hour, the base annual respondent cost is estimated at \$25,994.31. An additional 33% of the estimated base annual respondent cost must be added to represent fully loaded wages, equaling \$8,577.91. Thus, the total annual respondent cost is \$34,572.43.

Affected Public	Instruments	Est. Total Burden	Hourly Wage Rate	Total Annualized Cost of Respondent Burden
<i>ARPA</i>				
WIC State Program Staff	Accelerated waivers	37.41	\$31.28	\$1,170.12
WIC State Program Staff	Waivers requiring additional information	280	\$31.28	\$8,758.40
WIC State Program Staff	Ad hoc waivers	14.00	\$31.28	\$437.92
WIC FMNP State Program Staff	Accelerated waivers	29.39	\$31.28	\$919.28
WIC FMNP State Program Staff	Waivers requiring additional information	220.00	\$31.28	\$6,881.60
WIC FMNP State Program Staff	Ad hoc waivers	6.00	\$31.28	\$187.68
WIC ITO State Program Staff	Accelerated waivers	22.04	\$31.28	\$689.54
WIC ITO State Program Staff	Waivers requiring additional information	165	\$31.28	\$5,161.20
WIC ITO State Program Staff	Ad hoc waivers	6	\$31.28	\$187.68
WIC ITO FMNP State ITO Program Staff	Accelerated waivers	4.68	\$31.28	\$146.27
WIC ITO FMNP State Program Staff	Waivers requiring additional information	35	\$31.28	\$1,094.80
WIC ITO FMNP State Program Staff	Ad hoc waivers	4	\$31.28	\$125.12
<b>Subtotal ARPA Reporting</b>		<b>823.52</b>		<b>\$25,759.71</b>
<i>ABFA</i>				
WIC State Program Staff	Waiver request form	7.5	\$31.28	\$234.60
<b>Subtotal ABFA Reporting</b>		<b>7.5</b>		<b>\$234.60</b>

<b>Grand total Reporting Burden</b>	<b>831.00</b>		<b>\$25,994.31</b>
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**A13. Estimates of other total annual cost burden.**

**Provide estimates of the total annual cost burden to respondents or recordkeepers resulting from the collection of information, (do not include the cost of any hour burden shown in questions 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, or maintenance costs associated with this information collection.

**A14. Provide estimates of annualized cost to the Federal government.**

**Provide estimates of annualized cost to the Federal government. 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 Regional Office and National Office program analysts receiving an average of \$40.06/hour\* will spend 2,610 hours (1,305 total annual responses x [1 hour per response for Regional Office staff + 1 hour per response for National Office staff]) to analyze data received from this information collection. Additionally, it is estimated that National Office Branch Chiefs receiving an average of \$55.85/hour\*\* will spend 1,305 hours (1,305 total annual responses x 1 hour per response) to analyze data received from this information collection. An additional 33% of the estimated base annual cost to the Federal government must be added to represent fully loaded wages, equaling \$ 58,555.48 \*\*\*.

FNS estimates the following Federal costs at \$ 235,996.33 annually. The calculations for this cost are described in the table below:

	Annual Responses	Hours	Hourly Wage	Total Fringe Benefits	Total Cost
Program Analysts Based on an average of GS-11, 12, 13 salaries, Step 6	1,305	2	\$40.06	\$ 34,503.68	\$ 139,060.28
Branch Chief, Based on GS-14, Step 6	1,305	1	\$55.85	\$24,051.80	\$96,936.05
Total				\$ 58,555.48	\$ 235,996.33

\* Based on an average of GS-11, 12, 13 salaries, Step 6,  $(\$33.16 + \$39.75 + \$47.26) / 3 = \$37.28$  from the U.S. Office of Personnel Management General Schedule (Base) Salary Table - effective January 2023 [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/23Tables/html/GS\\_h.aspx](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/23Tables/html/GS_h.aspx)

\*\* Based on GS-14 salary, Step 6 from the U.S. Office of Personnel Management General Schedule (Base) Salary Table - effective January 2023 [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/23Tables/html/GS\\_h.aspx](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/23Tables/html/GS_h.aspx)

\*\*\* The associated 33% fringe benefit cost  $([\$40.06/\text{hour} \times 2,610 \text{ hours}] + [\$55.85 \times 1,305]) \times .33 = \$$

**A15. Explanation of program changes or adjustments.**

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

This submission is a new information collection request as a result of program changes and will add 831 hours of burden to OMB’s inventory.

**A16. Plans for tabulation, and publication and project time schedule.**

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



The information covered by this collection is not for publication.

**A17. Displaying the OMB Approval Expiration Date.**

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

This submission is not seeking OMB approval to not display the expiration date.

**A18. Exceptions to the certification statement identified in Item 19.**

**Explain each exception to the certification statement identified in Item 19 of the OMB 83-I" Certification for Paperwork Reduction Act."**

There are no exceptions to the certification statement.