



**BILLING CODE 3410-30-P**

## **DEPARTMENT OF AGRICULTURE**

### **Food and Nutrition Service**

#### **Agency Information Collection Activities: Waiver and State Plans (WiSP)**

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection.

This collection is a: New collection.

**DATES:** Written comments must be received on or before TBD [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** We invite you to submit written comments on this notice.

- *Preferred method:* Federal eRulemaking Portal. Go to <https://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

- *Mail:* Amanda Vega, WIC Program Integrity and Monitory Branch, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, Virginia 22314

- *Email:* email comments to [amanda.vega@usda.gov](mailto:amanda.vega@usda.gov)

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this information collection should be directed to Andrea Whitley at [andrea.whitley@usda.gov](mailto:andrea.whitley@usda.gov), 703-305-2465.

**SUPPLEMENTARY INFORMATION:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency,

including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Title:* Waivers and State Plans (WiSP).

*Form Number:* Not Yet Determined.

*OMB Number:* Not Yet Assigned.

*Expiration Date:* Not Yet Determined.

*Type of Request:* New collection.

*Abstract:* The burden activities that are covered by this Information Collection Request include the transition from individual collections for Program waivers and State Plans to a new application supporting multiple USDA Programs. This application will allow State agencies to request Program waivers and submit State Plans to the USDA Food and Nutrition Service (FNS), FNS staff to manage data provided within the application, and covers the gathering and maintenance of all supporting data from each State agency. The Waivers and State Plans (WiSP) application will support the following USDA Programs and be available to all participating State agencies in each Program: Special Supplemental Nutrition Program for Woman, Infants and Children (WIC), Farmers Market Nutrition Program (FMNP), and Seniors Farmers Market Nutrition Program (SFMNP).

The purpose of WIC is to provide supplemental foods, nutrition education, and health care referrals to low income, nutritionally at-risk pregnant, breastfeeding and postpartum women, infants, and children up to age five. The WIC Program is authorized by the Child Nutrition Act of 1966, as amended. WIC currently operates through a Federal/State partnership in which the

Department of Agriculture/Food and Nutrition Service (FNS) provides grants to State agencies in 50 U.S. States, 6 U.S. Territories, and 32 Indian Tribal Organizations (ITO's). The WIC Program requirements are specified in Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(8)), and WIC regulations at 7 CFR part 246.

FMNP is designed to provide fresh, unprepared, locally grown fruits and vegetables to WIC participants and expand the awareness, use of, and sales at farmers markets. FMNP currently operates through a Federal/State partnership in which FNS provides grants to State agencies in 42 U.S. States, 3 U.S. Territories, and 6 ITOs. FMNP Program requirements are specified in Section 17(m)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(8)), and FMNP regulations at 7 CFR part 248.

SFMNP is designed to provide low-income seniors with access to locally grown fruits, vegetables, honey and herbs and aid in the development of new and additional farmers markets, roadside stands, and community support agricultural programs. SFMNP currently operates through a Federal/State partnership in which FNS provides grants in 44 U.S. States, 3 U.S. Territories, and 7 ITOs. SFMNP Program requirements are specified in the Farm Security and Rural Investment Act of 2002, as amended, (Pub. L. 107-171) and SFMNP regulations at 7 CFR part 249.

The reporting and record-keeping burden activities that are covered by the information collection include requirements that involve the new application allowing State agencies to submit waiver requests and State Plan submissions to FNS. The WiSP application will provide a way for State agency staff to request pre-defined standard waivers, nationwide opt-in waivers, disaster related waivers, and to build custom ad hoc waiver requests. The application will support current and future legislation providing FNS with waiver authority for WIC, FMNP, and SFMNP program requirements. Depending on the legislation, this waiver authority may be temporary, as is the case for waivers granted under the American Rescue Plan Act (ARPA, Pub. L. 117-2), or permanent, as is the case for waivers granted under the Access to Baby Formula Act of 2022

(ABFA, Pub. L. 117-129). Application users will be able to respond to requests for more information, as needed, within the application. This will streamline the waiver request process and ensure that all waiver correspondence is kept associated to the waiver request. Waivers are requested on an as needed basis, and not all State agencies will request a waiver for a Program requirements. Waivers are authorized by specific legislation and may have a scope that only applies to some of the Programs. State Plan Program operations are also supported in the WiSP application. Federal regulations require that State Plan Program-related information be collected and that full and complete records concerning Program operations are maintained. State Plans are the principal source of information about how each State agency operates WIC, FMNP and SFMNP. State agencies gather information to inform their initial and annual State Plan submissions throughout their work during an average year. This involves consolidating and summarizing the results of: local agency authorization and monitoring; participant certification of eligibility; authorized outlet selection, authorization, disqualification, monitoring visits, and monitoring reviews; face-to-face training results; Food instrument receipt, issuance, and disposition; complaint handling; policy establishment for sanctions; financial management system establishment and maintenance; management evaluation system establishment and maintenance; and corrective action plan establishment and maintenance all of which are associated to the reporting burden approved under OMB Control Numbers: 0584-0687 (WIC), 0584-0447 (FMNP) and 0584-0541 (SFMNP).

Current and new State agencies are required to submit State Plans annually per the guidelines of the respective Programs, as an application or prerequisite to the receipt of federal funds from FNS.

Each Program has one or more designated checklists that cover different Program requirements. FMNP and SFMNP optionally allow for some Programs to be combined into a single, consolidated State Plan checklist. The new application will support each Program's individual checklists, and allowable, consolidated checklists.

WIC State agencies are required to submit their full Program planning data in **10** distinct checklist documents. Each fiscal year, only a portion of the total checklists are required to be submitted. The required checklists are published prior to the due date of WIC State Plans and apply equally to all State agencies. It is estimated that each State agencies will be required to annually submit **4** checklists per FY from each WIC State agency. State agencies may choose provide updates to the other **6** checklists on file but are not required to submit updates for these. FMNP and SFMNP Programs require that each of their State agencies submit 1 (one) of the of the 3 different versions of State Plan checklists available: FMNP only, SFMNP only, and S/FMNP Consolidated. The Consolidated checklist is for State agencies who administer both Programs.

The burden table information collection items are grouped by Waivers and then State Plan items, then by the collection items. The lines in the collection grouping identify the State agency category group for the respondents. For each collection item, we have identified the estimated burden by State agency category.

### **Reporting Burden**

*Affected Public:* Respondent groups identified include State agency officials from the 50 geographic States, 6 US Territories, and 32 Indian Tribal Organizations. Not all identified State agencies participate with all Programs or with all application features.

Program Waivers are issued based upon regulations these non-mandatory requests are available for the State agencies at their option. WIC, FMNP and SFMNP Programs require that each of their State agencies file a Program specific State Plan each year.

*Estimated Number of Respondents:* The total estimated number of respondents is 2,656 (1176 Waiver respondents + 1480 State Plan respondents including one time effort activities), which represents the estimated sum of all State agencies for all applicable FNS Programs, across all collection items for both Waivers and State Plans.

*Estimated Number of Responses per year:* The State agencies will be able to use the WiSP

application to submit Program Waivers, and State Plans. The estimated total number of responses per year is 2,652.28 (380.28 Waiver responses + 2272.00 State Plan responses including one time effort activities), which represents the estimated sum of all requests estimated from State agencies for all applicable FNS Programs, across all collection items for both Waivers and State Plans. The distinct number of responses is broken down below for Waivers and then State Plans.

*Estimated Time per Response:* The estimated time of response for both Waivers and State Plans varies from 0.89 to 11.77 hours depending on respondent group and instrument, as shown in the table below, with an average estimated time of 10.21 hours for all participants.

*Estimated Total Annual Burden on Respondents:* The estimated total annual burden on respondents for both Waivers and State Plan items is 27,074.66 hours. See the table below for estimated total annual burden for each type of respondent.

### **Record-Keeping Burden**

*Affected Public:* Record-keeping groups identified include State agency officials from the 50 geographic States, 6 US Territories, and 32 Indian Tribal Organizations.

*Estimated Number of Record-keepers:* The total estimated number of record-keepers is 196.00 which represents the estimated sum of all State agencies for all applicable FNS Programs, across all collection items for State Plans.

*Estimated Number of Records per year:* The estimated total number of annual records is 196.00 for State Plans.

*Estimated Time per Record Keeper:* The estimated time per record-keeper for State Plans is 1.00 hours.

*Estimated Total Record-keeping Burden Hours:* The estimated total annual burden on record-keepers State Plans is 196.00 hours.

<b>Information Collected</b>	<b>Estimated Number of respondents</b>	<b>Estimated Annual Frequency of response per respondent</b>	<b>Total Annual responses</b>	<b>Hours per response</b>	<b>Total Annual burden (hours)</b>
Gathering data for waiver request	196.00	0.48	94.90	1.00	94.90
Waiver request form	588.00	0.34	202.47	2.67	162.29
Supplemental Data waiver requests	196.00	0.16	31.89	1.00	31.89
<b>Waiver Sub Total</b>	<b>1176.00</b>	<b>0.32</b>	<b>380.28</b>	<b>0.89</b>	<b>340.10</b>
Import of all existing State Plans	196.00	5.04	988.00	2.00	1976.00
Application data entry training	500.00	1.00	500.00	2.00	1000.00
<b>State Plan One Time Effort Sub Total</b>	<b>696.00</b>	<b>2.14</b>	<b>1488.00</b>	<b>2.00</b>	<b>2,976.00</b>
State Plan of Operations	588.00	1.00	588.00	40.07	23,562.56
State Plan Record Maintenance	196.00	1.00	196.00	1.00	196.00
<b>State Plan Annual Effort Sub Total</b>	<b>784.00</b>	<b>1.00</b>	<b>784.00</b>	<b>30.30</b>	<b>23,758.56</b>
<b>State Plan Sub Total</b>	<b>1480.00</b>	<b>1.54</b>	<b>2272.00</b>	<b>11.77</b>	<b>26,734.56</b>
<b>Grand Totals</b>	<b>2,656.00</b>	<b>1.00</b>	<b>2652.28</b>	<b>10.21</b>	<b>27074.66</b>

**Tameka Owens,**  
*Acting Administrator and Assistant Administrator,*  
*Food and Nutrition Service.*

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