



## **DEPARTMENT OF AGRICULTURE**

### **Food and Nutrition Service**

#### **Agency Information Collection Activities: Supplemental Nutrition Assistance**

#### **Program Waivers under the Food and Nutrition Act**

**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 planned information collection. This is a revision of a currently approved collection. Section 6(o) of the Food and Nutrition Act establishes a time limit of the receipt of benefits under the Supplemental Nutrition Assistance Program (SNAP) for certain able-bodied adults without dependents (ABAWDs) who are not working. The provision authorizes the Secretary of Agriculture, upon a State agency's request, to waive the time limit for any group of individuals if the Secretary determines "that the area in which the individuals reside has an unemployment rate of over 10 percent, or does not have a sufficient number of jobs to provide employment for the individuals." As required by the statute, to receive a waiver, the State agency must submit sufficient supporting information so that the United States Department of Agriculture (USDA) can make the required determination as to the area's unemployment rate or insufficiency of available jobs. This collection of information is, therefore, necessary to obtain waivers of the SNAP time limit. In October 2020, the U.S. District Court in District of Columbia vacated the final rule titled, "Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents". USDA is revising the hours associated with this collection to reflect the return to regulations prior to the final rule.

**DATES:** Written comments must be received on or before **[INSERT DATE 60 DAYS AFTER**

**DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** Comments may be sent to: Certification Policy Branch, Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, 5<sup>th</sup> Floor, Alexandria, VA 22314. Comments may also be submitted via fax to the attention of the Certification Policy Branch or via email to [SNAPCPBRules@usda.gov](mailto:SNAPCPBRules@usda.gov). Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

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 the Alison Conrad at 703-305-2022.

**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: Supplemental Nutrition Assistance Program Waivers of Section 6(o) of the Food and Nutrition Act.

Form Number: N/A

OMB Control Number: 0584-0479

Expiration Date: 1/31/2023

Type of Request: Revision of a currently approved collection.

Abstract: Section 6(o) of the Food and Nutrition Act of 2008 establishes a time limit for the receipt of Supplemental Nutrition Assistance Program (SNAP) benefits for certain able-bodied adults without dependents (ABAWDs) who are not working at least 20 hours per week. This time limit applies only to adults between 18 and 50 years of age that do not have children or adult dependents in their SNAP household. ABAWD recipient eligibility is limited to three months within a 36-month period, unless the individual is working, or participating in a designated employment and training activity, for 20 hours per week.

The provision authorizes that upon the request of a State agency, the Secretary of Agriculture may waive this provision for any group of individuals if the Secretary determines “that the area in which the individuals reside has an unemployment rate of over 10 percent or does not have a sufficient number of jobs to provide employment for the individuals.” As required in the statute, to receive a waiver, the State agency must submit sufficient supporting information so that the Secretary can make the required determination as to the area’s unemployment rate or insufficiency of available jobs. This collection of information is necessary to obtain waivers of the SNAP ABAWD time limit.

State agencies submit formal requests to waive the ABAWD time limit to the Food and Nutrition Service (FNS) for approval through the electronic Waiver Information Management System (WIMS). In their requests, State agencies (1) designate the areas where they wish to waive the time limit, (2) explain the criteria for which those areas qualify for a waiver, and (3) provide required data to justify their request. A typical State waiver request includes several geographic areas, and each geographic area may include multiple cities or counties. FNS reviews the requests and supporting information to ensure that all necessary requirements to waive the time limit are met.

On December 5, 2019, FNS published the final rule, “Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents” (84 FR 66782). This rule significantly increased the reporting burden associated with this information collection, primarily because of the start-up costs associated with the rule, and adjusted the estimates of the type of data States would use to support their ABAWD waiver requests. When the U.S. District Court for the District of Columbia vacated this rule on October 18, 2020, the previous regulations were reinstated. As a result, the reporting burden estimates for this information collection have decreased with this revision to reflect the return to regulations prior to the final rule.

Based on FNS’s experience in Fiscal Years (FY) 2018 through 2021, FNS projects that 35 out of 53 State agencies will submit requests for a waiver of the time limit for ABAWD recipients based on a high unemployment rate or an insufficient number of jobs. Based on requests submitted and approved in FY 2019, FNS projects that of the 35 requests each year, 33 will use labor market data and two will use the Department of Labor’s (DOL) Labor Surplus Area (LSA) designations or an extended unemployment benefits (EB) trigger notice to request a waiver. FNS is using only FY 2019 as the baseline for this part of the estimate because of the unique circumstances affecting the data States submitted to support their ABAWD waiver requests in FYs 2020 through 2022, as explained below.

In late FY 2019 through late FY 2020, States submitted ABAWD waiver requests using the criteria outlined in the final rule titled, “Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents” (84 FR 66782). As mentioned above, the U.S. District Court for the District of Columbia vacated this rule on October 18, 2020, and States no longer request ABAWD waivers using these methods. In FY 2020 through FY 2022, the ABAWD time limit was partially suspended by the Families First Coronavirus Relief Act (PL 116-127), and States primarily supported their waivers using EB trigger notices because of the economic impact of the COVID-19 pandemic. This simplified the waiver request process

for States and reduced the amount of time it takes to compile and share the data to support the waiver request. FNS does not expect a significant number of States to qualify for EB trigger notices beyond FY 2022, having already seen a drop-off in calendar year 2022 qualifications. FNS anticipates States currently using this criterion to switch to requests using labor market data in the future, which takes more time to compile.

In line with the estimates included in the 2018 renewal of this information collection, FNS provides two estimates for the burden of preparing and submitting waiver requests based on the waiver criteria used. For the first waiver criteria in the burden chart below, FNS estimates a response time for this activity is approximately 35 hours to prepare and submit via WIMS for each waiver request based on labor market data, which require detailed analysis of labor markets within the State using Bureau of Labor Statistics or a cooperating agency's data.

For the second criteria in the burden chart below, FNS estimates a burden of four hours per respondent to prepare and submit via WIMS waivers based on an LSA designation or an EB trigger notice, as the data required to support these waivers is readily available from the DOL Website and requires minimal preparation by State agencies.. FNS projects a total annual burden of 1,163 hours and 35 responses (33 responses based on labor market data and two responses based on an LSA designation or EB trigger notice). This revision results in a decrease of 170,093 hours and 2,174,037 responses as a result of program changes.

### Reporting

Affected Public: State, Local, or Tribal Governments

Estimated Number of Respondents: 35

Estimated Number of Responses per Respondent: 1

Estimated Total Annual Responses: 35

Estimated Time per Response: 33.23

Estimated Total Annual Burden on Respondents: 1,163 Hours

There is no recordkeeping or third party reporting requirement directly associated with this information collection.

Respondent Category	Type of Respondents	Burden Activity	CFR Citation	Estimated Number of Respondents	Responses per Respondent	Total Annual Responses	Estimated Hours per Response	Estimated Total Burden Hours
State Agency	State Program Staff	Preparation and submission of Labor Market Data to support ABAWD waiver request	7 CFR 273.24(f)	33	1	33	35	1,155
State Agency	State Program Staff	Preparation and submission of Labor Surplus Area designation or EB Trigger Notice criteria to support ABAWD waiver request	7 CFR 273.24(f)	2	1	2	4	8
	TOTAL			35	1	35	33.23	1,163

**Cynthia Long,**

*Administrator,*

*Food and Nutrition Service.*

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