

# Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### Privacy Act: Proposed Revision of an Existing System of Records

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Notice of proposed revision of an existing system of Records—USDA/FNS-9 (formerly known as USDA/FCS-9), entitled, Food Stamp Program Retailer Information.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), is giving notice that it proposes to revise the following system of records. This system was previously published under the agency's former name, the Food and Consumer Service, in the **Federal Register** on December 2, 1996 and a subsequent correction was published in the **Federal Register** on June 10, 1997.

In order to be in compliance with a new statutory provision in the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104-134, FNS proposes to amend the fourth routine use which addresses the reporting of delinquent debts to the IRS for the purpose of offsetting a monetary penalty against a tax refund due to a debtor for violations committed under the Food Stamp Program.

In accordance with the Internal Revenue Service requirements, FNS is also proposing to revise the eighth routine use. The routine use will ensure that the employer identification numbers (EINs) contained in this system of records will not be disclosed to private entities which have contractual agreements with USDA.

In addition, FNS is proposing to add a new routine use which will notify the public that FNS may disclose the information in this system of records to State agencies that administer the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

**EFFECTIVE DATE:** This notice will be effective, without further notice, May 24, 1999, unless modified by a subsequent notice to incorporate comments received from the public. Comments must be received by the contact person listed below on or before May 12, 1999, to be assured consideration.

**ADDRESSES:** Comments should be addressed to: Thomas O'Connor, Director, Benefit Redemption Division, Food and Nutrition Service, USDA, Room 706, 3101 Park Center Drive, Alexandria, Virginia 22302. Telephone: (703) 305-2419.

**FOR FURTHER INFORMATION CONTACT:** Gregory K. Evans, Senior Policy Analyst, Room 706, 3101 Park Center Drive, Alexandria, Virginia 22302. Telephone: (703) 305-2419.

**SUPPLEMENTARY INFORMATION:** The Debt Collection Act of 1982 (Pub. L. 97-365), as amended, provides statutory authority for federal agencies to collect debts through administrative offset. The Debt Collection Improvement Act of 1996 (Pub. L. 104-134), expanded that statutory authority by requiring that any federal agency owed a past due, legally enforceable nontax debt that is over 180 days delinquent, refer such debt to the Department of the Treasury to participate in its offset program (also known as the Treasury Offset Program (TOP)) which includes administrative offset, the Federal Tax Refund Offset Program (FTROP), and Federal salary offset program. The TOP is a government-wide delinquent debt matching and payment offset system. Thus, FNS is proposing to amend the fourth routine use which is listed in USDA/FNS-9, so that FNS can fully comply with these legislative mandates.

This system of records contains personal information from owners and officers of firms and other entities currently participating in the Food Stamp Program, and those who have previously participated in the program. The following personal information regarding owners and officers is contained in the system: Name, home

address, Social Security Number (SSN), and date of birth (DOB). The SSNs 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, food stamp redemption data) relative to each business entity currently authorized or previously authorized is also included in this system of records.

This system of records is not a financial management system that is used to track and identify financial payments which become delinquent; however, in order for FNS to participate in TOP, FNS must share with the Department of Treasury the personal identifying information (such as the debtor's name, DOB, home address, SSN and/or EIN (which is not considered a personal item of information)) of those individuals in this system of records for whom there is an outstanding delinquent debt owed to FNS. These debts originate from administrative actions (in the form of monetary penalties) taken against store owners and officers of stores who are found violating the Food Stamp Program regulations.

The fourth routine use which currently deals with disclosing information from this system of records to the Internal Revenue Service for the purpose of offsetting a debtor's tax refund in payment for a monetary penalty for food stamp violations, will be amended to notify the public that information (i.e., the debtor's name, home address, SSN and/or EIN) contained in this system of records may be disclosed to other Federal agencies (e.g., the Department of the Treasury) and other disbursing officials for offsets that are operated under the TOP.

Currently, once a determination is made to assess a fine or monetary penalty against a store owner or officer found violating the FSP, a demand for payment is forwarded to the individual. If the individual does not pay the debt, depending on the circumstances, he may receive from one to three demand letters from FNS. If the payment is not received with the prescribed time period, FNS refers that debt to a contract collection agency. If they cannot collect, the debt is either written off as uncollectible or referred to the Department of Justice for litigation and/or collection. Such collection efforts are

in accordance with the Federal Claims Collection Standards (FCCS) regulations, the Food Stamp Act, and the Food Stamp Program regulations. Based on the above, FNS is also amending the fourth routine use to notify the public that information from this system of records may be disclosed to contracted private collection agencies for claims collection action or the Department of Justice for litigation and/or collection action.

Currently, the fourth routine use states that, "USDA/FCS may disclose information from this system of records to the Internal Revenue Service for the purpose of offsetting a monetary penalty for violations committed under the Food Stamp Program against a tax refund that may be due to the debtor."

FNS proposes to revise the fourth routine use to permit USDA/FNS to release from this system of records information, including SSNs and EINs, to collect and report on delinquent debt. USDA/FNS will disclose this information to other Federal and State agencies (Note: SSNs and EINs will only be shared with Federal agencies), as well as private collection agencies, for purposes of claims collection actions including, but not limited to, administrative offset and referral to the Department of Justice for litigation.

Section 6109(f)(2)(B) of the Internal Revenue Code provides that, for purposes of sharing certain EINs by the Secretary of Agriculture with other agencies or instrumentalities of the United States, access to EINs shall be restricted *only to certain officers and employees of the United States*. Sections 301.6109-2(c) and (d) of the Procedure and Administration regulations also provide that *only certain officers and employees of the United States* are permitted access to EINs. The eighth routine use currently states that the information from this system of records can be disclosed to private entities which have contractual agreements with USDA. Based on the above, it has been determined that private entities which have contractual agreements with USDA are *not* permitted access to EINs. Thus, FNS is revising the routine use to reflect this position.

Lastly, the Privacy Act of 1974, as amended, provides that agencies that maintain a system of records shall publish a notice in the **Federal Register** of the existence and character of the system of records. This includes each routine use of the records contained in the system including categories of users and the purpose of such use. Thus, FNS is also proposing to add a new routine use number eleven to this system of records. The routine use will notify the

public that FNS may disclose information in this system of records to State agencies that administer the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

A "Report on a Revised System," required by 5 U.S.C. 552a(r), as implemented by OMB Circular A-130, was sent to the Chairman, Senate Committee on Governmental Affairs, the Chairman, House Committee on Government Operations, and to the Administrator, Office of Information and Regulatory Affairs, of the Office of Management and Budget on April 5, 1999.

Since the publication of this system of records in the **Federal Register** on December 2, 1996, a correction has been made and now by way of this notice, we are amending two routine uses, adding another routine use, and changing the name of the agency. Thus, for clarification purposes, the proposed altered system of records is republished in its entirety below.

Signed at Washington, DC on April 5, 1999.

**Dan Glickman,**  
*Secretary of Agriculture.*

#### USDA/FNS-9

##### SYSTEM NAME:

USDA/FNS-9 Food Stamp Program Retailer Information.

SECURITY CLASSIFICATION: None.

##### SYSTEM LOCATION:

The paper records (i.e., the applications for authorization and reauthorization) which contain the personal identifying information on retail and wholesale store owners and officers, and/or owners and officers associated with other entities, are located in a host computer database and in FNS field offices throughout the United States. The location of each FNS field office may be found in the local phone books. The host computer database which contains the Store Tracking and Redemption Subsystem (STARS) database, is located at the Benefit Redemption Systems Branch, PO Box 135, Minneapolis, Minnesota 55440.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system consists of personal information from owners and officers of stores and other entities currently participating in the Food Stamp Program, as well as those owners and officers who have previously participated in the program. The individual paper records (i.e.,

applications for authorization) located in FNS field offices also contain personal information from owners and officers who applied for authorization to participate in the FSP but were denied authorization.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

The applications for authorization and reauthorization are in the STARS database and located in the files of FNS field offices. The applications contain the following personal information regarding owners and officers: Name, home address, social security number, and date of birth. The SSNs 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, food stamp redemption data) relative to each entity currently authorized or previously authorized is in the STARS database.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2018); section 1735 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101-624, 104 Stat. 3359); section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)); and section 6109(f) of the Internal Revenue Code of 1986 (26 U.S.C. 6109(f)).

##### PURPOSE(S):

This information will be shared with other Federal and State entities to assist in the administration and enforcement of the Food Stamp Act, as well as other Federal and State laws. The SSNs and EINs of store owners will only be shared with Federal agencies which maintain those numbers in their files. STARS is used primarily for tracking the authorization and food stamp redemption activity of owners and officers of entities currently participating in the Food Stamp Program, as well as those owners and officers who have previously participated in the Food Stamp Program.

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

##### *Limitations on Disclosure under the Following Routine Uses (1) through (11):*

Information obtained from applicants under the authority of 7 U.S.C. 2018(c) may be used or disclosed only as specified in 7 U.S.C. 2018(c). With the exception of the SSNs and EINs obtained from applicants, 7 U.S.C. 2018(c) gives FNS the authority to

disclose the contents of an initial application, or other information submitted by an applicant to other Federal and State law enforcement and investigative agencies for the purposes of administering or enforcing the Food Stamp Act or any other Federal or State law. 7 U.S.C. 2018(c) also limits the use of the information obtained by applicants. That is, the above mentioned entities may only use this information for purposes directly connected with the administration and enforcement of the Food Stamp Act or any other Federal or State law. Some of the information obtained from applicants is ownership information and sales and redemption data.

The use and disclosure of SSNs and EINs obtained by applicants is covered in the Social Security Act and the Internal Revenue Code. In accordance with the Social Security Act and the Internal Revenue Code, applicant social security numbers and employer identification numbers may be disclosed only to other Federal agencies authorized to have access to social security numbers and employer identification numbers and maintain these numbers in their files, and only when the Secretary of Agriculture determines that disclosure would assist in verifying and matching such information against information maintained by such other agency. 42 U.S.C. 405(c)(2)(C)(iii); 26 U.S.C. 6109(f).

(1) USDA/FNS may disclose information from this system of records to the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal, when USDA, any component thereof, or any employee of the USDA in his or her official capacity, any USDA employee in his or her individual capacity where DOJ (or USDA where it is authorized to do so) has agreed to represent the employee, or the United States where USDA determines that the litigation is likely to affect directly the operations of USDA or any of its components, is a party to the litigation or has an interest in such litigation, and USDA determines that the use of such records by DOJ, the court or other tribunal, or the other party before such tribunal is relevant and necessary to the litigation; provided, however, that in each case, USDA determines that such disclosure is compatible with the purpose for which the records were collected.

(2) In the event that material in this system indicates a violation of the Food Stamp Act or any other Federal or State law whether civil or criminal or regulatory in nature, and whether arising by general statute, or by

regulation, rule or order issued pursuant thereto, USDA/FNS may disclose the relevant records to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(3) USDA/FNS may disclose records from this system of records to a congressional office from the record of an individual provided that individual gave the congressional office permission to inquire on his or her behalf.

(4) USDA/FNS may use information from this system of records, including SSNs and EINs, to collect and report on delinquent debt and may disclose the information to other Federal and State agencies, as well as private collection agencies, for purposes of claims collection actions including, but not limited to, administrative offset and referral to the Department of Justice for litigation. (Note: SSNs and EINs will only be disclosed to Federal agencies).

(5) USDA/FNS may disclose information from this system of records to other Federal and State agencies to respond to specific requests from such Federal and State agencies for the purpose of administering the Food Stamp Act as well as other Federal and State laws.

(6) USDA/FNS may disclose information from this system of records to other Federal and State agencies to verify information reported by applicants and participating firms, and to assist in the administration and enforcement of the Food Stamp Act as well as other Federal and State laws.

(7) USDA/FNS may disclose information from this system of records to other Federal and State agencies for the purpose of conducting computer matching programs.

(8) USDA/FNS may disclose information (excluding EINs) from this system of records to private entities having contractual agreements with USDA for designing, developing, and operating the system, and for verification and computer matching purposes.

(9) USDA/FNS may disclose an owner's home address to a financial institution to verify information contained on a redemption certificate (Form FCS-278B, formerly Form FNS-278B) submitted by a participating retailer. Authorized entities use these certificates when depositing food coupons at financial institutions. On occasion, particularly with small businesses, the owner's business

address may also be the owner's home address.

(10) USDA/FNS will disclose information from this system of records to the Internal Revenue Service, for the purpose of reporting delinquent retailer and wholesaler monetary penalties of \$600 or more for violations committed under the Food Stamp Program. USDA/FNS will report each delinquent debt to the Internal Revenue Service on Form 1099-C (Cancellation of Debt). USDA/FNS will report these debts to the Internal Revenue Service under the authority of the Income Tax Regulations (26 CFR parts 1 and 602) under section 6050P of the Internal Revenue Code.

(11) USDA/FNS may disclose information from this system of records to State agencies that administer the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), authorized under section 17 of the Child Nutrition Act of 1966 for purposes of administering that Act and the regulations issued under that Act.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

File folders, magnetic tapes, and computer disks.

**RETRIEVABILITY:**

In STARS, the personal identifying information is retrievable by owner's name and by SSN.

**SAFEGUARDS:**

1. *Authorized Users:* When designing, developing and/or operating a system of records on individuals, contractors are required to comply with all provisions of the Privacy Act. Contractors are required to maintain and protect the personal data and cannot release or share data without consulting with FNS. Access to records maintained within FNS is limited to those staff officials responsible for the subject system of records. Otherwise, access is limited to persons authorized and needing to use the records, including project directors, contract officers, programmers, analysts, statisticians, statistical clerks and key punch operators on the staff of the contractors or in the FNS.

2. *Physical Safeguards:* Paper records are stored in locked safes, locked files, and locked offices when not in use. Computer terminals used to process personal identifiable data are located in secured areas and are accessible only to authorized users. Back up records which are stored off-site shall be used and stored under the same secure conditions.

3. *Procedural Safeguards:* In order to access STARS, each authorized individual is given a personal access ID and password. The individual's password must be changed at least every 45 days or whenever the individual feels it might have been compromised.

Access to personal information contained in the STARS database and to the paper record files is restricted to those individuals who have been authorized by FNS and who have a need to know such information in the performance of their official duties in administering the Food Stamp Act and other Federal and State laws. SSNs cannot be viewed on screen in STARS by those individuals who are not specifically authorized to view them.

FNS personnel, project officers, and contract officers oversee compliance with these requirements. When appropriate, FNS personnel will review the site facilities to ensure that records have been maintained in accordance with the terms of this notice.

#### RETENTION AND DISPOSAL:

In STARS, the personal identifying information is maintained indefinitely. The applications for authorization and reauthorization are kept in the FNS field offices for three years and then destroyed pursuant to the applicable document retention and disposal schedule.

#### SYSTEM MANAGER(S) AND ADDRESS:

Thomas O'Connor, Director, Benefit Redemption Division, Food and Nutrition Service, United States Department of Agriculture, Room 706, 3101 Park Center Drive, Alexandria, Virginia 22302.

#### NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records from the System Manager. The request must be in writing.

#### RECORD ACCESS PROCEDURES:

An individual who wishes to request access to records in the system which pertains to him or her may submit a written request to the System Manager. The envelope and the letter should be marked, "Privacy Act Request". An individual may be required to reference the record by furnishing name, address, Social Security Number, and/or other identifiers needed by FNS.

#### CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager. The request should include, as appropriate, the reasons for contesting it, and the proposed

amendment to the information with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

#### RECORD SOURCE CATEGORIES:

Information in this system comes from the authorization and reauthorization applications of stores and other entities which are currently participating in the Food Stamp Program, as well as information on file for those entities which have previously participated in the program. Personal information in this system of records is also obtained from the owners and officers of such entities as reported on the authorization and reauthorization applications.

The STARS database also keeps a food stamp redemption history on such entities. The database maintains the dollar amount of food stamp benefits accepted by each entity currently authorized or previously authorized.

#### EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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BILLING CODE 3410-30-U

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

[Docket No. 99-002N]

#### "Certified Organic By" Labeling on Meat and Poultry Products

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Availability of labeling guidance.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is announcing the availability of guidance concerning the use of the claim "certified organic by (a certifying entity)" on the labeling of meat and poultry products. The claim "certified organic by (a certifying entity)" will be permitted on the labeling of meat and poultry products if the labeling is submitted to FSIS for approval, the labeling meets certain criteria, and the labeling submitted is accompanied by specified certification documentation that has been provided by the certifying entity to the meat or poultry producer seeking labeling approval.

**ADDRESSES:** Copies of FSIS's labeling guidance concerning the use of the claim "certified organic by (a certifying entity)" are available from the FSIS Docket Clerk in the FSIS Docket Room, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250-

3700, between 8:30 a.m. and 4:30 p.m., Monday through Friday, and on FSIS's homepage at [www.fsis.usda.gov](http://www.fsis.usda.gov).

**FOR FURTHER INFORMATION CONTACT:** Dr. Robert Post, Director, Labeling and Additives Policy Division, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, (202) 205-0279.

#### Background

The United States Congress passed the Organic Foods Protection Act of 1990 (1) to establish national standards governing the marketing of certain agricultural products as organically produced, (2) to assure consumers that organically produced products meet a defined, consistent standard, and (3) to facilitate commerce in organically produced fresh and processed food. The Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), published a proposed rule in the **Federal Register** (62 FR 65850) on December 16, 1997, to permit the use of the term "organic" on the labeling of certain agricultural products. AMS received approximately 280,000 public comments in response to the proposal, which raised many complex issues. AMS has decided to publish a revised proposed rule that will address those issues and to seek further input and comment from interested parties.

A number of meat and poultry producers asked FSIS to permit the marketing of meat and poultry products bearing the claim "certified organic by (a certifying entity)" during the pendency of the rulemaking and before AMS issues its final rule. Because AMS's decision to issue a revised proposal and to seek further public comment before finalizing the organic standards rule will likely take some time, FSIS has decided in the interim to permit the use of the claim "certified organic by (a certifying entity)" on the labeling of meat and poultry products under certain conditions.

As indicated in FSIS's guidance documents, to use the claim "certified organic by (a certifying entity)" on the labeling of a meat or poultry product, processors will have to submit the labeling they want to use to FSIS for approval. Processors will also have to submit to FSIS, simultaneously with the labeling for which they are seeking approval, specified certification documentation provided to them by the certifying entity, including documentation that demonstrates that the certifying entity has standards for what constitutes an organic product, and that the certifying entity has a system for ensuring that that the