



Food and  
Nutrition  
Service

Date: November 27, 2018

Park Office  
Center

To: Kevin Smartt, President/CEO  
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Subject: U.S. Department of Agriculture, Food and Nutrition Service (FNS)  
Supplemental Nutrition Assistance Program (SNAP)  
Retailer Policy and Management Division  
Retailer Administration Branch

Response to Comments:  
60-Day Federal Register Notice – SNAP Store Application Forms (FNS-252)  
Docket: FNS-2018-0034  
Comment Period End Date October 16, 2018

Dear Mr. Smartt:

Thank you for your response regarding the Federal Register Notice requesting comments on the proposed information collection for the Supplemental Nutrition Assistance Program (SNAP), Store Applications, Forms FNS-252, FNS-252-E, FNS-252-FE, FNS-252-R, FNS-252-2 and FNS-252-C, published August 17, 2018.

The Food and Nutrition Service (FNS) appreciates your comments about the proposed information collection regarding FNS' request for the precise number of staple food varieties; and FNS' request for total retail sales percentages concerning cold foods prepared on-site and gasoline.

Sec. 765 of the Omnibus Appropriation Act of 2017 which was signed into law prohibited the USDA from implementing the "Definition of 'Staple Food' – Acceptable Varieties in the Four Staple Food Categories" provision (7 CFR 271.2 and 7 CFR 278.1(b)(1)(ii)(C)) and the "Definition of 'Retail Food Store' – Breadth of Stock" provision (7 CFR 271.2 and 7 CFR 278.1(b)(1)(ii)(A)) of the 2016 final rule until the USDA promulgates regulatory amendments which modify the "Definition of 'Staple Food' – Acceptable Varieties in the Four Staple Food Categories" provision of the 2016 final rule. As a result, the question related to staple food varieties was modified to satisfy the prohibitions set forth in Omnibus Appropriation Act of 2017. The modification allows flexibility for future changes in minimum requirements should regulatory amendments adjust said provisions.

FNS would like to clarify that the collection of the percentage of sales from cold foods prepared on-site is necessary for FNS to make a restaurant determination.

Program regulations, at 7 CFR §§ 271.2 and 278.1(b)(1)(iv), provide that, for the purposes of SNAP, restaurants are firms with more than 50 percent of total gross sales in:

- foods cooked or heated on-site by the retailer before or after purchase; and
- hot and/or cold prepared foods not intended for home preparation or consumption, including prepared foods that are consumed on the premises or sold for carryout.


The question was revised from "cold prepared food" to "cold food prepared on-site" to clarify the types of foods that should be included in this sales category. While FNS did not make changes to FNS's definition of hot and/or cold foods prepared on-site, we will revise the application to clarify that percentages for these categories should only include prepared foods that are consumed on the premises or sold for carryout (i.e., foods not intended for home preparation or consumption).

In regard to your concern around the gasoline sales category, gasoline sales are a key factor in understanding a store's business model. We will revise the application by adding a question "Do you sell gasoline" with a "yes" or "no" selection. We will also remove gasoline as a stand-alone sales category in the application and will include it in the "Other Nonfoods" sales category which will consequently be updated to the sales category of "Nonfoods".

FNS would also like to note that we have removed individual sales categories for alcohol, tobacco, and lottery.

Thank you again for your comments.

Regards,



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