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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

STATE OF CALIFORNIA, ET AL. Plaintiffs, **v.** **UNITED STATES DEPARTMENT OF AGRICULTURE, ET AL.** Defendants.	Case No. **3:25-cv-06310-MMC** **PLAINTIFF STATES' NOTICE OF MOTION AND MOTION TO ENFORCE OR EXPAND THE PRELIMINARY INJUNCTION** Date: February 13, 2026 Time: 9:00 a.m. Courtroom: 7 Judge: Maxine M. Chesney Trial Date: None set Action Filed: July 28, 2025

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NOTICE OF MOTION AND MOTION TO ENFORCE OR EXPAND THE PRELIMINARY INJUNCTION

PLEASE TAKE NOTICE that on February 13, 2026, at 9:00 a.m., in Courtroom 7 of the above-entitled court, located at 455 Golden Gate Avenue, San Francisco, California, Plaintiffs the States of California, New York, Arizona, Colorado, Connecticut, Delaware, Hawai‘i, Illinois, Maine, Maryland, Michigan, Minnesota, New Jersey, New Mexico, Oregon, Rhode Island, Washington, Wisconsin, the District of Columbia, the Commonwealth of Massachusetts, the Office of The Governor ex rel. Andy Beshear, in his official capacity as Governor of the Commonwealth of Kentucky, and the Office of The Governor ex rel. Josh Shapiro, in his official capacity as Governor of the Commonwealth of Pennsylvania (collectively, Plaintiffs or Plaintiff States) will and hereby do move this Court pursuant to 5 U.S.C. § 705, Federal Rule of Civil Procedure 65, and Local Rules 7-1 and 7-2 for an order enforcing or expanding the Preliminary Injunction (ECF No. 106) and prohibiting Defendants United States Department of Agriculture (USDA) and Secretary Brooke Rollins from enforcing Defendants' renewed demand for personal and sensitive data on Supplemental Nutrition Assistance Program (SNAP) applicants and recipients for USDA's "National SNAP Information Database" (SNAP Database) system of records, 90 Fed. Reg. 26521 (June 23, 2025), until Plaintiffs' challenges to the legality of the demand and the SNAP Database program can be adjudicated.

This Motion is based on this Notice; the accompanying Memorandum of Points and Authorities; the supporting declarations filed herewith; the Amended Complaint for Declaratory and Injunctive Relief (ECF No. 84); the Court's Preliminary Injunction and all supporting briefing and evidence; this Court's file; and any other matters properly before the Court.

INTRODUCTION

In disregard of this Court's preliminary injunction, USDA has renewed its demand for six years' worth of SNAP applicant and recipient records, and again threatened to penalize States by withholding potentially hundreds of millions of dollars of necessary funding. Although USDA has now "proposed" a data and security protocol, its latest demand violates the Court's injunction because its protocol would *still* permit data sharing and use that is unlawful under this Court's order. ECF No. 106 ("PI Order") at 18-19 (citing 7 U.S.C. § 2020(e)(8)(A)). Furthermore, when Plaintiffs provided a detailed response to the proposed protocol, including suggested edits, questions, and clarifications, USDA rejected Plaintiffs' concerns out of hand, claiming that States have "no discretion" in the matter—contrary to the SNAP Act's explicit requirement that any protocol must be agreed to by the States. *See* PI Order at 13 (citing 7 U.S.C. § 2020(a)(3)). In fact, the only significant revision USDA made to the proposed protocol *exacerbates* the risk of unlawful disclosure and use by adding a broad loophole for sharing the demanded data with other agencies, including the Department of Homeland Security, for purposes unrelated to SNAP.

USDA has now unilaterally terminated negotiations, once again initiating noncompliance proceedings and threatening draconian penalties if Plaintiff States do not comply with USDA's unlawful demands. This "my way or the highway" approach has left States with no choice but to seek enforcement of the Court's order on an emergency basis.

Even if USDA's renewed demand is beyond the scope of the existing injunction, the Court should expand that injunction, because the renewed demand is contrary to law for the same reasons as USDA's original demand: it violates § 2020(e)(8)'s restrictions on data sharing and use and it is unsupported by an agreed-upon protocol, as required by § 2020(a)(3).

In addition, the expanded record supporting this motion underscores additional ways that Defendants' actions violate the Administrative Procedure Act (APA). USDA's renewed demand is contrary to law because the Computer Matching Act prohibits Plaintiffs from disclosing records "for use in a computer matching program" absent an agreement that meets minimum statutory requirements. 5 U.S.C. § 552a(o)(1). And in unilaterally terminating negotiations with Plaintiffs, USDA has arbitrarily dismissed their concerns that the proposed protocol would create significant

data security risks, including the risks of unlawful disclosure and use.

Also, as Plaintiffs have previously argued, USDA's renewed demand is contrary to law because § 2020(a)(3) only provides USDA with authority to obtain *access to*—not unfettered *possession of*—States' SNAP records. This is a foundational flaw that the Court should revisit in light of new developments and evidence. Finally, USDA's renewed demand makes clear that in establishing the SNAP Database, USDA has arbitrarily ignored its prior findings that it lacks the authority to create such a system, and it has arbitrarily circumvented privacy protections built into the existing systems that were carefully designed to accomplish the claimed goals of the new database.

The Court should enforce its injunction order against the renewed demand or (if necessary) expand the injunction to prevent an endless cat-and-mouse game of relitigating variations of the same fundamentally unlawful demand for States' data.

BACKGROUND

I. DEFENDANTS DEMAND THAT STATES PRODUCE PERSONAL AND SENSITIVE SNAP DATA AND THREATEN TO WITHHOLD FUNDING FOR NONCOMPLIANCE

In May 2025, USDA and its "assigned Department of Government Efficiency ('DOGE') team" sought to obtain SNAP data directly from the States' third-party electronic benefit transfer (EBT) processors. ECF No. 59-12 (IL Decl.), Ex. 1. USDA claimed it was implementing a March 20 executive order directing federal agencies to eliminate so-called "information silos," to gain "unfettered access to comprehensive data from all State programs," and to then share that data across the federal government in furtherance of the Administration's goals. ECF No. 59-7 (CA Decl.), Ex. B (citing Exec. Order No. 14243, 90 Fed. Reg. 13,681 (Mar. 20, 2025)).

In June, after USDA was sued by private plaintiffs for failing to follow the Privacy Act, among other laws, it published a System of Records Notice (SORN), which describes a new "National Supplemental Nutrition Assistance Program (SNAP) Information Database" (SNAP Database) containing SNAP applicants' and recipients' PII, including their names, Social Security Numbers (SSNs), dates of birth, and addresses. 90 Fed. Reg. 26521; *see Pallek v. Rollins*, No. 1:25-cv-1650, ECF No. 11-1, ¶¶ 13-14 (D.D.C. May 30, 2025). USDA sought comment only on

its planned "routine uses" of the data, which contemplated broad redisclosure of States' SNAP records to myriad agencies and individuals that have nothing to do with administering SNAP. *E.g.*, 90 Fed. Reg. at 26522 ("When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law . . . USDA/FNS may disclose the record to the appropriate agency, whether Federal, foreign, State, local, or tribal[.]").

On July 9, USDA demanded that the States produce virtually all SNAP applicant and recipient data dating back to 2020—including applicants' and recipients' names, SSNs, dates of birth, and addresses—no later than July 30. ECF No. 59-7 (CA Decl.), Exs. C, D; *see also* 90 Fed. Reg. at 26522 (SORN listing categories of demanded data). In the following weeks, USDA doubled down on its demand, threatening to impose crippling monetary penalties on noncomplying States. ECF No. 59-7 (CA Decl.), Ex. E; *see* ECF No. 59 at 7 n.4. In many cases, USDA threatened to disallow funding in amounts that greatly *exceed* a State's total administrative funding—a plainly coercive move that is untethered to the regulations. ECF No. 75-1, Ex. C.

II. THE COURT ENJOINS DEFENDANTS FROM WITHHOLDING FUNDING FROM PLAINTIFF STATES OR TAKING OTHER STEPS TO ENFORCE THEIR DATA DEMAND

Plaintiffs filed the present action on July 28, and soon after moved for a preliminary injunction to bar Defendants from enforcing their data demand. ECF Nos. 1, 59. After issuing a temporary restraining order to preserve the status quo while the parties briefed Defendants' last-minute arguments, ECF Nos. 83, 94, the Court granted a preliminary injunction on October 15, concluding that Plaintiffs are likely to prevail on their claim that Defendants' demand is contrary to law for at least three independent reasons. PI Order at 13-19.[1]

First, the Court rejected Defendants' contentions that 7 U.S.C. § 2020(e)(8) provides USDA with authority to collect States' records. That subsection merely permits States to disclose otherwise-confidential data to specified recipients—it does not by itself require them to turn over data to USDA. PI Order at 14-18. Therefore, Defendants' demand was likely unlawful. *Id.* Although a different provision of the SNAP Act, 7 U.S.C. § 2020(a)(3), may provide some authority for USDA to access States' records, as the Court explained, the plain text "requires

[1] The preliminary injunction covers all Plaintiffs except Nevada. PI Order at 2 n.2.

USDA and a State agency to agree to data and security protocols before the State agency is required to provide the SNAP records demanded by USDA." *Id.* at 13. There was no such protocol in place, however; indeed, USDA had never even proposed one. *See id*.

Second, the Court held that Defendants' demand likely violated § 2020(e)(8)(A) because it swept in data that is not "obtained from applicant households," such as transactional records and SNAP usage and retailer data. PI Order at 18 (citing ECF No. 59-7 (CA Decl.), Ex. D).

Third, the Court held that Defendants' demand was likely unlawful because USDA had "announced its intent" to disclose and use the data in "ways well beyond those permitted under § 2020(e)(8)(A)(ii)." PI Order at 18. The Court stressed that, because Plaintiff States "are required by the SNAP Act to safeguard information they obtain from applicant households and are permitted to disclose such information under § 2020(e)(8)(A) only for the limited purposes set forth therein," the Plaintiff States "are *prohibited* from disclosing information" under such circumstances—where USDA has "announce[d] in advance an intent to use the information for purposes beyond those set forth in § 2020(e)(8)(A)(ii)." *Id.* at 18-19 (emphasis added).

After finding that Plaintiffs established irreparable harm and that the balance of the equities and the public interest supported an injunction, PI Order at 21-24, the Court preliminarily enjoined USDA "from disallowing SNAP funding based on Plaintiff States' failure to comply with the demands set forth in the [USDA's] formal warning letters or otherwise acting thereon," *id.* at 25. Defendants did not appeal the Court's order, and the deadline to do so has now passed.

III. NOTWITHSTANDING THE COURT'S INJUNCTION, DEFENDANTS RENEW THEIR DATA DEMAND AND THREATEN TO WITHHOLD FUNDING FROM PLAINTIFF STATES

Despite the Court's injunction, USDA renewed its data demand in letters to Plaintiff States on November 24. Ladov Decl., Ex. A (Renewed Demand) & Attachments. As discussed in more detail below, the renewed demand included a proposed protocol, but USDA claimed that "there can be no good faith objection" to it, and required Plaintiff States to respond within a week stating whether they would comply. *Id.* at 1. Among other problems, the proposed protocol makes clear that the renewed demand is governed by the same SORN, which includes the "routine uses" that the Court found violate the SNAP Act, *see* PI Order at 18-19 & n.24. Indeed, although USDA

told the Court in September that it would amend the SORN to "clarify that data will not be disclosed except as authorized by the [SNAP Act]," ECF No. 90-1 (USDA Decl.) ¶¶ 10-12, it has not done so.

On December 8, Plaintiffs sent a letter detailing problems with the proposed protocol and seeking clarification about USDA's plans in order to offer additional substantive suggestions. Ladov Decl., Ex. B (Pls.' Dec. 8 Ltr.). Plaintiffs requested a response by December 15.

Ignoring that request, USDA responded after the close of business Eastern Time on December 23. Rather than trying to reach agreement with Plaintiffs, USDA rejected their concerns out of hand and accused them of seeking "delay" just by raising those concerns. *See* Ladov Decl., Ex. C (USDA Dec. 23 Ltr.) at 1. Worse still, USDA's letter states that it serves as an advance notification under 7 C.F.R. § 276.4(d)(1), thereby initiating noncompliance proceedings to withhold Plaintiffs' funding. *Id.* at 6-7. This notice required Plaintiffs to commit by January 6 to turn over the data, *id.*—a deadline that was later extended to January 9. Defendants also revised their proposed protocol, not to address any of the concerns raised by Plaintiffs, but instead to reserve their purported right to share access to their new SNAP Database with other parties "to the extent required by law." Ladov Decl., Ex. C, Attachment (USDA Revised Protocol) § 4.2; *see id.*, Ex. D § 4.2 (redline showing changes in the revised proposed protocol).[2] This seemingly innocuous proviso appears to be a Trojan Horse intended to leave room for USDA to share States' applicant data with immigration enforcement authorities, and perhaps other federal agencies, in violation of the SNAP Act.

On January 9, Plaintiff States responded to USDA by its prescribed deadline, explaining that they are unable to agree to USDA's renewed demand, including because it fails to cure the defects identified in this Court's order, but also that they remain ready to work with USDA in good faith towards an agreed-upon protocol that complies with the SNAP Act and other applicable laws. Ladov Decl. Ex. F (Pls.' Jan. 9 Ltr.).

[2] For ease of reference, Plaintiffs refer to USDA's Revised Protocol throughout, including when referring to provisions that remain unchanged from the original version.

LEGAL STANDARD

Courts have broad authority to issue orders to "secure compliance with [their] earlier orders and governing law." *Armstrong v. Brown*, 939 F. Supp. 2d 1012, 1018 (N.D. Cal. 2013); *see also United States v. N.Y. Tel. Co.*, 434 U.S. 159, 172 (1977) (federal courts can issue orders as "necessary or appropriate to effectuate and prevent the frustration of orders"). "In deciding whether an injunction has been violated it is proper to observe the objects for which the relief was granted and to find a breach of the decree in a violation of the spirit of the injunction, even though its strict letter may not have been disregarded." *Inst. of Cetacean Research v. Sea Shepherd Conserv. Soc'y*, 774 F.3d 935, 949 (9th Cir. 2014) (citation omitted).

Plaintiffs' alternative request for an order expanding the Court's existing injunction is governed by *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008): To prevail, Plaintiffs must show that (1) they are likely to succeed on the merits, (2) they are likely to suffer irreparable harm, (3) the balance of equities tips in their favor, and (4) an injunction is in the public interest. Under the "sliding scale" test, Plaintiffs also may prevail by showing "serious questions" going to the merits—a lesser showing than a likelihood of success on the merits—and that "the balance of hardships tips *sharply* in [their] favor, and the other two *Winter* factors are satisfied." *All. for the Wild Rockies v. Pena*, 865 F.3d 1211, 1217 (9th Cir. 2017) (citation omitted).

ARGUMENT

I. THE COURT SHOULD ENFORCE ITS INJUNCTION AGAINST DEFENDANTS' RENEWED DEMAND AND THREATS TO WITHHOLD FUNDING.

As noted above, this Court's preliminary injunction bars USDA "from disallowing SNAP funding based on Plaintiff States' failure to comply with the demands set forth in [USDA's] formal warning letters or otherwise acting thereon." PI Order at 25. Yet USDA has renewed its prior demand, requesting the *same* SNAP data for the same SNAP Database, including all the same PII (names, dates of birth, addresses, and SSNs) and more (e.g., immigration sponsor identity, absent parent status, and SNAP EBT Card Number). *Compare* Renewed Demand, *with* PI Order at 3-4 (describing prior demand). USDA is also invoking the same authority—7 C.F.R.

§ 276.4—to impose draconian financial penalties on non-complying States. *Compare* USDA Dec. 23 Ltr. at 6-7, *with* ECF No. 59-7 (CA Decl.), Ex. G (prior advance notification letter).

USDA apparently believes it can circumvent the preliminary injunction, simply because its renewed demand includes a proposed data and security protocol. Not so. As explained below, USDA's renewed demand fails to cure either of the major legal defects the Court identified in its preliminary injunction order: it still would permit applicant data to be disclosed and used in violation of § 2020(e)(8)(A)(ii), *see* PI Order at 18-19, and it still lacks an agreed-upon data and security protocol, as required by § 2020(a)(3), *see* PI Order at 13.

A. USDA's proposed protocol still does not ensure compliance with § 2020(e)(8)(A)(ii).

The Court previously found that "USDA has announced its intent to use [SNAP applicants' information] in ways well beyond those permitted under § 2020(e)(8)(A)(ii)," including by asserting in the SORN "the right to disclose the data to a number of entities, including numerous entities that are not assistance programs, and for purposes other than the administration or enforcement of the programs referenced in § 2020(e)(8)(A)(i)." PI Order at 18 (citing 90 Fed. Reg. at 26522-23). Thus, the Court held that Plaintiffs are "likely to show the SNAP Act prohibits them from disclosing to USDA the information demanded[.]" *Id.* at 19.

The facts that led the Court to this conclusion have not changed with USDA's renewed demand and proposed protocol.[3] First, the renewed demand relies on the same SORN as the relevant authority for the collection. USDA Revised Protocol § 5 (citing 90 Fed. Reg 26521). That SORN has not been amended, despite Defendants' representations months ago that they would do so. ECF No. 90-1 (USDA Decl.) ¶¶ 10-12. When Plaintiff States asked USDA how it would reconcile differences between the SORN and the protocol, *see* Pls. Dec. 8 Ltr. at 14,

[3] While USDA now focuses on § 2020(a)(3) as the source of authority for its demand instead of § 2020(e)(8), the latter subsection still governs disclosure and use of States' applicant data; USDA cannot simply ignore its restrictions. By its terms, this provision applies to *any* disclosure of "information obtained from applicant households," § 2020(e)(8)(A)(i), which encompasses the vast majority of the information USDA seeks here. Indeed, USDA has previously acknowledged that its authority to collect and utilize SNAP applicant data is "subject to confidentiality and limitations on disclosure at [7 U.S.C. § 2020(e)(8)]"). Reyes Decl. (WA), Ex. A at 2; *see also* Reagan Decl. (IL), Ex. A at 9.

USDA again promised it would, someday, amend the SORN, but it also made clear that, while USDA plans to drop the SORN's reference to foreign governments, it will not amend the language that this Court found transgresses § 2020(e)(8)(A), *see* USDA Dec. 23 Ltr. at 6.

Second, in addition to failing to cure the defects in the SORN, USDA flatly refused to close related loopholes in its proposed protocol that seem intended to permit the disclosure and use of applicant data in violation of § 2020(e)(8)(A)(i). Most notably, while the protocol limits "access" to the SNAP Database itself by other federal agencies, it contains no restriction on USDA's ability to *disclose* information from the database to other federal agencies—something that the Information Silos Executive Order, cited by USDA in its demand and its SORN, expressly dictates. *See* USDA Revised Protocol § 2.1.1 (citing Exec. Order No. 14243, 90 Fed. Reg. 13,681 (Mar. 20, 2025); *see also* 90 Fed. Reg. 26521 (same). Plaintiffs asked USDA to amend the proposed protocol to prohibit USDA from *disclosing* the demanded data "except to persons 'directly connected with the administration' of the SNAP Act, for the purpose of administering or enforcing the SNAP Act only"; to confirm that it would comply with § 2020(e)(8) by "limit[ing] its use of the data to 'ensure the integrity of the SNAP program' only"; and to confirm that it would not share participant data with the Department of Homeland Security or its subagencies "for use in immigration enforcement activities." Pls. Dec. 8 Ltr. at 12-13. In response, USDA stated only that "[i]n the event it receives external requests for data, USDA will follow all applicable laws," USDA Dec. 23 Ltr. at 6, and added language to its proposed protocol reflecting this position, USDA Revised Protocol § 4.2 (stating that "access to the SNAP Information Database may [only] be provided to . . . [a]ny other federal agency" "to the extent required by law"). This provides no assurance at all, because U.S. Immigration and Customs Enforcement (ICE) has publicly announced its position that it may demand other federal agencies to turn over any "lawfully collected information" for use in immigration enforcement. ICE Policy Memorandum 11066.2 (Oct. 27, 2025).[4]

[4] Available at https://www.ice.gov/doclib/memos/ 11066.2.pdf. Additionally, Palantir executive Shyam Sankar has publicly recognized that the data used by the Palantir platform ("ImmigrationOS") supporting ICE enforcement and removal operations is being pulled from "applications for benefits." *See* Ross Douthat, *What Palantir Sees*, NY TIMES (Oct. 30, 2025), https://www.nytimes.com/2025/10/30/opinion/palantir-shyam-sankar-military.html.

USDA also refused to agree to any transparency or enforcement mechanism in the protocol—the lack of which would make it impossible for Plaintiff States to know how their SNAP records and applicant data are being shared and used. *Compare* Pls.' Dec. 8 Ltr. at 12-13, *with* USDA Dec. 23 Ltr. Most importantly, Plaintiffs requested that USDA "include protocol language that alerts any State immediately if ICE or any other DHS subagency requests access to or use of this data and provides at least 30 days for that State to respond (and if necessary take legal action) to prevent such data sharing[.]" Pls.' Dec. 8 Ltr. at 12-13. USDA ignored the issue altogether, heightening concerns that USDA will use the data in ways that violate the SNAP Act.

In these circumstances—where President Trump has directed federal agencies to share State data across the federal government, USDA has already "announced its intent" to disclose and use applicant data outside of § 2020(e)(8)(A)(ii)'s restrictions, PI Order at 18, and USDA has failed to amend its SORN and its data and security protocol to comply with § 2020(e)(8)(A)(ii)—USDA's renewed demand violates the preliminary injunction, and Plaintiff States continue to be statutorily "prohibit[ed]" from complying with the demand, PI Order at 18.

B. USDA's renewed demand still lacks an agreed-upon protocol.

The Court previously recognized that § 2020(a)(3) "requires USDA and a State agency to *agree to* data and security protocols *before* the State agency is required to provide the SNAP records demanded by USDA." PI Order at 13 (emphasis added). USDA has failed to cure this defect: regardless of whether the terms that USDA seeks to unilaterally impose actually constitute a "data and security protocol," as that term is normally understood, it is still not a "data and security protocol[] *agreed to by the State agency*." § 2020(a)(3)(B)(i) (emphasis added).

With its latest letter, USDA has taken the remarkable position that § 2020(a)(3) does not make an agreed-upon protocol a "condition" at all, and that it only needs to abide by a data and security protocol agreed to by the States if it chooses to enter into one. USDA Dec. 23 Ltr. at 2. Yet again, USDA disregards both the Court's order (*see* PI Order at 12-13) and the plain meaning of Congress's words. *See Subject to,* Merriam Webster, https://www.merriam-webster.com/dictionary/subject%20to (defining "subject to" as "dependent on something else to happen or be true"). Congress expressly provided that the relevant "records . . . shall . . . be made

available, *subject to* data and security protocols agreed to by the State agency and Secretary," § 2020(a)(3)(B)(i)—not (as USDA would have it) that the records shall be made available, *regardless of whether* there are data and security protocols agreed to by the State agency. USDA's interpretation would rewrite the statute altogether, which neither the agency nor the Court can do. *See Nat'l Ass'n of Mfrs. v. Dep't of Def.*, 583 U.S. 109, 123 (2018) ("[T]his Court is not free to 'rewrite the statute' to the Government's liking."); PI Order at 17 (declining to adopt USDA's interpretation that would have rewritten § 2020(e)(8)).

As the plain meaning of the "subject to" phrase indicates, it allows States to secure an effective data and security protocol—one that would safeguard their personal and sensitive data from being leaked, breached, illegally disclosed, or illegally used—"before" States are "required" to grant access to their records. PI Order at 13. Accordingly, in response to USDA's renewed demand, Plaintiff States explained, in painstaking detail, the significant problems with USDA's proposed protocol—including that it would put millions of Americans' sensitive data at risk and that it did not even ensure that USDA would follow the "strict limitations" that Congress has "placed on the use of" applicant data. PI Order at 18; *see* Pls.' Dec. 8 Ltr. Plaintiff States offered this response in good faith, just as they had responded to USDA's original demand. *See* PI Order at 12 n.14 (observing that "there is no evidence that any Plaintiff State has refused to negotiate protocols," and that "some of the Plaintiff States ha[d] advised USDA of their willingness to negotiate protocols that would apply to the data USDA seeks, but ha[d] received no response").

Meanwhile, USDA never made any real attempt to reach agreement. Even before Plaintiffs had an opportunity to respond to the renewed demand, Secretary Rollins announced during a televised cabinet meeting that she had already decided to penalize "blue states" (referring to Plaintiffs), stating that "as of next week we have begun and will begin to stop moving federal funds into those states until they comply" with USDA's renewed demand.[5] She then announced on X: "NO DATA, NO MONEY – it's that simple," and accused Plaintiffs of

[5] The White House, *President Trump Hosts a Cabinet Meeting, Dec. 2, 2025*, at 59:45-1:00:33 (YouTube Dec. 2, 2025), https://www.youtube.com/watch?v=pZSd7jn9CSc.

"protecting their bribery schemes."[6] USDA's renewed demand itself mirrors the Secretary's sentiments, stating unequivocally that "there can be *no good faith objection* to the attached protocols." Renewed Demand at 1 (emphasis added). And Defendants' counsel has similarly asserted that States have no "discretion" in the matter. Ladov Decl., Ex. E.

Then, after Plaintiffs' response, USDA unilaterally terminated negotiations without addressing the problems Plaintiffs raised. *See infra* § II(B). Accordingly, Plaintiffs States have declined to acquiesce to USDA's renewed demand—as they are statutorily *required* to do. *See* PI Order at 18-19 (holding that Plaintiffs are "prohibited from disclosing" applicant data to USDA, given the agency's stated intent to disclose and use that data "for purposes beyond those set forth in § 2020(e)(8)(A)(ii)").

In short, the Court recognized in its PI Order that USDA lacks authority to enforce its original demand under § 2020(a)(3) without an agreed-upon data and security protocol. *See* PI Order at 13. USDA has not cured this fundamental defect. Therefore, the Court should enforce its order against USDA's renewed demand and threats to disallow funding.

II. IN THE ALTERNATIVE, THE COURT SHOULD EXPAND ITS INJUNCTION TO BAR DEFENDANTS' RENEWED DEMAND AND THREATS TO WITHHOLD FUNDING.

If the Court finds that Defendants' renewed data demand and financial threats violate the existing injunction, then that should be the end of the analysis; the Court may defer consideration of Plaintiffs' remaining arguments until summary judgment, when the Court may fully consider the issues on a complete administrative record. However, if the Court finds that the Defendants' renewed demand is beyond the scope of its preliminary injunction, then it should expand its preliminary injunction to bar the renewed demand, because Plaintiffs are likely to prevail on their arguments that it violates the APA in multiple ways, in addition to the defects discussed above.[7]

As explained below, USDA's renewed demand is contrary to the Computer Matching Act,

[6] Brooke Rollins (@SecRollins), X (Dec. 2, 2025 11:11 a.m. PST), https://x.com/SecRollins/status/1995933975211397454?s=20.

[7] Whether characterized as a new demand or a continuation of the enjoined demand, USDA's December 23 letter constitutes a final agency action. It is "not only is final but also determines Plaintiff States' obligations and the consequences flowing from a failure to comply therewith." PI Order at 9. Specifically, USDA's December 23 letter instructs the Plaintiff States (continued…)

because Plaintiffs may not disclose the demanded records absent a written agreement that meets minimum statutory requirements. *See infra* § II(A). USDA has also arbitrarily failed to consider important issues raised by Plaintiffs, including that USDA's proposed protocol fails to protect States' records against data security risks. *See infra* § II(B). Finally, as the expanded preliminary record shows, Plaintiffs are likely to prevail on their claims that USDA lacks statutory authority to demand unfettered possession and control of State SNAP records, *see infra* § II(C), and that USDA's proposed SNAP Database arbitrarily abandons long-standing agency practice and circumvents existing data privacy protections, *see infra* § II(D).

A. Defendants' demand is contrary to the Computer Matching Act.

In their response to USDA's proposed protocol, Plaintiff States objected that USDA's proposed protocol fails to comply with the Computer Matching and Privacy Protection Act ("Computer Matching Act"), which ***prohibits*** States from disclosing records "for use in a computer matching program" except pursuant to a written agreement that meets minimum statutory requirements. 5 U.S.C. § 552a(o)(1); *see* Pls.' Dec. 8 Ltr. at 2. Among other things, the agreement must specify: the purpose of the program; each data element that will be used; procedures for verifying information produced by the program; procedures for protecting data security and privacy; and prohibitions on the duplication and redisclosure of records. 5 U.S.C. § 552a(o)(1)(A)-(K). As Plaintiff States noted in their letter, they have previously entered into necessarily detailed computer matching agreements with USDA, including to implement the National Accuracy Clearinghouse (NAC) and Electronic Disqualified Recipient System (eDRS) systems. *Id.*; *see* Reyes Decl. (WA), Ex. A; Reagan Decl. (IL), Ex. A at 3; Tomasky Decl. (NY) ¶¶ 12-17.

In response to Plaintiffs' letter, USDA did not dispute that its proposed protocol fails to comply with 5 U.S.C. § 552a(o)(1). Instead, it suggested that it need not comply with the Computer Matching Act because the agency may not use States' records in a computer matching

to "construe this letter as your Advance Notification pursuant to 7 CFR 276.4(d)(1)" that USDA intends to disallow funding. USDA Dec. 23 Ltr. at 6. The Court has held that such formal steps toward disallowance are evidence of a final agency action. PI Order at 8-9.

program, first stating that "FNS's uses of data" will not "be automatic," USDA Dec. 23 Ltr. at 5, and later refusing to describe which data "will be analyzed, how, and when," *id.* at 6.

But USDA has already made clear that it intends to use the demanded records for a "computer matching program," which is defined to include "any computerized comparison of . . . two or more automated systems of records or a system of records with non-Federal records" in order to "establish[] or verify[]" applicants' "eligibility" for "cash or in-kind assistance or payments under Federal benefit programs." 5 U.S.C. § 552a(a)(8). Indeed, in its Privacy Impact Assessment, USDA explained that it is using the SNAP Database to "verify[] SNAP recipient eligibility" by "leverag[ing] data-sharing across Federal and State systems to identify and rectify any ineligible, duplicate, or fraudulent SNAP enrollments or transactions," ECF No. 59-7, (CA Decl.) Ex. A at 13, by conducting "[i]nter-Agency data matches" "using automated scripts and queries on the compiled database" as well as "matching algorithms," *id.* at 5.[8]

In these circumstances, where USDA has already expressed its intent to use the demanded records in a computer matching program, 5 U.S.C. § 552a(o)(1) *prohibits* Plaintiff States from disclosing the demanded records without a necessarily detailed computer matching agreement. *See* 5 U.S.C. § 552a(o)(1) ("No record which is contained in a system of records may be disclosed to a recipient agency . . . for use in a computer matching program except pursuant to a [computer-matching agreement] between the source agency and the recipient agency . . . ."); *see also* PI Order at 18-19 (holding that because USDA has stated its intent to violate § 2020(e)(8)(A)(ii), that subsection prohibits Plaintiff States from disclosing applicant data).[9]

[8] Available at https://www.usda.gov/sites/default/files/documents/fns-snap-information-database-pia.pdf. USDA previously tried to argue that it is not engaging in an "automated" comparison of data, ECF No. 72 at 30 (citation omitted), but the statute expressly applies to "any *computerized*" comparison of data, 5 U.S.C. § 552a(a)(8) (emphasis added), which USDA indisputably intends to do with the demanded records. *See Computerize*, Merriam Webster, https://www.merriam-webster.com/dictionary/computerize (defining "computerize" as "to carry out, control, or produce by means of a computer").

[9] When ruling on Plaintiffs' preliminary injunction motion, the Court preliminarily found that there was insufficient evidence that USDA "intend[ed] to act in violation of the strictures set forth in the Computer Matching Act." *See* PI Order at 21 n.26. However, Plaintiffs previously did not press the argument they raise here: that 5 U.S.C. § 552a requires USDA to enter into computer matching agreements *with Plaintiff States*. *See* PI Mot. at 20-21; *see also* 5 U.S.C. § 552a(a)(11) (defining "source agency" to include "any State . . . which discloses records to be used in a matching program").

Therefore, USDA's renewed demand that Plaintiff States violate 5 U.S.C. § 552a(o)(1) is contrary to law and should be enjoined.[10]

B. Defendants failed to consider important issues raised by Plaintiffs.

Under the APA, agency action is arbitrary and capricious when the agency has "failed to consider important aspects of the problem" before it. *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 4 (2020) (citation modified). Here, USDA did precisely that. In particular, after USDA issued its renewed demand, Plaintiff States raised concerns that USDA's proposed protocol would still expose Plaintiffs' records to unlawful disclosure and use. In response, USDA ignored these concerns and instituting noncompliance proceedings. *See* USDA Dec. 23 Ltr. This plug-your-ears approach violates the APA. *See Ohio v. EPA*, 603 U.S. 279, 293 (2024) (agency acted arbitrarily and capriciously by "offer[ring] no reasoned response"); *Arrington v. Daniels*, 516 F.3d 1106, 1112 (9th Cir. 2008) (courts "may not 'infer an agency's reasoning from mere silence'").

First, USDA disregarded Plaintiffs States' objections that the renewed demand and proposed protocol fail to comply with statutory restrictions on data disclosure and use contained within the SNAP Act, *see supra* § I(A), and the Computer Matching Act, *see supra* § II(A).

Second, as noted above, Plaintiff States expressed concern that USDA's proposed protocol lacks enforcement mechanisms, such as monitoring, auditing, automated controls, or documented consequences. Pls.' Dec. 8 Ltr. at 3. Without methods to ensure compliance, the protocol's purported restrictions on access to the SNAP Database merely serve as statements of intent, and improper data disclosure and usage may go unprevented, unnoticed, and uncorrected. *Id.*; Dennis Decl. (KY) ¶ 19; Tomasky Decl. (NY) ¶¶ 15-17. This leaves Plaintiffs States without assurance that their records and their applicant data will be handled consistent with their

[10] In their opposition to Plaintiffs' preliminary injunction motion, USDA argued that Plaintiffs lack standing to challenge USDA's violations of the Computer Matching Act on the ground that those failures are distinct from USDA's data demand and cause Plaintiffs "no injury." *See* ECF No. 72 at 21-22. Defendants are wrong. Just as Defendants' demand that Plaintiffs either violate the SNAP Act's data disclosure restrictions or lose federal funding injures Plaintiffs, so too does their demand that Plaintiffs either violate 5 U.S.C. § 552a(o)'s data disclosure restrictions or lose federal funding. *See City and County of S.F. v. Trump*, 897 F.3d 1225, 1236 (9th Cir. 2018) (threatened loss of federal funding "satisfies Article III's standing requirement."); *County of Santa Clara v. Noem*, No. 25-cv-08330-WHO, 2025 WL 3251660, at *43 (N.D. Cal. Nov. 21, 2025) ("Hobson's choice" between accepting unlawful terms for federal funding and losing federal funding constitutes irreparable harm).

representations to participants and consistent with the statutory restrictions on the disclosure and use of the demanded data. Pls.' Dec. 8 Ltr. at 3. USDA's response failed to consider this issue whatsoever, which is another reason why its renewed demand is arbitrary and capricious.

Third, because USDA's data demand is unprecedented in scope, it creates significant risks of illegal use, disclosure, and hacking. Pls.' Dec. 8 Ltr. at 2. USDA dismissed these risks, asserting that Plaintiff States have previously uploaded far more limited datasets to USDA for quality control purposes, and, in USDA's view, "[i]t is simply baseless to object to providing a complete [dataset], rather than just a sample," because transferring "data of the same type but in greater *volume*" presents no greater risk. USDA Dec. 23 Ltr. at 4 (emphasis in original). But transferring data in vastly greater quantities and centralizing it in one place *does* present greater risks: more data housed in a single database, as USDA proposes, can more easily be wrongfully used or disclosed or hacked. *See, e.g.*, ECF No. 59-3 (Piazza Decl.) ¶¶ 5-12; Reyes (WA) Decl. ¶ 6. And those risks are exacerbated here, because, as noted above, USDA's proposed protocol includes weak restrictions on the disclosure and use of applicant data and lacks enforcement mechanisms. *See, e.g.*, Reyes Decl. (WA) ¶¶ 5, 7-11.

Finally, as with USDA's original demand, USDA's renewed demand insists that Plaintiffs produce the demanded records "no later than 30 days" after receipt of the demand. Renewed Demand at 2. As Plaintiffs noted in their preliminary injunction motion, this is a near-impossible timeline for many Plaintiffs, particularly those with large caseloads. *See* ECF No. 59 (PI Mot.) at 13. Collecting and securely producing almost six-years' worth of numerous data elements is a time-consuming process that would require thousands of personnel hours for many Plaintiffs. For example, New York's agency estimates that it would take *at least* 120 days to collect the demanded data. Tomasky Decl. (NY) ¶ 32. USDA's refusal to grapple with this basic logistical challenge and decision to demand production in just 30 days is also arbitrary and capricious.

C. Defendants' demand for unfettered possession of State records is contrary to the SNAP Act.

USDA's renewed demand that Plaintiff States turn over *possession* of their SNAP records to USDA is also contrary to law, because it falls well outside of the carefully cabined right of

access to "inspect" and "audit" granted in 7 U.S.C. § 2020(a)(3).

Section 2020(a)(3) was enacted to ensure that USDA could "inspect" and "audit" state SNAP records to monitor State agencies' administration of SNAP, either through remote access or in person. The plain language of the statute provides that ("subject to" agreed-upon data and security protocols) States must "ma[ke] available for inspection and audit" "[a]ll records, and the entire information systems in which records are contained, that are covered in subparagraph (A)," § 2020(a)(3)(B)(i)—not that States must "provide," "transmit," or "furnish" any records. That distinction is important: *access* to State records allows for the "inspection" and "audit" of those records as contemplated by § 2020(a)(3), while still allowing the State agency to maintain possession and control of the records and, accordingly, to protect the privacy and security of SNAP participants' data as required by law. *See Greater Birmingham Ministries v. Sec'y of State for Ala.*, 105 F.4th 1324, 1333 (11th Cir. 2024) (noting that a right to "inspection" does not encompass a right to copy, take possession of, or receive via electronic disclosure); *Acosta v. Loc. Union 26, UNITE HERE*, 895 F.3d 141, 144 (1st Cir. 2018) (holding right to "inspection" does not include copying or taking handwritten notes, but only "[t]o look upon; to view closely and critically, esp. so as to ascertain quality of state, to detect errors, etc.; to scrutinize[.]"); *Voter Reference Found., LLC v. Torrez*, 160 F.4th 1068, 1081(10th Cir. 2025) ("To 'inspect' is to 'look carefully into' or to 'view closely and critically.'"). By contrast, when a state agency turns over *possession* of SNAP records, it loses control of them, and risks allowing USDA to retain, copy, redisclose, or manipulate the data, thereby creating the myriad data security and privacy problems which Plaintiff States have raised throughout this litigation.

Elsewhere in the SNAP Act, Congress has differentiated between giving USDA *access* to data versus turning over *possession* of data. For example, in contrast to the right of access for inspection and auditing granted in § 2020(a)(3), § 2025 requires a state agency to "***submit*** . . . data concerning the operations of the State agency . . . sufficient for the Secretary to establish the State agency's payment error rate." 7 U.S.C. § 2025(c)(4), (5) (emphasis added). Congress created this obligation to "submit" data in the context of a statutorily prescribed quality control system, which expressly requires USDA to determine a state agency's payment error rate

based on a "probability sample of participating households." *Id.* § 2025(c)(2)(A).[11] Similarly, in the portion of the SNAP Act governing "eligibility disqualifications," Congress directed USDA to promulgate regulations to "ensure that [certain] information . . . with respect to a specific individual" found ineligible due to fraud or program violations "is *forwarded to* the Office of the Secretary by any appropriate State or Federal entity for the use of the Secretary in administering the provisions of this section." 7 U.S.C. § 2015(b)(4) (emphasis added). Thus, Congress knows how to require that States hand over information to USDA when necessary, as for purposes of calculating payment error rates and adjudicating specific claims. But no authorization exists for USDA to demand production of data on millions of individuals, as USDA has done here.[12]

Finally, as discussed below, *see infra* § II(D), in a different section of the SNAP Act dealing with the creation of longitudinal databases tracking SNAP usage patterns over time, Congress directed States to "share" applicant data from such databases with "researchers and the Secretary," but due to "Federal and State privacy standards and requirements" that data must first be *de-identified*. *See* 7 U.S.C. § 2026(n)(1)-(4). The SNAP Database that Secretary Rollins wants to create here is exactly that: a longitudinal database containing information on every applicant and participant for the past five years. Yet, by statute, USDA is only entitled to *de-identified* data for such purposes. *Id*. USDA's attempt to pool PII from State SNAP records without regard to the restrictions in 7 U.S.C. § 2026(n) and these "Federal and State privacy standards and requirements" further demonstrates that the SNAP Database project far exceeds the authority to inspect and audit State program administration authorized by § 2020(a)(3).

Because § 2020(a)(3) only requires State agencies to make records available for inspection and audit so that USDA can monitor State performance, and does not require States to

[11] The statute also requires USDA to analyze this sample of state data using regulated methods that produce "valid statistical results." *Id.* § 2025(c)(1)(B)(i)(I); *see also* 7 C.F.R. §§ 275.10-275.15 (setting forth requirements for quality control sampling plan and analysis). As explained below (*see infra* § II(D)), this careful approach to data production and analysis is a far cry from USDA's new SNAP Database.

[12] Members of Congress recently introduced legislation that would amend § 2020 to require the "*provision* of recipient data" to USDA as a condition of participation in SNAP. SNAP Data Transparency and Oversight Act of 2025, H.R. 6520, 119th Congress, § 2 (2025) (emphasis added). This proposal, apparently introduced in reaction to this lawsuit, further suggests that the SNAP Act *as currently written* does not authorize the Secretary's current data demands.

turn over possession of their most sensitive SNAP data for USDA to retain, copy, and disclose, USDA's renewed data demand exceeds the authority granted in § 2020(a)(3) and is contrary to law.

D. Defendants' demand arbitrarily circumvents existing privacy protections.

USDA's renewed demand and proposed protocol also provide fresh evidence that USDA seeks to circumvent the privacy protections that are engrained in long-standing agency practice, required by Congress for longitudinal data-pooling, and built into existing quality control systems. USDA's failure to explain its actions renders them arbitrary and capricious.

1. USDA has failed to acknowledge and explain its departure from long-standing agency practice.

When an agency changes its position, it must "display awareness that it *is* changing position" and "show that there are good reasons" for its new position. *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). Here, USDA has failed to acknowledge and explain its departure from its long-standing practice of collecting only limited sample datasets to review State agencies' administration of SNAP. *See* 7 U.S.C. § 2025(c); 7 C.F.R. §§ 275.10-275.14.

Plaintiff States and USDA have long operated a two-tiered system for monitoring accurate administration of SNAP under the SNAP Act and USDA's implementing regulations. At the first tier, State agencies periodically review a large sample of cases for errors and conduct processes to root out issues like duplicate enrollment and deceased enrollees. At the second tier, USDA reviews a smaller, but statistically significant, sample of cases based on agreed-upon testing policies, and provides feedback to State agencies. As USDA describes the system:

> The SNAP quality control process is a rigorous, two-tier system, that involves both state and federal reviews to assess the accuracy of household eligibility and benefit determinations nationwide. Every year, states review a total of 50,000 SNAP cases nationwide, and USDA conducts a re-review of about half of those cases to ensure accurate reporting by states. Quality control reviewers follow established processes for assessing the accuracy of eligibility and benefit decisions, which include verifying data on household circumstances through a variety of sources and directly interviewing households to confirm case information.

USDA, *Ensuring Eligible SNAP Households Get the Right Benefits* (updated Dec. 9, 2025), https://www.fns.usda.gov/snap/qc.

Plaintiff States have already submitted unrebutted evidence that, within this two-tier

system, USDA had a long-standing practice of not collecting all applicants' and participants' data and instead reviewing only limited datasets, thereby avoiding the data security and privacy risks that come with pooling so much sensitive data in one place. *See, e.g.*, 7 U.S.C. § 2025(c); 7 C.F.R. §§ 275.10-275.14; ECF No. 59-3 (Piazza Decl.) ¶¶ 5-12, 20 (declaration by former Chief of FNS explaining this long-standing agency practice); ECF No. 59-7 (CA Decl.) ¶¶ 18–26, 70; Reyes Decl. (WA) ¶ 6. With its recent data demands, USDA has abandoned this practice without even "display[ing] awareness" that it is doing so. *Fox Television Stations*, 556 U.S. at 515; *see* ECF No. 59-3 (Piazza Decl.) ¶ 20 ("[i]n SNAP's 60-year history, USDA has never needed nor sought anywhere near the same scope of PII").

Defendants have not disputed that they are departing from this long-standing agency practice; instead, they have merely asserted that there is no "definitive previous regulation or policy statement establishing a policy to only sample." ECF No. 72 at 11. But as a matter of law, Plaintiff States need not point to "a formal rule or policy"; an agency must equally explain any "shift in agency practice." *Ramos v. Nielsen*, 321 F. Supp. 3d 1083, 1109 (N.D. Cal. 2018); *see, e.g., Nw. Env't. Def. Ctr. v. Bonneville Power Admin.*, 477 F.3d 668, 687 (9th Cir. 2007) (agency departure from "long-standing practice" was arbitrary and capricious); *J.L. v. Cissna*, 341 F. Supp. 3d 1048, 1063 (N.D. Cal. 2018) (agency's "sharp departure from prior practice" was arbitrary and capricious). Therefore, given the additional evidence and legal support offered with this motion, Plaintiffs' respectfully urge the Court to reconsider its preliminary conclusion that Plaintiffs States previously "made an insufficient showing" of a "change in policy," *see* PI Order at 19, and to instead hold that USDA has arbitrarily abandoned its long-standing practice without even "display[ing] awareness" that it is doing so. *Fox Television Stations*, 556 U.S. at 515.

In addition, USDA has failed to offer "good reasons" for collecting the trove of applicants' PII that it now demands. *Fox Television Stations*, 556 U.S. at 515. Notably, USDA's proposed protocol claims that the agency is "minimiz[ing] unnecessary data collection," USDA Revised Protocol § 1.3; that it "shall collect only the data elements necessary to achieve specific, legally permissible goals, such as fraud detection, duplicate enrollment prevention, and program integrity checks," *id.* § 2.2.2; and that it will limit its collection to exclude "sensitive PII unless

directly relevant to these goals," *id.* But as Plaintiffs noted in their response to USDA, the proposed protocol does not exclude sensitive PII at all, and USDA requests "numerous data elements that do not appear necessary to investigate fraud, waste, and abuse, especially at an aggregate level." Pls.' Dec. 8 Ltr. at 3-4; Tomasky Decl. (NY) ¶¶ 18-23 (explaining why several demanded data elements "do not seem to be useful or necessary for accomplishing USDA's stated purposes").

Accordingly, Plaintiff States asked USDA to explain why the agency needs certain PII elements, so Plaintiffs could propose appropriate amendments to the draft protocol to help USDA achieve its stated goal of minimizing unnecessary collection of applicants' PII. Pls.' Dec. 8 Ltr. at 3-4, 6, 12. Plaintiffs also offered to work with USDA to provide information at a higher level of specificity depending on each agency's available data and technological capabilities (e.g., providing an age range rather than birthdate, or the county or ZIP code instead of a home address) to protect personal privacy. *Id.* at 4. Additionally, Plaintiffs suggested that USDA could minimize unnecessary retention of applicants' PII by committing to using data solely for analyses described in the protocol and then deleting the data, as the agency has done with PII in the past. *Id.*

USDA's December 23 response letter dismissed these questions and suggestions, in violation of the agency's basic obligations under the APA. Rather than "articulate a satisfactory explanation" for the scope of its demands, *Motor Vehicle Mfrs. Ass'n of the U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983), USDA refused to "disclose" how it intends to use participants' PII, based on the completely baseless suggestion that Plaintiff States would use that information to manipulate data "to avoid detection of noncompliance with SNAP requirements." USDA Dec. 23 Ltr. at 6. USDA's refusal to explain its insistence on pooling SNAP applicants' and participants' PII is particularly concerning given this Administration's well-publicized efforts to use public benefits data for immigration enforcement and other purposes. *See supra* n.4. And the agency's refusal to explain how it will use and analyze this data is unreasonable given Defendants' misleading statements regarding their "snapshot findings" in the SNAP data

collected from other states.[13] By careening ahead while "entirely fail[ing] to consider" the issues Plaintiffs have raised about the scope of USDA's collection and retention of applicants' and recipients' PII—contrary to USDA's own stated goals to minimize such collection and retention—USDA has acted arbitrarily and capriciously. *State Farm*, 463 U.S. at 43.[14]

2. USDA has failed to consider important aspects of the problem of collecting all applicant data into a single federal database.

USDA's renewed data demand is also arbitrary and capricious because USDA has "simply ignored important aspects of the problem" of collecting all applicant data into a single federal database. *Ohio*, 603 U.S. at 295 (citation modified).

First, with its renewed demand, USDA has now made clear that the agency intends to pool all SNAP applicant and participant data into a single database to "employ a foundational fraud, waste, and abuse verification [program] similar to the SNAP Quality Control program." USDA Revised Protocol § 6.1. In other words, USDA intends to initiate a one-tier quality control process. But USDA previously found that it *lacks authority* to do just that, and its failure to acknowledge this finding—let alone explain why it no longer holds—is arbitrary and capricious.

In 2019, USDA commissioned a study to examine the feasibility of direct federal review of SNAP administration—in other words, a "one-tier" quality control system—and concluded that direct review would require substantial statutory, regulatory, and programmatic changes. *See* McGill, et al, *Feasibility of Revising the SNAP Quality Control Review Process*, i-ii, 49-54 (2019).[15] As is pertinent here, USDA stated that "Congress would need to make statutory changes to enable certain aspects of a one-tier QC system, including a requirement for FNS to conduct all QC reviews instead of States and to effectively support a data-sharing infrastructure between FNS and other Federal agencies," and USDA "would need to develop regulations to provide guidance

[13] *See, e.g.*, ECF Nos. 99-1 (CA Decl.) & 99-2 (IL Decl.) (refuting Defendants' "snapshot review" of data collected from other states)

[14] To the extent that USDA's data collection efforts are motivated by other concerns, such as gathering information on SNAP applicants and recipients to use in immigration enforcement activities unrelated to SNAP, then the agency is also acting arbitrarily and capriciously by relying on "factors which Congress has not intended it to consider." *State Farm*, 463 U.S. at 43. And an agency's action cannot be upheld based on justifications the agency did not present when it acted. *E.g.*, *Regents of the Univ. of Cal.*, 591 U.S. at 23-24.

[15] Available at https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAPQC_Feasibility.pdf.

on how to implement the legislation." USDA, *Feasibility of Revising the Supplemental Nutrition Assistance Program (SNAP) Quality Control Review Process (Summary)* (Dec. 2019).[16] Congress and USDA have done none of these things.

Yet, as USDA acknowledges, it is now effectively trying to create a one-tier verification program "similar to the SNAP Quality Control program." USDA Revised Protocol § 6.1.1. By failing to address its past finding that it lacks the authority to do so, USDA has "'failed to consider an important aspect of the problem' that the agency itself had identified." *Nat'l Fam. Farm Coal. v. Vilsack*, 758 F. Supp. 3d 1060, 1076 (N.D. Cal. 2024) (citation omitted).

Second, USDA has failed to consider how its data demands for the SNAP Database circumvent privacy protections that Congress has established for pooling of participant data.

As part of the SNAP Act's provisions governing "research, demonstration, and evaluations" of SNAP programs (*see* 7 U.S.C. § 2026), Congress has authorized State agencies (who collect and directly review applicant and participant data) to create "longitudinal database[s]" containing "information about households and members of households" receiving SNAP benefits—i.e., exactly what USDA seeks to do with its proposed SNAP Database. 7 U.S.C. § 2026(n)(1)-(2). But in order to "protect the privacy" of participant data, Congress imposed strict requirements on the creation of such databases. *Id.* § 2026(n)(4)(B)(i). In particular, "unique identifier[s]" must be used for each participant, to allow the participant data to be analyzed and compared "in multiple participating States over time *while protecting participant privacy*." *Id.* § 2026(n)(3)(C) (emphasis added). Moreover, Congress expressly prohibited the pooling of PII that USDA is attempting now, by specifying that longitudinal databases shall not include any "personally identifiable information (including social security number, home address, or contact information)." 7 U.S.C. § 2026(n)(4)(B)(i) (emphasis added).

Consistent with these statutory restrictions, Plaintiff States suggested that Defendants use deidentified participant data for its SNAP Database project. *See* Pls.' Dec. 8 Ltr. at 4 ("Given the bulk review and processing USDA is engaging in, it is unclear why deidentified data could not

[16] Available at https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAPQC_Feasibility-Summary.pdf.

serve as a functionally identical and more secure means of identifying facts about program integrity to share with the States." (citation omitted)). USDA dismissed Plaintiffs' suggestion outright, claiming (contrary to 7 U.S.C. § 2026(n)) that there is no "valid basis to object to [USDA's] request that States produce longitudinal data" that includes the SNAP participants' PII. *See* USDA Dec. 23 Ltr. at 4. In doing so, USDA has arbitrarily and capriciously failed to consider an important protection for participant data—one that Congress itself deemed necessary for the creation of a longitudinal database.

Third, USDA has failed to consider how its data demands for the SNAP Database circumvent privacy protections built into existing systems that address its purported goals. According to USDA, the SNAP Database is needed to identify duplicate enrollments and deceased enrollees. *See* USDA Revised Protocol § 6.2.1. But USDA has failed to consider that Congress and USDA have already established effective systems to address these issues, *without* the need to aggregate massive amounts of PII in a national database, and *with* robust privacy protections.

To address the common occurrence of the death of a SNAP recipient, USDA has promulgated a regulation directing states to "establish a system to verify and ensure that benefits are not issued to individuals who are deceased," including by entering into a computer matching agreement with the Social Security Administration (SSA) in order to check their rolls against SSA's Death Master File. 7 C.F.R. § 272.14; *see* 7 U.S.C. § 2020(r); Tomasky Decl. (NY) ¶ 28 (discussing prescribed system of identifying deceased recipients). USDA has found that requiring States to conduct this check more frequently than upon application and once a year thereafter would "not effectively promote Program integrity." 77 Fed. Reg. 48045, 48046 (Aug. 13, 2012).[17]

To address duplicate benefits, USDA and States—at Congress's direction—are already implementing the National Accuracy Clearinghouse (NAC), a program "to prevent multiple issuances of [SNAP] benefits to an individual by more than 1 [one] State agency simultaneously."

[17] As the Court previously observed, USDA regulations also ensure that SNAP recipients have an opportunity to challenge inaccurate data before benefits are cut off. PI Order at 23-24 (citing 7 C.F.R. § 272.14(b)-(c)). And USDA has offered no evidence that the inevitable presence of recently deceased individuals in SNAP files is proof of fraud, waste, or abuse. *See* Tomasky Decl. (NY) ¶ 27-29.

7 U.S.C. § 2020(x)(2)(A). USDA itself has found that "[o]nce the NAC is successfully implemented nationwide, the Department expects that active cases of duplicate participation across State lines will largely be eliminated." 87 Fed. Reg. 59633, 59657 (Oct. 3, 2022). In establishing the program, Congress required USDA and State agencies to protect the privacy of data used for the NAC. *See, e.g.*, 7 U.S.C. § 2020(x)(2)(C) (instructing USDA that it may *only* use data submitted to the NAC for that purpose; that data should be retained for no longer than needed; and that data should be used in a manner "that protects the identity and location of a vulnerable individual (including a victim of domestic violence) that is an applicant for, or recipient of, [SNAP] benefits"); *see also* ECF No. 59-3 (Piazza Decl.) ¶¶ 7-9 (explaining how Congress and USDA worked together when creating the NAC to address data privacy and security concerns). And USDA concluded that only a limited set of PII—not including, for example, home addresses—is necessary to check for duplicate participation.[18] 87 Fed. Reg. at 59654-55; *see also* Tomasky Decl. (NY) ¶ 20-21 (explaining that home address is a static field that may not be current and has not been used to prevent duplicative SNAP benefits).[19]

For the foregoing reasons, Defendants' renewed data demand illustrates USDA's disregard for the privacy protections previously afforded by the agency's own long-standing practices, by Congress for longitudinal data-pooling, and by existing systems that already perform the intended functions of the SNAP Database. This "material misapprehension of the baseline conditions" renders USDA's demands arbitrary and capricious. *Friends of Back Bay v. U.S. Army Corps of Eng'rs*, 681 F.3d 581, 588 (4th Cir. 2012); *see also Safe Air for Everyone v. EPA*, 488 F.3d 1088, 1101-02 (9th Cir. 2007) (holding that agency action was "arbitrary, capricious, or

[18] With its renewed demand, USDA has considered none of the privacy protections mentioned in this paragraph. At most, USDA has claimed that it cannot use a separate privacy protection: the NAC's cryptographic hashing. *See* USDA Dec. 23 Ltr. at 4-5. But USDA also has not demonstrated any legitimate basis for circumventing that privacy protection.

[19] To the extent USDA is concerned with *intra*-state duplicate participation, there is also a system for that. *See* 7 C.F.R. § 272.4(e). And there are even more examples of how USDA's SNAP Database duplicates existing programs used by Plaintiff States to combat fraud, waste, and abuse. *See* Tomasky Decl. (NY) ¶ 31. For example, States are required to provide information on Intentional Program Violations (IPV) and program sanctions to USDA, and to use the Electronic Disqualified Recipient system (eDRS) created by FNS to check whether SNAP applicants have been disqualified from the program for fraud. *See* 7 C.F.R. § 273.16(i). Notably, the regulation governing IPVs specifies the data elements that a State agency must report to FNS, which are narrower than the elements currently being demanded. *Id.* § 273.16(i)(3).

otherwise not in accordance with law" because it rested on a "legally erroneous" and "flawed premise").

E. Plaintiffs will suffer irreparable harm absent injunctive relief and the balance of hardships and public interest weigh in their favor.

The remaining *Winter* factors are easily met here for the reasons articulated in Plaintiffs' first preliminary injunction motion (*see* ECF No. 59 at 21-25, ECF No. 75 at 1-5, 14-15) and adopted in the Court's PI Order, *see* PI Order at 21-24. In short, Plaintiffs would suffer irreparable harm absent injunctive relief, because Defendants' threatened funding cuts would "likely . . . require [Plaintiff States] to cut staffing and otherwise greatly reduce their ability to comply with their obligations under the SNAP Act to administer benefits, including, for example, the speed with which applications can be reviewed and required reports can be prepared." PI Order at 21. Additionally, the balance of hardships and public interest weigh in Plaintiffs' favor in light of these harms. *Id.* at 22-24. Meanwhile, USDA has failed to make any evidentiary showing of ongoing widespread fraud, waste, or abuse in Plaintiff States' SNAP programs[20]—let alone that any showing that USDA needs the demanded data to address any ongoing issues, especially considering the existing quality control processes and the fact that the data USDA seeks is largely years old. *See Lackey v. Stinnie*, 604 U.S. 192, 200 (2025) ("The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until" issues can be fully adjudicated, and "to balance the equities as the litigation moves forward.").

CONCLUSION

The Court should grant Plaintiffs' Motion and bar Defendants from enforcing their renewed demand for SNAP applicant and recipient data and from taking any adverse action against Plaintiff States on the basis that they have failed to comply with the renewed demand.

[20] Notably, this Court has found that Defendants' "snapshot review" of the supposed waste, fraud, and abuse that USDA has identified in SNAP data submitted by other States fails to show that any such issues affect Plaintiff States, and it was further undermined by Plaintiff States' evidence and Defendants' own regulations (for example, while Defendants claimed that they found "'over 300,000 potential instances of deceased individuals' being enrolled in SNAP," their own regulations "prohibit State agencies from removing a deceased person immediately upon learning or otherwise being notified of a death"). PI Order at 23-24 (citations omitted).

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