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22 IN THE UNITED STATES DISTRICT COURT
 23 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 24 SAN FRANCISCO DIVISION

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 26
 27
 28 **STATE OF CALIFORNIA, ET AL.**

29 Plaintiffs,

30 **v.**

31
 32 **UNITED STATES DEPARTMENT OF**
 33 **AGRICULTURE, ET AL.**

34 Defendants.

35 Case No. **3:25-cv-06310-MMC**

36 **PLAINTIFF STATES' NOTICE OF**
 37 **MOTION AND MOTION TO**
 38 **ENFORCE OR EXPAND THE**
 39 **PRELIMINARY INJUNCTION**

40 Date: February 13, 2026
 41 Time: 9:00 a.m.
 42 Courtroom: 7
 43 Judge: Maxine M. Chesney
 44 Trial Date: None set
 45 Action Filed: July 28, 2025

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

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

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

INTRODUCTION

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

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

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

23 In addition, the expanded record supporting this motion underscores additional ways that
24 Defendants' actions violate the Administrative Procedure Act (APA). USDA's renewed demand
25 is contrary to law because the Computer Matching Act prohibits Plaintiffs from disclosing records
26 "for use in a computer matching program" absent an agreement that meets minimum statutory
27 requirements. 5 U.S.C. § 552a(o)(1). And in unilaterally terminating negotiations with Plaintiffs,
28 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

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

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

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

16 Plaintiffs filed the present action on July 28, and soon after moved for a preliminary
 17 injunction to bar Defendants from enforcing their data demand. ECF Nos. 1, 59. After issuing a
 18 temporary restraining order to preserve the status quo while the parties briefed Defendants’ last-
 19 minute arguments, ECF Nos. 83, 94, the Court granted a preliminary injunction on October 15,
 20 concluding that Plaintiffs are likely to prevail on their claim that Defendants’ demand is contrary
 21 to law for at least three independent reasons. PI Order at 13-19.¹

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

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

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

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

7 **Third**, the Court held that Defendants’ demand was likely unlawful because USDA had
 8 “announced its intent” to disclose and use the data in “ways well beyond those permitted under
 9 § 2020(e)(8)(A)(ii).” PI Order at 18. The Court stressed that, because Plaintiff States “are
 10 required by the SNAP Act to safeguard information they obtain from applicant households and
 11 are permitted to disclose such information under § 2020(e)(8)(A) only for the limited purposes set
 12 forth therein,” the Plaintiff States “are *prohibited* from disclosing information” under such
 13 circumstances—where USDA has “announce[d] in advance an intent to use the information for
 14 purposes beyond those set forth in § 2020(e)(8)(A)(ii).” *Id.* at 18-19 (emphasis added).

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

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

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

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

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

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

21 On January 9, Plaintiff States responded to USDA by its prescribed deadline, explaining
 22 that they are unable to agree to USDA’s renewed demand, including because it fails to cure the
 23 defects identified in this Court’s order, but also that they remain ready to work with USDA in
 24 good faith towards an agreed-upon protocol that complies with the SNAP Act and other
 25 applicable laws. Ladov Decl. Ex. F (Pls.’ Jan. 9 Ltr.).
 26

27
 28 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.

1 § 276.4—to impose draconian financial penalties on non-complying States. *Compare* USDA Dec.
2 23 Ltr. at 6-7, *with* ECF No. 59-7 (CA Decl.), Ex. G (prior advance notification letter).

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

9 A. **USDA's proposed protocol still does not ensure compliance with**
10 **§ 2020(e)(8)(A)(ii).**

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

18 The facts that led the Court to this conclusion have not changed with USDA's renewed
19 demand and proposed protocol.³ First, the renewed demand relies on the same SORN as the
20 relevant authority for the collection. USDA Revised Protocol § 5 (citing 90 Fed. Reg 26521).
21 That SORN has not been amended, despite Defendants' representations months ago that they
22 would do so. ECF No. 90-1 (USDA Decl.) ¶¶ 10-12. When Plaintiff States asked USDA how it
23 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.

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

4 Second, in addition to failing to cure the defects in the SORN, USDA flatly refused to
 5 close related loopholes in its proposed protocol that seem intended to permit the disclosure and
 6 use of applicant data in violation of § 2020(e)(8)(A)(i). Most notably, while the protocol limits
 7 “access” to the SNAP Database itself by other federal agencies, it contains no restriction on
 8 USDA’s ability to *disclose* information from the database to other federal agencies—something
 9 that the Information Silos Executive Order, cited by USDA in its demand and its SORN,
 10 expressly dictates. *See* USDA Revised Protocol § 2.1.1 (citing Exec. Order No. 14243, 90 Fed.
 11 Reg. 13,681 (Mar. 20, 2025); *see also* 90 Fed. Reg. 26521 (same)). Plaintiffs asked USDA to
 12 amend the proposed protocol to prohibit USDA from *disclosing* the demanded data “except to
 13 persons ‘directly connected with the administration’ of the SNAP Act, for the purpose of
 14 administering or enforcing the SNAP Act only”; to confirm that it would comply with
 15 § 2020(e)(8) by “limit[ing] its use of the data to ‘ensure the integrity of the SNAP program’
 16 only”; and to confirm that it would not share participant data with the Department of Homeland
 17 Security or its subagencies “for use in immigration enforcement activities.” Pls. Dec. 8 Ltr. at 12-
 18 13. In response, USDA stated only that “[i]n the event it receives external requests for data,
 19 USDA will follow all applicable laws,” USDA Dec. 23 Ltr. at 6, and added language to its
 20 proposed protocol reflecting this position, USDA Revised Protocol § 4.2 (stating that “access to
 21 the SNAP Information Database may [only] be provided to . . . [a]ny other federal agency” “to
 22 the extent required by law”). This provides no assurance at all, because U.S. Immigration and
 23 Customs Enforcement (ICE) has publicly announced its position that it may demand other federal
 24 agencies to turn over any “lawfully collected information” for use in immigration enforcement.
 25 ICE Policy Memorandum 11066.2 (Oct. 27, 2025).⁴

26 ⁴ Available at <https://www.ice.gov/doclib/memos/11066.2.pdf>. Additionally, Palantir
 27 executive Shyam Sankar has publicly recognized that the data used by the Palantir platform
 28 (“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>.

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

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

15 **B. USDA’s renewed demand still lacks an agreed-upon protocol.**

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

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

1 available, *subject to* data and security protocols agreed to by the State agency and Secretary,”
 2 § 2020(a)(3)(B)(i)—not (as USDA would have it) that the records shall be made available,
 3 *regardless of whether* there are data and security protocols agreed to by the State agency.
 4 USDA’s interpretation would rewrite the statute altogether, which neither the agency nor the
 5 Court can do. *See Nat’l Ass’n of Mfrs. v. Dep’t of Def.*, 583 U.S. 109, 123 (2018) (“[T]his Court
 6 is not free to ‘rewrite the statute’ to the Government’s liking.”); PI Order at 17 (declining to adopt
 7 USDA’s interpretation that would have rewritten § 2020(e)(8)).

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

20 Meanwhile, USDA never made any real attempt to reach agreement. Even before
 21 Plaintiffs had an opportunity to respond to the renewed demand, Secretary Rollins announced
 22 during a televised cabinet meeting that she had already decided to penalize “blue states”
 23 (referring to Plaintiffs), stating that “as of next week we have begun and will begin to stop
 24 moving federal funds into those states until they comply” with USDA’s renewed demand.⁵ She
 25 then announced on X: “NO DATA, NO MONEY – it’s that simple,” and accused Plaintiffs of
 26

27
 28 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>.

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

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

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

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

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

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

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

27 ⁷ Whether characterized as a new demand or a continuation of the enjoined demand,
 28 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...)

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

9 **A. Defendants’ demand is contrary to the Computer Matching Act.**

10 In their response to USDA’s proposed protocol, Plaintiff States objected that USDA’s
 11 proposed protocol fails to comply with the Computer Matching and Privacy Protection Act
 12 (“Computer Matching Act”), which **prohibits** States from disclosing records “for use in a
 13 computer matching program” except pursuant to a written agreement that meets minimum
 14 statutory requirements. 5 U.S.C. § 552a(o)(1); *see* Pls.’ Dec. 8 Ltr. at 2. Among other things, the
 15 agreement must specify: the purpose of the program; each data element that will be used;
 16 procedures for verifying information produced by the program; procedures for protecting data
 17 security and privacy; and prohibitions on the duplication and redisclosure of records. 5 U.S.C.
 18 § 552a(o)(1)(A)-(K). As Plaintiff States noted in their letter, they have previously entered into
 19 necessarily detailed computer matching agreements with USDA, including to implement the
 20 National Accuracy Clearinghouse (NAC) and Electronic Disqualified Recipient System (eDRS)
 21 systems. *Id.*; *see* Reyes Decl. (WA), Ex. A; Reagan Decl. (IL), Ex. A at 3; Tomasky Decl. (NY)
 22 ¶¶ 12-17.

23 In response to Plaintiffs’ letter, USDA did not dispute that its proposed protocol fails to
 24 comply with 5 U.S.C. § 552a(o)(1). Instead, it suggested that it need not comply with the
 25 Computer Matching Act because the agency may not use States’ records in a computer matching
 26

27 to “construe this letter as your Advance Notification pursuant to 7 CFR 276.4(d)(1)” that USDA
 28 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.

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

3 But USDA has already made clear that it intends to use the demanded records for a
 4 “computer matching program,” which is defined to include “any computerized comparison of . . .
 5 two or more automated systems of records or a system of records with non-Federal records” in
 6 order to “establish[] or verify[]” applicants’ “eligibility” for “cash or in-kind assistance or
 7 payments under Federal benefit programs.” 5 U.S.C. § 552a(a)(8). Indeed, in its Privacy Impact
 8 Assessment, USDA explained that it is using the SNAP Database to “verify[] SNAP recipient
 9 eligibility” by “leverage[ing] data-sharing across Federal and State systems to identify and rectify
 10 any ineligible, duplicate, or fraudulent SNAP enrollments or transactions,” ECF No. 59-7, (CA
 11 Decl.) Ex. A at 13, by conducting “[i]nter-Agency data matches” “using automated scripts and
 12 queries on the compiled database” as well as “matching algorithms,” *id.* at 5.⁸

13 In these circumstances, where USDA has already expressed its intent to use the demanded
 14 records in a computer matching program, 5 U.S.C. § 552a(o)(1) prohibits Plaintiff States from
 15 disclosing the demanded records without a necessarily detailed computer matching agreement.
 16 *See* 5 U.S.C. § 552a(o)(1) (“No record which is contained in a system of records may be
 17 disclosed to a recipient agency . . . for use in a computer matching program except pursuant to a
 18 [computer-matching agreement] between the source agency and the recipient agency”); *see also*
 19 PI Order at 18-19 (holding that because USDA has stated its intent to violate
 20 § 2020(e)(8)(A)(ii), that subsection prohibits Plaintiff States from disclosing applicant data).⁹

21

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”
 22 comparison of data, ECF No. 72 at 30 (citation omitted), but the statute expressly applies to “any
 23 *computerized*” comparison of data, 5 U.S.C. § 552a(a)(8) (emphasis added), which USDA
 24 indisputably intends to do with the demanded records. *See Computerize*, Merriam Webster,
 25 <https://www.merriam-webster.com/dictionary/computerize> (defining “computerize” as “to carry
 26 out, control, or produce by means of a computer”).

27 ⁹ When ruling on Plaintiffs’ preliminary injunction motion, the Court preliminarily found
 28 that there was insufficient evidence that USDA “intend[ed] to act in violation of the strictures set
 29 forth in the Computer Matching Act.” *See* PI Order at 21 n.26. However, Plaintiffs previously did
 30 not press the argument they raise here: that 5 U.S.C. § 552a requires USDA to enter into
 31 computer matching agreements with Plaintiff States. *See* PI Mot. at 20-21; *see also* 5 U.S.C. §
 32 552a(a)(11) (defining “source agency” to include “any State . . . which discloses records to be
 33 used in a matching program”).

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

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

4 Under the APA, agency action is arbitrary and capricious when the agency has "failed to
 5 consider important aspects of the problem" before it. *DHS v. Regents of the Univ. of Cal.*, 591
 6 U.S. 1, 4 (2020) (citation modified). Here, USDA did precisely that. In particular, after USDA
 7 issued its renewed demand, Plaintiff States raised concerns that USDA's proposed protocol would
 8 still expose Plaintiffs' records to unlawful disclosure and use. In response, USDA ignored these
 9 concerns and instituting noncompliance proceedings. *See* USDA Dec. 23 Ltr. This plug-your-ears
 10 approach violates the APA. *See Ohio v. EPA*, 603 U.S. 279, 293 (2024) (agency acted arbitrarily
 11 and capriciously by "offer[ring] no reasoned response"); *Arrington v. Daniels*, 516 F.3d 1106,
 12 1112 (9th Cir. 2008) (courts "may not 'infer an agency's reasoning from mere silence'").

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

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

23 ¹⁰ In their opposition to Plaintiffs' preliminary injunction motion, USDA argued that
 24 Plaintiffs lack standing to challenge USDA's violations of the Computer Matching Act on the
 25 ground that those failures are distinct from USDA's data demand and cause Plaintiffs "no injury."
 26 *See* ECF No. 72 at 21-22. Defendants are wrong. Just as Defendants' demand that Plaintiffs either
 27 violate the SNAP Act's data disclosure restrictions or lose federal funding injures Plaintiffs, so
 28 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).

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

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

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

25 **C. Defendants’ demand for unfettered possession of State records is contrary
 26 to the SNAP Act.**

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

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

2 Section 2020(a)(3) was enacted to ensure that USDA could “inspect” and “audit” state
 3 SNAP records to monitor State agencies’ administration of SNAP, either through remote access
 4 or in person. The plain language of the statute provides that (“subject to” agreed-upon data and
 5 security protocols) States must “ma[ke] available for inspection and audit” “[a]ll records, and the
 6 entire information systems in which records are contained, that are covered in subparagraph (A),”
 7 § 2020(a)(3)(B)(i)—not that States must “provide,” “transmit,” or “furnish” any records. That
 8 distinction is important: *access* to State records allows for the “inspection” and “audit” of those
 9 records as contemplated by § 2020(a)(3), while still allowing the State agency to maintain
 10 possession and control of the records and, accordingly, to protect the privacy and security of
 11 SNAP participants’ data as required by law. *See Greater Birmingham Ministries v. Sec’y of State*
 12 *for Ala.*, 105 F.4th 1324, 1333 (11th Cir. 2024) (noting that a right to “inspection” does not
 13 encompass a right to copy, take possession of, or receive via electronic disclosure); *Acosta v. Loc.*
 14 *Union 26, UNITE HERE*, 895 F.3d 141, 144 (1st Cir. 2018) (holding right to “inspection” does
 15 not include copying or taking handwritten notes, but only “[t]o look upon; to view closely and
 16 critically, esp. so as to ascertain quality of state, to detect errors, etc.; to scrutinize[.]”); *Voter*
 17 *Reference Found., LLC v. Torrez*, 160 F.4th 1068, 1081 (10th Cir. 2025) (“To ‘inspect’ is to ‘look
 18 carefully into’ or to ‘view closely and critically.’”). By contrast, when a state agency turns over
 19 *possession* of SNAP records, it loses control of them, and risks allowing USDA to retain, copy,
 20 redisclose, or manipulate the data, thereby creating the myriad data security and privacy problems
 21 which Plaintiff States have raised throughout this litigation.

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

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

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

21 Because § 2020(a)(3) only requires State agencies to make records available for
 22 inspection and audit so that USDA can monitor State performance, and does not require States to
 23

24 ¹¹ The statute also requires USDA to analyze this sample of state data using regulated
 25 methods that produce “valid statistical results.” *Id.* § 2025(c)(1)(B)(i)(I); *see also* 7 C.F.R.
 26 §§ 275.10-275.15 (setting forth requirements for quality control sampling plan and analysis). As
 27 explained below (*see infra* § II(D)), this careful approach to data production and analysis is a far
 28 cry from USDA’s new SNAP Database.

25 ¹² Members of Congress recently introduced legislation that would amend § 2020 to
 26 require the “*provision* of recipient data” to USDA as a condition of participation in SNAP. SNAP
 27 Data Transparency and Oversight Act of 2025, H.R. 6520, 119th Congress, § 2 (2025) (emphasis
 28 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.

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

4 **D. Defendants' demand arbitrarily circumvents existing privacy protections.**

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

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

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

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

21 The SNAP quality control process is a rigorous, two-tier system, that involves both
 22 state and federal reviews to assess the accuracy of household eligibility and benefit
 23 determinations nationwide. Every year, states review a total of 50,000 SNAP cases
 24 nationwide, and USDA conducts a re-review of about half of those cases to ensure
 25 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.

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

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

1 system, USDA had a long-standing practice of not collecting all applicants' and participants' data
 2 and instead reviewing only limited datasets, thereby avoiding the data security and privacy risks
 3 that come with pooling so much sensitive data in one place. *See, e.g.*, 7 U.S.C. § 2025(c); 7 C.F.R.
 4 §§ 275.10-275.14; ECF No. 59-3 (Piazza Decl.) ¶¶ 5-12, 20 (declaration by former Chief of FNS
 5 explaining this long-standing agency practice); ECF No. 59-7 (CA Decl.) ¶¶ 18-26, 70; Reyes
 6 Decl. (WA) ¶ 6. With its recent data demands, USDA has abandoned this practice without even
 7 "display[ing] awareness" that it is doing so. *Fox Television Stations*, 556 U.S. at 515; *see* ECF
 8 No. 59-3 (Piazza Decl.) ¶ 20 ("[i]n SNAP's 60-year history, USDA has never needed nor sought
 9 anywhere near the same scope of PII").

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

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

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

7 Accordingly, Plaintiff States asked USDA to explain why the agency needs certain PII
 8 elements, so Plaintiffs could propose appropriate amendments to the draft protocol to help USDA
 9 achieve its stated goal of minimizing unnecessary collection of applicants’ PII. Pls.’ Dec. 8 Ltr. at
 10 3-4, 6, 12. Plaintiffs also offered to work with USDA to provide information at a higher level of
 11 specificity depending on each agency’s available data and technological capabilities (e.g.,
 12 providing an age range rather than birthdate, or the county or ZIP code instead of a home address)
 13 to protect personal privacy. *Id.* at 4. Additionally, Plaintiffs suggested that USDA could minimize
 14 unnecessary retention of applicants’ PII by committing to using data solely for analyses described
 15 in the protocol and then deleting the data, as the agency has done with PII in the past. *Id.*

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

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1 collected from other states.¹³ By careening ahead while “entirely fail[ing] to consider” the issues
 2 Plaintiffs have raised about the scope of USDA’s collection and retention of applicants’ and
 3 recipients’ PII—contrary to USDA’s own stated goals to minimize such collection and
 4 retention—USDA has acted arbitrarily and capriciously. *State Farm*, 463 U.S. at 43.¹⁴

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

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

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

16 In 2019, USDA commissioned a study to examine the feasibility of direct federal review
 17 of SNAP administration—in other words, a “one-tier” quality control system—and concluded
 18 that direct review would require substantial statutory, regulatory, and programmatic changes. *See*
 19 McGill, et al, *Feasibility of Revising the SNAP Quality Control Review Process*, i-ii, 49-54
 20 (2019).¹⁵ As is pertinent here, USDA stated that “Congress would need to make statutory changes
 21 to enable certain aspects of a one-tier QC system, including a requirement for FNS to conduct all
 22 QC reviews instead of States and to effectively support a data-sharing infrastructure between FNS
 23 and other Federal agencies,” and USDA “would need to develop regulations to provide guidance

24 ¹³ *See, e.g.*, ECF Nos. 99-1 (CA Decl.) & 99-2 (IL Decl.) (refuting Defendants’ “snapshot
 25 review” of data collected from other states)

26 ¹⁴ To the extent that USDA’s data collection efforts are motivated by other concerns, such
 27 as gathering information on SNAP applicants and recipients to use in immigration enforcement
 28 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.

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

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

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

11 As part of the SNAP Act’s provisions governing “research, demonstration, and
 12 evaluations” of SNAP programs (see 7 U.S.C. § 2026), Congress has authorized State agencies
 13 (who collect and directly review applicant and participant data) to create “longitudinal
 14 database[s]” containing “information about households and members of households” receiving
 15 SNAP benefits—i.e., exactly what USDA seeks to do with its proposed SNAP Database. 7 U.S.C.
 16 § 2026(n)(1)-(2). But in order to “protect the privacy” of participant data, Congress imposed strict
 17 requirements on the creation of such databases. *Id.* § 2026(n)(4)(B)(i). In particular, “unique
 18 identifier[s]” must be used for each participant, to allow the participant data to be analyzed and
 19 compared “in multiple participating States over time *while protecting participant privacy.*” *Id.*
 20 § 2026(n)(3)(C) (emphasis added). Moreover, Congress expressly prohibited the pooling of PII
 21 that USDA is attempting now, by specifying that longitudinal databases shall not include any
 22 “personally identifiable information (including social security number, home address, or contact
 23 information.” 7 U.S.C. § 2026(n)(4)(B)(i) (emphasis added).

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

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

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

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

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

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

26 ¹⁷ As the Court previously observed, USDA regulations also ensure that SNAP recipients
 27 have an opportunity to challenge inaccurate data before benefits are cut off. PI Order at 23-24
 28 (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.

1 7 U.S.C. § 2020(x)(2)(A). USDA itself has found that “[o]nce the NAC is successfully
 2 implemented nationwide, the Department expects that active cases of duplicate participation
 3 across State lines will largely be eliminated.” 87 Fed. Reg. 59633, 59657 (Oct. 3, 2022). In
 4 establishing the program, Congress required USDA and State agencies to protect the privacy of
 5 data used for the NAC. *See, e.g.*, 7 U.S.C. § 2020(x)(2)(C) (instructing USDA that it may *only*
 6 use data submitted to the NAC for that purpose; that data should be retained for no longer than
 7 needed; and that data should be used in a manner “that protects the identity and location of a
 8 vulnerable individual (including a victim of domestic violence) that is an applicant for, or
 9 recipient of, [SNAP] benefits”); *see also* ECF No. 59-3 (Piazza Decl.) ¶¶ 7-9 (explaining how
 10 Congress and USDA worked together when creating the NAC to address data privacy and
 11 security concerns). And USDA concluded that only a limited set of PII—not including, for
 12 example, home addresses—is necessary to check for duplicate participation.¹⁸ 87 Fed. Reg. at
 13 59654-55; *see also* Tomasky Decl. (NY) ¶ 20-21 (explaining that home address is a static field
 14 that may not be current and has not been used to prevent duplicative SNAP benefits).¹⁹

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

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

26 ¹⁹ To the extent USDA is concerned with *intra-state* duplicate participation, there is also a
 27 system for that. *See* 7 C.F.R. § 272.4(e). And there are even more examples of how USDA’s
 28 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).

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

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

5 The remaining *Winter* factors are easily met here for the reasons articulated in Plaintiffs'
 6 first preliminary injunction motion (*see* ECF No. 59 at 21-25, ECF No. 75 at 1-5, 14-15) and
 7 adopted in the Court's PI Order, *see* PI Order at 21-24. In short, Plaintiffs would suffer
 8 irreparable harm absent injunctive relief, because Defendants' threatened funding cuts would
 9 "likely . . . require [Plaintiff States] to cut staffing and otherwise greatly reduce their ability to
 10 comply with their obligations under the SNAP Act to administer benefits, including, for example,
 11 the speed with which applications can be reviewed and required reports can be prepared." PI
 12 Order at 21. Additionally, the balance of hardships and public interest weigh in Plaintiffs' favor in
 13 light of these harms. *Id.* at 22-24. Meanwhile, USDA has failed to make any evidentiary showing
 14 of ongoing widespread fraud, waste, or abuse in Plaintiff States' SNAP programs²⁰—let alone
 15 that any showing that USDA needs the demanded data to address any ongoing issues, especially
 16 considering the existing quality control processes and the fact that the data USDA seeks is largely
 17 years old. *See Lackey v. Stinnie*, 604 U.S. 192, 200 (2025) ("The purpose of a preliminary
 18 injunction is merely to preserve the relative positions of the parties until" issues can be fully
 19 adjudicated, and "to balance the equities as the litigation moves forward.").

20 **CONCLUSION**

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

24

25 ²⁰ Notably, this Court has found that Defendants' "snapshot review" of the supposed
 26 waste, fraud, and abuse that USDA has identified in SNAP data submitted by other States fails to
 27 show that any such issues affect Plaintiff States, and it was further undermined by Plaintiff States'
 28 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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