

for OMB approval. All comments will also become a matter of public record.

Title: Operating Guidelines, Forms and Waivers.

OMB Number: 0584–0083.

Type of Request: Revision of a currently approved collection.

Abstract: Under section 7(i) of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2016(i)) the Secretary is authorized to permit State agencies to implement Electronic Benefit Transfer (EBT) systems. The Secretary is authorized to establish standards for the required testing prior to implementation of any EBT system and may require analysis of the implementation results in a limited pilot project area before expansion of the system. Any State requesting funding for the design, development and operation of an EBT system must submit a written plan of action called an Advance Planning Document (APD) to the Food and Nutrition Service (FNS) for approval.

In this proposed rulemaking, we are revising Food Stamp Program rules affecting the standards for approval and operation of Food Stamp EBT systems. One of the provisions will reduce the amount of information required for a State agency to submit as part of the standard APD. We are proposing these revisions in response to section 4110 of the 2002 Farm Bill, which eliminates the cost neutrality requirements.

With provisions in this regulation, we are proposing to eliminate or reduce the reporting requirements as follows: State agencies will no longer be required to complete a cost neutrality assessment of EBT system design, development and operation costs in comparison to the paper system that has been replaced. This assessment was subject to FNS approval as part of the State's APD.

As currently approved by OMB, the estimated time to gather information and complete an EBT APD is 35 hours per respondent. The record-keeping burden includes maintaining a copy of the system design specifications, the APD submission, approvals and APD updates. A total of 49 States have operational EBT systems, and we expect 53 State agencies will be operational within the next year. In addition to the remaining States, some EBT States will be entering new contracts as their current contracts expire. We estimate 10 State agencies will submit an APD each year, for a total of 350 hours.

Estimates of Burden: We estimate the provisions of this proposed rule will reduce the amount of time each State agency spends on an APD for EBT by 5 hours, for an overall decrease in burden hours of 50 annually, bringing the total

time down to 30 hours per respondent or 300 hours per year overall.

Respondents: State agencies.

Estimated number of Respondents: 10 State agencies per year.

Estimated number of Responses per Respondent: One.

Estimated annual number of responses: 10.

Estimated Total Annual Burden on Respondents: 300 hours.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect except as specified in the **DATES** section of the final rule. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Public Law 104–4

Unfunded Mandate Reform Act of 1995 (UMRA) Title II of UMRA establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, the Department generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of \$100 million or more in any one year. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

Background

In this rule, the Department proposes the following: to revise food stamp regulations affecting the delivery of adverse action notices to retailers and State agencies; to allow alternative issuance systems in disasters; to

eliminate the requirement for cost neutrality for EBT systems; and, to permit redemption of EBT benefits through group living facilities.

Mailing to Retailers and State Agencies

The Department proposes a revision to regulations at 7 CFR 276.7(b), 278.1(k), 278.1(l)(2), 278.6(o), 278.7(b)(2), 278.7(f), 279.8(e), and, 279.10(b) to eliminate the requirement that the Department send notices of adverse actions to retailers and State agencies using certified mail. Effective May 13, 2002, section 4117 of the Food Stamp Reauthorization Act of 2002 (FSRA) amended section (14)(a)(2) of the Food Stamp Act of 1977 (Food Stamp Act) (7 U.S.C. 2023 (a)(2)) to authorize the delivery of such notices in any form the Secretary determines will provide evidence of the delivery.

Whenever the Department denies a retailer authorization to participate in the Food Stamp Program or prepares to withdraw or disqualify an authorized food stamp retailer for violating program regulations or asserts a claim against the State agency, the FNS sends notice of this adverse action directly to the retailer or State agency. Prior to the enactment of the FSRA, section 14(a)(2) of the Food Stamp Act of 1977 stated, “such notice must be delivered by certified mail or personal service”. Given the various methods of delivery that have become available since the inception of the Food Stamp Program, the Department wants to expand its methods of delivery to include other mailing services, including but not limited to Federal Express, UPS, Emery, and similar services. Thus, to reflect the amendments made by the recently enacted FSRA we propose to amend the program regulations to allow use of delivery methods other than certified mail when mailing determination letters to retailers, or notices to retail food stores, wholesale food concerns and claim notices to State agencies, as long as the method provides evidence of delivery. Although the statutory amendment was directed specifically at notices of adverse action to retail food stores and wholesale food concerns, the Department believes that similar notification would be appropriate for other types of official notices provided under current regulations. Thus, we are proposing to amend regulations at: 7 CFR 276.6(b) regarding claims forfeiture of bonds, 278.7(f) regarding denial of claims brought by authorized firms against FNS; 279.8(e) regarding determinations of review officers; and 279.10(b) regarding the service of a summons and complaint.