

Rules and Regulations

Federal Register

Vol. 68, No. 122

Wednesday, June 25, 2003

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 274

[Amendment No. 384]

RIN 0584-AC91

Food Stamp Program: Electronic Benefit Transfer (EBT) Systems Interoperability and Portability

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action provides final rulemaking for an interim rule published on August 15, 2000. It implements legislation in accordance with the Electronic Benefit Transfer Interoperability and Portability Act of 2000. This rule finalizes revisions to the Food Stamp Program regulations to ensure that recipients can use their electronic food stamp benefits across state borders. The regulations require interoperable state electronic issuance systems and establish national standards to achieve this requirement. One hundred percent Federal funding is available to pay for the operational cost of this functionality, up to a national annual limit of \$500,000. Costs beyond this level will be covered at the standard fifty percent program reimbursement rate for State administrative costs. Based on the Department's experience to date, it is not expected that costs will exceed \$500,000.

DATES: This rule is effective July 25, 2003.

FOR FURTHER INFORMATION CONTACT: Lizbeth Silbermann, Chief, Electronic Benefit Transfer Branch, Benefit Redemption Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302, or telephone (703) 305-2517.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in 7 CFR Part 3015, Subpart V and related Notice (48 FR 29115), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 13132, Federalism

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments and consult with them as they develop and carry out those policy actions. The Food and Nutrition Service (FNS) has considered the impact of this rule which requires mandatory interoperability of Food Stamp Program Electronic Benefit Transfer (EBT) Systems and portability of electronically-used benefits nationwide in accordance with specific requirements set forth in the Electronic Benefit Transfer Interoperability and Portability Act of 2000. FNS is not aware of any case where any of these provisions would in fact preempt State law and no comments were made to that effect. This rule also does not impose substantial direct compliance costs on State and local governments. Some of the provisions, although not previously required by food stamp regulations, have already been implemented by State agencies and, therefore, have no incremental costs associated with them. Furthermore, the Federal government will pay 100 percent for the cost of switching and settling interstate food stamp transactions, up to an annual nationwide limit of \$500,000. Under current pricing trends, there is no indication that total costs for switching and settling interstate food stamp transactions will exceed the limit. Should this occur, however, State agencies will continue to be paid at the 50 percent reimbursement rate for the amount above the limit. The provisions implemented by this rule are mandated by the Electronic Benefit Transfer Interoperability and Portability Act of

2000, Public Law No. 106-171.

Therefore, a federalism summary impact statement is not necessary under Section 6 of Executive Order 13132.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612). Eric M. Bost, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this rule will not have a significant economic impact on a substantial number of small entities. State welfare agencies will be the most affected to the extent that they administer or operate EBT services for Food Stamp Program benefit delivery.

Paperwork Reduction Act

This rule does not alter the reporting or recordkeeping requirements contained in the interim rule. Those requirements have been previously approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 and assigned OMB control number 0348-0004 for the SF-270 (Request for Advance or Reimbursement) and 0348-0038 for the SF-269A (Financial Status Report—Short Form).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have a 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 unless so specified in the **DATES** paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be followed. In the Food Stamp Program, the administrative procedures are as follows: (1) For Program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(11) and 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 (for rules related to non-quality control (QC) liabilities) or 7 CFR Part 283 (for rules related to QC liabilities); (3) for Program retailers and wholesalers—administrative procedures