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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 278 and 279

RIN 0584-AD23

Food Stamp Program: Administrative Review Requirements—Food Retailers and Wholesalers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises Food Stamp Program regulations affecting the administrative review process available to retail and wholesale firms participating in the Food Stamp Program. It streamlines and makes technical corrections to this process by amending portions of current regulations. The changes eliminate repetitious, outdated and unnecessary provisions without taking away a firm's right to an administrative review.

DATES: Provisions in this rule are effective September 8, 2003.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to Karen Walker, Chief, Retailer Management Branch, Benefit Redemption Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302. Questions may also be data-faxed to the attention of Ms. Walker at (703) 305-1863, or by e-mail to karen.walker@fns.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant by the Office of Management and Budget and therefore, was not reviewed by that agency 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 the final rule 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 that streamlines and makes technical changes to FNS' administrative review process available to retail food stores and wholesale concerns participating in the Food Stamp Program. This rule has no Federalism implications in that procedural changes set forth do not affect State and local governments. This rule does not impose any substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

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 proposed rule will not have a significant economic impact on a substantial number of small entities. It eliminates repetitious, outdated and unnecessary provisions; aggrieved businesses will continue to have the right to administrative reviews under this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, this rule contains information collections that are subject to review and approval by the Office of Management and Budget (OMB). These information collections are approved under OMB number 0584-0520.

FNS published a proposed rule on November 25, 2002, which solicited comments. No comments directly related to this notice were received; however, comments related to the elimination of in-person meetings with administrative review staff were received and are addressed in the Background section of this rule.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not 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 unless so specified in the "Effective Date" paragraph of the preamble of the final rule. In the Food Stamp Program, the administrative procedures for retailers and wholesalers are as follows: for Program retailers and wholesalers—administrative procedures are issued pursuant to section 14 of the FSA (7 U.S.C. 2023) and 7 CFR part 279.

Public Law 104-4

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law No. 104-4, 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, FNS 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 FNS 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. Thus, this rule is not economically significant, nor subject