

not to combine them or parts of them to evaluate any given vehicle or category of vehicles. To illustrate how the TANF and FSP rules might interact, suppose that a State's TANF vehicle rules exclude equity under \$3,000, while food stamp vehicle rules exclude FMV under \$4,650. This State would improperly mix TANF and food stamp vehicle rules if it excludes equity under \$4,650, thus combining the type of exclusion (equity) from its TANF rules and the exclusion limit (\$4,650) from food stamp rules.

#### IV. Procedural Matters

##### *Executive Order 12866*

This proposed rule has been determined to be economically significant and was reviewed by the Office of Management and Budget in conformance with Executive Order 12866.

##### *Executive Order 12372*

The Food Stamp Program (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 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 12778*

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule 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 final rule preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

##### *Federalism Summary Impact Statement*

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implication, agencies are directed to provide a statement for inclusion in the preamble to the regulation describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132.

##### *Prior Consultation With State Officials*

Prior to drafting this proposed rule, we consulted with State and local

agencies at various times. Because the Food Stamp Program (FSP) is a State administered, Federally funded program, our regional offices have formal and informal discussions with State and local officials on an ongoing basis regarding program implementation and policy issues.

This arrangement allows State and local agencies to provide comments that form the basis for many discretionary decisions in this and other FSP rules. We have also had numerous written requests for policy guidance on the implications of Public Law 106-387 from the State agencies that deliver food stamp services. These questions have helped us make the rule responsive to concerns presented by State agencies.

##### *Nature of Concerns and the Need To Issue This Rule*

State agencies generally want greater flexibility in their implementation of FSP asset policy, especially with regard to vehicle ownership. The proposed rule provides much greater flexibility in this area and also addresses another major State concern, the need to conform FSP rules to the rules of other means-tested Federal programs. Specific policy questions submitted by State agencies after enactment of Public Law 106-387, but prior to the promulgation of regulations, helped us identify issues that needed to be clarified in the proposed rule.

##### *Extent To Which We Meet Those Concerns*

The Department has considered the impact of the proposed rule on State and local agencies. This rule makes changes required by law, and made effective in 2001. The effects on State agencies are minimal. While the vehicle provision of the rule will require eligibility workers to make additional computations in some cases, the ability to substitute TANF vehicle rules for FSP vehicle rules, when doing so results in a lower attribution of resources, allows a growing number of States to exclude some or all vehicles from household assets. The maximum excess shelter expense deduction provision simply increases the amount of the deduction and indexes it to the Consumer Price Index, resulting in no additional requirements for State agencies. In the proposed rule, we have addressed every question submitted by State agencies regarding both of these provisions. The Department is not aware of any case where the discretionary provisions of the rule would preempt State law. In addition, the Department is willing to approve a waiver of any discretionary provision in this rule where (1) a State

agency can demonstrate that its own procedures would be more effective and efficient; (2) such a waiver would not result in a material impairment of any statutory or regulatory rights of participants or potential participants; and (3) such a waiver would otherwise be consistent with the waiver authority set out at 7 CFR 272.39(c).

##### *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. This rule does not regulate the activities of small businesses or other small entities; instead it regulates the administration of the Food Stamp Program, which is administered only by State or county social service agencies.

##### *Paperwork Reduction Act*

Burden associated with the food stamp certification process is approved under OMB control number 0584-0064. Burden estimates in that submission are based on the only recent data available, data from the actual operation of the Food Stamp Program in Mississippi. The data provided by Mississippi indicate that the burden associated with completing a new food stamp application or a re-certification application is 19 minutes for each applicant and 36 minutes per applicant for each State agency. These burden estimates are based on total time required for certification (or re-certification) processing and are not broken down into sub-categories for gathering data on such variables as household income, resources, or deductions.

The maximum excess shelter expense deduction provisions of this proposed rule would result in no change in the burden for either applicants or State agencies. For applicants and State agencies, the effect of this provision is simply to substitute new maximum deductions for the previous ones.

The vehicle provisions of this rule do not change the burden on applicants. Applicants will need to supply the same information as under current regulations, except in States that elect to use TANF vehicle rules that exclude the value of all vehicles from household resources. The vehicle provisions are exercised at State option and may be selected by many States or by few States. States that elect to substitute their TANF vehicle rules for their food