

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 272 and 275

RIN 0584-AD31

#### Food Stamp Program: Non-Discretionary Quality Control Provisions of Title IV of Public Law 107-171

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Interim rule.

**SUMMARY:** On May 13, 2002, the President signed the Farm Security and Rural Investment Act of 2002 (the 2002 Act). Title IV of the 2002 Act (the Food Stamp Reauthorization Act of 2002) contains provisions concerning the Food Stamp Program. This rule amends the Food Stamp Program regulations to implement certain provisions concerning the Quality Control system in sections 4118 and 4119 of the Food Stamp Reauthorization Act of 2002. This interim rule revises the current regulations to reflect the new liability procedures and the new deadlines for completing the Quality Control review process and announcement of error rates. As a result of the change in the statute, a new two-year liability system will be instituted which will result in fewer State agencies being subject to liabilities for excessive payment error rates. There will be new time frames for State agencies to complete the quality control case review process and for the Department to issue error rates.

**DATES:** This interim rule is effective December 15, 2003. Comments on this rulemaking must be received on or before January 14, 2004 to be assured of consideration.

**ADDRESSES:** Comments should be submitted to Daniel Wilusz, Quality Control Branch, Program Accountability Division, Food and Nutrition Service,

USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302. Comments may also be faxed to the attention of Daniel Wilusz at (703) 305-0928 or e-mailed to [Daniel.wilusz@fns.usda.gov](mailto:Daniel.wilusz@fns.usda.gov). All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. through 5 p.m.). You may also download an electronic version of this rule at <http://www.fns.usda.gov/fsp/rules/Regulations/default.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Questions regarding this rulemaking should be addressed to Margaret Werts Batko at the above address or by telephone at (703) 305-2516.

#### 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 the final rule in 7 CFR part 3015, subpart V and related Notice (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

##### 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 and local welfare agencies will be the most affected to the extent that they administer the Program.

##### 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 Food and Nutrition Service (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. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

##### 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 implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. FNS has considered this rule's impact on State and local agencies and has determined that it does not have Federalism implications under E.O. 13132. This rule does not impose 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.

##### Civil Rights Impact Analysis

FNS has reviewed this interim rule in accordance with the Department Regulation 4300-4, "Civil Rights Impact Analysis," to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, FNS has determined that this rule has no impact on any of the protected classes. These changes affect the quality control review system and not individual recipients' eligibility for or participation in the Food Stamp Program. FNS has no