

discretion in implementing these changes. The changes are required to be implemented by law. All data available to FNS indicate that protected individuals have the same opportunity to participate in the Food Stamp Program as non-protected individuals. FNS specifically prohibits the State and local government agencies that administer the Program from engaging in actions that discriminate based on race, color, national origin, gender, age, disability, marital or family status. Regulations at 7 CFR 272.6 specifically state that "State agencies shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, handicap, religious creed, national origin, or political beliefs. Discrimination in any aspect of program administration is prohibited by these regulations, the Food Stamp Act of 1977 (the Act), the Age Discrimination Act of 1975 (Pub. L. 94-135), the Rehabilitation Act of 1973 (Pub. L. 93-112, section 504), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal law. Title VI complaints shall be processed in accord with 7 CFR Part 15."

Paperwork Reduction Act

This interim rule does not contain changes to the reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). Reporting and recordkeeping requirements for quality control are approved under OMB numbers 0584-0074, 0584-0299, 0584-0303, and 0584-0034. There are no changes being made in this rulemaking that will alter the reporting and recordkeeping requirements related to quality control approved under these burdens. The legislative change concerning corrective action planning does not affect the burden in 0584-0010 for reporting and recordkeeping because the change only affects which States would be required to submit corrective action plans and because the number of states required to submit corrective action plans will not change under the new requirement. The burden approved under OMB number 0584-0010 was allowed to expire. The Food and Nutrition Service has initiated action to reinstate the burden under 0584-0010.

Government Paperwork Elimination Act

In compliance with the Government Paperwork Elimination Act, FNS is committed to providing electronic submission as an alternative for information collections associated with this rule. However, we are not able to make the entire process electronic at this time.

Part of the process allows electronic submission. The Quality Control review schedule (approved under OMB #0584-0299) serves as both the data summary entry form that the reviewer completes during each review, and subsequently, as the data input document for direct data entry into the Kansas City Computer Center (KCCC). While the data is manually collected on a paper form from information extracted from a case file, it is electronically submitted to the KCCC for tabulation and analysis. Some States have begun to use computerized versions of the worksheet (OMB number 0584-0074), which provides information collected on the review schedule. In addition, the FNS contractor for the data collection system has developed, at FNS request, a computerized version of the worksheet. States are being given the option to continue to use their own systems, the new computerized version provided by FNS or the paper version. When FNS computerized versions of the worksheet are used, the information is linked to and creates the review schedule.

Under OMB number 0584-0034, the burden for collecting and reporting information related to the review of negative cases and the status of sample selection and completion is approved. The FNS-245 serves as both the data summary entry form that the reviewer completes during each negative case review, and subsequently as the data input document for direct data entry into the KCCC. Therefore, while data is manually collected, it is electronically submitted to the KCCC for tabulation and analysis. The FNS-248 (Status of Sample Selection and Completion) collects information on the status of State reviews. The FNS-248 contains information not produced by the automated system, therefore this report is still necessary. However, we are considering ways that this data could be collected electronically.

The burden under OMB number 0584-0303 encompasses the sampling plan, arbitration, and good cause. At this time, these areas are not substantively electronic submissions. To the extent possible, States may submit documents or portions of documents electronically.

States have the option to maintain in paper or electronic format information compiled for the Performance Reporting System, including Management Evaluation, Data Analysis and Corrective Action information. The State maintains the information on site to be available for FNS review (OMB number 0584-0010).

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 that conflict with its provisions or that 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. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. 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)(1) 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 Part 283 (for rules related to QC liabilities); (3) for retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8 and part 279.

Regulatory Impact Analysis

Need for Action: 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. These provisions revise the liability procedures and establish new deadlines for completing the Quality Control review process and announcement of payment error rates. The rule has no Federal Program cost impacts, however, fewer States will be identified as having any potential liability, and any such liabilities will be significantly lower than under the existing system.

Justification of alternatives. The Department has no discretion regarding the legislative mandate to revise the liability and enhanced funding provisions of the QC system. Nor does it have discretion regarding the provision that revises time frames for completing the review and arbitration process and announcing individual State agency payment error rates at the