State Administrative Matching Grants for the Supplemental Nutrition Assistance Program

Supplemental Nutrition Assistance Program Administrative Match
Number: 10.561
Agency: Department of Agriculture
Office: Food and Nutrition Service

PROGRAM INFORMATION

Authorization (040):

Food and Nutrition Act of 2008, as amended, Section 16, Public Law 95-113, 91 Stat. 958, 7 U.S.C. 2025; Public Law 99-198, Public Law 105-33, Public Law 105-185,Public Law 110-246, American Recovery and Reinvestment Act of 2009, Public Law 111-5, Healthy Hunger Free Kids Act, Public Law 111-296, American Taxpayer Relief Act, Public Law 112-240.

Objectives (050):

To provide Federal financial participation to State agencies for costs incurred to operate the Supplemental Nutrition Assistance Program (SNAP).

SNAP Employment and Training (E&T) funds provide grants to States to provide E&T education to assist SNAP participants in finding work. An E&T program may consist of many different types of components, including but not limited to: independent job search; job search training and support; workfare; educational programs to improve employability; work experience or training to improve employability; other employment oriented activities (e.g., job placement, supported work experience, Workforce Invetment Act (WIA) services); and self–employment training. USDA provide States with 100 percent Federal funding for E&T based on a specific formula.

USDA also reimburses States for 50 percent of certain allowable, reasonable and necessary E&T expenses that exceed their 100 percent grant. USDA also provides 50 percent reimbursement for transportation and childcare costs to ensure successful participation in E&T programs. States are not allowed to use 100 grants for participant expenses.

The Nutrition Education and Obesity Prevention Grants (SNAP-ED) are 100 percent Federal funding for States based on a specified formula for nutrition education for low income people.

Types of Assistance (060):

FORMULA GRANTS

Uses and Use Restrictions (070):

To provide Federal funding for administrative costs incurred by State and local agencies to operate SNAP. Unless authorized by Federal legislation, outlays charged to other Federal grants or to Federal contracts may not be considered as State agency costs. Submission of claims for payments of administrative costs shall be in accordance with 7 CFR 277 of the SNAP Regulations. To provide Federal funding to States to help SNAP

recipients find work or gain the skills, training and experience that lead to employment. To provide nutrition education to low income people.

Eligibility Requirements (080)

Applicant Eligibility (081):
Agreements are between USDA-FNS and State cooperators. (U.S. Territories qualify as States for grant purposes.).

Beneficiary Eligibility (082):
Agreements are between USDA-FNS and State cooperators. (U.S. Territories qualify as States for grant purposes.).

Credentials/Documentation (083):
No preapplication forms are required. A plan of operation must be submitted by the State agency prior to approval for funding. The standard application forms as furnished by the Federal agency and required by OMB Circular No. A-102, as implemented by 7 CFR part 3016, must be used for this program. This program is eligible for coverage under E.O. 12372, "Intergovernmental Review of Federal Programs." An applicant should consult the office or official designated as the single point of contact in his or her State for more information on the process the State requires to be followed in applying for assistance, if the State has selected the program for review. OMB Circular No. A-87 applies to this program.

Application and Award Process (090)

Preapplication Coordination (091):
No preapplication forms are required. A plan of operation must be submitted by the State agency prior to approval for funding. The standard application forms as furnished by the Federal agency and required by OMB Circular No. A-102, as implemented by 7 CFR Part 3016, must be used for this program. An applicant should consult the office or official designated as the single point of contact in his or her State for more information on the process the State requires to be followed in applying for assistance, if the State has selected the program for review. Environmental impact information is not required for this program. This program is eligible for coverage under E.O. 12372, "Intergovernmental Review of Federal Programs." An applicant should consult the office or official designated as the single point of contact in his or her State for more information on the process the State requires to be followed in applying for assistance, if the State has selected the program for review.

Application Procedures (092):
OMB Circular No. A-102 applies to this program. This program is excluded from coverage under OMB Circular No. A-110. State governments may apply for Federal financial participation in accordance with requirements outlined in 7 CFR Parts, 271 and 277.

Award Procedure (093):
Food and Nutrition Service funds State Agency cooperators. No preapplication forms are required. A plan of operation must be submitted by the State agency prior to approval for funding. The standard application forms as furnished by the Federal agency and required by OMB Circular No. A-102, as implemented by 7 CFR Part 3016, must be used for this program. An applicant should consult the office or official designated as the single point of contact in his or her State for more information on the process the State requires to be followed in applying for assistance, if the State has selected the program for review.

Deadlines (094):

Aug 15, 2012 Budgets are due to FNS August 15 each year.

Range of Approval/Disapproval Time (095):
30 days.

Appeals (096):
Not Applicable.

Renewals (097):
Annually, as of October 1.

Assistance Consideration (100)

Formula and Matching Requirements (101):
Statutory Formula: Title Food and Nutrition Act (FNA) of 2008, 2002 and 2008 Farm Bills for SNAP Employment and Training (E&T), Healthy, Hunger-Free Kids Act of 2010. Federal agency reimburses 50 percent of reasonable, necessary, and allowable State administrative expenses.

SNAP Employment and Training (E&T)
Statutory Formula: FNS allocates $79 million to State agencies for the administrative costs of operating an E&T programs. FNS allocates an additional $20 million in grants to States pledging to serve all at-risk Able-Bodied Adults Without Dependents (ABAWDs)

Matching Requirement: State administrative spending beyond the Federal grant is reimbursed at 50 percent. FNS also reimburses States for 50 percent of participant reimbursements, such as transportation and dependent care.

SNAP Nutrition Education
Statutory Formula: Healthy, Hunger-Free Kids Act of 2010 and Food and Nutrition Act of 2008. Federal agency provides 100 percent funding through two-year grants to States for SNAP nutrition education.
Matching Requirements: Percent: 50.%. Federal agency reimburses 50 percent of reasonable, allowable, and necessary State administrative expenses .
MOE requirements are not applicable to this program.

Length and Time Phasing of Assistance (102):
Annually by fiscal year. Method of awarding/releasing assistance: by letter of credit.

Post Assistance Requirements (110)

Reports (111):
Reports are submitted as required by 7 CFR Parts 272 and 277. Reports are submitted as required by 7 CFR Parts 272 and 277. Reports are submitted as required by 7 CFR Parts 272 and 277. Reports are submitted as required by 7 CFR Parts 272 and 277. Financial Management Reviews, Management Evaluations, and Quality Control Reviews.

Audits (112):
In accordance with the provisions of OMB Circular No. A-133 (Revised, June 27, 2003), "Audits of States, Local Governments, and Non-Profit Organizations," nonfederal entities that expend financial assistance of $500,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Nonfederal entities

that expend less than $500,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in Circular No. A-133.

Records (113):
Financial records, supporting documents, statistical records, and all records pertinent to a grant program shall be retained for a period of 3 years. Additionally, those record retention requirements outlined in 7 CFR Part 3016, apply to this program.

Financial Information (120)

Account Identification (121):
12-3505-0-1-605.

Obligations (122):
(Salaries) FY 13 $316,946,000; FY 14 est $327,405,000; and FY 15 est $337,227,000 - Employment & Training (E&T) 50% Federal funding for State administrative costs and participant reimbursement for program costs, such as transportation and dependent care. (Salaries) FY 13 $285,000,000; FY 14 est $401,000,000; and FY 15 est $407,000,000 - Nutrition Education & Obesity Prevention Grant Program 100% Federal funding for administrative costs. (Salaries) FY 13 Not Available; FY 14 est $3,999,024,000; and FY 15 est $4,118,995,000 - Administrative costs. (Salaries) FY 13 $99,000,000; FY 14 est $110,000,000; and FY 15 est $110,000,000 - Employment & Training (E&T) 100% Federal funding for State administrative costs of operating E&T programs.

Range and Average of Financial Assistance (123):
Unavailable.

Program Accomplishments (130):
Fiscal Year 2013: In FY13, SNAP served an average of 46.3 million people each month.

All 53 State SNAP agencies operate SNAP-Ed programs to improve the likelihood that persons eligible for SNAP will make healthy food choices within a limited budget and choose physically active lifestyles consistent with the current Dietary Guidelines for Americans and MyPlate.

• During the recent economic downturn, the number of newly unemployed or underemployed SNAP participants increased. The Program responded as designed and expanded to meet their needs. State SNAP agencies continued to offer employment and training (E&T) programs to help participants gain skills, training, and experience that would help them obtain and retain jobs that lead to self-sufficiency and reduce dependency on SNAP. Fiscal Year 2014: No Current Data Available Fiscal Year 2015: No Current Data Available

Regulations, Guidelines, and Literature (140):
7 CFR Parts 275, 276, 277 and 3016.

Information Contacts (150)

Regional or Local Office (151) :
See Regional Agency Offices. See Appendix IV of the Catalog.

Headquarters Office (152):

Associate Administrator Jessica Shahin, Supplemental Nutrition Assistance Program, 3101 Park Center Dr., Alexandria, Virginia 22302 Email: Jessica.Shahin@fns.usda.gov Phone: (703) 305-2026.

Website Address (153):
http://www.fns.usda.gov/fsp/.

Related Programs (160):
10.551 Supplemental Nutrition Assistance Program

Examples of Funded Projects (170):
Not Applicable.

Criteria for Selecting Proposals (180):
Not Applicable.

Rules and Regulations

Federal Register
Vol. 65, No. 101
Wednesday, May 24, 2000

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 Parts 272, 274 and 277

[Amdt. No. 385]

RIN 0584–AB66

Food Stamp Program: Payment of Certain Administrative Costs of State Agencies

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends Food Stamp Program Regulations to implement a reduction of the Federal reimbursement rate for fraud control, automatic data processing development and Systematic Alien Verification for Entitlements costs incurred by State agencies in administering the Food Stamp Program. These changes are mandated by the Mickey Leland Childhood Hunger Relief Act of 1993. In addition, this rule limits the period that a State agency may retroactively claim Federal funding of administrative costs for Food Stamp Program activities and allows the incremental costs of certifying Temporary Assistance for Needy Families households for food stamps to be charged to the Food Stamp Program for Federal reimbursement purposes.

DATES: This rule is effective June 23, 2000, except that 7 CFR 277.11(d) is effective October 1, 2000.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Chief, State Administration Branch, Program Accountability Division, Food and Nutrition Service (FNS), USDA, 3101 Park Center Drive, Room 905, Alexandria, Virginia, 22302, (703) 305–2383.

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 10.551. For the reasons set forth in the final rule and related notice to 7 CFR 3015, subpart V (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 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 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" section 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 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)(10) 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-QC liabilities) or Part 283 (for rules related to QC liabilities);

(3) For program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Shirley R. Watkins, Under Secretary of the Food, Nutrition and Consumer Services, has certified that this rule does not have a significant economic impact on a substantial number of small entities. This rule will affect the State and local agencies which administer the Food Stamp Program, by modifying the recordkeeping and reporting requirements applicable to them, and modifying the rates of Federal funding reimbursement for certain Food Stamp Program activities.

Executive Order 13132/Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. FNS has considered the impact on State agencies. This rule deals with reimbursements of State agency costs and codifies a cut in the reimbursement rate that was effective April 1, 1994, by law. This rule is intended to have preemptive effect with respect to any State law which conflicts with its provisions or which would otherwise impede its full implementation. 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.

Prior Consultation With State Officials

Prior to drafting this final rule, we received input from State agencies at various times. Since the Food Stamp Program is a State administered, federally funded program, our regional offices are having informal and formal discussions with State and local officials on an ongoing basis regarding funding and implementation issues. This arrangement allows State agencies to provide feedback that form the bases for many discretionary decisions in this and other Food Stamp Program rules. In addition, we send representatives to regional, national, and professional conferences to discuss our issues and receive feedback on funding issues, fraud control, and State information systems. Lastly, the comments on the proposed rule from State and local officials were carefully considered in the drafting of this final rule.

Nature of Concerns and the Need To Issue This Rule

States were concerned that the cut in the funding rate would put a burden on State funding for the Food Stamp Program and may result in reduced State effort to combat fraud and upgrade State information systems. Concern was also raised that the cutback in the funding rate while States would need to continue to submit a fraud control plan would represent an unfunded mandate.

Finally, there was concern regarding the proposed deadline for filing retroactive claims for reimbursement.

While the cutback in the funding rate in 1994 had an impact on State agencies, the reduced reimbursement rate is mandated by law and does not involve Department discretion. The rule is necessary to codify the cut in the reimbursement rate. The deadline on retroactive claims is necessary to direct State and Federal resources toward the present operation of the program.

Extent to Which We Meet These Concerns

With the increase in recipient claim collections since FY 1994, States are receiving additional funds through the retention of a part of those increased collections. In response to State concerns, FNS did eliminate the requirement for a fraud control plan based on State comments in this rule but will consider what information, if any, should be required as part of a separate overall revision to State Plan requirements. That will be done outside this rule. We clarified the wording regarding the deadline and the process for submitting prior year claims to FNS.

While FNS did not seek State agency comment in advance regarding the change in payment systems and the change in reporting form (from the SF–270, Request for Advance or Reimbursement, to the SF–269, Financial Status Report) for prior year administrative cost reporting, FNS does believe the change benefits States because it streamlines the payment process. States benefit because the electronic form SF–269 minimizes rekeying data in the event of a revised report and reduces the processing time to make funds available to the State. Faster payment processing benefits States.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service is submitting for Office of Management and Budget (OMB) approval the proposed information collection resulting from implementing the provisions contained in this rule. The proposed information collection is for a change in use of the SF–269.

The reporting requirements relating to the FCS–366A, Budget Projection, are approved under OMB No. 0584–0083. The reporting requirements relating to the use of the Standard Form (SF)-269, Financial Status Report, and the SF–269A, Financial Status Report Addendum, are approved under OMB No. 0348–0039. The reporting requirements for the SF–270, Request for Advance or Reimbursement, are approved under OMB No. 0348–0004.

Comments on this information collection must be received by July 24, 2000 to be assured of consideration.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Manish Desai, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503.

Send requests for additional information or copies of this information collection to: Barbara Hallman, Chief, State Administration Branch, Program Accountability Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302 or call (703) 305–2383.

Title: Uniform Administrative Requirements for Grants and Cooperative Agreements—7 CFR Parts 3016 and 3019.

OMB Number: 0348–0039.

Expiration Date: Three years from date of approval.

Type of Request: Revision of a currently approved collection.

Abstract: Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.) authorizes the Secretary to pay each State agency an amount equal to 50 percent of all allowable administrative costs involved in each State agency's operation of the Food Stamp Program. State agencies draw the funds for administrative costs from the United States Treasury through a Letter of Credit. Under corresponding Food Stamp Program regulations at 7 CFR 277.11(c) State agencies are required to use the standard Financial Status Report (Form SF–269) on a quarterly basis to report program administrative costs to FNS and to support the claims made for Federal funding. Final reports are due December 30 for the preceding Federal fiscal year which runs from October 1 through September 30 or 90 days after termination of Federal financial support.

Beginning in FY 1998, State agencies were required to use the SF–269, rather than the SF–270, to revise prior year expenditure reports. The SF–269 is used with a Letter of Credit payment system. Prior to FY 1996, under FNS' previous payment system, the Letter of Credit closed after the end of the fiscal year. In FY 1996 FNS changed to the Department of Treasury's new payment system, Automated Standard Application for Payments (ASAP), which kept the Letter of Credit system open after the end of the fiscal year. As a result, the SF–269 could continue to be used after close-out in the event it was necessary for a State to revise a prior year's report.

The use of the SF–269 and the ASAP for prior years is much more efficient both for States and FNS. With the electronic SF–269 reporting and new payment system, States get their reimbursement faster. The SF–270 process is a manual process that is not tied into State electronic reporting to FNS. Therefore, FNS believes it would require more State resources to complete the SF–270 form compared to electronic SF–269 reporting. The SF–270 process would also require more FNS resources to process the request.

These changes were done at the time without public comment. The use of the Letter of Credit system as the payment system when there is a continuing relationship with the State agency and the use of the SF–269 by State agencies as the reporting form for such systems are required respectively by 7 CFR 3015.102 and 3015.82. In accordance with 7 CFR 3015.1(b), Part 3015 provisions take precedence over any individual agency regulations which may be inconsistent with Part 3015 unless the inconsistency is based on a statutory provision or an exception has been obtained. Because these changes were in accordance with 7 CFR 3015, which takes precedence over agency rules, and because these procedures have been in effect since FY 1998, the Department believes requesting public comment on the procedural change to use the SF–269 for prior year costs that is being codified in this final rule would cause unnecessary delay which is contrary to the public interest. However, the Department is interested in comments regarding the change in the burden estimate for the SF–269 due to its continued use as necessary after fiscal year close-out.

The Financial Status Report Addendum (SF–269A) is used by State agencies to report on a quarterly basis

outlays of program cash-out benefits where FNS has approved the issuance of checks in lieu of food coupons. Final reports are due December 30 for the preceding Federal fiscal year.

Beginning June 1995, State agencies were allowed to submit the SF–269 and SF–269A data electronically to the national database files stored in FNS' Food Stamp Program Integrated Information system in lieu of a paper report. The voluntary changeover from paper to electronic reporting of SF–269 and SF–269A data by States was done as part of FNS' State Cooperative Data Exchange (SCDEX) Project. This project is being expanded each year as more FNS forms are transformed to electronic formats for State data entry. As of January 2000, 47 State agencies submit the SF–269 (and SF–269A if appropriate) data electronically and 6 State agencies continue to submit paper reports.

For FY 1995 and prior fiscal years, the SF–270 continues to be used until the funding fiscal year has been canceled because the Letter of Credit is no longer open for those years. OMB requires the use of the Form SF–270 when a State agency wants to adjust the program's financial status when the Letter of Credit is not used. The Department regulations at 7 CFR 3015.84(b) implemented this mandatory use of the SF–270. The SF–269 is authorized under 7 CFR 3015.82(a) and 7 CFR 277.11.

Section 277.11(d) of this final rule contains a deadline for filing claims for Federal reimbursement. Thus, State agencies will no longer be able to claim reimbursement for Fiscal Years 1998 and before effective October 1, 2000.

Section 277.11(d) of this final rule contains an information collection and reporting requirement. It requires the State agency to use a reporting form specified by FNS to request retroactive funding. With the time limit on filing claims, this form will be the SF–269.

Respondents: State agencies that administer the Food Stamp Program.

Number of Respondents: 53.

Estimated Number of Responses per Respondent:

Form SF–269: 53 State agencies five times a year for current year (required) and three times a year for prior years (estimated based on an as-needed basis).

Form SF–269A: 12 State agencies five times a year.

Estimate of Burden:

Form SF–269: The 53 State agencies submit Form SF–269 for the current year at an estimate of 16.8 hours per respondent, or 4,452 hours. The 53 State agencies submit revised SF–269 (for prior years) three times annually at an estimate of 1 hour per respondent for an additional 159 hours annually. The use of the electronic SF–269 in FNS information system will minimize the amount of information to be rekeyed by States for a revised SF–269 since States only need to rekey information that has changed. Because the additional 159 hour burden had not been previously approved by OMB, this represents an increase of 159 hours.

Form SF–269A: Approximately 12 State agencies submit Form SF–269A at an estimate of 1 hour per respondent or 60 total hours.

Estimated Total Annual Burden on Respondents: FNS use of the SF–269, SF–269A, and SF–270 was previously approved under OMB No. 0505–0008; however, this package was eliminated. The SF–269 and SF–269A are approved under OMB No. 0348–0039. The SF–270 is approved under OMB No. 0348–0004. Consequently, we are requesting approval of the burden increase for FNS use of the SF–269 form. The revised annual reporting and recordkeeping burden for the Food Stamp Program for this form is estimated to be 4,671 hours. This estimate represents an increase of 159 hours from the previously approved burden of 4,512 hours.

The remaining provisions of this rule do not contain reporting or recordkeeping requirements subject to approval by OMB.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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, the 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 the 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. Thus today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Background

Section 13961 of the Mickey Leland Childhood Hunger Relief Act of 1993 (Leland Act) (Pub. L. 103–66, 107 Stat. 679), signed on August 10, 1993, amended Section 16 of the Food Stamp Act (Act) (7 U.S.C. 2025) to reduce the Federal reimbursement rate for fraud control from 75 percent to 50 percent, the rate for automatic data processing (ADP) development from 75 or 63 percent to 50 percent, and the rate for Systematic Alien Verification for Entitlements (SAVE) costs from 100 percent to 50 percent. The change in rates was effective by law April 1, 1994.

In October and November 1993, the Food and Nutrition Service (FNS) regional offices briefed State agencies administering the Food Stamp Program (FSP) on how to implement the new Federal funding rates for reporting and payment purposes effective April 1, 1994. The prompt implementation was necessary to comply with the Leland Act's mandate to reduce the Department's share of State agency administrative costs to the mandated rate as of April 1, 1994, and to minimize the need for revised reporting by State agencies related to budget projections for FY 1994 and actual cost reporting on or after April 1, 1994. Beginning April 1, 1994, State agencies began drawing down Federal funds for expenditures based on the new funding rate for these activities. Effective with the SF–269 Financial Status Report for the third quarter Fiscal Year 1994, State agencies began reporting costs using the new funding rate for these activities.

On November 22, 1994, the Department published in the **Federal Register** (59 FR 60079) a proposed rule which proposed changes in the Federal reimbursement rates for certain activities as required by the Leland Act and a limit on retroactive claiming of Federal funding for State administrative costs. Five comment letters were received which addressed provisions of the proposed rule. FNS has given careful consideration to all comments received. The major concerns of the commenters are discussed below.

Elimination of Enhanced Funding for Fraud Control

The proposed rule reduced the Federal reimbursement rate for fraud control activity from 75 percent to 50 percent in accordance with Section 13961 of the Leland Act, which amended Section 16 of the Act. In the FSP regulations, Federal reimbursement is also referred to as Federal Financial Participation (FFP). The new FFP rate was effective by law April 1, 1994.

FNS received 4 comments on this part of the proposed rule, all from State agencies. All commenters objected to the cutback in the FFP rate for fraud control activity.

One commenter stated that fraud control activity was an important activity that more than paid for itself in FSP (Federal) savings and that the reduction in the Federal reimbursement rate will result in a reduced level of effort. The commenter pointed out that the unprecedented growth in the FSP demonstrates the need for increased fraud control activities, but that some States lack adequate staff to address the need for fraud control programs. Another commenter stated that activities like front-end investigations to catch fraudulent applicants before the benefits go out the door, prosecutions of violators, and claim recovery work are costly and time consuming activities that were feasible for States to perform due to the enhanced Federal funding. Reinstating the 75 percent FFP rate would help States combat food stamp fraud and would recognize the extra effort that is required to ensure that benefits go only to the truly needy. Another commenter stated that the drop in the funding rate was a step backwards in efforts to combat fraud and that it puts a burden on State funding.

The reduction in the Federal reimbursement rate for fraud control activity is mandated by the Leland Act and does not involve Departmental discretion. Because the reimbursement rate is mandated by law, the final regulation retains the new funding rate as specified in the proposed rule.

The reduction in the Federal reimbursement rate for fraud control reflects a shift in emphasis from up-front funding to performance-based funding through the retention of claims collections. State agencies currently retain 35 percent of claims collected for intentional program violations and 20 percent of inadvertent household error claim collections. The Federal Tax Refund Offset Program provides an additional fiscal incentive for anti-fraud activity by making available to State agencies a new cost-effective means of claims collection. The Department encourages State agencies to use this new tool to boost claims collection and create additional State funding through increased retentions. The increase in retentions would replace some of the lost Federal administrative funding, and could be used to do front-end investigations.

With the elimination of enhanced fraud funding, the detailed requirements for funding investigations has been removed and Section 277.15 has been removed and reserved. However, the requirement to conduct investigations of alleged intentional FSP violations in § 273.16, and to operate fraud detection units in all project areas of 5,000 or more participating households in § 272.4(h) remain in effect.

In the proposed rule, specific reference to prosecution activity of intentional program violations as being an allowable cost would be eliminated because the regular 50 percent funding rate would apply to food stamp prosecutions, thereby eliminating the need for the reference. However, since the proposed rule was published, a revised OMB Circular A–87 has been issued. The revised circular provides that prosecution activities are an unallowable cost unless treated as a direct cost to a specific program when authorized by program regulations. Section 16(a) of the Act authorizes payment of FSP prosecution costs. Consequently, the final rule includes additional specific wording in Appendix A of 7 CFR part 277 that reflects that prosecution of FSP intentional program violations is an allowable cost of FSP administration. This wording is intended to continue the current practice of classifying such costs as allowable, and ensures that program regulations continue to reflect this, consistent with the requirements of the revised OMB Circular A–87. However, the provision on prosecutions will now be found in Appendix A of 7 CFR Part 277, along with other general cost principles applicable to State agencies administering the FSP.

The proposed rule retained the requirement for a fraud control plan in 7 CFR 272.2 and 277.15 but changed the timing of the submission of the plan. Two State agencies commented on this provision. One pointed out that the fraud control plan was originally required as part of the request for enhanced funding and that to require the plan without providing the enhanced funding was akin to placing an unfunded mandate on the States. The commenter stated that States are struggling to control costs and reduce budgets where possible and that removing the fraud control plan requirement would be helpful. The other commenter indicated that the fraud control plan was for Federal benefit, not for State benefit.

As a result of these comments, the Department is dropping its proposal to continue to require a fraud control plan although the availability of 75 percent funding no longer exists. The previous requirement for a fraud control plan in conjunction with 75 percent funding assisted FNS in ensuring that the enhanced funding was used for appropriate fraud control activities. FNS proposed maintaining the fraud control plan because of the importance of fraud detection and prevention to FSP management. However, based on comments, FNS has decided to defer consideration on the amount of information States should routinely provide FNS regarding State anti-fraud activity. FNS is currently revising all regulations governing the State Plan of Operation and will consider what, if any, specific information States should provide on organization structures, staffing, activities, and budget for fraud control as part of the overall revisions to regulations governing the State Plan of Operations. Therefore, this rule drops the requirement for a fraud control plan. Accordingly, the final rule revises 7 CFR 272.2 to eliminate the reference to a fraud control plan.

ADP Development

The proposed rule proposed to eliminate enhanced funding for automated data processing (ADP) development by reducing the funding rate for system development from either 75 or 63 percent to 50 percent in accordance with the Leland Act. We received one comment on this section.

The commenter stated that States are burdened when required to update their current ADP systems due to Federal rule changes or to develop an electronic benefit transfer (EBT) system. The commenter suggested that enhanced funding should be available for a particular window period so States can update their automated systems.

The reduction in the Federal reimbursement rate for ADP development is mandated in the Leland Act and does not involve Departmental discretion. Because the reimbursement rate is mandated by law, this final rule retains the new funding rate as proposed.

The proposed rule also proposed to eliminate section 274.12(k)(3) which states that enhanced funding for coupon issuance activities occurring on Indian Reservations and enhanced funding for the development of EBT systems would both be accommodated within the issuance cap for EBT systems. However, only enhanced funding for the development of EBT and other automated systems under 7 CFR 277.18 is eliminated. Enhanced funding for coupon issuance activities on Indian Reservations remains available under Section 16(a) of the Food Stamp Act and 7 CFR 281.9, and thus such enhanced funding for coupon issuance costs shall continue to be accommodated within

the EBT issuance cap. In this final rule the Department is retaining a portion of the provision in § 274.12(k)(3) (redesignated as § 274.12(k)(2)). The portion that is being retained is the current wording that enhanced funding for coupon issuance activities that a State agency incurs on Indian Reservations shall still be accommodated within the EBT issuance cap. Only the reference in the current 7 CFR 274.12(k)(3) to enhanced funding for the development of EBT systems is being removed.

Prior to the elimination of enhanced funding there were different cost thresholds for prior FNS approval for systems funded with enhanced funding than for systems funded with regular 50 percent funding. The proposed rule proposed to apply the cost thresholds that were applicable to the regular funding requirements to all ADP systems. Thus, the proposed rule eliminated references to enhanced funding but retained in the proposed regulatory text the dollar thresholds under standard funding that were in effect at that time. After the publication of the proposed rule on which this rulemaking is based, the Department published on July 31, 1995, another proposed rule proposing increases in the cost thresholds upon which prior Federal approval is required for Federal financial participation in State ADP equipment acquisition. The final rule raising the cost thresholds for ADP systems was published June 28, 1996. Because the new cost thresholds are now in effect, the final rule drops the proposed text citing the old cost thresholds, thus retaining the current higher cost thresholds. The Department is modifying the proposed text for § 277.18(e)(1), which deletes the reference to enhanced funding, to reflect the new $5 million cost threshold for the submittal of an APD Update. The references to the standard funding rate are retained where necessary in the final text.

In the final rule the Department is also making a technical correction to Appendix A, paragraph b(1), which was inadvertently omitted from the proposed rule, to remove the reference to 63 percent ADP development funding in that paragraph.

SAVE

The Department proposed eliminating enhanced funding for the Systematic Alien Verification for Entitlements (SAVE) Program by dropping the funding rate for SAVE activity from 100 percent to 50 percent funding in accordance with the Leland Act. We received no comments on this section. Because the reimbursement rate is mandated by law, the final rule retains the new funding rate as previously proposed.

Delaying the Effective Date

The proposed rule announced the Department's proposed policy for reviewing and approving requests to delay the April 1, 1994 effective date for the elimination of enhanced funding for certain States which qualified for such an extension under the criteria provided in section 13971 of the Leland Act. For a full discussion of this issue, the reader is referred to the proposed rule.

As the proposed rule noted, FNS had advised States in October/November 1993 of the criteria for a delay of the effective date and the procedure for requesting such a delay if States believed they qualified. To allow adequate time for review, States were to submit their requests by December 31, 1993, but FNS indicated it would consider requests filed after that date. The proposed rule noted that it was the Department's intent that State agencies submit their requests for a delay of the effective date early, and not wait for the completion of the rulemaking process. Four State agencies received approval of a delay in March 1994. They were Arkansas, Texas, Montana, and North Dakota.

One State agency submitted a comment requesting a delay of the April 1, 1994 effective date, but did not submit a formal request demonstrating that it met the criteria for such a delay. The Department emphasizes that States were required to apply, and to demonstrate that they met the criteria in order to be granted a delay. The Department has no authority to grant a delay of the effective date except under the specific circumstances specified in the Leland Act as described in the proposed rule.

The Department notes that the elimination of enhanced funding was effective April 1, 1994 for all but the four approved States. The four approved States received enhanced funding through June 30, 1995, based on their legislative calendars. All States were notified by letter and by the proposed rule of the opportunity to apply for a delay. Further, the April 1, 1994 effective date has well passed. Therefore, the Department believes that the issue of granting delays is now moot and need not be addressed in regulatory text.

Enhanced Funding for Low Payment Error Rates

As stated in the proposed rule, with the reduction in the funding rate to 50 percent for fraud control, ADP development, and SAVE, these three activities now become eligible along with other costs funded at the 50 percent rate for the increased Federal reimbursement rate of up to 60 percent if the State agency achieves a low payment error rate as specified in § 277.4 and 275.23. The incentive funding for a low error rate is provided after the end of the Federal fiscal year.

Two State agencies commented on this policy. One was in favor of this policy as it rewards State agencies that achieve a low payment error rate. The other State agency pointed out that fraudulent applications make it difficult for State agencies to attain a low payment error rate. By denying enhanced funding to States with a demonstrated need for additional support, the State agency believed that such action will ensure that States with a disproportionate share of fraudulent applications will never attain a low payment error rate to qualify for enhanced funding. The State agency believed that moving the reimbursement rate back to 75 percent, rather than incentive funding for a low payment error rate, would assist States in combating food stamp fraud and help to ensure that benefits only go to the truly needy.

The reduction in the funding rate for fraud control is mandated by the Leland Act and the payment of enhanced incentive funding for a low payment error rate is mandated in Section 16(c) of the Act. Neither involves Departmental discretion. The enhanced funding is available as an incentive to encourage States to achieve a low payment error rate and is paid after the end of the fiscal year as a reward. The Department has no authority to pay either enhanced fraud funding or the incentive funding for a low payment error rate to States that have not attained a low payment error rate in order to help them to do so. Accordingly, the proposed regulatory text is adopted as final.

Deadline for Filing Claims for Retroactive Funding

The proposed rule provided that, subject to the availability of funds, FNS would reimburse State agencies for an allowable expenditure only if the State agency files a claim with FNS for that expenditure within two years after the calendar quarter in which the State agency obligated the funds.

One State agency pointed out that a similar Department of Health and Human Services (DHHS) limitation was instituted as a result of legislation enacted by Congress. The State agency

recommended that the Department seek an amendment to the Act.

Section 4(c) of the Act allows the Department to promulgate administrative rules that are necessary or appropriate for the effective administration of the FSP. As the proposed rule noted, in Fiscal Years (FYs) 1991 through 1993, FNS had received requests from State agencies for retroactive funding going back to FY 1981 even though the Federal record retention requirement for State agencies is 3 years. While the Department recognizes that State laws may require retention of records that exceed Federal requirements, the Department believes it is not efficient administration for State agencies to manage, store, and retain financial records well past the 3 years required by Federal regulations and in particular to be actively reviewing stale financial records more than 3 years old. This is especially the case because FNS pays 50 percent of State administrative costs. The intended effect of the proposed limitation on claiming costs is to direct State agency and Federal resources toward the present operation of the program. The Department believes State agencies have a responsibility to properly claim Federal funding on a timely basis.

The commenter noted that the deadline in the proposed rule was calculated based on the quarter in which the State agency *obligated* the funds, and suggested using another baseline such as date of payment, which is used by DHHS.

In the final rule the Department has based the deadline calculation on the quarter in which the cost was incurred by the State or local agency, whichever first incurred the cost. It is at that point that the cost should have been reported on the SF–269, Financial Status Report, for that report period.

One commenter suggested that the definition of the term "audit exception" which was provided in the preamble of the proposed rule be included in the regulatory text. The commenter noted that the deadline does not apply to an audit exception and suggested that the rule clarify what would happen if an audit were performed by non-Department Federal auditors or State or private auditors. The commenter also asked whether any procedures will be established to permit the State to provide such audits to Department audit staff in order to gain approval to claim additional costs.

In the final rule, the Department has included a definition of the term "audit exception" in § 277.11(d)(5)(ii) of the regulatory text. It has also clarified in the same paragraph that the term "audit" includes Federal and State-initiated audits. This includes audits performed by Department auditors, non-Department Federal auditors, State auditors, or private auditors as long as the audit complies with Department audit requirements in 7 CFR 277.17 and 7 CFR part 3015. It also specifies that the audit must have been started within 3 years of the date of submission of the final SF–269 report of the relevant fiscal year to which it applies. Once the audit is resolved, any claim for retroactive Federal funding arising from such an audit should be submitted promptly to FNS with a copy of the relevant audit findings. This procedure will supplement but not replace any other Federal reporting requirements to the cognizant agency for audits in § 277.17 and 7 CFR part 3015. Finally, the final rule makes minor modifications to the proposed wording in § 277.11(d)(4) to improve clarity. The change has no substantive effect.

At the time of the proposed rule and in accordance with 7 CFR 277.4 and 7 CFR 3015.82, State agencies used the SF–269, Financial Status Report, to report costs during the fiscal year as well as final obligations and expenditures in a final (or closeout) SF–269 due December 30 following the fiscal year. At that time, the Letter of Credit, which was the payment method, was closed for that fiscal year. After that, as the proposed rule noted, the SF–270 would be used to request funds for prior year expenditures. Thus, the proposed rule would have required that States use the Form SF–270, Request for Advance or Reimbursement, to request payment for prior year expenditures. OMB requires the use of the SF–270 when a State agency wants to adjust the program's financial status when the Letter of Credit is not used. However, reporting forms follow payment systems and subsequently FNS' payment system was changed.

7 CFR 3015.102 provides that Letters of Credit are to be used to pay Department recipients (i.e., State agencies) when all the following conditions exist:

(i) There is or will be a continuing relationship between the recipient and the USDA awarding agency for at least a 12 month period and the total amount of advances to be received within that period from the awarding agency is $120,000 or more per year.

(ii) The recipient has established or demonstrated to the USDA awarding agency the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the recipient.

(iii) The recipient's financial management system meets the standards for fund control and accountability prescribed in 7 CFR 3015 subpart H.

After the proposed rule was issued, FNS in 1996 started using the Department of Treasury's ASAP payment system as a funding mechanism. This grantee-initiated payment system, which also uses the Letter of Credit as the payment vehicle, has allowed FNS to continue to pay by Letter of Credit well after the end of the fiscal year. It allowed FNS to streamline its payment process. In addition, the extension of the Letter of Credit system for prior years has allowed FNS to continue to use the SF–269 for prior year expenditures.

As a result of this payment system change, in February 1997 FNS issued revised procedures for post-close-out payments and adjustments in Agency Financial Management System procedure number 678 (AFMS–678). Under those procedures, starting in FY 1998, rather than use the SF–270, State agencies were to revise their "final" or close-out SF–269's to report the outlay of funds for prior FYs 1997 and 1996. State agencies may request funds for newly identified prior year expenses on a revised SF–269 for that year not more than quarterly. This change in the Letter of Credit system is gradually being phased in year by year. However, for FY 1995 and prior years, the SF–270 continues to be used until the funding fiscal year has been canceled because the Letter of Credit is no longer open for those years.

The change in reporting forms coupled with the use of the new system, ASAP, for prior years is significantly more efficient. The SF–270 process is a manual process that is not tied into State electronic reporting. Thus, it would have required more State resources to complete the paper SF–270 compared to the electronic SF–269. The continued use of the SF–269 after close-out will allow States to continue to use the stored electronic SF–269 form (and its data) to revise their SF–269 reports for prior years through FNS' State Cooperative Data Exchange (SCDEX) with minimal rekeying. Only data that has changed would need to be rekeyed for a revised report. Because the SF–269 data can be transmitted electronically to FNS, the use of the electronic form by States will reduce the processing time to make the funds available to the State agency. Finally, it means State agencies do not need to switch reporting forms after the end of the fiscal year but may continue to use the SF–269.

The Department notes that under 7 CFR 3015.1(b), Part 3015 supersedes

and takes precedence over any individual agency regulations to the extent such regulations are inconsistent with the Department regulation. The proposed use of the SF–270 when the Letter of Credit system is operating would be inconsistent with Part 3015. Because Part 3015 is an existing Department rule which governs and takes precedence over the proposed agency rule, the agency's final rule is being changed to comply with the Department rule. Further, this change has been in effect since FY 1998 and affects only 53 State agencies. The Department believes seeking public comment on the continued use of the SF–269, which is based on a provision of the existing Department rule, would cause unnecessary delay which is contrary to the public interest.

As a result of these procedural changes and to conform to current practice, FNS has revised Section 277.11 in the final rule to drop the reference to the SF–270 and in its place to specify that States use the form specified by FNS to report prior year expenditures. This more general wording gives necessary flexibility to an area that may be subject to change over time as payment systems and electronic reporting procedures evolve.

In addition, because of the continued use of the SF–269 after the final or closeout SF–269 (which is due December 30 immediately following the fiscal year), it was necessary to add text to the regulatory language to make it clear that the audit must have been started within 3 years of the "*final*" (or closeout) SF–269 (which is due December 30 immediately following the end of the Federal fiscal year) to get reimbursement. A revision of the "final" SF–269 after the final or closeout SF–269 would not start a new 3-year audit clock.

AFDC/Food Stamp Certification Costs

The Department proposed to amend the current regulations to correspond to current practice which allows food stamp certification costs for Aid to Families with Dependent Children (AFDC) cases to be charged to the FSP. As the proposed rule noted, the current practice of charging the incremental cost of certifying AFDC households for food stamps to the FSP has been in effect since October 1, 1983, and is based on a 1983 Memorandum of Understanding between the Department and DHHS. Thus, the FSP is only picking up the incremental costs related to the certifying AFDC households for FSP benefits. The incremental cost is the cost for certification questions which are FSP specific. One State agency commented on this provision, agreeing with the change in wording to reflect current practice. The final rule retains the proposed wording as it reflects current practice.

However, since the proposed rule was issued, the Personal Responsibility and Work Opportunity Reconciliation Act (Pub.L. 104–193) replaced the AFDC program with a Temporary Assistance for Needy Families (TANF) block grant. This change is effective July 1, 1997, or sooner if a State agency's request is approved earlier by DHHS. This change does not materially affect the charging of the incremental costs from that proposed in the proposed rule. The final rule retains the proposed wording except for changing the reference from AFDC to TANF in the final rule.

Effective Date

The provisions in § 277.11(d) regarding time limits for State agencies to file claims to amend a prior expenditure report to request retroactive funding for costs previously incurred are effective October 1, 2000.

Pursuant to Section 13971 of the Leland Act, the reduction in FFP rates mandated by Section 13961 of the Leland Act was effective on April 1, 1994, except for those State agencies for which the Department has granted in writing a delay of the April 1, 1994 effective date.

The conforming amendments to FSP regulations in §§ 272.1, 272.2, 272.11, 274.12, 277.4, 277.9, 277.15, 277.18, 277.19, and Appendix A to Part 277 will be effective June 23, 2000.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 274

Administrative practice and procedure, Food stamps, Fraud, Grant Programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 277

Food stamps, Government procedure, Grant programs—social programs, Investigations, Records, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 272, 274 and 277 are amended as follows:

1. The authority citation for Parts 272, 274 and 277 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (g)(159) is added in numerical order to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) * * *

(159) *Amendment (385).* The provisions in § 277.11(d) regarding time limits for State agencies to file claims to amend a prior expenditure report to request retroactive funding for costs previously incurred are effective October 1, 2000. The conforming amendments to Food Stamp Program regulations in §§ 272.1(g), 272.2(c)(3), 272.11(d) and (e), 274.12(k), 277.4(b) and (g), 277.9(b), 277.18(b), (d), (e), (g) and (p)(5), and Appendix A to Part 277 and the removal of §§ 277.15 and 277.19 are effective June 23, 2000.

3. In § 272.2, paragraph (c)(3) is revised to read as follows:

§ 272.2 Plan of operation.

* * * * *

(c) * * *

(3) *Additional attachments.* Attached for informational purposes (not subject to approval as part of the plan submission procedures) to the Program Activity Statement and submitted as required in paragraph (e)(3) of this section shall be the agreements between the State agency and the United States Postal Service for coupon issuance, and between the State agency and the Social Security Administration for supplemental income/food stamp joint application processing and for routine user status.

* * * * *

§ 272.11 [Amended]

4. In § 272.11:

a. Paragraph (d)(1)(iii) is amended by removing the reference to "§ 277.19" and adding in its place a reference to "§ 277.18 and Appendix A to Part 277".

b. Paragraph (e)(2) is amended by removing from the first sentence the words ", as outlined in § 277.19(e)".

PART 274—ISSUANCE AND USE OF COUPONS

§ 274.12 [Amended]

5. In § 274.12:

a. Paragraph (k)(2) is removed and paragraphs (k)(3) through (k)(6) are redesignated as paragraphs (k)(2) through (k)(5) respectively.

b. Newly redesignated paragraph (k)(2) is amended by removing the words "and the enhanced funding provided in accordance with this

paragraph for development of an EBT system".

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

6. In § 277.4:

a. Paragraphs (b)(1), (b)(10), (b)(11), and (b)(12) are removed;

b. Paragraphs (b)(2) through (b)(9) are redesignated as paragraphs (b)(1) through (b)(8) respectively;

c. The second sentence in newly redesignated paragraph (b)(7) is revised; and

d. New paragraph (g) is added.

The revision and addition reads as follows:

§ 277.4 Funding.

* * * * *

(b) * * *

(7) * * * The rates of Federal funding for the activities identified in paragraphs (b)(2) and (b)(3) of this section shall not be reduced based upon the agency's payment error rate.

* * * * *

(g) Investigations of authorized retail or wholesale food concerns when performed in coordination with the USDA Office of Inspector General and FNS shall be funded at the 50 percent Federal reimbursement rate.

7. In § 277.9, paragraph (b) is revised to read as follows:

§ 277.9 Administrative costs principles.

* * * * *

(b) The incremental cost of certifying TANF households for Food Stamp Program benefits are allowable costs for FNS reimbursement.

* * * * *

8. In § 277.11, a new paragraph (d) is added to read as follows:

§ 277.11 Financial reporting requirements.

* * * * *

(d) *Time limit for State agencies to file claims.* (1) After the deadline in paragraph (c)(4) of this section for the final SF–269 report, State agencies shall use the form specified by FNS as needed within three years of the end of the Federal fiscal year to amend a prior expenditure report pertaining to such Federal fiscal year. The three-year reporting deadline may be extended by FNS if litigation, an audit, or a claim is unresolved at the end of the three-year period. The reporting form shall be used to amend prior expenditure reports, and to request reimbursement for any additional funding due, or to pay back to FNS any inadvertent prior overclaim. Requests for reimbursement will only be honored if the claim is filed within the timeframe in paragraph (d)(2) of this section. FNS reserves the right to bill State agencies for amounts due FNS resulting from an overclaim, even if no reporting form has been submitted.

(2) Subject to the availability of funds from the appropriation for the year in which the expenditure was incurred, FNS may reimburse State agencies for an allowable expenditure only if the State agency files a claim with FNS for that expenditure within two years after the calendar quarter in which the State agency (or local agency) incurred the cost. FNS will consider non-cash expenditures such as depreciation to have been made in the quarter the expenditure was recorded in the accounting records of the State agency in accordance with generally accepted accounting principles.

(3) For Automated Data Processing (ADP) expenditures approved under § 277.18(c), subject to the availability of funds and required FNS approval related to the Advance Planning Document, FNS may reimburse State agencies for allowable expenditures at the appropriate rate in effect at the time the equipment or service was received only if the State agency files for a claim with FNS within two years after the calendar quarter in which the cost was incurred. FNS will consider non-cash expenditures such as depreciation to have been made in the quarter the expenditure was recorded in the accounting records of the State agency in accordance with generally accepted accounting principles.

(4) States wishing to request an extension of the deadline in paragraphs (d)(2) and (d)(3) of this section must submit the request in writing to FNS prior to the applicable deadline. The State agency's request for an extension must include a specific explanation, justification, and documentation of why the claim will be late and when the claim will be filed.

(5) The time limits in paragraphs (d)(2) and (d)(3) of this section will not apply to any of the following:

(i) Any claim for an adjustment to prior year costs previously claimed under an interim rate concept;

(ii) Any claim arising from an audit exception as defined in this section. An audit exception means a proposed adjustment by the Department to any expenditure claimed by a State agency by virtue of a Federal-or State-initiated audit. The audit must comply with the requirements of § 277.17 and 7 CFR part 3015, and must have been started within 3 years of the date of submission of the final SF–269 of the relevant Federal fiscal year to which it applies.

(iii) Any claim resulting from a court-ordered retroactive payment. However, this provision does not bind FNS to a State or Federal court decision when FNS was not a party to the action;

(iv) Any claim for which FNS determines there was good cause for the State agency's not filing it within the time limit. Good cause is lateness due to circumstances beyond the State agency's control such as Acts of God or documented action or inaction of the Federal Government. It does not include neglect or administrative inadequacy on the part of the State, State agency, legislature, or any of their offices or employees.

§ 277.15 [Removed and Reserved]

9. Section 277.15 is removed and reserved.

10. In § 277.18:

a. Paragraph (b) is amended by removing the definition of *Enhanced funding or enhanced FFP rate*, and by revising the definition of *Regular funding or regular FFP rate;*

b. The introductory text of paragraphs (d)(1) and (d)(2) are amended by removing the words "at the regular or enhanced funding rate" in the first sentence;

c. Paragraph (d)(1)(ii) is amended by removing the last sentence;

d. The third sentence of paragraph (d)(1)(v) is amended by removing the words "thresholds of § 277.18(c)(1) are met" and adding the words "threshold of § 277.18(c)(1) is met" in their place;

e. The first sentence of paragraph (e)(1) is revised;

f. Paragraph (g) is revised; and

g. Paragraph (p)(5) is revised.

The revisions read as follows:

§ 277.18 Establishment of an Automated Data Processing (ADP) and Information Retrieval System.

* * * * *

(b) * * *

Regular funding or regular FFP rate means any Federal reimbursement rate authorized by § 277.4(b).

* * * * *

(e) *APD Update.*—(1) *General submission requirements.* The State agency shall submit an APD Update for FNS approval for all approved Planning and Implementation APD's when total acquisition costs exceed $5 million.

* * *

* * * * *

(g) *Conditions for receiving FFP.*—(1) A State agency may receive FFP at the 50 percent reimbursement rate for the costs of planning, design, development or installation of ADP and information retrieval systems if the proposed system will:

(i) Assist the State agency in meeting the requirements of the Food Stamp Act;

(ii) Meet the program standards specified in § 272.10(b)(1), (b)(2), and (b)(3) of this chapter, except for the requirements in § 272.10(b)(2)(vi), (b)(2)(vii), and (b)(3)(ix) of this chapter to eventually transmit data directly to FCS;

(iii) Be likely to provide more efficient and effective administration of the program; and

(iv) Be compatible with such other systems utilized in the administration of State agency plans under the program of Temporary Assistance for Needy Families (TANF).

(2) State agencies seeking FFP for the planning, design, development or installation of automated data processing and information retrieval systems shall develop Statewide systems which are integrated with TANF. In cases where a State agency can demonstrate that a local, dedicated, or single function (issuance or certification only) system will provide for more efficient and effective administration of the program, FNS may grant an exception to the Statewide integrated requirement. These exceptions will be based on an assessment of the proposed system's ability to meet the State agency's need for automation. Systems funded as exceptions to this rule, however, should be capable to the extent necessary, of an automated data exchange with the State agency system used to administer TANF. In no circumstances will funding be available for systems which duplicate other State agency systems, whether presently operational or planned for future development.

* * * * *

(p) * * *

(5) *Costs.* Costs incurred for complying with the provisions of paragraphs (p)(1) through (p)(3) of this section are considered regular administrative costs which are funded at the regular FFP level.

§ 277.19 [Removed]

11. Section 277.19 is removed.

12. In part 277, Appendix A, in the section titled "Standards for Selected Items of Cost":

a. Paragraphs A.(25) through A.(28) are redesignated as paragraphs A.(26) through A.(29) respectively;

b. A new paragraph A.(25) is added;

c. Paragraph B.(1) is amended by removing from the second sentence the words "to be funded at the 63 percent rate or".

The addition reads as follows:

Appendix A to Part 277—Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State Agencies

* * * * *

Standards for Selected Items of Cost

A. * * *

(25) *Prosecution activities.* The costs of investigations and prosecutions of intentional Food Stamp Program violations are allowable. Costs of investigation, prosecution, or claims collection which are performed by agencies other than the State agency shall be based on a formal agreement between the State or local agency and provider agency. These interagency agreements shall meet the requirements of this part in regard to allowable charges. Funding under these interagency agreements shall be provided by the State agency from their funds and funds made available by FNS.

* * * * *

Dated: May 17, 2000.

Shirley R. Watkins,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 00–13005 Filed 5–23–00; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–56–AD; Amendment 39–11725; AD 2000–10–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2, A300–B2K, A300 B4–2C, A300 B4–100, and A300 B4–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Airbus Model A300 B2, A300 B2K, A300 B2–200, A300 B4, A300 B4–100, and A300 B4–200 series airplanes, that currently requires certain structural inspections and modifications. This amendment requires that those inspections be accomplished on additional airplanes. This action also requires new repetitive inspections for airplanes in certain configurations at revised thresholds and intervals. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct corrosion and cracking of the wings and fuselage, which could result in reduced structural integrity of the airplane.

DATES: Effective June 28, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 28, 2000.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of April 13, 1992 (57 FR 8257, March 3, 1992), and as of May 29, 1996 (61 FR 18661, April 29, 1996).

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–08–08, amendment 39–9574 (61 FR 18661, April 29, 1996), which is applicable to all Airbus Model A300 B2, A300 B2K, A300 B2–200, A300 B4, A300 B4–100, and A300 B4–200 series airplanes, was published in the Federal Register on December 21, 1999 (64 FR 71333). The action proposed to continue to require certain structural inspections and modifications. The action proposed to require that those inspections be accomplished on additional airplanes. The action also proposed to require new repetitive inspections for airplanes in certain configurations at revised thresholds and intervals.

Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Additional Affected Airbus Models

One commenter suggests that the applicability of the proposed AD be