

**DEPARTMENT OF AGRICULTURE****Food and Consumer Service****7 CFR Parts 271, 272 and 273**

[Amdt. No. 367]

RIN 0584-AB89

**Food Stamp Program: Collecting Food Stamp Recipient Claims From Federal Income Tax Refunds and Federal Salaries**

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** This rule proposes collecting two types of Food Stamp Program (FSP) recipient claims from Federal income tax refunds and from Federal salaries. The two types of recipient claims are inadvertent household error (IHE) and intentional Program violation (IPV) claims. These claims represent amounts of benefits which households received but to which they were not entitled. This rule proposes to collect these types of claims from individuals who are no longer participating in the FSP. This rule proposes operating procedures, due-process notices, and appeal rights and other rights and responsibilities of individuals. The Department has been testing the Federal income tax refund offset program (FTROP) since 1992 and is currently testing the Federal salary offset program (salary offset).

**DATES:** Comments must be received on or before July 28, 1995 to be assured of receiving consideration.

**ADDRESSES:** Comments should be addressed to James I. Porter, Supervisor, Issuance and Accountability Section, State Administration Branch, Program Accountability Division, Food Stamp Program, 3101 Park Center Drive, Room 907, Alexandria, Virginia 22302.

Comments can be reviewed at that address during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Mr. Porter at the above address or by telephone at (703) 305-2385.

**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

This proposed 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 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.

**Regulatory Flexibility Act**

This proposed action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). William E. Ludwig, Administrator of the Food and Consumer Service, 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 and certain individuals who have received excess food stamp benefits. Half of substantially all State and local administrative costs for administering the Food Stamp Program are reimbursed by the Department.

**Executive Order 12778**

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

**Paperwork Reduction Act**

This proposed rule contains information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. Section 3507).

This is a new public information collection burden. The reporting and recordkeeping requirements for it were described in a General Notice titled "Food Stamp Program: Recipient Claims Collection: Test of Offsetting Federal Income Tax Refunds," published August 20, 1991 at 56 FR 41325. Because State agencies are continuing to join FTROP, with a resulting increase in the number of individuals subject to collection, average numbers were used to estimate the information collection burden. These were: 30 State agencies and 250,000 individuals. Of the total 58,555 hour estimated information collection burden, 50,330 hours is associated with due-process notices and appeals under FTROP. The burden is shared between State agencies and

individuals, the two types of respondents. State agencies had 13,122 hours, of which more than 12,000 hours is associated with the production of due-process notices. Individuals had 37,208 hours, almost all of which is associated with responding to due process notices.

As mentioned above, collecting food stamp recipient claims from Federal salaries is currently being tested. If that test indicates that full implementation of salary offset would result in a measurable increase in the approved information collection burden, the Department will submit an adjustment to that estimate and provide the public due notice and opportunity to comment on that adjustment. An adjustment to reflect the decreased State agency FTROP reporting as proposed in this rule will be submitted if warranted.

On September 27, 1993 OMB approved the information collection requirements through September 30, 1996 (OMB No. 0584-0446). The title of the information collection is "Expansion of Test of Offsetting Federal Income Tax Refunds." Comments regarding this estimated information collection burden, including suggestions for reducing the burden, should be sent to the Department of Agriculture Clearance Officer, Office of Information Resources Management, Room 404-W, Washington, D.C. 20250. Such comments should also be sent to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0584-0446), Washington, D.C. 20503.

**Comment Period**

The Department believes that a 30-day comment period for this rule is sufficient because while this is a proposed rule, it addresses comments the Department received about the General Notices under which FTROP has been tested. These comments were from a major public interest group and from several State agencies. The rule clarifies several matters and proposes changes in FTROP procedures based on those comments, on numerous State agency questions raised during annual training sessions and submitted to FCS regional offices during the test of FTROP.

**Background***A. General*

Individuals currently owe the Department about \$800 million for IHE and IPV recipient claims. A substantial portion of the \$800 million is not being repaid. The Department is concerned about this situation and is augmenting its policies and procedures to improve