Issued in Washington, D.C., December 9, 1996.

Franklin D. Raines,

Director.

For the reasons set forth in the preamble, OMB proposes to amend 5 CFR Chapter III by adding a new part 1305 to read as follows:

PART 1305—RELEASE OF OFFICIAL INFORMATION, AND TESTIMONY BY OMB PERSONNEL AS WITNESSES, IN LITIGATION

Sec.
1305.1 Purpose and scope.
1305.2 Production prohibited unless approved.
1305.3 Procedures in the event of a demand for disclosure.
1305.4 Procedure in the event of an adverse ruling.
1305.5 No private right of action.

Authority: 31 U.S.C. 502.

§ 1305.1 Purpose and scope.

This part contains the regulations of the Office of Management and Budget (OMB) concerning procedures to be followed when, in litigation (including administrative proceedings), a subpoena, order or other demand (hereinafter in this part referred to as a ''demand'') of a court or other authority is issued for the production or disclosure of:

(a) Any material contained in the files of OMB;

(b) Any information relating to materials contained in the files of OMB; or

(c) Any information or material acquired by any person while such person was an employee of OMB as a part of the performance of the person's official duties or because of the person's official status.

§ 1305.2 Production prohibited unless approved.

No employee or former employee of OMB shall, in response to a demand of a court or other authority, produce any material contained in the files of OMB, disclose any information relating to materials contained in the files of OMB, or disclose any information or produce any material acquired as part of the performance of the person's official duties, or because of the person's official status, without the prior approval of the General Counsel.

§ 1305.3 Procedures in the event of a demand for disclosure.

(a) Whenever a demand is made upon an employee or former employee of OMB for the production of material or the disclosure of information described in § 1305.2, he shall immediately notify the General Counsel. If possible, the General Counsel shall be notified before the employee or former employee concerned replies to or appears before the court or other authority.

(b) If information or material is sought by a demand in any case or matter in which OMB is not a party, an affidavit (or, if that is not feasible, a statement by the party seeking the information or material, or by his attorney) setting forth a summary of the information or material sought and its relevance to the proceeding, must be submitted before a decision is made as to whether materials will be produced or permission to testify or otherwise provide information will be granted. Any authorization for testimony by a present or former employee of OMB shall be limited to the scope of the demand as summarized in such statement.

(c) If response to a demand is required before instructions from the General Counsel are received, an attorney designated for that purpose by OMB shall appear, and shall furnish the court or other authority with a copy of the regulations contained in this part and inform the court or other authority that the demand has been or is being, as the case may be, referred for prompt consideration by the General Counsel. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested instructions from the General Counsel.

§ 1305.4 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 1305.3(c) pending receipt of instructions from the General Counsel, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the General Counsel not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand (United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951)).

§ 1305.5 No private right of action.

This part is intended only to provide guidance for the internal operations of OMB, and is not intended to, and does not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party against the United States.

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DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 273

[Amendment No. 376]

RIN 0584–AB57

Food Stamp Program; Anticipating Income and Reporting Changes

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes revisions in Food Stamp Program procedures for reporting and acting on changes in earned income. The changes are designed to increase State agency flexibility and improve procedures for determining the eligibility and benefits of households whose income fluctuates unpredictably. Under this proposal, State agencies would choose from three different reporting requirements for households with earned income. The reporting requirement a State agency selects would replace the current requirement that households report a change of more than $25 in earned income. In addition to reporting a change in source of income, households would be required to report one of the following: A change in wage rate or salary and a change in part-time or full-time status, provided the household is certified for no more than 3 months; a change in wage rate or salary and a change of more than 5 hours a week that is expected to continue for more than a month; or a change in the amount earned of more than $80 a month.

DATES: Comments must be received on or before February 18, 1997 to be assured of consideration.

ADDRESSES: Comments should be submitted to Margaret Werts Batko Assistant Branch Chief, Certification Policy Branch, Program Development Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302, (703) 305–2516. Comments may also be datafaxed to the attention of Ms. Batko at (703) 305–2486. The internet address is: Margaret__Batko@FCS.USDA.GOV. All written comments will be open for public inspection at the office of the Food and Consumer Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 720.

FOR FURTHER INFORMATION CONTACT: Questions regarding the proposed rulemaking should be addressed to Ms.

Batko at the above address or by telephone at (703) 305–2516.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12372

The Food Stamp Program (Program) is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR part 3015, Subpart V and related Notice (48 FR 29115), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

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). Ellen Haas, 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.

Paperwork Reduction Act

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The reporting and recordkeeping burden associated with the eligibility, certification, and continued eligibility of food stamp recipients is approved under OMB No. 0584–0064. Current burden estimates for OMB No. 0584–0064 include burden associated with collecting and verifying information reported on the application to determine initial household eligibility and also on a form given to households for reporting changes in their circumstances during the certification period. Some households are required to submit a report every month; other households (change reporting households) are required to report changes within 10 days of the date they become aware of the change. State agencies provide households with a form for reporting these changes (change report form) at every certification and whenever a change is reported. This rule would amend 7 CFR 273.12(a)(1)(i) to provide State agencies with three options for earned income changes households would be required to report. The options are (1) a change in wage rate or salary and a change in part-time or full-time status, provided that the household is certified for no more than 3 months; (2) a change in wage rate and a change of more than 5 hours a week that is expected to continue for more than a month; or (3) a change in the amount earned of more than $80 a month. State agencies would select one of these options to include on the change report form. The provisions in 7 CFR 273.12(a)(1)(i) of this proposed rulemaking do not alter burden estimates already approved under OMB No. 0584–0064 for change reporting households. The methodologies used to determine the burden estimates assume that all change reporting households will submit at least one change report form annually. The number of change reporting households is estimated to be 9,324,000. Although the proposed changes would remove the need for change reporting households to report small changes in the amount of earned income, households would still be required to report other changes, and the assumption of at least one report a year remains valid. The public reporting burden for the change report form is estimated to average .1617 hours per report form for a total burden of 1,507,691 hours annually.

Comments. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper 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 the 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 Wendy Taylor, OIRM, Room 404–W, Office of Management and Budget, Paperwork Reduction Project (OMB No. 0584–0064), Washington, D.C. 20503 and Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, DC 20250. Comments and recommendations on the proposed information collection must be received by February 18, 1997.

Executive Order 12778

This rule 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 unless so specified in the **EFFECTIVE DATE** paragraph 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.

Regulatory Impact Analysis

Need for Action

This action is needed to respond to requests from State agencies for revision of the requirements for reporting changes in earned income, to clarify procedures for averaging income, and to assist households in meeting their responsibility to comply with Program requirements.

Benefits

State agencies will benefit from this rule because households will better understand which changes in earnings they are required to report. Recipients who work will benefit because they will have to report only significant changes in their employment status rather than frequent and temporary changes in the amount of monthly income.

Costs

The changes in requirements for reporting changes in earnings and acting on reported changes are not expected to have a significant impact on Program costs.

Background

There are two systems in the Food Stamp Program for determining the amount of benefits a household should receive: Prospective budgeting and retrospective budgeting. Section 5(f)(3)(A) of the Food Stamp Act of 1977, as amended (the Act), 7 U.S.C. 2014(f)(3)(A), provides that calculation of household income on a prospective basis should be based on the income the household reasonably anticipates receiving during the period for which eligibility and benefits are being determined. The law requires the calculation to be made in accordance with regulations which provide for taking into account both the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined and the income received by the household during the preceding 30 days. Section 5(f)(3)(B) of the Act, 7 U.S.C. 2014(f)(3)(B), provides that calculation of household income on a retrospective basis is the calculation of income for the period for which eligibility or benefits are being determined on the basis of income received in a previous period. 7 CFR 273.10(c) of the food stamp regulations provides requirements for prospective budgeting; retrospective budgeting is addressed in 7 CFR 273.21.

Certified households are required to report certain changes in circumstances that occur during the certification period. State agencies have the option under section 6(c)(1)(A) of the Act, 7 U.S.C. 2015(c)(1)(A), to require some categories of households to report on a periodic basis; however, State agencies are prohibited from including certain households in a monthly reporting system or budgeting the households retrospectively as provided at 7 CFR 273.21(b).

Section 6(c)(1)(B) of the Act, 7 U.S.C. 2015(c)(1)(B), provides that households not required to file a periodic report on a monthly basis shall be required to report changes in income or household circumstances as provided in regulations. State agencies are required to determine the benefits of monthly reporting households by retrospective budgeting. However, change reporting households, i.e, those households not subject to monthly reporting, may be budgeted prospectively or retrospectively. Regulations for monthly reporting households are at 7 CFR 273.21; those for change reporters are at 7 CFR 273.12.

In this rule we are proposing to simplify the regulations for reporting changes in earned income when a household is not required to report monthly. The proposed revisions are designed to address problems State agencies have reported in determining the benefits of households with income that fluctuates monthly.

Prospective Budgeting and Change Reporting

Prior to passage of the Hunger Prevention Act of 1988 (HPA) (Pub. L. 100–435, September 19, 1988), monthly reporting and retrospective budgeting (MRRB) were mandatory for households with earnings or a recent work history. The HPA made monthly reporting a State agency option.

Since then, some State agencies have abandoned monthly reporting while others have retained MRRB for all or part of the caseload. There are several advantages to retaining MRRB for households with earnings. Households with earnings report their income each month, and benefits are adjusted accordingly for a subsequent issuance month. Since the actual amount of income earned in the budget month is used to determine the allotment for the issuance month, the allotment corresponds exactly to the reported income rather than to an estimate of anticipated income. The requirement that a household submit a monthly report also helps eligibility workers keep in contact with households on a regular basis without the need for frequent recertification.

However, a monthly reporting system requires the State agency to determine each month whether or not a monthly reporting household has filed a report and to act on any reported changes. When caseloads increase, it is sometimes difficult for eligibility workers to process the reports within the required time frames. A monthly reporting system is also expensive because of the number of reports and notices that have to be printed and mailed out. Monthly reporting is burdensome for participants and less responsive to changes in household circumstances than change reporting because benefits are based on circumstances that existed in a prior month.

Because of the costs associated with monthly reports, many State agencies converted their entire caseload from MRRB to change reporting and prospective budgeting. Prospective budgeting requires State agencies to use information available at initial certification and subsequent recertifications to predict what a household’s circumstances will be during the period of eligibility—the certification period. Change reporting provisions at 7 CFR 273.12(a) require households to report certain changes in household circumstances within 10 days of the date the change becomes known to the household. Each time the State agency learns of a change in the household’s circumstances during the certification period, the State agency must determine the effect of the change on eligibility and benefits.

One of the difficulties encountered by State agencies using prospective budgeting and change reporting is the problem of determining the eligibility and benefits of households with income that changes unpredictably in amount or frequency from month to month (fluctuating income).

Under prospective budgeting, State agencies must anticipate income that will be received. Regulations at 7 CFR 273.10(c) for anticipating income were published on October 17, 1978, and have not been amended since that time. The regulations include the following requirements:

1. If the amount of income anticipated to be received and the date of receipt are uncertain, the income shall not be counted.

2. Income received during the past 30 days shall be used as an indicator of future income, but past income shall not be used if a change has occurred or is anticipated. If income fluctuates to the extent that income from the past 30 days is not an accurate predictor of future income, the State agency and the household may use a longer period of past time to provide a more accurate figure.

3. If the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to have its income averaged. To average income, the State agency shall use the household’s anticipation of income fluctuations over the certification period.

4. Income shall be counted only in the month in which it is expected to be received, unless it is averaged.

5. If income is received on a weekly or biweekly basis (every 2 weeks), the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15, use the State agency’s public assistance (PA) conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period.

If the income fluctuates and there is an income history, the usual practice is to anticipate future fluctuations in income by projecting an average of income received in recent past months. However, regulations at 7 CFR 273.12(a) require households to report changes of more than $25 in gross monthly income. If income is averaged, the figure used to determine the allotment will differ from the income a household actually received in any one month. To address this and other problems, FCS has proposed changes in the $25 reporting requirement on several occasions.

Section 5(f)(3)(A) of the Act, 7 U.S.C. 2014(f)(3)(A), gives the Secretary of Agriculture broad discretion in the area of Food Stamp Program reporting requirements. Regulations published July 15, 1974 (39 FR 25996–26008) required households to report changes of $25 or more in income or deductions. The preamble to a proposed rule issued May 2, 1978 (43 FR 18874–96) discussed problems with the income reporting requirement and solicited comments on the proposed change and two alternatives. The proposed change was to require households to report all changes in income, except changes in the PA grant. The two alternatives were:

1. The household would be required to report all income changes but the State agency would not have to act on monthly changes of $10 or less.

2. The household would be required to report only changes of $20 or more, but the $20 would apply separately to each income source.

The preamble to final rules dated October 17, 1978 (43 FR 47846, 47872–74) indicates that the largest number of commenters preferred the second alternative and the next largest group preferred the current procedures. Based on the comments citing the administrative difficulties of the three reporting procedures offered in the proposed rule and the number of comments supporting the $25 requirement, we chose to continue the then existing and still current policy.

In a rulemaking published January 16, 1981 (46 FR 4642), we proposed to change the income reporting requirement to address problems in handling changes for households with fluctuating income. The proposed change would have required households with fluctuating income to report changes in wage rate, full-time or part-time status, and source of income. The $25 minimum reporting requirement would not have applied to these households. No change was proposed in the reporting requirement for households with stable earnings or unearned income.

Some commenters opposed the proposal, calling it burdensome, an example of overregulation, and too confusing. Other commenters believed that the omission of a requirement to report changes in the number of hours worked would result in lack of action on possibly significant changes. Because of the adverse comments and the imminent implementation of monthly reporting requirements, a final rule was not published on the subject.

As part of a rule proposed September 29, 1987 (52 FR 36546), we again proposed to change requirements for reporting changes in fluctuating income. In addition to problems with the $25 threshold cited in previous rules, the preamble of these regulations indicated that the current requirement makes it difficult to develop quality control (QC) review procedures. The proposal was also designed to be consistent with provisions of the Aid to Families with Dependent Children (AFDC) QC manual which defined a change as any employment status change which results in either increased or decreased income such as a change in part-time or full-time status, the loss of a job, or a change in hourly rate. The proposal retained the $25 threshold for reporting changes but added the requirement to report changes in full-time or part-time status, source, or hourly rate. The proposed requirement applied only to households with fluctuating income, which was defined as income that varies unpredictably from month to month. Under the proposal, households with fluctuating income would report permanent changes in the source of income and ongoing changes in the number of hours worked. The proposal was based on assumptions that the $25 minimum reporting requirement does not lend itself to changes in fluctuating income and that errors in household income are more frequently attributable to changes in employment status, such as converting from unemployed to employed or from part-time to full-time work.

A majority of commenters opposed this proposal. They were concerned that the rule would add another reporting requirement and that it would be difficult to define permanent and non-permanent status changes and fluctuating income. In addition, the proposed changes would not have resulted in complete conformity between the Food Stamp and AFDC Programs. For these reasons, the provision was not adopted as final. The implementation of monthly reporting also reduced the immediate need for a change in change reporting requirements.

In addition to the problems of anticipating income that fluctuates and determining which changes should be reported during the certification period, there is also the difficulty in deciding under what circumstances a reported change in fluctuating income should be reflected in a changed allotment. Introductory paragraph 7 CFR 273.12(c) requires State agencies to take prompt action on all changes to determine if the change affects the household's eligibility or allotment. Even if the allotment is not changed, the State agency must document the reported change in the case file and send the household another change report form. Regulations at 7 CFR 273.12(c)(1) and (2) provide specific requirements for changes that result in an increase or decrease in the allotment.

However, it is not clear how the State agency should react to a temporary change in income reported by a household whose income has been averaged. The regulations do not specifically require the State agency to compute a new average based on a temporary change. One eligibility worker might reaverage the income based on the new information and adjust the household's allotment. Another eligibility worker might document the reported change in accordance with 7 CFR 273.12(c), but make no change in the allotment unless it was anticipated that the change would continue.

In this rule, we are proposing to modify the requirements for averaging income, reporting changes in income, and acting on reported changes. We believe these modifications will assist State agencies in determining the eligibility and benefits of households with fluctuating income over the months of the certification period. When income is averaged, the amount of income received each month does not correspond directly to the issuance for any given month. However, if the average used corresponds closely to the household's average income received during the certification period, the household's benefits over the certification period will correctly reflect the increases and decreases in income that normally occur.

The changes proposed in this rule are designed to simplify the reporting requirements and assist State agencies in managing cases with fluctuating income. We are seeking comments on the following proposed changes and suggestions for alternatives.

a. Averaging Income—7 CFR 273.10(c)(3)(i)

Current regulations at 7 CFR 273.10(c)(3)(i) provide that households (except destitute households and public assistance (PA) households subject to monthly reporting) may elect to have their income averaged over the certification period. Some State agencies have requested that food stamp regulations be revised to allow averaging at the State agency's option. Others have requested that averaging be mandatory for fluctuating income.

We are proposing to retain the provision of 7 CFR 273.10(c)(3)(i) allowing households to choose whether income shall be counted in the month received or averaged. We believe households should continue to have the opportunity to select the method used to determine their benefits when fluctuations in income are anticipated. There may be situations in which the household would prefer to have income counted in the month received rather than having it averaged. However, we would like to solicit comments on this provision. We are proposing to amend 7 CFR 273.10(c)(3) to remove the reference to PA households subject to monthly reporting. This section was written before the use of monthly reporting in the Food Stamp Program. Section 273.21 now provides requirements for monthly reporting and retrospectively budgeted households; therefore, there is no need to mention these households at 7 CFR 273.10(c)(3).

We have received questions concerning the steps to be followed in averaging and converting weekly or biweekly income amounts. For the purposes of 7 CFR 273.10(c)(3), income (whether earned or unearned) is averaged by adding together income amounts received or expected to be received over two or more months. The total is then divided by the number of months used in the calculation to arrive at an average.

Conversion as authorized in 7 CFR 273.10(c)(2)(i) is the process of taking into account months in the year in which an extra weekly or biweekly payment will be received by using a conversion factor instead of adjusting the allotment for the months in which the extra check is received. The amounts used in anticipating income must be representative of income the household expects to receive. If the household member has just started a job and has no income history, the eligibility worker would anticipate income in accordance with the requirements at 7 CFR 273.10(c)(1). If the same amount of income is received or expected to be received every week, anticipated income from one payment may be converted to a monthly amount by using a conversion factor. However, converting a single weekly amount to a monthly amount does not constitute averaging for the purposes of the provisions in 7 CFR 273.10(c)(3). State agencies that elect not to use a conversion factor would have to anticipate receipt of an extra pay check and adjust the allotment for the month in which it will be received.

We are proposing to revise 7 CFR 273.10(c)(3)(i) to eliminate the reference to PA monthly reporting households and to add a reference to § 273.12(c), which we propose to amend as indicated below. We would also clarify that monthly amounts are used in averaging and eliminate unnecessary language, including the example.

b. Income Reporting Requirements—7 CFR 273.12(a)(1)

The heading of regulations at 7 CFR 273.12 currently reads ''Reporting changes.'' The section includes requirements for reporting and acting on changes for households not required to report monthly. Requirements for monthly reporting households have been added to the regulations at 7 CFR 273.21 since 7 CFR 273.12 was originally written. Therefore, we are proposing to change the title of 7 CFR 273.12 to ''Requirements for change reporting households.'' The introductory sentence of 7 CFR 273.12(a)(1) currently provides that ''Certified households are required to report the following changes in circumstances.'' We are proposing to amend the sentence to specify that households not required to report monthly (change reporting households) are required to report the specified changes. Proposals for changes in the reporting requirements are discussed below.

In this rulemaking, we are proposing to modify 7 CFR 273.12(a)(1)(i) by revising the reporting requirements for earned income. Although the reporting requirement for fluctuating income is of particular concern, we are proposing that the requirement apply to all earned income (as defined in 7 CFR 273.9(b)(1)). Under this proposal, all households would be required to report a change in source of income, such as starting or losing a job, changing employers, or gaining or losing a source of unearned income. All households would also have to report a change of more than $25 in unearned income.

Households with earned income would also be required to report changes affecting the amount of income earned. As a substitute for the current requirement to report a change of more than $25 in income, we propose to offer State agencies three alternative earned income reporting requirements. The three earned income reporting options are:

(1) A change in wage rate or salary and a change in part-time or full-time employment status. Because some households could experience a change in part-time employment that would be less than a change from part-time to full-time but could involve a significant change in income, State agencies would be required to certify these households for no more than 3 months.

(2) A change in wage rate and a change in hours worked of more than 5 hours a week that is expected to continue for more than a month.

(3) A change in the amount earned of more than $80 a month.

Under the first option, households would have to report any change in wage rate and a change in part-time or full-time employment status. We believe a change in part-time or full-time status would signal a significant change in the number of hours a household member would be expected to work. Regulations at 7 CFR 273.7 provide that a person working a minimum of 30 hours a week is exempt from work registration, and we considered using the 30-hour figure as a bench mark for full-time employment. However, because State agencies may have a definition of ''part-time'' that is used for PA, we have decided not to define ''part-time.'' To provide State agency flexibility and facilitate consistency with PA, we are proposing that State agencies may define ''part-time.''

Under the second option, households would be required to report when a change in wage rate occurred and also when there was a change of more than 5 hours a week that is expected to continue for more than a month. Under the third option, households would be required to report when the amount earned changed by more than $80 a month. We believe the use of one of these options would eliminate some of the problems with the current reporting requirement for earned income. Households with earnings would have a clearer idea of exactly what to report and would not have to report fluctuations in income resulting from temporary changes in the number of hours worked. In addition, the proposal would eliminate some of the problems encountered in quality control reviews of cases with fluctuating income. Providing three options would increase the ability of State agencies to conform reporting requirements for various programs.

In this rule we are proposing to continue the current $25 reporting requirement threshold for unearned income with the two changes noted below. However, we are interested in comments on alternative reporting requirements for unearned income, including the use of computer matching information in lieu of household reporting.

Some State agencies may have the capability of making information regarding a household's unearned income available to their eligibility workers very quickly through data exchange systems that have been established for the exchange of information between the providers of various benefits and State agencies. Through these systems, State agencies match household records with information from the income sources and determine the amount of Supplemental Security Income (SSI), Federal Old Age, Survivors, and Disability Insurance (OASDI) benefits, and unemployment compensation (UC) households receive. It would appear that information from these data sources, rather than from the households, could be used to maintain current and accurate information about the benefits households are receiving. However, this would be possible only if the information could be obtained and used to adjust food stamp benefits in accordance with the timeframes currently in place for acting on changes.

New systems developed by the Social Security Administration (SSA) may provide faster access to accurate information about SSI and OASDI benefits than has previously been the case. SSA has developed the State Verification and Exchange System (SVES), 42 U.S.C. 1320b–7(a), which replaces previously separate exchanges for SSI and OASDI data. Using the new File Transfer Management System (FTMS), State agencies will be able to obtain daily updates of SSI and OASDI information. SSA will respond to SVES inquiries submitted via FTMS within 24 hours. Using these systems, State agencies will be able to obtain current income information and update records at the State level or provide the information to local offices electronically.

We are interested in State agency comments on their ability to access and use these systems to identify and act on changes in SSI and OASDI benefits within the current timeframes in 7 CFR 273.12(c) for acting on reported changes. We are also interested in comments on the ability of State agencies to use the State's UC data systems for acting on changes in households' UC benefits.

c. Action on Changes in Fluctuating Income—7 CFR 273.12(c)

To address the problem of determining when eligibility workers should act on a reported change in fluctuating income, we are proposing to revise the introductory paragraph of 7 CFR 273.12(c) to specify that if a household reports a change in income, the State agency shall use the information to compute a new allotment amount if the change is representative of anticipated future income. Whether it is representative would be determined on the basis of an expectation that the new circumstance will continue for at least one month beyond the month in which the change is reported. The worker would document the case record to indicate the basis for adjusting or not adjusting the average. If the change does not affect the allotment, the worker would document that fact.

Implementation

We are proposing that the changes made by this rule would be effective and implemented no later than the first day of the month 180 days after publication of the final rule.

List of Subjects in 7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Records, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR part 273 is proposed to be amended as follows:

1. The authority citation of part 273 continues to read as follows:

Authority: 7 U.S.C. 2011–2032.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.10, paragraph (c)(3)(i) is revised to read as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(c) *Determining income.* * * *

(3) *Income averaging.* (i) Households may elect to have their income averaged. However, the State agency shall not average the income of destitute households (as defined in paragraph (e)(3) of this section). When averaging income, the State agency shall use the household's anticipation of monthly income fluctuations over the certification period. An average must be recalculated at recertification and in response to changes in income, in accordance with § 273.12(c).

* * * * *

5. In § 273.12,

a. The heading of the section, the introductory text of paragraph (a)(1) and paragraph (a)(1)(i) are revised.

b. The introductory text of paragraph (c) is amended by adding two sentences after the first sentence.

The revisions and additions read as follows:

§ 273.12 Requirements for change reporting households.

(a) *Household responsibility to report.* (1) Monthly reporting households are required to report as provided in § 273.21. Certified change reporting households are required to report the following changes in circumstances:

(i) (A) A change greater than $25 in the amount of unearned income, except changes relating to PA or general assistance (GA) in project areas in which GA and food stamp cases are jointly processed. The State agency is responsible for identifying changes during the certification period in the amount of PA or GA in jointly processed cases.

(B) A change in the source of income, including starting or stopping a job or changing jobs.

(C) One of the following, as determined by the State agency:

(*1*) A change in the wage rate of earned income and a change in full-time or part-time employment status (as determined by the employer or as defined in the State's PA Program), provided that the household is certified for no more than 3 months;

(*2*) A change in wage rate and a change in hours worked of more than 5 hours a week that is expected to continue for more than a month; or

(*3*) A change in the amount earned of more than $80 a month.

* * * * *

(c) *State agency action on changes.* * * * If a household reports a change in income, the State agency shall act on the change in accordance with paragraphs (c)(1) and (c)(2) of this section if the new circumstance is expected to continue for at least one month beyond the month in which the change is reported. The time frames in paragraphs (c)(1) and (c)(2) of this section apply to these actions. * * *

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Dated: December 10, 1996.

Ellen Haas,

Under Secretary for Food, Nutrition, and Consumer Services.

[FR Doc. 96–31989 Filed 12–16–96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–44–AD]

RIN 2120–AA64

Airworthiness Directives; Jetstream Aircraft Limited HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); Reopening of the comment period.

SUMMARY: This document proposes to revise an earlier proposed airworthiness directive (AD) that would have required the following on Jetstream Aircraft Limited (JAL) HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes: repetitively inspecting the main landing gear (MLG) pintle to cylinder interface for cracks, and replacing any MLG cylinder that has a crack of any length. The proposed AD results from reports of MLG cracks in the area of the pintle to cylinder interface on three of the affected airplanes. Since publication of that proposal, the Federal Aviation Administration (FAA) has determined