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# SUBCHAPTER C—SUPPLEMENTAL NUTRITION ASSISTANCE AND FOOD DISTRIBUTION PROGRAM

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## PART 271—GENERAL INFORMATION AND DEFINITIONS

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### § 271.1 General purpose and scope.

(a) *Purpose of SNAP*. SNAP is designed to promote the general welfare and to safeguard the health and well being of the Nation's population by raising the levels of nutrition among low-income households. Section 2 of the Food and Nutrition Act of 2008 states, in part:

> Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. Congress further finds that increased utilization of food in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of the Nation's agricultural abundance and will strengthen the Nation's agricultural economy, as well as result in more orderly marketing and distribution of foods. To alleviate such hunger and malnutrition, a supplemental nutrition assistance program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation.

(b) *Scope of the regulations*. Part 271 contains general information, definitions, and other material applicable to all parts of this subchapter. Part 272 sets forth policies and procedures governing State agencies which participate in the program. Part 273 describes the eligibility criteria to be applied by State agencies and related processing requirements and standards. Part 274 provides requirements for the issuance of SNAP benefits to eligible households and establishes related issuance responsibilities. Part 275 sets forth guidelines for monitoring SNAP, analyzing the results and formulating corrective action. Part 276 establishes State agency liability and certain Federal sanctions. Part 277 outlines procedures for payment of administrative costs of State agencies. Part 278 delineates the terms and conditions for the participation of retail food stores, wholesale food concerns, meal services, and insured financial institutions. Part 279 establishes the procedures for administrative and judicial reviews requested by food retailers, food wholesalers, and meal services. Part 280 explains procedures for issuing emergency benefit allotments to certain victims of disasters unable to purchase adequate amounts of food. Part 281 sets forth guidelines for designating Indian tribes as State agencies. Part 282 provides guidelines for initiation, selection, and operation of demonstration, research, and evaluation projects. Part 284 provides for a nutrition assistance program for the Commonwealth of the Northern Mariana Islands (CNMI). Part 285 describes the general terms and conditions under which grant funds are provided to the Commonwealth of Puerto Rico.

[Amdt. 132, 43 FR 47882, Oct. 17, 1982, as amended by Amdt. 216, 47 FR 23461, May 28, 1982; Amdt. 248, 48 FR 16832, Apr. 19, 1983; Amdt. 356, 59 FR 29713, June 9, 1994; 85 FR 52031, Aug. 24, 2020]

### § 271.2 Definitions.

*Access device* means any card, plate, code, account number, or other means of access that can be used alone, or in

conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under the Food and Nutrition Act of 2008, as amended.

*Active case* means a household which was certified prior to, or during, the sample month and issued SNAP benefits for the sample month.

*Active case error rate* means an estimate of the proportion of cases with an error in the determination of eligibility or basis of issuance. This estimate will be expressed as a percentage of the completed active quality control reviews excluding all results from cases processed by SSA personnel or participating in a demonstration project identified by FNS as having certification rules that are significantly different from standard requirements.

*Adequate notice* in a periodic reporting system such as monthly reporting or quarterly reporting means a written notice that includes a statement of the action the agency has taken or intends to take; the reason for the intended action; the household's right to request a fair hearing; the name of the person to contact for additional information; the availability of continued benefits; and the liability of the household for any overissuances received while awaiting a fair hearing if the hearing official's decision is adverse to the household. Depending on the timing of a State's system and the timeliness of report submission by participating households, such notice may be received prior to agency action, at the time reduced benefits are received, or, if benefits are terminated, at the time benefits would have been received if they had not been terminated. In all cases, however, participants will be allowed ten days from the mailing date of the notice to contest the agency action and to have benefits restored to their previous level. If the 10-day period ends on a weekend or a holiday and a request is received the day after the weekend or holiday, the State agency shall consider the request to be timely.

*Alien Status Verification Index (ASVI)* means the automated database maintained by the United States Citizenship and Immigration Services (USCIS) which may be accessed by State agencies to verify immigration status.

*Allotment* means the total value of benefits a household is authorized to receive during each month or other time period.

*Application form* means: (1) The application form designed or approved by FNS, which is completed by a household member or authorized representative; or

(2) For households consisting solely of public assistance or general assistance recipients, it may also mean the application form used to apply for public assistance or general assistance, including attachments approved by FNS, which is completed by a household member or authorized represen- tative.

*Assessment* an in-depth evaluation of employability skills coupled with counseling on how and where to search for employment. If combined with work experience, employment search or training, an assessment of this nature could constitute part of an approvable employment and training component.

*Authorization document* means an intermediary document issued by the State agency and used in an issuance system to authorize a specific benefit amount for a household.

*Beginning month(s)* in a Monthly Reporting and Retrospective Budgeting system means either the first month for which the household is certified for SNAP benefits (where the State agency has adopted a one month accounting system) or the first month for which the household is certified for SNAP benefits and the month thereafter (where the State agency has adopted a two month accounting system). Except for beginning months in sequence as described in the preceding sentences, a beginning month cannot be any month which immediately follows a month in which a household is certified. The month following the month of termination resulting from a one-month temporary change in household circumstances shall not be considered a beginning month.

*Benefit* means the value of supplemental nutrition assistance provided to a household by means of an EBT

system or other means of providing assistance, as determined by the Secretary.

*Benefit issuer* means any office of the State agency or any person, partnership, corporation, organization, political subdivision or other entity with which a State agency has contracted for, or to which it has delegated functional responsibility, in connection with the issuance of benefits to households.

*Budget month* in a Monthly Reporting and Retrospective Budgeting system means the fiscal or calendar month from which the State agency uses income and other circumstances of the household to calculate the household's SNAP allotment to be provided for the corresponding issuance month.

*Communal dining facility* means a public or nonprofit private establishment, approved by FNS, which prepares and serves meals for elderly persons, or for supplemental security income (SSI) recipients, and their spouses, a public or private nonprofit establishment (eating or otherwise) that feeds elderly persons or SSI recipients, and their spouses, and federally subsidized housing for the elderly at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate State or local agency to offer meals at concessional prices to elderly persons or SSI recipients, and their spouses.

*Coupon* means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food and Nutrition Act of 2008, as amended, for the purchase of eligible food.

*Deficiency* means any aspect of a State's program operations determined to be out of compliance with the Food and Nutrition Act of 2008, FNS Regulations, or program requirements as contained in the State agency's manual, the State agency's approved Plan of Operation or other State agency plans.

*Department* means the U.S. Department of Agriculture.

*Drug addiction or alcoholic treatment and rehabilitation program* means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private, nonprofit organization or institution, or a publicly operated community mental health center, under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x *et seq.*). Under part B of title XIX of the Public Health Service Act is defined as meeting the criteria which would make it eligible to receive funds, even if it does not actually receive funding under part B of title XIX.

*Elderly or disabled member* means a member of a household who: (1) Is 60 years of age or older;

(2) Receives supplemental security income benefits under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act;

(3) Receives federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act;

(4) Receives federally or State-administered supplemental benefits under section 212(a) of Pub. L. 93–66;

(5) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act.

(6) Is a veteran with a service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under title 38 of the United States Code;

(7) Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under title 38 of the United States Code;

(8) Is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code;

(9) Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation

for a service-connected death or pension benefits for a nonservice-connected death under title 38 of the United States Code *and* has a disability considered permanent under section 221(i) of the Social Security Act. ''Entitled'' as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them; or

(10) Receives an annuity payment under: section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 *and* is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under title XVI of the Social Security Act.

(11) Is a recipient of interim assistance benefits pending the receipt of Supplemented Security Income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based State general assistance benefits *provided* that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the State agency which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR part 416, subpart I, Determining Disability and Blindness as defined in Title XVI).

*Electronic Benefit Transfer (EBT) account* means a set of records containing demographic, card, benefit, transaction and balance data for an individual household within the EBT system that is maintained and managed by a State or its contractor as part of the client case record.

*Electronic Benefit Transfer (EBT) card* means a method to access EBT benefits issued to a household member or authorized representative through the EBT system by a benefit issuer. This method may include an on-line magnetic stripe card, an off-line smart card, a chip card, a contactless digital wallet with a stored card, or any other similar benefit access technology approved by FNS.

*Electronic Benefit Transfer (EBT) contractor or vendor* means an entity that is selected to perform EBT–related services for the State agency.

*Electronic Benefit Transfer (EBT) system* means an electronic payments system under which household benefits are issued from and stored in a central databank, maintained and managed by a State or its contractor, and uses electronic funds transfer technology for the delivery and control of food and other public assistance benefits.

*Eligible foods* means:

(1) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption and any deposit fee in excess of the amount of the State fee reimbursement (if any) required to purchase any food or food product contained in a returnable bottle, can, or other container, regardless of whether the fee is included in the shelf price posted for the food or food product;

(2) Seeds and plants to grow foods for the personal consumption of eligible households;

(3) Meals prepared and delivered by an authorized meal delivery service to households eligible to use SNAP benefits to purchase delivered meals; or meals served by an authorized communal dining facility for the elderly, for SSI households or both, to households eligible to use SNAP benefits for communal dining;

(4) Meals prepared and served by a drug addict or alcoholic treatment and rehabilitation center to narcotic addicts or alcoholics and their children who live with them;

(5) Meals prepared and served by a group living arrangement facility to residents who are blind or disabled as defined in paragraphs (2) through (11) of the definition of ''Elderly or disabled member'' contained in this section;

(6) Meals prepared by and served by a shelter for battered women and children to its eligible residents;

(7) In the case of certain eligible households living in areas of Alaska where access to food stores is extremely difficult and the households

rely on hunting and fishing for subsistence, equipment for the purpose of procuring food for eligible households, including nets, lines, hooks, fishing rods, harpoons, knives, and other equipment necessary for subsistence hunting and fishing but not equipment for the purpose of transportation, clothing or shelter, nor firearms, ammunition or other explosives;

(8) In the case of homeless SNAP households, meals prepared for and served by an authorized public or private nonprofit establishment (e.g. soup kitchen, temporary shelter), approved by an appropriate State or local agency, that feeds homeless persons; and

(9) In the case of homeless SNAP households, meals prepared by a restaurant which contracts with an appropriate State agency to serve meals to homeless persons at concessional (low or reduced) prices.

*Employment and Training (E&T) component* a work experience, work training, supervised job search or other program described in section 6(d)(4)(B)(i) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(d)(4)(B)(i)) designed to help SNAP participants move promptly into unsubsidized employment.

*Employment and Training (E&T) mandatory participant* a supplemental nutrition assistance program applicant or participant who is required to work register under 7 U.S.C. 2015(d)(1) or (2) and who the State determines should not be exempted from participation in an employment and training program and is required to participate in E&T.

*Employment and Training (E&T) participant* means an individual who meets the definition of a mandatory or voluntary E&T participant.

*Employment and Training (E&T) program* means a program operated by each State agency consisting of case management and one or more E&T components.

*Employment and Training (E&T) voluntary participant* means a supplemental nutrition assistance program applicant or participant who volunteers to participate in an employment and training (E&T) program.

*Error* for active cases results when a determination is made by a quality control reviewer that a household which received SNAP benefits during the sample month is ineligible or received an incorrect allotment. Thus, errors in active cases involve dollar loss to either the participant or the government. For negative cases, an ''error'' means that the reviewer determines that the decision to deny, suspend, or terminate a household was incorrect.

*Exempted* for purposes of §273.7 excluding paragraphs (a) and (b)—this term refers to a work registered person or persons excused by the State, under the conditions in §273.7(e) from participation in an employment and training program.

*Exercises governmental jurisdiction* means the active exercise of the legislative, executive or judicial powers of government by an Indian tribal organization.

*Federal fiscal year* means a period of 12 calendar months beginning with each October 1 and ending with September 30 of the following calendar year.

*Firm.* (1) *Firm* means:

(i) A retail food store that is authorized to accept or redeem SNAP benefits;

(ii) A retail food store that is not authorized to accept or redeem SNAP benefits; or

(iii) An entity that does not meet the definition of a retail food store.

(2) For purposes of the regulations in this subchapter and SNAP policies, the terms firm, entity, retailer, and store are used interchangeably.

*Firm's practice* means the usual manner in which personnel of a firm or store accept SNAP benefits as shown by the actions of the personnel at the time of the investigation.

*FNS* means the Food and Nutrition Service of the U.S. Department of Agriculture.

*Food and Nutrition Act of 2008* means the Food and Nutrition Act of 2008 (Pub. L. 95–113), including any subsequent amendments thereto.

*General assistance (GA)* means cash or another form of assistance, excluding in-kind assistance, financed by State or local funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.

*Group living arrangement* means a public or private nonprofit residential setting that serves no more than sixteen residents that is certified by the appropriate agency or agencies of the State under regulations issued under section 1616(e) of the Social Security Act or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under section 1616(e) of the Social Security Act. To be eligible for SNAP benefits, a resident of such a group living arrangement must be blind or disabled as defined in paragraphs (2) through (11) of the definition of ''Elderly or disabled member'' contained in this section.

*Homeless individual* means an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is: (1) A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);

(2) A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

(3) A temporary accommodation for not more than 90 days in the residence of another individual; or

(4) A place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

*Homeless meal provider* means:

(1) A public or private nonprofit establishment (e.g., soup kitchens, temporary shelters) that feeds homeless persons; or

(2) A restaurant which contracts with an appropriate State agency to offer meals at concessional (low or reduced) prices to homeless persons.

*House-to-house trade route* means any retail food business operated from a truck, bus, pushcart, or other mobile vehicle.

*Identification (ID) card* means a card for the purposes of 7 CFR 278.2(j).

*Indian tribe* means: (1) Any Indian tribe, Band, Nation, or other organized Indian group on a reservation for example, a Rancheria, Pueblo or Colony, and including any Alaska Native Village or regional or village corporation (established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688)), that is on a reservation and is recognized as eligible for Federal programs and services provided to Indians because of their status as Indians; or (2) any Indian tribe or Band on a reservation holding a treaty with a State government.

*Indian tribal organization (ITO)* means: (1) The recognized governing body of any Indian tribe on a reservation; or (2) the tribally recognized intertribal organization which the recognized governing bodies of two or more Indian tribes on a reservation authorizes to operate SNAP or a Food Distribution Program on their behalf.

*Insured financial institution* means a financial institution insured by the Federal Deposit Insurance Corporation (FDIC) or financial institutions which are insured under the Federal Credit Union Act and which have retail food stores or wholesale food concerns in their field of membership.

*Interoperability* means a system that enables program benefits issued to be redeemed outside the State that issued the benefits.

*Issuance month* in a Monthly Reporting and Retrospective Budgeting system means the fiscal or calendar month for which the State agency shall issue a SNAP allotment. Issuance is based upon income and circumstances in the corresponding budget month. In prospective budgeting, the budget month and issuance month are the same. In retrospective budgeting, the issuance month follows the budget month and the issuance month shall begin within 32 days after the end of the budget month.

*Large project area* means those project areas/management units with monthly active caseloads of more than 25,000 households based on the most current information available at the time the large project area review schedule is developed.

*Low-income household* means a household whose annual income does not exceed 125 percent of the Office of Management and Budget poverty guidelines.

*Management Evaluation (ME) reviews* means reviews conducted by States at the project area level to determine if

State agencies are administering and operating SNAP in accordance with program requirements.

*Management unit* means an area based on a welfare district, region, or other administrative structure designated by the State agency and approved by FNS to be reviewed for ME review purposes.

*Manual transaction* means an EBT transaction that is processed with the use of a paper manual voucher when there is an EBT system outage.

*Manual voucher* means a paper document signed by the EBT cardholder that allows a retailer to redeem benefits through a manual transaction.

*Master issuance file* means a cumulative file containing the individual records and status of households, and the amount of benefits, if any, each household is authorized to receive.

*Meal delivery service* means a political subdivision, a private nonprofit organization, or a private establishment with which a State or local agency has contracted for the preparation and delivery of meals at concessional prices to elderly persons, and their spouses, and to the physically or mentally handicapped and persons otherwise disabled, and their spouses, such that they are unable to adequately prepare all of their meals.

*Medicaid* means medical assistance under title XIX of the Social Security Act, as amended.

*Medium project area* means those project areas/management units with monthly active caseloads of 5,000 to 25,000 households based on the most current information available at the time the medium project area review schedule is developed.

*Minimum benefit* means the minimum monthly amount of SNAP benefits that one- and two-person households receive. The amount of the minimum benefit shall be determined according to the provisions of §273.10 of this chapter.

*National performance measure* means the sum of the products of each State agency's payment error rate times that State agency's proportion of the total value of the national allotments issued for the fiscal year using the most recent issuance data available at the time the State agency is notified of its performance error rate.

*Negative case* means any action taken to deny, suspend, or terminate a case.

*Negative case error rate* means an estimate of the proportion of denied, suspended, or terminated cases where the household was incorrectly denied, suspended, or terminated. This estimate will be expressed as a percentage of completed negative quality control reviews excluding all results from cases processed by SSA personnel or participating in a demonstration project identified by FNS as having certification rules that are significantly different from standard requirements.

*Newly work registered* SNAP participants work registered at the point of application.

*Nonprofit cooperative food purchasing venture* means any private nonprofit association of consumers whose members pool their resources to buy food.

*Offset year* means the calendar year during which offsets may be made to collect certain recipient claims from individuals' Federal income tax refunds.

*Overissuance* means the amount by which benefits issued to a household exceeds the amount it was eligible to receive.

*Overpayment error rate* means the percentage of the value of all allotments issued in a fiscal year that are either:
(1) Issued to households that fail to meet basic program eligibility requirements, or

(2) Overissued to eligible households.

*Payment error rate* means the sum of the point estimates of two component error rates: an overpayment error rate and an underpayment error rate. Each component error rate is the value of allotments either overissued or underissued expressed as a percentage of all allotments issued to completed active sample cases, excluding those cases processed by SSA personnel or participating in certain demonstration projects designated by FNS.

*Personal identification number (PIN)* means a numeric code selected by or assigned to a household and used to verify the identity of an EBT cardholder when performing an EBT transaction.

*Point-of-Sale (POS) terminal* means a range of devices deployed at authorized

retail food stores for redeeming benefits by initiating electronic debits and credits of household EBT accounts and retailer bank accounts.

*Primary account number (PAN)* means a number embossed or printed on the EBT card and encoded onto the card to identify the State and EBT account holder.

*Project area* means the county or similar political subdivision designated by a State as the administrative unit for program operations. Upon prior FNS approval, a city, Indian reservation, welfare district, or any other entity with clearly defined geographic boundaries, or any combination of such entities, may be designated as a project area, or a State as a whole may be designated as a single project area.

*Prospective budgeting* in a Monthly Reporting and Retrospective Budgeting system means the computation of a household's SNAP allotment for an issuance month based on an estimate of income and circumstances which will exist in that month.

*Public assistance (PA)* means any of the following programs authorized by the Social Security Act of 1935, as amended: Old-age assistance, Temporary Assistance for Needy Families (TANF), including TANF for children of unemployed fathers, aid to the blind, aid to the permanently and totally disabled and aid to aged, blind, or disabled.

*Quality control review* means a review of a statistically valid sample of active and negative cases to determine the extent to which households are receiving the SNAP allotments to which they are entitled, and to determine the extent to which decisions to deny, suspend, or terminate cases are correct.

*Record-for-issuance file* means a file which is created monthly from the master issuance file, which shows the amount of benefits each eligible household is to receive for the issuance month, and the amount actually issued to the household.

*Regulations* means the provisions of this subchapter. Regulatory citations refer to provisions of this subchapter unless otherwise specified.

*Reservation* means the geographically defined area or areas over which an ITO exercises governmental jurisdiction so long as such area or areas are legally recognized by the Federal or a State government as being set aside for the use of Indians.

*Retail food store* means:

(1) An establishment or house-to-house trade route that sells food for home preparation and consumption normally displayed in a public area, and either offers for sale qualifying staple food items on a continuous basis, evidenced by having no fewer than seven different varieties of food items in each of the four staple food categories with a minimum depth of stock of three stocking units for each qualifying staple variety, including at least one variety of perishable foods in at least three such categories, (Criterion A) as set forth in § 278.1(b)(1) of this chapter, or has more than 50 percent of its total gross retail sales in staple foods (Criterion B) as set forth in § 278.1(b)(1) of this chapter as determined by visual inspection, marketing structure, business licenses, accessibility of food items offered for sale, purchase and sales records, counting of stockkeeping units, or other accounting recordkeeping methods that are customary or reasonable in the retail food industry as set forth in § 278.1(b)(1) of this chapter. Entities that have more than 50 percent of their total gross retail sales in: Food cooked or heated on-site by the retailer before or after purchase; and hot and/or cold prepared foods not intended for home preparation and consumption, including prepared foods that are consumed on the premises or sold for carry-out are not eligible for SNAP participation as retail food stores under § 278.1(b)(1) of this chapter. Establishments that include separate businesses that operate under one roof and share the following commonalities: Ownership, sale of similar foods, and shared inventory, are considered to be a single firm when determining eligibility to participate in SNAP as retail food stores.

(2) Public or private communal dining facilities and meal delivery services; private nonprofit drug addict or alcoholic treatment and rehabilitation

programs; publicly operated community mental health centers which conduct residential programs for drug addicts and/or alcoholics; public or private nonprofit group living arrangements; public or private nonprofit shelters for battered women and children; public or private nonprofit establishments, approved by an appropriate State or local agency, that feed homeless persons; or a restaurant that contracts with an appropriate State agency to provide meals at concessional (low or reduced) prices to homeless SNAP households;

(3) Any stores selling equipment for procuring food by hunting and fishing to eligible households in Alaska, as specified in the definition of eligible foods;

(4) Any private nonprofit cooperative food purchasing venture, including those whose members pay for food prior to receipt of the food; and

(5) A farmers' market.

*Retailer EBT Data Exchange (REDE) system* means the FNS system that allows the automated exchange of authorized retailer demographic data between FNS and the State and/or EBT contractor for notification of changes in retailer Program participation.

*Retrospective budgeting* in a Monthly Reporting and Retrospective Budgeting system means the computation of a household's SNAP allotment for an issuance month based on actual income and circumstances which existed in a previous month, the ''budget month.''

*Review date* for quality control active cases means a day within the sample month, either the first day of the calendar or fiscal month or the day a certification action was taken to authorize the allotment, whichever is later. The ''review date'' for negative cases, depending on the characteristics of individual State systems, could be the date on which the eligibility worker makes the decision to suspend, deny, or terminate the case, the date on which the decision is entered into the computer system, the date of the notice to the client or the date the negative action becomes effective. For no case is the ''review date'' the day the quality control review is conducted.

*Review period* means the 12-month period from October 1 of each calendar year through September 30 of the following calendar year.

*Sample frame* means a list of all units from which a sample is actually selected.

*Sample month* means the month of the sample frame from which a case is selected (e.g., for all cases selected from a frame consisting of households participating in January, the sample month is January).

*Screening* an evaluation by the eligibility worker as to whether a person should or should not be referred for participation in an employment and training program. This activity would not be considered an approvable E&T component.

*Secretary* means the Secretary of the U.S. Department of Agriculture.

*Shelter for battered women and children* means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

*Small project area* means those project areas/management units with monthly active caseloads of 4,999 households or fewer based on the most current information available at the time the small project area review schedule is developed.

*SSA processed/demonstration case* means a case that is participating or has been denied based upon processing by SSA personnel or is participating or has been denied/terminated based upon the rules of a demonstration project with significantly different certification rules (as identified by FNS).

*Staple food* means those food items intended for home preparation and consumption in each of the following four categories: Meat, poultry, or fish; bread or cereals; vegetables or fruits; and dairy products. The meat, poultry, or fish staple food category also includes up to three types of plant-based protein sources (*i.e.*, nuts/seeds, beans, and peas) as well as varieties of plant-based meat analogues (e.g., tofu). The dairy products staple food category also includes varieties of plant-based dairy alternative staple food items such as, but not limited to, almond milk and soy yogurt. Hot foods are not

eligible for purchase with SNAP benefits and, therefore, do not qualify as staple foods for the purpose of determining eligibility under § 278.1(b)(1) of this chapter. Commercially processed foods and prepared mixtures with multiple ingredients that do not represent a single staple food category shall only be counted in one staple food category. For example, foods such as cold pizza, macaroni and cheese, multi-ingredient soup, or frozen dinners, shall only be counted as one staple food item and will be included in the staple food category of the main ingredient as determined by FNS. Accessory food items include foods that are generally considered snack foods or desserts such as, but not limited to, chips, ice cream, crackers, cupcakes, cookies, popcorn, pastries, and candy, and other food items that complement or supplement meals, such as, but not limited to, coffee, tea, cocoa, carbonated and uncarbonated drinks, condiments, spices, salt, and sugar. Items shall not be classified as accessory food exclusively based on packaging size but rather based on the aforementioned definition and as determined by FNS. A food product containing an accessory food item as its main ingredient shall be considered an accessory food item. Accessory food items shall not be considered staple foods for purposes of determining the eligibility of any firm.

*State* means any one of the fifty States, the District of Columbia, Guam, the Virgin Islands of the United States, and the reservation of an Indian tribe whose ITO meets the requirements of the Food and Nutrition Act of 2008 for participation as a State agency.

*State agency* means: (1) The agency of State government, including the local offices thereof, which is responsible for the administration of the federally aided public assistance programs within the State, and in those States where such assistance programs are operated on a decentralized basis, it includes the counterpart local agencies which administer such assistance programs for the State agency, and (2) the Indian tribal organization of any Indian tribe determined by the Department to be capable of effectively administering a supplemental nutrition assistance program or a Food Distribution Program in accordance with provisions of the Food and Nutrition Act of 2008.

*State Income and Eligibility Verification System (IEVS)* means a system of information acquisition and exchange for purposes of income and eligibility verification which meets the requirements of section 1137 of the Social Security Act, generally referred to as the IEVS.

*State Wage Information Collection Agency (SWICA)* means the State agency administering the State unemployment compensation law, another agency administering a quarterly wage reporting system, or a State agency administering an alternative system which has been determined by the Secretary of Labor, in consultation with the Secretary of Agriculture and the Secretary of Health and Human Services, to be as effective and timely in providing employment related income and eligibility data as the two just mentioned agencies.

*Sub-units* means the physical location of an organizational entity within a project area/management unit involved in the operation of SNAP, excluding Post Offices.

*Supplemental Nutrition Assistance Program (SNAP or Program)* means the program operated pursuant to the Food and Nutrition Act of 2008.

*Supplemental Security Income (SSI)* means monthly cash payments made under the authority of: (1) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled; (2) section 1616(a) of the Social Security Act; or (3) section 212(a) of Pub. L. 93–66.

*Systematic Alien Verification for Entitlements (SAVE)* means the INS program whereby State agencies may verify the validity of documents provided by aliens applying for SNAP benefits by obtaining information from a central data file.

*Thrifty food plan* means the diet required to feed a family of four persons consisting of a man and a woman 20 through 50, a child 6 through 8, and a child 9 through 11 years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition. In order to

develop maximum SNAP allotments, the Secretary shall make household size and other adjustments in the Thrifty Food Plan taking into account economies of scale and other adjustments as required by law.

*Trafficking* means:

(1) The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

(2) The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits;

(3) Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;

(4) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or

(5) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.

(6) Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

*Underissuance* means the amount by which the allotment to which the household was entitled exceeds the allotment which the household received.

*Underissuance error rate*. (See *Underpayment error rate*.)

*Underpayment error rate* means the ratio of the value of allotments underissued to recipient households to the total value of allotments issued in a fiscal year by a State agency.

*United States Citizenship and Immigration Services (USCIS)* means the U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security.

*Universe* means all units for which information is desired.

*Variance* means the incorrect application of policy and/or a deviation between the information that was used to authorize the sample month issuance and the verified information that should have been used to calculate the sample month issuance.

*Wholesale food concern* means an establishment which sells eligible food to retail food stores or to meal services for resale to households.

[Amdt. 132, 43 FR 47882, Oct. 17, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 271.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.

### § 271.3 Delegations to FNS for administration.

(a) *Delegation*. Within the Department, FNS acts on behalf of the Department in the administration of SNAP with the exception of those functions, which may be delegated to other agencies within the Department. The right is reserved at any time to withdraw, modify, or amend any delegation of authority. When authority is delegated to FNS, the responsibilities may be carried out by the Administrator or by another official of FNS, or by State agencies with respect to claims against households, as designated.

(b) *Claims settlement*. FNS shall have the power to determine the amount of and to settle and adjust any claim arising under the provisions of the act or this subchapter, and to compromise or deny all or part of any claim.

(c) *Demonstration authority*. FNS is authorized to undertake demonstration

projects which test new methods designed to improve program administration and benefit delivery. FNS is authorized to initiate program research and evaluation efforts for the purposes of improving and assessing program administration and effectiveness. The procedure for initiating and conducting these projects is established in part 282.

[Amdt. 132, 43 FR 47882, Oct. 17, 1982]

### § 271.4 Delegations to State agencies for administration.

(a) *General delegation*. The State agency shall be responsible for the administration of the program within the State, including, but not limited to:

(1) Certification of applicant households;

(2) Issuance, control, and accountability of SNAP benefits and EBT cards;

(3) Developing and maintaining complaint procedures;

(4) Developing, conducting, and evaluating training;

(5) Conducting performance reporting reviews;

(6) Keeping records necessary to determine whether the program is being conducted in compliance with these regulations; and

(7) Submitting accurate and timely financial and program reports.

(b) *Claims delegation*. FNS delegates to the State agency, subject to the standards in § 273.18, the authority to determine the amount of, and settle, adjust, compromise or deny all or part of any claim which results from fraudulent or nonfraudulent overissuances to participating households.

[Amdt. 132, 43 FR 47882, Oct. 17, 1978, as amended by Amdt. 207, 47 FR 52333, Nov. 19, 1982; 85 FR 52032, Aug. 24, 2020]

### § 271.5 Benefits as obligations of the United States, crimes and offenses.

(a) *Benefits as obligations*. Pursuant to section 15(d) of the Food and Nutrition Act of 2008, benefits are an obligation of the United States within the meaning of 18 United States Code (U.S.C.) 8. The provisions of Title 18 of the United States Code, ''Crimes and Criminal Procedure,'' relative to counterfeiting, misuse and alteration of obligations of the United States are applicable to benefits and EBT cards.

(b) *Penalties*. Any unauthorized issuance, redemption, use, transfer, acquisition, alteration, or possession of benefits, EBT cards, or other program access device may subject an individual, partnership, corporation, or other legal entity to prosecution under sections 15 (b) and (c) of the Food and Nutrition Act of 2008 or under any other applicable Federal, State or local law, regulation or ordinance.

(c) *Security for benefits and EBT cards*. All individuals, partnerships, corporations, or other legal entities including State agencies and their delegatees (referred to in this paragraph as ''persons'') having custody, care and control of benefits and EBT cards shall, at all times, take all precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit benefits and EBT cards and to avoid any unauthorized use, transfer, acquisition, alteration or possession of benefits and EBT cards. These persons shall safeguard benefits and EBT cards from theft, embezzlement, loss, damage, or destruction.

(d) *Benefit issuers*. (1) Any benefit issuer or any officer, employee or agent, thereof convicted of failing to provide the monthly reports required in § 274.5 or convicted of violating part 274 shall be subject to a fine of not more than $1,000, or imprisoned for not more than 1 year, or both.

(2) Any benefit issuer or any officer, employee or agent, thereof convicted of knowingly providing false information in the reports required under § 274.5 shall be subject to a fine of not more than $10,000, or imprisoned not more than 5 years, or both.

(e) *Forfeiture and denial of property rights*—(1) *General*. (i) Any nonfood items, moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for food benefits, authorization cards, or other program benefit instruments or access devices in any manner not authorized by the Food and Nutrition Act of 2008 or regulations issued pursuant to the Act, shall be subject to forfeiture and denial of property rights. Such property is deemed forfeited to the United States Department of Agriculture (USDA) at

the time it is either exchanged or offered in exchange.

(ii) These forfeiture and denial of property rights provisions shall apply to property exchanged or offered in exchange during investigations conducted by the Inspector General, USDA, and by other authorized Federal law enforcement agencies.

(iii) These forfeiture and denial of property rights provisions shall not apply to property exchanged or intended to be exchanged during the course of internal investigations by retail firms, during investigations conducted solely by State and local law enforcement agencies and without the participation of an authorized Federal law enforcement agency, or during compliance investigations conducted by the Food and Nutrition Service.

(2) *Custodians and their responsibilities.* (i) The Inspector General, USDA, the Inspector General's designee, and other authorized Federal law enforcement officials shall be custodians of property acquired during investigations.

(ii) Upon receiving property subject to forfeiture the custodian shall:

(A) Place the property in an appropriate location for storage and safekeeping, or

(B) Request that the General Services Administration (GSA) take possession of the property and remove it to an appropriate location for storage and safekeeping.

(iii) The custodian shall store property received at a location in the judicial district where the property was acquired unless good cause exists to store the property elsewhere.

(iv) Custodians shall not dispose of property prior to the fulfillment of the notice requirements set out in paragraph 3, or prior to the conclusion of any related administrative, civil, or criminal proceeding, without reasonable cause. Reasonable cause to dispense with notice requirements might exist, for example, where explosive materials are being stored which may present a danger to persons or property.

(v) Custodians may dispose of any property in accordance with applicable statutes or regulations relative to disposition. The custodian may:

(A) Retain the property for official use;

(B) Donate the property to Federal, State, or local government facilities such as hospitals or to any nonprofit charitable organizations recognized as such under section 501(c)(3) of the Internal Revenue Code; or

(C) Request that GSA take custody of the property and remove it for disposition or sale.

(vi) Proceeds from the sale of forfeited property and any moneys forfeited shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, transportation costs, and any recording fees. Moneys remaining after payment of such expenses shall be deposited into the general fund of the United States Treasury.

(3) *Notice requirements.* (i) The custodian shall make reasonable efforts to notify the actual or apparent owner(s) of or person(s) with possessory interests in the property subject to forfeiture except for the good cause exception if the owner cannot be notified.

(ii) The notice shall:

(A) Include a brief description of the property;

(B) Inform the actual or apparent owner(s) of or person(s) with possessory interests in the property subject to forfeiture of the opportunity to request an administrative review of the forfeiture;

(C) Inform the actual or apparent owner(s) of or person(s) with possessory interests in the property subject to forfeiture of the requirements for requesting administrative review of the forfeiture; and

(D) State the title and address of the official to whom a request for administrative review of the forfeiture may be addressed.

(iii) Except as provided in paragraphs (e)(3) (iv) and (v) of this section, notice shall be given within 45 days from the date the United States convicts, acquits, or declines to act against the person who exchanged the property.

(iv) Notice may be delayed if it is determined that such action is likely to endanger the safety of a law enforcement official or compromise another

ongoing criminal investigation conducted by OIG, the United States Secret Service, the United States Postal Inspection Service, or other authorized Federal law enforcement agency.

(v) Notice need not be given to the general public.

(4) *Administrative review.* (i) The actual or apparent owner(s) of or person(s) with possessory interests in the property shall have 30 days from the date of the delivery of the notice of forfeiture to make a request for an administrative review of the forfeiture.

(ii) The request shall be made in writing to the Assistant Inspector General for Investigations, Office of Inspector General, USDA, or to his/her designee, hereinafter referred to as the reviewing official.

(iii) A request for an administrative review of the forfeiture of property shall include the following:

(A) A complete description of the property, including serial numbers, if any;

(B) Proof of the person's property interest in the property; and,

(C) The reason(s) the property should not be forfeited.

(iv) The requestor may, at the time of his/her written request for administrative review, also request an oral hearing of the reasons the property should not be forfeited.

(v) The burden of proof will rest upon the requestor, who shall be required to demonstrate, by a preponderance of the evidence, that the property should not be forfeited.

(vi) Should the administrative determination be in their favor, the actual or apparent owner(s) of or person(s) with possessory interests in the property subject to forfeiture may request that forfeited items be returned or that compensation be made if the custodian has already disposed of the property.

(vii) The reviewing official shall not remit or mitigate a forfeiture unless the requestor:

(A) Establishes a valid, good faith property interest in the property as owner or otherwise; and

(B) Establishes that the requestor at no time had any knowledge or reason to believe that the property was being or would be used in violation of the law; and

(C) Establishes that the requestor at no time had any knowledge or reason to believe that the owner had any record or reputation for violating laws of the United States or of any State for related crimes.

(viii) The reviewing official may postpone any decision until the conclusion of any related administrative, civil, or criminal proceeding.

(ix) The decision of the reviewing official as to the disposition of the property shall be the final agency determination for purposes of judicial review.

[Amdt. 132, 43 FR 47882, Oct. 17, 1978, as amended by Amdt. 221, 47 FR 35168, Aug. 13, 1982; Amdt. 269, 51 FR 10782, Mar. 28, 1986; Amdt. 334, 57 FR 3911, Feb. 3, 1992; 59 FR 51354, Oct. 11, 1994; 85 FR 52032, Aug. 24, 2020]

### § 271.6 Complaint procedure.

(a) *State agency responsibility*—(1) *General scope.* The State agency shall maintain a system of its choosing for handling program complaints filed by participants, potential participants, or other concerned individuals or groups. This shall not include complaints alleging discrimination on the basis of race, sex, age, religious creed, national origin, political beliefs or disability; such complaints shall be handled in accordance with § 272.6. This procedure also need not include complaints that can be pursued through a fair hearing. Complaints regarding such areas as processing standards and service to participants and potential participants would generally be handled under this complaint procedure.

(2) *Minimum requirements.* The State agency shall follow up on complaints, resolve complaints and take corrective action where warranted, and respond to the complainant on the State agency's disposition of the complaint. The State agency shall make information on the complaint system and how to file a complaint available to participants, potential participants and other interested persons. The State agency may make the information available through written materials or posters at certification offices or other appropriate means.

(3) *Complaint analysis.* The State agency shall maintain records of complaints received and their disposition,

and shall review records at least annually to assess whether patterns of problems may be present in local offices, project areas, or throughout the State. The results of this review shall be provided to the Performance Reporting System coordinator for appropriate action, and for inclusion, if appropriate, in the State Corrective Action Plan in accordance with § 275.16 of this chapter. The information provided to the Performance Reporting System Coordinator shall include the identification, if any, of potential or actual patterns of deficiencies in local offices, project areas, or throughout the State, and any identification of causes of these problems.

(4) *Monitoring*. FNS shall monitor State compliance with these requirements through the Performance Reporting System.

(b) *Regional office responsibility*. (1) Persons or agencies desiring program information or wishing to file a complaint may contact the appropriate FNS Regional Office.

(i) For Delaware, the District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, the Virgin Islands of the United States, and West Virginia: Mid-Atlantic Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, CN 02150, Trenton, NJ 08650.

(ii) For Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 77 Forsyth Street SW., suite 112, Atlanta, GA 30303-3427.

(iii) For Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 77 West Jackson Blvd., 20th Floor, Chicago, IL 60604-3507.

(iv) For Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 1100 Commerce Street, suite 5–C–30, Dallas, TX 75242.

(v) For Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon and Washington: Western Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 550 Kearny Street, room 400, San Francisco, CA 94108.

(vi) For Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 10 Causeway St., Boston, MA 02222-1069.

(vii) For Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 1244 Speer Blvd., suite 903, Denver, CO 80204-3581.

(2) Complainants shall be advised of the appropriate State complaint handling and fair hearing procedures. Upon household request, other complaints shall be pursued by the Department rather than the State agency, unless the complaint is one upon which the complainant wishes to request a fair hearing.

[Amdt. 132, 43 FR 47882, Oct. 17, 1978, as amended at 45 FR 71350, Oct. 28, 1980; Amdt. 187, 45 FR 85699, Dec. 30, 1980; Amdt. 211, 47 FR 53315, Nov. 26, 1982; Amdt. 237, 47 FR 57668, Dec. 28, 1982; Amdt. 250, 48 FR 22130, May 17, 1983; Amdt. 269, 51 FR 10782, Mar. 28, 1986; Amdt. 356, 59 FR 29713, June 9, 1994; 76 FR 27606, May 12, 2011]

### § 271.7 Allotment reduction procedures.

(a) *General purpose*. This section sets forth the procedures to be followed if the monthly SNAP allotments determined in accordance with the provisions of § 273.10 must be reduced, suspended, or cancelled to comply with section 18 of the Food and Nutrition Act of 2008, as amended. The best available data pertaining to the number of people participating in the program and the amounts of benefits being issued shall be used in deciding whether such action is necessary.

(b) *Nature of reduction action*. Action to comply with section 18 of the Food and Nutrition Act of 2008, as amended, may be a suspension or cancellation of allotments for one or more months, a reduction in allotment levels for one or more months or a combination of these three actions. If a reduction in allotments is deemed necessary, allotments shall be reduced by reducing maximum SNAP allotments amounts for each

household size by the same percentage. This results in all households of a given size having their benefits reduced by the same dollar amount. The dollar reduction would be smallest for one-person households and greatest for the largest households. Since the dollar amount would be the same for all households of the same size, the rate of reduction would be lowest for zero net income households and greatest for the highest net income households. All one- and two-person households affected by a reduction action shall be guaranteed the minimum benefit unless the action is a cancellation of benefits, a suspension of benefits, or a reduction of benefits of 90 percent or more of the total amount of benefits projected to be issued in the affected month.

(c) *Reduction method.* If a reduction in allotments is deemed necessary, the maximum SNAP allotments amounts for all household sizes shall be reduced by a percentage specified by FNS. For example, if it is determined that a 25 per cent reduction in the maximum SNAP allotments amount is to be made, the reduction for all four-person households would be calculated as follows: The maximum SNAP allotments amount for a four-person household ($209 in November 1980) would be reduced by 25% to $157. Then 30 percent of the household's net SNAP income would be deducted from the reduced maximum SNAP allotments amount. For example, 30 per cent of a net SNAP income of $200, $60, would be deducted from the reduced maximum SNAP allotments amount ($157), resulting in a reduced allotment of $97.

(d) *Implementation of allotment reductions*—(1) *Reductions.* (i) If a decision is made to reduce monthly SNAP allotments, FNS shall notify State agencies of the date the reduction is to take effect and by what percentage maximum SNAP allotments amounts are to be reduced.

(ii) Upon receiving notification that a reduction is to be made in an upcoming month's allotment, State agencies shall act immediately to implement the reduction. Such action could differ from State to State depending on the nature of the issuance system in use. Where there are computerized issuance systems, the program used for calculating allotments shall be altered to reflect the appropriate percentage reduction in the maximum SNAP allotments for each household size and the computer program shall be adjusted to allow for the minimum benefit for one- and two-person households. The computer program shall also be adjusted to provide for the rounding of benefit levels of $1, $3 and $5 to $2, $4 and $6, respectively. FNS will provide State agencies with revised issuance tables reflecting the percentage reductions to be made in the maximum SNAP allotments amounts and reduce maximum SNAP allotments levels. In States where manual issuance is used, State agencies shall reproduce the issuance tables provided by FNS and distribute them to issuance personnel. State agencies shall ensure that the revised issuance tables are distributed to issuance agents and personnel in time to allow benefit reductions during the month ordered by FNS. In an HIR card system State agencies have the option of enacting the reduction in benefits either by changing all HIR cards before issuance activity for the affected month begins or by adjusting allotments at the point of issuance as each household appears at the issuance office.

(2) *Suspensions and cancellations.* (i) If a decision is made to suspend or cancel the distribution of SNAP benefits in a given month, FNS shall notify State agencies of the date the suspension or cancellation is to take effect. In the event of a suspension or cancellation of benefits, the provision for the minimum benefit for households with one or two members only shall be disregarded and all households shall have their benefits suspended or cancelled. Upon receiving notification that an upcoming month's issuance is to be suspended or cancelled, State agencies shall take immediate action to effect the suspension or cancellation. This action would involve making necessary computer adjustments, and notifying issuance agents and personnel.

(ii) Upon being notified by FNS that a suspension of benefits is over, State agencies shall act immediately to resume issuing benefits to certified

households and shall resume benefit issuance as soon as practicable.

(3) *Affected allotments.* Whenever a reduction of allotments is ordered for a particular month, reduced benefits shall be calculated for all households for the designated month. However, any household with one or two members whose reduced benefits would be less than the minimum benefit shall receive the minimum benefit except as provided in §273.10(e)(2). Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month would not be reduced, suspended, or cancelled even though they are issued during an affected month.

(4) *Notification of eligible households.* Reductions, suspensions and cancellations of allotments shall be considered to be Federal adjustments to allotments. As such, State agencies shall notify households of reductions, suspensions and cancellations of allotments in accordance with the notice provisions of §273.12(e)(1), except that State agencies shall not provide notices of adverse action to households affected by reductions, suspensions or cancellations of allotments.

(5) *Restoration of benefits.* Households whose allotments are reduced or cancelled as a result of the enactment of these procedures are not *entitled* to the restoration of the lost benefits at a future date. However, if there is a surplus of funds as a result of the reduction or cancellation, FNS shall direct State agencies to provide affected households with restored benefits unless the Secretary determines that the amount of surplus funds is too small to make this practicable. The procedures implemented by State agencies for reducing and cancelling benefits shall be designed so that in the event FNS directs the restoration of benefits, such benefits are issued promptly.

(e) *Effects of reductions, suspensions and cancellations on the certification of eligible households.* (1) Except as provided in paragraph (e)(2) of this section, determinations of the eligibility of applicant households shall not be affected by reductions, suspensions or cancellations of allotments. State agencies shall accept and process applications during a month(s) in which a reduction, suspension or cancellation is in effect in accordance with the requirements of part 273. Determinations of eligibility shall also be made according to the provisions of part 273. If an applicant is found to be eligible for benefits and a reduction is in effect, the amount of benefits shall be calculated by reducing the maximum SNAP allotments amount by the appropriate percentage for the applicant's household size and then deducting 30 percent of the household's net SNAP income from the reduced maximum SNAP allotments amount. If an applicant is found to be eligible for benefits while a suspension or cancellation is in effect, no benefits shall be issued to the applicant until issuance is again authorized by FNS.

(2) *Expedited service.* (i) Households eligible to receive expedited processing who apply for program benefits during months in which reductions or suspensions are in effect, shall have their cases processed in accordance with the expedited processing provisions of §273.2(i).

(A) Those households that receive expedited service in months in which reductions are in effect and that are determined to be eligible shall be issued allotments that are reduced in accordance with the reduction in effect. These reduced allotments shall be made available to the households within the benefit delivery timeframe specified in §273.2(i).

(B) Those households that receive expedited service in months in which suspensions are in effect and that are determined to be eligible shall have benefits issued to them within the timeframe specified in §273.2(i). However, if the suspension is still in effect at the time issuance is to be made, the issuance shall be suspended until the suspension is ended.

(ii) Households eligible to receive expedited processing who apply for Program benefits during months in which cancellations are in effect shall receive expedited service. However, the deadline for completing the processing of such cases shall be five calendar days or the end of the month of application, whichever date is later. All other rules

pertaining to expedited service, contained in § 273.2(i), shall be applicable to these cases.

(3) The reduction, suspension or cancellation of allotments in a given month shall have no effect on the certification periods assigned to households. Those participating households whose certification periods expire during a month in which allotments have been reduced, suspended or cancelled shall be recertified according to the provisions of § 273.14. Households found eligible to participate during a month in which allotments have been reduced, suspended or cancelled shall have certification periods assigned in accordance with the provisions of § 273.10.

(f) *Fair hearings.* Any household that has its allotment reduced, suspended or cancelled as a result of an order issued by FNS in accordance with these rules may request a fair hearing if it disagrees with the action, subject to the following conditions. State agencies shall not be required to hold fair hearings unless the request for a fair hearing is based on a household's belief that its benefit level was computed incorrectly under these rules or that the rules were misapplied or misinterpreted. State agencies shall be allowed to deny fair hearings to those households who are merely disputing the fact that a reduction, suspension or cancellation was ordered. Furthermore, since the reduction, suspension or cancellation would be necessary to avoid an expenditure of funds beyond those appropriated by Congress, households do not have a right to a continuation of benefits pending the fair hearing. A household may receive retroactive benefits in an appropriate amount if it is determined that its benefits were reduced by more than the amount by which the State agency was directed to reduce benefits.

(g) *Issuance services.* State agencies must have issuance services available to serve housholds receiving restored or retroactive benefits for a prior, unaffected month.

(h) *Penalties.* Notwithstanding any other provision of this subchapter, FNS may take one or more of the following actions against a State agency that fails to comply with a directive to reduce, suspend or cancel allotments in a particular month.

(1) If FNS ascertains that a State agency does not plan to comply with a directive to reduce, suspend or cancel allotments for a particular month, a warning will be issued advising the State agency that if it does not comply, FNS may cancel 100 percent of the Federal share of the State agency's administrative costs for the affected month(s). If, after receiving such a warning, a State agency does not comply with a directive to reduce, suspend or cancel allotments, FNS may cancel 100 percent of the Federal share of the State agency's administrative costs for the affected month(s).

(2) If FNS ascertains after warning a State agency as provided in paragraph (h)(1) of this section, that the State agency does not plan to comply with a directive to reduce, suspend or cancel allotments, a court injunction may be sought to compel compliance.

(3) If a State agency fails to reduce, suspend or cancel allotments as directed, FNS will bill the State agency for all over issuances that result. If a State agency fails to remit the billed amount to FNS within a prescribed period of time the funds will be recovered through offsets against the Federal share of the State agency's administrative costs, or any other means available under law.

[Amdt. 146, 46 FR 1426, Jan. 6, 1981, as amended by Amdt. 207, 47 FR 52333, Nov. 19, 1982; Amdt. 211, 47 FR 53315, Nov. 26, 1982; Amdt. 233, 47 FR 53830, Nov. 30, 1982; Amdt. 269, 51 FR 10782, Mar. 28, 1986; 54 FR 24154, June 6, 1989; 56 FR 63596, Dec. 4, 1991; Amdt. 356, 59 FR 29713, June 9, 1994; 78 FR 11972, Feb. 21, 2013]

### § 271.8 Information collection/recordkeeping—OMB assigned control numbers.

| 7 CFR section where requirements are described | Current OMB control No. |
|---|---|
| 272.1(f) | 0584–0010<br>0584–0025<br>0584–0034<br>0584–0037<br>0584–0064<br>0584–0069<br>0584–0074<br>0584–0080<br>0584–0081<br>0584–0083<br>0584–0299<br>0584–0303 |

| 7 CFR section where requirements are described | Current OMB control No. |
|---|---|
| | 0584–0336 |
| | 0584–0339 |
| 272.2(d) | 0584–0064 |
| 272.2(a), (c), (d), (e), (f) | 0584–0083 |
| 272.5(c) | 0584–0083 |
| 272.3(a), (b), (c) | 0584–0083 |
| 272.6(g), (h) | 0584–0025 |
| 273.2(a), (b), (c), (e), (f), (h) | 0584–0064 |
| 273.5(b) | 0584–0064 |
| 273.7(a), (d), (e) | 0584–0339 |
| 273.7(c) | 0584–0083 |
| | 0584–0339 |
| 273.8(b), (e ) | 0584–0064 |
| 273.9(d) | 0584–0496 |
| 273.9(d) (c) | 0584–0064 |
| 273.10(e), (g)(1) | 0584–0064 |
| 273.11(b) | 0584–0496 |
| 273.11(i)(1)–(4) | 0584–0080 |
| | 0584–0081 |
| 273.11(i)(5) | 0584–0081 |
| 273.11(i)(6) | 0584–0080 |
| | 0584–0081 |
| 273.12(a), (b), (c), (d) | 0584–0064 |
| 273.13(a), (b) | 0584–0064 |
| 273.14(b) | 0584–0064 |
| 273.16(a), (b), (d), (e), (f), (g), (h), (i) | 0584–0064 |
| 273.18(h) | 0584–0069 |
| 273.21(h) | 0584–0064 |
| 273.24(f) | 0584–0479 |
| 274.3(d) | 0584–0069 |
| | 0584–0080 |
| 274.4(a) | 0584–0080 |
| 274.4(b) | 0584–0080 |
| | 0584–0081 |
| 274.6(a), (b) and (e) | 0584–0080 |
| | 0584–0081 |
| 275.2(a) | 0584–0010 |
| | 0584–0303 |
| 275.4(a) | 0584–0010 |
| | 0584–0303 |
| 275.4(b) | 0584–0010 |
| 275.4(c) | 0584–0034 |
| | 0584–0074 |
| | 0584–0299 |
| 275.5(a), (b) | 0584–0010 |
| 275.6(b) | 0584–0010 |
| 275.8(a) | 0584–0010 |
| 275.9(b), (g) | 0584–0010 |
| 275.10(a) | 0584–0074 |
| | 0584–0299 |
| | 0584–0303 |
| 275.11(a) | 0584–0303 |
| 275.12(b), (c), (d), (e) | 0584–0074 |
| 275.12(f), (g) | 0584–0299 |
| 275.13(b), (d), (e) | 0584–0034 |
| 275.14(c), (d) | 0584–0034 |
| | 0584–0074 |
| | 0584–0299 |
| 275.16(b), (c), (d) | 0584–0010 |
| 275.17(a), (b) | 0584–0010 |
| 275.18(a), (b) | 0584–0010 |
| 275.19(a), (b), (c) | 0584–0010 |
| 275.20(a) | 0584–0010 |
| 275.21(b) | 0584–0034 |
| | 0584–0074 |
| | 0584–0299 |
| 275.21(c), (d), (e) | 0584–0034 |
| 275.22(a), (b) | 0584–0010 |
| 275.23 | 0584–0010 |
| | 0584–0034 |
| | 0584–0074 |
| | 0584–0299 |
| 277.18(a), (c), (d), (f), (i) | 0584–0083 |
| 278.1(a), (b), (l) | 0584–0008 |
| 278.5(c), (d), (f) | 0584–0008 |
| 278.6(b) | 0584–0008 |
| 278.7(b), (c) | 0584–0008 |
| 278.8(a) | 0584–0008 |
| 280.7(c), (d), (g) | 0584–0336 |
| 280.9(b) | 0584–0037 |
| 280.10(a) | 0584–0336 |

[82 FR 2034, Jan. 6, 2017]

### § 271.9 Promotional activities.

No funds authorized to be appropriated under the Food and Nutrition Act of 2008, as amended, shall be used for recruitment or promotion activities as described in § 277.4(b)(5). No entity receiving funds under the Food and Nutrition Act of 2008, as amended, shall be permitted to perform activities described in § 277.4(b)(6) of this chapter.

[81 FR 92556, Dec. 20, 2016]

## PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

Sec.

272.1 General terms and conditions.
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EDITORIAL NOTE: OMB control numbers relating to this part 272 are contained in § 271.8.

### § 272.1 General terms and conditions.

(a) *Coupons do not reduce benefits.* The coupon allotment provided any eligible household shall not be considered income or resources for any purpose under any Federal, State, or local laws