

a. By removing the paragraph designations (a)(2) through (a)(12).

b. By revising the introductory text of paragraph (a) to read as set forth below and by removing paragraph (a)(1).

§ 890.101 Definitions; time computations.

(a) In this part, the terms "annuitant," "carrier," "employee," "employee organization," "former spouse," "health benefits plan," "member of family," and "service," have the meanings set forth in section 8901 of Title 5, United States Code, and supplement the following definitions:

§ 890.101 [Amended]

c. The paragraph designations in the definition of "foster child" are redesignated as paragraphs (1) and (2).

d. The following definitions are alphabetically added to read as follows:

"Compensation" means compensation under Subchapter I of Chapter 81 of Title 5, United States Code, which is payable because of a job-related injury or disease.

"Compensation" means an employee or former employee who is entitled to compensation and whom the Department of Labor determines is unable to return to duty. A compensation is also an annuitant for purposes of Chapter 89 of Title 5, United States Code.

"OWCP" means the Office of Workers' Compensation Programs, U.S. Department of Labor, which administers Subchapter I of Chapter 81 of Title 5, United States Code.

"Underdeduction" means a failure to withhold the required amount of health benefits contributions from an individual's pay, annuity, or compensation. This definition includes both nondeductions (when none of the required amounts was withheld) and partial deductions (when only part of the required amount was withheld). Though FEHB contributions are required to cover a period of nonpay status, the nonpayment of contributions during such period does not result in an underdeduction.

3. In § 890.502, paragraphs (d) and (e) are added to read as follows:

§ 890.502 Employee withholdings and contributions.

* * *

(d) An agency that withholds less than or none of the proper health benefits contributions from an individual's pay, annuity, or compensation must submit an amount equal to the sum of the uncollected deductions and any applicable agency contributions required under section 8906 of Title 5,

United States Code, to OPM for deposit in the Employees Health Benefits Fund.

(e) The deposit to OPM as described in paragraph (d) of this section, must be made as soon as possible but no later than 60 calendar days after the date the employing office determines the amount of the underdeduction that has occurred, regardless of whether or when the underdeduction is recovered by the agency. A subsequent agency determination whether to waive collection of the overpayment of pay caused by failure to properly withhold employee health benefits contributions shall be made in accordance with 5 U.S.C. 5584 as implemented by 4 CFR Chapter I, Subchapter G, unless the agency involved is excluded from application of 5 U.S.C. 5584, in which case any applicable authority to waive the collection may be used.

[FR Doc. 87-2049 Filed 2-3-87; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Seed Potatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises the voluntary U.S. Standards for Grades of Seed Potatoes.

The Potato Association of America, a trade association, requested that the standards be revised to bring them in line with current agricultural and marketing practices. The Agricultural Marketing Service (AMS) has the responsibility, in cooperation with industry, to develop and improve standards of quality, condition, quantity, grade, and packaging in order to encourage uniformity and consistency in commercial practices.

EFFECTIVE DATE: March 6, 1987.

FOR FURTHER INFORMATION CONTACT:

Kenneth R. Mizelle, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-2188.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Departmental Regulation 1512-1 and Executive Order 12291 and has been designated as "nonmajor." It will not result in an annual effect of \$100 million or more.

There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because this action revises the U.S. Standards for Grades of Seed Potatoes to coincide more closely with current State certification and industry marketing practices. Compliance with these standards will not impose substantial direct economic costs, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of such entities vis-a-vis large businesses. In addition, these standards are voluntary, and individual seed potato producers need not have their potatoes certified under these standards.

On July 23, 1986, a proposed rule inviting public comment on several changes in the U.S. Standards for Grades of Seed Potatoes was published in the *Federal Register* (51 FR 26390). The proposal requires blue tags to be attached to containers of certified U.S. No. 1 Seed Potatoes. The tags would identify the size, grower, class, and other information. In addition, the proposal provided less restrictive tolerances for factors not affecting seed quality, more definitive terms for specific defects, and methods of scoring such defects.

The 60-day comment period ended September 22, 1986, and 49 comments were received. All but two of the comments were in favor of the proposed changes. One commentator, representing the Maine seed potato industry, expressed opposition to several of the proposed changes as well as the impact these changes could have on the Maine seed potato industry.

He opposed the requirement that seed potato containers have a blue tag attached showing information as to variety, grower, crop year, etc. When the proposal was being developed, the Certification Section of the Potato Association of America requested that blue tags be a requirement in the revised standards in an effort to develop national uniformity, and because most

States already use blue tags to identify their top grade. Although this standard requires that a blue tag be used to show the required information, it does not prevent a State from printing other information (disease levels, etc.) on this tag or adopting other color coding methods. For example, a State may require a shipper to attach an additional tag of another color or to apply a colored label to the blue tag (provided the required information is not covered).

The commentor from Maine also opposed the establishment of a definition of "damage by soil" and allowing 25 percent of a potato's surface to be caked with soil as part of that definition. A comment indicated that allowing this much soil may hide defects on the potato's surface and would reduce the efficacy of treatment to control tuber-borne pathogens.

In response to these comments the agency is making a change in the final rule. In addition to the "damage by soil" definition, a definition for "fairly clean" was added to permit a lot of seed potatoes to be reported as being cleaner than the grade requires.

The agency decided to retain the standard of "damage by soil" at the proposed level to allow for national uniformity for the U.S. No. 1 Grade. Some potato-producing areas have heavy soil which clings to harvested seed potatoes. A stricter standard for soil damage might preclude seed potatoes from these areas from qualifying for U.S. No. 1 Grade certification.

The commentor from Maine opposed the change in tolerance for undersized potatoes from 3 to 5 percent by weight (§ 51.3002(b)(1)). The standard which had been in effect allowed for 3 percent for potatoes in any lot which failed to meet the required or specified minimum size except that 5 percent would be allowed when the minimum size specified is 2 1/4 inches or more in diameter or 5 ounces or more in weight. The Certification Section of the Potato Association of America recommended that a single tolerance level be established for undersized potatoes regardless of the minimum size or weight specified. The agency agrees with this recommendation because a single tolerance level should reduce possible sources of confusion for potato purchasers. The agency also believes that this change is not so large as to significantly reduce the quality of the grade.

The two commentors offered various objections to changes on the tolerance regarding damage by sprouts, damage by soil, vascular ring discoloration, and percentage allowed for other grade

defects (§ 51.3002 (a)(4)). However, they offered no reasons for these objections. The tolerances as proposed met with the overwhelming approval of commentors, and the agency will adopt the tolerances as proposed.

Two commentors representing the Certification Section were in favor of the revision but asked that the defects be categorized by causes, as originally requested, rather than by alphabetical order, as proposed. Since this does not change the content of the standard and there is no compelling need to require listing in alphabetical order, this change has been made in the final rule.

All U.S. grade standards are developed and revised at the specific request of industry and with their support. The grade standards should serve as a common trading language so that the industry can uniformly market the commodity. The comments received by USDA indicates general support for these changes.

List of Subjects in 7 CFR Part 51

Fresh fruits, vegetables, and other Products (Inspection, Certification, and Standards)

PART 51—[AMENDED]

Accordingly, 7 CFR Part 51 is amended as follows:

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended, [7 U.S.C. 1622-1624].

2. Subpart—United States Standards for Grades of Seed Potatoes and the table of contents thereof is revised to read as follows:

Subpart—United States Standards for Seed Potatoes

- Sec.
51.3000 General.
51.3001 Grade.
51.3002 Tolerances.
51.3003 Application of tolerances.
51.3004 Samples for grade and size determination.
51.3005 Definitions.
51.3006 Classification of defects.

Subpart—United States Standards for Seed Potatoes

§ 51.3000 General.

Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State Laws

§ 51.3001 Grade.

"U.S. No. 1 Seed Potatoes" consist of unwashed potatoes identified as certified seed by the state of origin by

blue tags fixed to the containers or official State or Federal State certificates accompanying bulk loads, which identify the variety, size, class, crop year, and grower or shipper of the potatoes, and the State certification agency. These potatoes must meet the following requirements:

- (a) Fairly well shaped.
- (b) Free from:
 - (1) Freezing injury;
 - (2) Blackheart;
 - (3) Late Blight Tuber Rot;
 - (4) Nematode or Tuber Moth injury;
 - (5) Bacterial Ring Rot;
 - (6) Soft rot or wet breakdown; and,
 - (7) Fresh cuts or fresh broken-off second growth.
- (c) Free from serious damage caused by:
 - (1) Hollow Heart; and,
 - (2) Vascular ring discoloration.
- (d) Free from damage by soil and any other cause. (See § 51.3005-06).
- (e) Size:
 - (1) Minimum diameter, unless otherwise specified, shall not be less than 1-1/2 inches (38.1 mm) in diameter;
 - (2) Maximum size, unless otherwise specified, shall not exceed 3-1/4 inches (82.6 mm) in diameter or 12 ounces (340.20 g) in weight.
- (f) Tolerance. (See § 51.3002).

§ 51.3002 Tolerances.

In order to allow for variations incident to proper grading and handling in the foregoing grade, the following tolerances, by weight, are provided as specified.

- (a) For defects:
 - (1) 10 percent for potatoes in any lot which are seriously damaged by hollow heart;
 - (2) 10 percent for potatoes in any lot which are damaged by soil;
 - (3) 5 percent for potatoes in any lot which are seriously damaged by vascular ring discoloration;
 - (4) 11 percent for potatoes which fail to meet the remaining requirements of the grade including therein not more than 6 percent for external defects and not more than 5 percent for internal defects: Provided, that included in these tolerances not more than the following percentages shall be allowed for the defects listed:

	Percent
Bacterial Ring Rot.....	0.00
Serious damage by dry or moist type Fusarium Tuber Rot	2.00
Late Blight Tuber Rot.....	1.00
Nematode or Tuber Moth injury ..	0.00
Varietal mixture	0.25

Frozen, soft rot or wet breakdown	Percent
.....	0.50

Provided, that en route or at destination, an additional 0.50 percent, or a total of 1 percent, shall be allowed for potatoes which are frozen or affected by soft rot or wet breakdown.

(b) For off-size:

(1) For undersize: 5 percent for potatoes in any lot which fail to meet the required or specified minimum size.

(2) For oversize: 10 percent for potatoes in any lot which fail to meet the required or specified maximum size.

§ 51.3003 Application of tolerances.

Individual samples (See § 51.3004) shall not have more than double the tolerances specified, except that at least one defective and one off-size potato may be permitted in any sample; Provided, that en route or at destination, one-tenth of the samples may contain three times the tolerance permitted for potatoes which are frozen or affected by soft rot or wet breakdown; and provided further, that the averages for the entire lot are within the tolerances specified for the grade.

§ 51.3004 Samples for grade and size determination.

Individual samples shall consist of at least 20 pounds (9.06 kg). The number of such individual samples drawn for grade and size determination will vary with the size of the lot.

§ 51.3005 Definitions.

(a) "Fairly well shaped" means that the potato is not materially pointed,

dumbbell-shaped or otherwise materially deformed.

(b) "Nematode or Tuber Moth injury" means the presence of, or any evidence of, Nematode or Tuber Moth.

(c) Soil:

(1) "Fairly clean" means that at least 90 percent of the potatoes in the lot have no more than 10 percent of the surface covered with caked soil.

(2) "Damage by soil" means that cake soil covers more than 25 percent of a potato's surface.

(3) "Loose soil"—A lot of seed potatoes is not considered damaged by the presence of loose soil, clods, rocks, vines, and foreign material, but such will be considered a tare factor if the following allowances are exceeded:

8 ounces (226.80 g) in a 100 pound (45.3 kg) container.

4 ounces (113.40 g) in a 50 pound (22.65 kg) container.

2 ounces (56.70 g) in a 25 pound (11.33 kg) container or less.

1 percent in a bulk load

(d) "Shriveling"—Damage by shriveling means that the individual potato is more than moderately shriveled, spongy or flabby.

(e) "Freezing injury" means that the potato is frozen or shows evidence of having been frozen.

(f) "Soft rot or wet breakdown" means any soft, mushy or leaky condition of the tissue.

(g) "Zero Tolerance" (0.00) means none found during the normal inspecting procedures. Certification of a lot is not a guarantee that the lot inspected is free of a zero tolerance disease or injury.

(h) "Damage" means any defect or any combination of defects which

materially detracts from the internal or external appearance of the potato, or any external or internal defect which cannot be removed without a loss of more than 5 percent of the total weight of the potato (See § 51.3006).

(i) "Serious damage" means any defect or any combination of defects which seriously detracts from the internal or external appearance of the potato, or any internal or external defect which cannot be removed without a loss of more than 10 percent of the total weight of the potato (See § 51.3006).

(j) "External defects" are defects which can be detected by examining the surface of the potato. Cutting may be required to determine the extent of the injury (See § 51.3006, Table I).

(k) "Internal defects" are defects which cannot be detected without cutting the potato (See § 51.3006, Table II).

(l) "Permanent defects" are defects which are not subject to change during storage or shipment.

(m) "Condition defects" are defects which may develop or change during storage or shipment.

§ 51.3006 Classification of defects.

(a) Brown discoloration following skinning, dried stems, flattened depressed areas (showing no underlying flesh discoloration), greening, skin checks and sunburn do not affect seed quality and shall not be scored against the grade.

(b) Table I—External Defects.

x—indicates method of scoring unless otherwise noted.

Defect	Damage	
	When materially detracting from the appearance of the potato	or When removal causes a loss of more than 5 percent of the total weight of the potato.
Air cracks		x
Bruises		x
Cuts and broken-off second growth (healed)	x	x
Elephant hide (scaling)	x	
Enlarged, discolored or sunken lenticels	x	
Folded ends	x	
Second growth	x	
Shriveling	When more than moderately shriveled, spongy, or flabby.	
Sprouts	When more than 20 percent of the potatoes in any lot have any sprout more than 1 inch (25.4 mm) in length.	
Surface cracking	x	x
Flea Beetle injury	x	x
Grub damage	x	x
Rodent and/or bird damage	x	x
Wireworm or grass damage	Any hole more than 3/4 inch (19.1 mm) long or when the aggregate length of all holes is more than 1 1/4 inches (31.8 mm) ¹ .	
Dry rots		x
Rhizoctonia	x	

Defect	Damage	
	When materially detracting from the appearance of the potato	or When removal causes a loss of more than 5 percent of the total weight of the potato.
Scab, pitted.....	x.....	x
Scab, russet.....	When affecting more than 1/2 of the surface....	
Scab, surface.....	When affecting more than 5 percent of the surface.	
Silver Scurf.....	When affecting more than 25 percent of the surface.	
Growth cracks.....	When seriously detracting from the appearance.	
Pressure bruises and sunken areas—with underlying flesh discolored.		When removal causes a loss of more than 10 percent of the total weight.

¹ Definitions of damage and serious damage are based on potatoes that are 2½ inches (63.5 mm) in diameter or 6 ounces (170.10 g) in weight. Correspondingly lesser or greater areas are permitted on smaller or larger potatoes.

(c) Table II—Internal Defects.

Defect	Damage	
	When materially detracting from the appearance of the potato	or When removal causes a loss of more than 5 percent of the total weight of the potato
Ingrown sprouts.....		Dx
Internal discoloration occurring interior to the vascular ring (such as, Internal Brown Spot, Mahogany Browning and Heat Necrosis.).	When more than the equivalent of three scattered light brown spots 1/8 inch (3.2 mm) in diameter ¹ .	
All other internal discoloration <i>excluding</i> discoloration confined to the vascular ring.		

¹ Definitions of damage and serious damage are based on potatoes that are 2½ inches (63.5 mm) in diameter or 6 ounces (170.10 g) in weight. Correspondingly lesser or greater areas are permitted on smaller or larger potatoes.

Defect	Serious damage	
	When seriously detracting from the appearance of the potato.	or When removal causes a loss of more than 10 percent of the total weight of the potato.
Internal Discoloration confined to the vascular ring..		x
Hollow Heart or Hollow Heart with discoloration.	When affected area exceeds that of a circle 3/4 inch (19.1 mm) in diameter. ¹	

¹ Definitions of damage and serious damage are based on potatoes that are 2½ inches (63.5 mm) in diameter or 6 ounces (170.10 g) in weight. Correspondingly lesser or greater areas are permitted on smaller or larger potatoes.

Done in Washington, DC on January 30, 1987.
 William T. Manley,
 Deputy Administrator, Marketing Programs.
 [FR Doc. 87-2255 Filed 2-3-87; 8:45 am]
 BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 275, and 276
 [Amendment No. 266]

Food Stamp Program; Performance Reporting System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This rule contains final

regulations for the Food Stamp Program to implement various changes to the requirements that State agencies and the Food and Nutrition Service (FNS) must meet regarding administration, conducting management evaluation (ME) reviews, data analysis and evaluation, corrective action, and reporting as part of the Performance Reporting System (PRS). Proposed regulations were published in the Federal Register of August 29, 1985. Comments on the proposal were solicited through October 28, 1985. This final rulemaking takes the comments received into account. The result of implementing these changes will be to simplify the PRS and reduce workloads and costs. Several changes have been made to the Quality Control (QC) System.

DATE: These rules are effective March 6, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, State Management Section, Administration and Design Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA Alexandria, Virginia 22302, (703) 756-3385.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

The final rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major." The rule will not have an annual effect on the economy of \$100 million or more, nor

is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Because this rule would not affect the business community, it would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12372

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

Regulatory Flexibility Act

This rule was also reviewed with regard to the requirements of Pub. L. 96-354, and Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that it will not have a significant economic impact on a substantial number of small entities. The rule implements various changes to simplify the PRS. State agencies should experience a reduction in workloads and costs.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping provisions that are included in this rule were approved by the Office of Management and Budget (OMB) under control number 0584-0010 (through 12/31/88).

Background

This preamble addresses the changes made to the proposed rule and the controversial provisions that were not changed. There were 46 comment letters received on the proposed rule. Since the explanation of many of the provisions of the final rule are set forth in the proposed rule, it may be necessary to refer to the publication for a full understanding of these provisions.

PRS Coordinator

There was overwhelming support for eliminating the PRS Coordinator position and the "full-time" requirement. We have done so. In addition, we are eliminating the requirement that State designate an organizational entity within

the State structure to be responsible for corrective action. (§ 275.2(a))

Alternate Review Schedule and Reduction of Routine Reviews

Current regulations contain strict timetables for the frequency of State agency reviews of projects area operations based on the size of the project area. The proposed regulation introduced the concept of the "alternate review schedule" which would allow State agencies to obtain permission from FNS to do fewer routine reviews of project areas with few or minimal problems. By doing this, State agencies could concentrate time and resources on reviews of project areas with known problems.

In general, there was broad support of the concept of the alternate review schedule. Many commenters felt, however, that some of the proposed rules were still too restrictive to allow the most efficient targeting. Although the proposed rules did not allude to or redefine the size of small, medium, and large project areas, a significant number of comment letters suggested that we should have, because this was the simplest way to give State agencies a reduction of routine reviews. Most commenters felt the numerical values for the three project area sizes were too small. The current requirement that all project areas must be reviewed every three years came under the most intense criticism. It was argued that this still forces State agencies to do more frequent routine reviews than are necessary for project areas with good performances, and for which State agencies have well-developed performance measurement systems of their own. The proposal to drop the "70%" rule which requires more frequent reviews for State agencies where more than 70% of project areas are small was met with approval.

Based on the comments, the Department had decided to make several changes in this area. The final rule will: (1) Drop the "70%" rule and (2) adjust the size of project areas. Small project areas are redesignated as those with 2,000 or fewer households, medium 2,001-15,000, and large 15,001 and up. Despite the criticism by those who wished to extend the three year limits, FNS felt it was necessary to retain the minimum review frequency at three years in order not to lose program control. (It should be noted however, that a State agency with exceptional circumstances could request a formal waiver of this regulation, but those are not encouraged and would require more rigorous justification than for an alternate schedule).

The concepts of targeting and the alternate review schedule go hand in hand to allow State agencies and FNS to redirect their resources to areas with known deficiencies. FNS does not intend that these provisions be used to reduce the level of commitment of State agency resources to PRS activities, nor to discourage the occasional conducting of full reviews. FNS regional offices may occasionally conduct a full "top to bottom" State agency operations review (SAOR) of State agencies in their region. State agencies are also encouraged to conduct occasional full SAORs for the same reasons as indicated above. It should be emphasized that the above actions are optional, i.e., allowable but not required. (§ 275.5)

State Selection of a Representative Number of Subunits for Review

The proposed regulations would have deleted the detailed rules that specify how to select subunits for review. This proposal was intended to keep State agencies from being tied to performing a specific number of reviews and in a rigidly prescribed manner.

All comments on this proposed provision were positive. Therefore, this rule adopts the provision from the proposal. (§ 275.7)

Targeting

The proposal to provide for reviews to be performed only on targeted aspects of program operation—as selected by FNS annually—instead of on all aspects, received widespread enthusiastic support. No change in the wording of the proposed rule will be made. However, it is necessary to clear up a misunderstanding regarding the yearly targets provided by FNS. The FNS regional offices do not have the authority to exempt review of specific yearly national targets; however the "review" does not need to be a physical on-site review and analysis of a target area if the State agency has in place an effective objective performance measurement system which is periodically validated. A brief report providing the data obtained from the State agency's performance measurement system would constitute sufficient "review action" on that national target. (§ 275.8)

Announcing Annual Program Targets

Under the targeting approach discussed above it was proposed that national target be provided to State agencies by FNS 60 days prior to the beginning of the review period (the Federal fiscal year). However, one

commenter made the point that we are setting the same deadline (60 days before beginning of fiscal year) for both ME review schedules and for provision of the yearly targets. They argued that a State agency needs to have the yearly targets in hand and study them for some time before finalizing their ME review schedule for the coming review period. We agree. Consequently, the regulation has been changed. National targets for each upcoming fiscal year will be announced at least 90 days prior to the beginning of the fiscal year. This will mean that State agencies will have 30 days to review national targets before the due date for the review schedule. Targets for fiscal year 1987 are now in effect. (§ 275.8)

Additional Target Areas

The proposed regulations indicated that FNS may impose additional areas for review during the fiscal year in addition to the list of targeted areas announced prior to the beginning of the fiscal year. All comments received on this item were critical. The fear was that FNS would impose large numbers of additional target areas throughout the fiscal year, making State agency adherence to their review schedule difficult.

The intent of this section was not to create a channel for the adding of large numbers of new target areas, but to provide a mechanism that would allow the Department to meet new priorities or unforeseen problems during the fiscal year. Because of the necessity to have this flexibility, the Department is retaining the provision. However, it has been modified in several ways. First, the Department adopted one State agency's suggestion that State agencies be given a 60-day implementation period before they were responsible for beginning actual review of a newly mandated area. Second, the FNS national office will impose additional national target areas during a fiscal year only for deficiencies of national scope. While a regional office is authorized to require State agencies to review additional areas in addition to the national targets, this will be done only when these areas are directly related to deficiencies in a particular program area in that State. A regional office cannot, because of a deficiency in one State agency, establish a blanket requirement that all state agencies in that region add this program area as an additional targeted area of review. (§ 275.8)

Elimination of Specific Review Procedures

The proposed regulation eliminated the required detailed review method

procedures in the current regulations. Almost all comments were positive. The proposed regulation will not be changed. However, State agencies wishing to continue using the current detailed procedures may do so. (§ 275.9)

Prior Approval of Review Methodologies/Formats/Requirements by FNS

One commenter felt that prior FNS approval should be necessary for Methodologies, Formats, or Plan Requirements to emphasize uniformity among State agencies. This suggestion was not accepted as it runs counter to the administrative direction of the other provisions of the rule. (§ 275.9)

Elimination of FNS Approval of State Corrective Action Plans

The requirement that State Corrective Action Plans be approved in advance by FNS was proposed to be eliminated. Response to this proposal was mixed though more were in favor than opposed. Among those favoring the proposed rule, it was the feeling that this provision would eliminate some of the paperwork and enable them to more quickly get to work on performing the required corrective actions, thus saving valuable time and resources that would otherwise be spent on obtaining or waiting for Federal approval. Of those that disliked the proposal, the basic argument was that FNS was going back on its responsibility to insure that programs were operated in the best way possible. One State agency made the specific point that FNS, because it had knowledge of large numbers of corrective action plan initiatives in other State agencies, was in the best possible position to estimate whether a State agency's corrective action plan might succeed—or whether a different approach was known to be more effective. A number of commenters wanted to retain FNS approval responsibility for general "compliance" issues, but eliminate FNS approval for QC-related corrective action items. The Department carefully considered the arguments raised by the commenters and decided to retain the language of the proposed rule. Thus, State agencies' corrective action plans (CAPs) will no longer need to be approved in advance by FNS.

There seemed to be some concern on the part of commenters that the elimination of the requirement that State agencies obtain approval of their CAPs would mean a withdrawal of FNS from the corrective action process. This is not the intention of the rule nor of FNS. State agencies' CAPs will still be reviewed by FNS. If a State agency

wants an FNS regional office to review and comment on its CAP, it may request such action. Even if such a request is not made, any shortcomings discovered by FNS will be pointed out to State agencies. Suggestions for changes based on regional office knowledge of the success or failure of other State agencies confronted with similar problems will continue to be made. (§ 275.17)

Definition of a Statewide Trend

The proposed rule solicited comment on a possible revision of the current definition of "Statewide trend." Currently this term is defined as a deficiency occurring in a significant number, usually 25 percent, of the State agency's project areas/management units. The term had been included to define the concept of a widespread or systemic problem that needed addressing at a level above the single project area or management unit. It was a way to differentiate between deficiencies, indicating which warranted State agency and FNS attention and which should be left at the local level for handling. With the change to a targeting approach to doing reviews, this differentiation is no longer needed. Therefore, the term "Statewide trend" is dropped from the rules. Likewise, the term "patterns of errors", included in the rules for similar reasons, is also being dropped. (In addition, the reference in the rules to deficiencies resulting from State agency causal factors was dropped. It was felt that this provision was redundant.) (§ 275.16(b))

Frequency of State Corrective Action Plan Update

Currently, State agencies are required to submit changes to their CAPs because of a newly discovered deficiency within 60 days of the discovery. This requirement ensured that State agencies reacted quickly to newly discovered problems as well as ensured that FNS was appraised of them. The proposed rule would have changed this procedure. The proposal dropped the requirement for "non-cyclical" reporting and substituted a procedure requiring periodic reports. By making this change, the constant flow of paperwork characteristic of the current system would be ended. In its place, a more easily tracked and managed report would be sent in at regular intervals.

This proposal met with a mixed reaction from commenters. Most commenters agreed with the proposal, believing that the cycling of information into periodic reports eased the reporting burden. A few disagreed, preferring the ability to go ahead and focus attention

on particular problems and sending in the necessary reports as the problems arose.

The proposed rule, in putting forth the concept of periodic updates as an alternative, solicited comments on what frequency of the updates should be. Some suggested "periodic updates" should be no more often than yearly, an equal number favored twice yearly. Only a few favored updates more often than twice yearly.

The final regulation requires CAP updates semiannually, to be received by FNS by May 1st and November 1st. The update will include followups on items previously submitted and corrective actions for deficiencies discovered since the last submission. FNS retains the authority to require immediate reporting of any specific CAP when necessary. Deficiencies needing immediate attention as discovered in individual audits or reviews should continue to be handled on a prompt basis. Wording to this effect in the introductory paragraph to § 275.3, which was inadvertently deleted, will be restored. (§ 275.17)

No Corrective Action Plan Needed To Implement Regulations

The proposed rule required that an initial Corrective Action Plan be provided to FNS within 90 days after publication of the rule. All commenters were negative about this requirement pointing out there was insufficient rationale for requiring an initial CAP. Each State agency already has a fully functional CAP, updates are made on a periodic basis, and none of the proposed rules taken singly or as a unit would change anything that would trigger a need for a new CAP. Requiring such a CAP was seen as a step backwards in the effort to eliminate unnecessary paperwork and out of conformity with the general direction of the rule. Therefore, the requirement for an initial CAP has been dropped.

Quality Control

The Department proposed several changes to the quality control portion of the PRS regulations. Nineteen State and local agencies and FNS regional offices commented on these proposed changes. Most commenters supported the changes concerning: (1) Deleting FNS validation of the active case error rate; (2) excluding disaster cases from the negative universe; (3) changing the submittal dates for the forms FNS-247 and FNS-248; (4) correcting § 275.25(d)(2) to say "prior fiscal year" instead of "applicable period"; and (5) correcting § 275.25(d)(2) to say "less than five percent" instead of "five percent or less". Therefore, in this rule,

the Department is making the changes as proposed. In addition, we are adding a provision stating that the validation review of each State agency's underissuance error rate shall occur as a result of the Federal validation of the State agency's payment error rate. This revises the provision stating that the validation review of each State agency's underissuance error rate shall occur as a result of the Federal validation of the State agency's active case error rate.

The Department proposed to add a clarifying statement to § 275.3(c) which provided for FNS validation reviews against the Food Stamp Act and the regulations, taking into account any FNS-authorized waivers to deviate from specific regulatory provisions. Seven commenters opposed this provision either because they felt that reviews should be conducted against State policy or because timeframes for regulatory implementation are too short for State agencies to accomplish. As was discussed in the preamble of the proposed rule, this provision is being placed in the regulations at § 275.3(c) solely to emphasize that Federal reviews will meet the same standards as State reviews. State agencies are already required by § 275.10 of the regulations to conduct reviews against the standards established in the Food Stamp Act and the regulations, taking into account any FNS-authorized waivers. This provision is discussed in the preamble of the final rule on February 17, 1984 at 49 FR 6294. The Department has kept the provision as proposed.

The Department also proposed to require that a State agency determine a household ineligible if the household refuses to cooperate with a Federal quality control reviewer. Seven commenters supported the proposal; two were opposed. Several commenters requested clarification about the status of the quality control case. When the Federal reviewer refers a household for termination from the program for refusal to cooperate, the reviewer would continue to try to complete the case. The case would be determined complete or incomplete depending on whether the Federal reviewer was able to complete the case without the household's cooperation.

One commenter was concerned that the household's rights were not addressed. The household has the right to request a fair hearing for a termination for refusal to cooperate with a Federal reviewer just as the household has for any other negative action. FNS will assist the State agency in the hearing process.

Two commenters pointed out that the timeframes in § 273.2(d)(2) were not compatible with the Federal review timeframes as Federal reviews are still being conducted more than 95 days after the end of the annual review period. We have revised § 273.2(d)(2) to provide appropriate timeframes for refusal to cooperate with Federal reviews.

The Department has also revised § 273.2(d)(2) to refer to the verification provisions of the regulations (§ 273.2(f)) and added a provision to the mandatory verification rules specifying the verification requirements for households that refused to cooperate with State or Federal QC reviewers.

In addition, we have corrected two typographical errors in §§ 275.11(b)(1)(ii) and 275.12(c).

FNS Right To Start a Sanction Even When State Has Addressed a Deficiency in Their CAP

Only two comment letters address this issue (both against). One commenter suggested that FNS should wait until after evaluation of a State agency's CAP before starting a sanction. This has been the usual procedure in the past and will likely be the method adopted for most issues. However, FNS determined it was necessary to have authority to begin the warning process immediately where past State agency performance has been poor or the deficiency is serious. Therefore, the provisions have been retained. (§ 275.17(d))

Review Periods

A number of comment letters indicated that there was confusion as to what period of time the "review period" covered. Although some concluded that the review period was equivalent to the Federal fiscal year (which is correct) they felt that it should be equivalent to the State fiscal or budget year in those State agencies where these varied from the Federal. In response, it must be noted that the Food Stamp Act requires that QC reviews be done on Federal fiscal year schedule. Therefore, no change was made. (§ 275.8(a))

SAORS for State Agencies With Under 5 Percent Error

One commenter proposed that State agencies with error rates under 5 percent be exempt from SAORS. This was accepted since SAORS are not only for review of functions which affect the QC error rate but also for other operational functions as well.

Division of Corrective Action Plans into Separate QC and Compliance Issue CAPs and Related Issues

A number of commenters suggested that there should be two separate CAPs, one for QC issues and one for all other "operational" or compliance issues. According to the commenters, the reasons to do this is that the sources of information for the two areas as well as the action required are distinctly different. The Department seriously examined this suggestion but decided it would be confusing to require two separate CAPs. However, if it would be useful as an internal organizational aid, State agencies may divide a single CAP into two sections, one dealing strictly with issues directly related to the QC error rate, and one related to all other operational management compliance issues. This might possibly assist in organizing CAPs, particularly when different divisions in State agencies have separate responsibilities for each aspect of the total plan. A related issue was raised whether a State agency with an error rate under 5 percent needs to prepare a CAP at all. No change was made in this provision. The rules still require a CAP from those State agencies since assumedly there could be some compliance issue needing attention. However, because of the low error rate, QC-related issues may not need to be addressed in such a CAP.

Miscellaneous Minor Changes

On the following issues, the majority of comments were highly favorable and the proposed regulation language will be retained intact: (1) Deletion of requirements to use error prone profiles and certain QC results, and (2) the change in the frequency of Federal ME reviews from annual to biennial. (§ 275.3)

The following minor changes have been made in response to comments received: (1) The requirements for requesting an alternate schedule have been simplified (§ 275.5(b)(2)), (2) non-discrimination reviews may continue, at State agency option, to be addressed through the ME process (§ 275.9(b)(1)(iv)), and (3) "GAO and Contract Audits" will be added to the list of sources of findings in § 275.16.

Implementation

Within 30 days after the date of publication of this rule, all State agencies shall have converted from the old PRS to the new system based on this rule. All waivers and review schedules for Fiscal Year 1987 shall remain in force for the remainder of this fiscal year. Any State agency that wishes may

request a change in its waivers or review schedules in order to implement earlier than Fiscal Year 1988. One commenter raised the issue of existing waivers and their applicability, particularly in regard to targeting, once the new regulations are in effect. Most waivers that have been granted for this fiscal year will become moot upon publication of this rule. This is especially true of the targeting waivers. However, there may be some small differences between these rules and some current waivers. Rather than cause all State agencies to reapply for waivers to maintain these small differences, the Department has decided to consider all waivers in effect until the end of this fiscal year. If a State agency wishes to cease following an approved waiver procedure before then, it should notify its Regional office of the change it wants to make and negotiate a timeframe for making the change.

The first periodic Corrective Action Plan update due to FNS under this rule shall be submitted by May 1, 1987. This should cover all outstanding deficiencies in the State agencies' operations.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food Stamps, Grant programs—social programs

7 CFR Part 272

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

7 CFR Part 273

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

7 CFR Part 275

Administrative practice and procedure, Food stamps, Reporting and recordkeeping requirements.

7 CFR Part 276

Administrative practice and procedure, Food stamps, Fraud, Grant programs—social programs, Penalties.

Accordingly, Parts 271, 272, 273, 275, and 276 are amended as follows:

1. The authority citation for Parts 271, 272, 273, 275, and 276 continues to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2029).

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2, the definitions of "Large project area", "Medium project area", and "Small project area", are revised to read as follows:

§ 271.2 Definitions.

"Large project area" means those project areas/management units with monthly active caseloads of more than 15,000 households based on the most current information available at the time the large project area review schedule is developed.

"Medium project area" means those project areas/management units with monthly active caseloads of 2,001 to 15,000 households based on the most current information available at the time the medium project area review schedule is developed.

"Small project area" means those project areas/management units with monthly active caseloads of 2,000 households or fewer based on the most current information available at the time the small project area review schedule is developed.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

3. In § 272.1, the first sentences in paragraph (d)(1) and paragraph (d)(2) are revised and a new paragraph (g)(71) is added to read as follows:

§ 272.1 General terms and conditions

(d) *Information Available to the Public.* (1) Federal regulations, Federal procedures embodied in FNS notices and policy memos, State Plans of Operation, and corrective action plans shall be available upon request for examination by members of the public during office hours at the State agency headquarters as well as at FNS regional and national offices. * * *

(2) Copies of regulations, plans of operation, State manuals, State corrective action plans, and Federal procedures may be obtained from FNS in accordance with Part 295 of this chapter. * * *

(g) *Implementation.* * * * (71) *Amendment No. 266.* The provisions contained in Amendment No. 266 shall be implemented by March 6, 1987.

(i) All Fiscal Year 1987 review schedules shall continue in force despite

the implementation of these provisions. However, a State agency may, at its option, seek a change in that schedule.

(ii) Waivers shall remain in force until their expiration. If a State agency wishes to cancel a waiver it should contact its Regional Office and negotiate whatever change it needs.

(iii) The first periodic Corrective Action Plan update required by this amendment shall be submitted by May 1, 1987.

4. In § 272.2, the eighth sentence is removed from paragraph (a)(2).

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

5. In § 273.2, paragraph (d)(2) is revised, a new paragraph (f)(1)(ix) is added and paragraph (f)(3)(ii) is amended by removing the words "in accordance with § 275.15(a)(2)" from the first sentence. The revision to (d)(2) and the new paragraph (f)(1)(ix), read as follows:

§ 273.2 Application Processing.

(d) *Household cooperation.* * * *

(2) *Cooperation with QC Reviewer.* In addition, the household shall be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility as a part of a quality control review. If a household is terminated for refusal to cooperate with a quality control reviewer, in accordance with § 275.3(c)(5) or § 275.12(g)(1)(ii), the household may reapply, but shall not be determined eligible until it cooperates with the quality control reviewer. If a household terminated for refusal to cooperate with a State quality control reviewer reapplies after 95 days from the end of the annual review period, the household shall not be determined ineligible for its refusal to cooperate with a State quality control reviewer during the completed review period, but must provide verification in accordance with § 273.2(f)(1)(ix). If a household terminated for refusal to cooperate with a Federal quality control reviewer reapplies after seven months from the end of the annual review period, the household shall not be determined ineligible for its refusal to cooperate with a Federal quality control reviewer during the completed review period, but must provide verification in accordance with § 273.2(f)(1)(ix).

(f) *Verification.* * * *

(1) *Mandatory verification.* * * *

(ix) State agencies shall verify all factors of eligibility for households who

have been terminated for refusal to cooperate with a State quality control reviewer, and reapply after 95 days from the end of the annual review period. State agencies shall verify all factors of eligibility for households who have been terminated for refusal to cooperate with a Federal quality control reviewer and reapply after seven months from the end of the annual review period.

PART 275—PERFORMANCE REPORTING SYSTEM

6. In § 275.1, the parenthetical expression "(of which the State corrective action plan is a part)" is removed from the last sentence in paragraph (a) and paragraph (b) is revised. The revision to paragraph (b) reads as follows:

§ 275.1 General scope and purpose.

(b) The Food Stamp Act authorizes the Secretary to pay each State agency an amount equal to 50 percent of all administrative costs involved in each State agency's operation of the program. The Act further authorizes the Secretary to increase the share to 60 percent of all administrative costs for State agencies whose combined payment error rate and underissuance error rate is, as determined by quality control, less than five percent and whose negative case error rate is less than the national weighted mean negative case error rate for the prior fiscal year. Those State agencies whose combined payment and underissuance error rates are five percent or more are required to specify and carry out the corrective action which they propose to take to reduce errors.

7. In § 275.2 paragraph (a)(2) is revised as follows:

§ 275.2 State agency responsibilities.

(a) *Establishment of the Performance Reporting System* * * *

(2) The State agency must ensure corrective action is effected at the State and project area levels.

8. In § 275.3, the introductory paragraph is revised. Paragraphs (a), (b), and (d) are revised. Introductory paragraph (c) is revised, the title and introductory paragraph of (c)(1) are revised, paragraph (c)(2) is removed, paragraphs (c)(3), (c)(4), and (c)(5) are redesignated as (c)(2), (c)(3), and (c)(4), respectively, the redesignated paragraph (c)(2) is revised, and a new paragraph (c)(5) is added. The revisions read as follows:

§ 275.3 Federal monitoring.

The Food and Nutrition Service shall conduct the review described in this section to determine whether a State agency is operating the Food Stamp Program and the Performance Reporting System in accordance with program requirements. The Federal reviewer may consolidate the scheduling and conduct of these reviews to reduce the frequency of entry into the State agency. FNS regional offices will conduct additional reviews to examine State agency and project area operations, as considered necessary to determine compliance with program requirements. FNS shall notify the State agency of any deficiencies detected in program or system operations. Any deficiencies detected in program or system operations which do not necessitate long range analytical and evaluative measures for corrective action development shall be immediately corrected by the State agency. Within 60 days of receipt of the findings of each review established below, State agencies shall develop corrective action addressing all other deficiencies detected in either program or system operations and shall ensure that the State agency's own corrective action plan is amended and that FNS is provided this information at the time of the next formal semiannual update to the State agency's Corrective Action Plan, as required in § 275.17.

(a) *Reviews of State Agency's Administration/Operation of the Food Stamp Program.* FNS shall conduct an annual review of certain functions performed at the State agency level in the administration/operation of the program. FNS will designate specific areas required to be reviewed each fiscal year.

(b) *Reviews of State Agency's Management Evaluation System.* FNS will review each State agency's management evaluation system on a biennial basis; however, FNS may review a State agency's management evaluation system on a more frequent basis if a regular review reveals serious deficiencies in the ME system. The ME review will include but not be limited to a determination of whether or not the State agency is complying with FNS regulations, an assessment of the State agency's methods and procedures for conducting ME reviews, and an assessment of the data collected by the State agency in conducting the reviews.

(c) *Validation of State Agency Error Rates.* FNS shall validate each State agency's payment error rate and underissuance error rate, as described in § 275.23(c), during each annual quality control review period. Federal

validation reviews shall be conducted by reviewing against the Food Stamp Act and the regulations, taking into account any FNS-authorized waivers to deviate from specific regulatory provisions. FNS shall validate the State agency's negative case error rate, as described in § 275.23(d), only when the State agency's payment and underissuance error rates for an annual review period appear to entitle it to an increased share of Federal administrative funding for that period as outlined in § 277.4(b)(2), and its reported negative case error rate for that period is less than the national weighted mean negative case error rate for the prior fiscal year. Any deficiencies detected in a State agency's QC system shall be included in the State agency's corrective action plan. The findings of validation reviews shall be used as outlined in § 275.23(e)(6).

(1) *Payment error rate.* The validation review of each State agency's payment error rate shall consist of the following actions: * * *

(2) *Underissuance error rate.* The validation review of each State agency's underissuance error rate shall occur as a result of the Federal validation of the State agency's payment error rate as outlined in paragraph (c)(1) of this section. * * *

(5) *Household cooperation.* Households are required to cooperate with Federal QC reviewers. Refusal to cooperate shall result in termination of the household's eligibility. The Federal reviewer shall follow the procedures in § 275.12(g)(1)(ii) in order to determine whether a household is refusing to cooperate with the Federal QC reviewer. If the Federal reviewer determines that the household has refused to cooperate, as opposed to failed to cooperate, the household shall be reported to the State agency for termination of eligibility.

(d) *Assessment of Corrective Action.* (1) FNS will conduct will conduct a comprehensive annual assessment of a State agency's corrective action process by compiling all information relative to that State agency's corrective action efforts, including the State agency's system for data analysis and evaluation. The purpose of this assessment and review is to determine if: identified deficiencies are analyzed in terms of causes and magnitude and are properly included in either the State or Project Area/Management Unit corrective action plan; the State agency is implementing corrective actions according to the appropriate plan; target completion dates for reduction or elimination of deficiencies are being

met; and, corrective actions are effective. In addition, FNS will examine the State agency's corrective action monitoring and evaluative efforts. The assessment of corrective action will be conducted at the State agency, project area, and local level offices, as necessary.

(2) In addition, FNS will conduct on-site reviews of selected corrective actions as frequently as considered necessary to ensure that State agencies are implementing proposed corrective actions within the timeframes specified in the State agency and/or Project Area/Management Unit corrective action plans and to determine the effectiveness of the corrective action. The on-site reviews will provide State agencies and FNS with a mechanism for early detection of problems in the corrective action process to minimize losses to the program, participants, or potential participants.

9. In § 275.5, paragraph (b) is revised and paragraph (c) is removed. The revision reads as follows:

§ 275.5 Scope and purpose.

* * *

(b) *Frequency of review.* (1) State agencies shall conduct a review once every year for large project areas, once every two years for medium project areas, and once every three years for small project areas, unless an alternate schedule is approved by FNS. The most current and accurate information on active monthly caseload available at the time the review schedule is developed shall be used to determine project area size.

(2) A request for an alternate review schedule shall be submitted for approval in writing with a proposed schedule and justification. In any alternate schedule, each project area must be reviewed at least once every three years. Approval of an alternate schedule is dependent upon a State agency's justification that the project areas that will be reviewed less frequently than required in paragraph (b)(1) of this section are performing adequately and that previous reviews indicate few problems or that known problems have been corrected. FNS retains the authority for approving any alternate schedule and may approve a schedule in whole or in part. Until FNS approval of an alternate schedule is obtained, the State agency shall conduct reviews in accordance with paragraph (b)(1) of this section.

(3) FNS may require the State agency to conduct additional on-site reviews when a serious problem is detected in a project area which could result in a substantial dollar or service loss.

(4) State agencies shall also establish a system for monitoring those project areas' operations which experience a significant influx of migratory workers during such migrations. This requirement may be satisfied by either scheduling ME reviews to coincide with such migrations or by conducting special reviews. As part of the review the State agency shall contact local migrant councils, advocate groups, or other organizations in the project area to ensure that migrants are receiving the required services.

§ 275.6 [Amended]

10. In § 275.6, paragraph (a) is amended by removing the last two words of the third sentence and substituting "for purposes of frequency of review" and by removing "or sampling requirements" in the last sentence.

11. In § 275.7 paragraphs (b) and (e) are revised and (f) is removed. The revised paragraphs read as follows:

§ 275.7 Selection of sub-units for review.

* * *

(b) *Reviewing issuance Offices and Bulk Storage Points.* The issuance office and bulk storage point review required by § 274.1(c)(2) of this chapter may be satisfied through the ME review system. * * *

(e) *Selection of Sub-units for Review.* State agencies shall select a representative number of sub-units of each category for on-site review in order to determine a project area's compliance with program standards.

12. Section 275.8 is revised to read as follows:

§ 275.8 Review coverage.

(a) During each review period, State agencies shall review the national target areas of program operation specified by FNS. FNS will notify State agencies of the minimum program areas to be reviewed at least 90 days before the beginning of each annual review period, which is the Federal fiscal year. FNS may add additional areas during the review period if deemed necessary. The FNS headquarters office will add national target areas during the review period only for deficiencies of national scope. State agencies would have 60 days in which to establish a plan schedule for such reviews.

(b) State agencies shall be responsible for reviewing each national target area or other program requirement based upon the provisions of the regulations governing the Food Stamp Program and the FNS-approved Plan of Operation. If FNS approves a State agency's request

for a waiver from a program requirement, any different policy approved by FNS would also be reviewed. When, in the course of a review, a project area is found to be out of compliance with a given program requirement, the State agency shall identify the specifics of the problem including: the extent of the deficiency, the cause of the deficiency, and, as applicable, the specific procedural requirements the project area is misapplying.

13. In § 275.9, paragraphs (a), (b), and (c) are revised, paragraphs (d), (e), and (f) are removed, and paragraph (g) is redesignated as paragraph (d) and is amended by removing the words "to be approved by FNS." The revised paragraphs (a), (b), and (c) read as follows:

§ 275.9 Review process.

(a) *Review procedures.* State agencies shall review the program requirements specified for review in § 275.8 of this part using procedures that are adequate to identify problems and the causes of those problems. As each project area's operational structure will differ, State agencies shall review each program requirement applicable to the project area in a manner which will best measure the project area's compliance with each program requirement.

(b) *ME review plan.* (1) State agencies shall develop a review plan prior to each ME review. This review plan shall specify whether each project area is large, medium, or small and shall contain:

(i) Identification of the project area to be reviewed, program areas to be reviewed, the dates the review will be conducted, and the period of time that the review will cover;

(ii) Information secured from the project area regarding its caseload and organization;

(iii) Identification of the certification offices, issuance offices, bulk storage points, reporting points, and data management units selected for review and the techniques used to select them;

(iv) Identification of whether the State agency is using the ME review to monitor coupon issuers and bulk storage points as discussed § 274.1(c)(2). At State agency option it may also indicate whether the State agency is using the ME review process to perform non-discrimination reviews; and

(v) A description of the review method(s) the State agency plans to use for each program area being reviewed.

(2) ME review plans shall be maintained in an orderly fashion and be made available to FNS upon request.

(c) *Review methods.* (i) State agencies shall determine the method of reviewing the program requirements associated with each program area. For some areas of program operation it may be necessary to use more than one method of review to determine if the project area is in compliance with program requirements. The procedures used shall be adequate to identify any problems and the causes of those problems.

(2) State agencies shall ensure that the method used to review a program requirement does not bias the review findings. Bias can be introduced through leading questions, incomplete reviews, incorrect sampling techniques, etc.

14. In § 275.11, paragraph (b)(1)(ii) is amended by replacing, in the table, "59,000" with "59,999" and (f)(2) is amended by redesignating paragraphs (ii) and (iii) as (iii) and (iv), respectively and by adding a new paragraph (ii). The new paragraph (ii) reads as follows:

§ 275.11 Sampling

(f) *Sample Universe.* * * *

(2) *Negative Cases.* * * *

(ii) A household denied food stamps under a disaster certification authorized by FNS;

§ 275.15 [Amended]

15. In § 275.15, paragraph (a)(1) is redesignated as (a), paragraphs (a)(2), (a)(3), and (d) are removed, and paragraphs (e), (f) and (g) are redesignated as (d), (e) and (f) respectively.

16. In § 275.16, paragraph (a) is amended by removing "with FNS approval," and the commas before and after it in the first sentence. Paragraphs (b) and (d) are revised to read as follows:

§ 275.16 Corrective action planning.

(b) The State agency and project area(s)/management unit(s), as appropriate, shall implement corrective action on all identified deficiencies. Deficiencies requiring action by the State agency or the combined efforts of the State agency and the project area(s)/management unit(s) in the planning, development, and implementation of corrective action are those which:

(1) Result from evaluation of yearly targets (actions to correct errors in individual cases however, shall not be submitted as part of the State agency's corrective action plan);

(2) Are the cause for combined payment and underissuance error rates

of five percent or more for any reporting period (actions to correct errors in individual cases, however, shall not be submitted as part of the State agency's corrective action plan);

(3) Are the causes of other errors/deficiencies detected through quality control, including error rates of 1 percent or more in negative cases (actions to correct errors in individual cases, however, shall not be submitted as part of the State agency's corrective action plan);

(4) Are identified by FNS reviews, GAO audits, contract audits, or USDA audits or investigations at the State agency or project area level (except deficiencies in isolated cases as indicated by FNS); and,

(5) Result from 5 percent or more of the State agency's QC sample being coded "not complete" as defined in § 275.12(g)(1) of this part. This standard shall apply separately to both active and negative samples.

(d) In planning corrective action, the State agency shall coordinate actions in the areas of data analysis, policy development, quality control, program evaluation, operations, administrative cost management, civil rights, and training to develop appropriate and effective corrective action measures.

17. In § 275.17, paragraph (a) is revised and new paragraphs (c) and (d) are added to read as follows:

§ 275.17 State corrective action plan.

(a) State agencies shall prepare corrective action plans addressing those deficiencies specified in § 275.16(b) requiring action by the State agency or the combined efforts of the State agency and the project area(s)/management unit(s). This corrective action plan is an open-ended plan and shall remain in effect until all deficiencies in program operations have been reduced substantially or eliminated. State agencies shall provide updates to their corrective action plans through regular, semiannual updates. These semiannual updates shall be received by FNS by May 1st and November 1st respectively. Such updates must contain:

(1) Any additional deficiencies identified since the previous corrective action plan update;

(2) Documentation that a deficiency has been corrected and is therefore being removed from the plan; and

(3) Any changes to planned corrective actions for previously reported deficiencies.

(c) FNS will provide technical assistance in developing corrective

action plans when requested by State agencies.

(d) State agencies will be held accountable for the efficient and effective operation of all areas of the program. FNS is not precluded from issuing a warning as specified in Part 276 because a deficiency is included in the State agency's corrective action plan.

18. Section 275.20, is revised in its entirety to read as follows:

§ 275.20 ME review schedules.

(a) Each State agency shall submit its review schedule to the appropriate FNS regional office at least 60 days prior to the beginning of the next year's review period (the Federal fiscal year). These schedules must ensure that all project areas/management units will be reviewed within the required time limits. Each schedule shall identify the project areas/management units in each classification and list each project area to be reviewed by month or by quarter. A State agency may submit a request to use an alternate review schedule at any time. The alternate schedule shall not be effective until approved by FNS in accordance with § 275.5(b)(2).

(b) State agencies shall notify the appropriate FNS regional office of all changes in review schedules.

§ 275.21 [Amended]

19. In § 275.21, paragraphs (c) and (d) are amended by replacing "95" with "105".

§ 275.22 [Removed]

§§ 275.23 and 275.25 [Redesignated as § 275.22 and 275.23]

20. Section 275.22 is removed. Section 275.23 is redesignated § 275.22. Section 275.25 is redesignated § 275.23. In the newly redesignated § 275.23, the word "FNS-approved State manuals" are removed from paragraph (a)(1). The words "active case error rate," are removed from paragraph (d)(1)(i). Finally, in paragraph (d)(2), the words "five percent or less" are replaced with the words "less than five percent" and the words "applicable to the period of enhanced funding" are replaced with the words "for the prior fiscal year".

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

§ 276.4 [Amended]

21. In § 276.4, the third sentence in the introductory paragraph of (d) and the second sentence in (d)(2) are amended by replacing the words "an FNS-approved" with the word "a".

Dated: January 28, 1987.

Robert E. Leard,
Administrator, Food and Nutrition Service.
[FR Doc. 87-2057 Filed 2-3-87; 8:45 am]
BILLING CODE 3410-30-M

7 CFR Parts 272 and 273

[Amendment No. 283]

Food Stamp Program; Supplemental Security Income and Social Security Provisions of the Food Security Act of 1985

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule and corrections.

SUMMARY: This action finalizes interim Food Stamp Program regulations which implemented a provision of the Food Security Act of 1985. The interim rule reinforced and strengthened the regulations in regard to Food Stamp Program services in Social Security Administration offices. This rule also corrects typographical errors which appeared in the interim rule.

In addition, this rule corrects two erroneous citations which appeared in an interim rule published August 5, 1986, entitled "Food Stamp Program: Categorical Eligibility for Certain Public Assistance and Supplemental Security Income Recipients". The rule also corrects a typographical error which appeared in a final rule published May 21, 1986, entitled "Food Stamp Program: The Food Security Act of 1985; Nondiscretionary Provisions; Final Rule and Correction".

DATES: This regulation is effective October 1, 1986.

FOR FURTHER INFORMATION CONTACT:

If there are any questions, please contact Judith M. Seymour, Supervisor, Certification Rulemaking Section, Eligibility and Monitoring Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 706, Alexandria, Virginia 22302; (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291 and Secretary's Memorandum 1512-1

This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1521-1. The rule will not result in an annual economic impact of more than \$100 million or major increases in costs or prices nor will it have a significant adverse effect on competition, employment, productivity,

investment, or foreign trade. Further, the rule is unrelated to the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the rule has been classified as "nonmajor."

Executive Order 12372

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

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612). Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action does not have a significant economic impact on a substantial number of small entities. This rule finalizes a provision from the Food Security Act of 1985 which does not represent a major change in application processing or operational policy.

Paperwork Reduction Act

This rulemaking does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

Introduction

On June 9, 1986, the Department published interim regulations (51 FR 20793) which implemented amendments made by section 1531 of the Food Security Act of 1985 (99 Stat. 1582, December 23, 1985) that reinforced and strengthened former regulations in regard to Food Stamp Program services in Social Security Administration (SSA) offices. The rule specified that all Title II Social Security applicants/recipients must be informed of the availability of Food Stamp Program benefits and informed of the availability of a simple application to participate in the Program at Social Security Administration (SSA) offices. No processing of the application, as is required for Supplemental Security Income (SSI) applicants, is required for these Title II applicants/recipients.

An explanation of the rationale and purposes of this rule was provided in the preamble to the interim rulemaking.