Income Tax Treaty; U.S. and Portugal

The Treasury Department today announced that negotiations of a proposed income tax treaty between the United States and Portugal are scheduled to take place in Washington during the week of April 3–7, 1989.

There is not now an income tax treaty in effect between the United States and Portugal. The negotiations will take as their starting point the model draft texts published by the United States and the Organization for Economic Cooperation and Development. They will also take into account the U.S. Tax Reform Act of 1986 and recent treaties concluded by each country. The issues to be discussed include the taxation of income from business, investment, and employment derived in one coutnry by residents of the other, provisions to ensure nondiscrimination and the avoidance of double taxation, and provisions for administrative cooperation between the tax authorities of the two countries.

Interested persons are invited to send written comments concerning the forthcoming negotiations to Leonard Terr, International Tax Counsel, U.S. Treasury, Room 3064, Washington, DC 20220.

Dennis E. Ross,

(Acting) Assistant Secretary (Tax Policy).

[FR Doc. 89-3494 Filed 2-14-89; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Voluntary Service National Advisory Committee; Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Voluntary Service National Advisory Committee has been renewed for a two year period beginning January 24, 1989 through January 24, 1991.

Dated: January 30, 1989.

By direction of the Acting Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 89-3476 Filed 2-14-89; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Cemeteries and Memorials; Meeting

The Veterans Administration gives notice that a meeting of the Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 1001, will be held at the Scottsdale Hilton Hotel, 6333 N. Scottsdale Road, Scottsdale, Arizona 85253, on April 14, 1989.

The session will begin at 1:30 p.m. to conduct routine business. The meeting will be open to the public up to the seating capacity which is about twenty persons. Those wishing to attend should contact Mrs. Ann Stone, Staff Assistant, National Cemetery System, (phone 202–233–2396) not later than 12 noon, EST March 24, 1989.

Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Director, National Cemetery System (40) at 810 Vermont Avenue, NW., Washington, DC 20420. In any such letters, the writers must fully indentify themselves and state the organization or association or person they represent. Also, to the extent practicable, letters should indicate the subject matter they want to discuss. Oral presentations should be limited to 10 minutes in duration. Those wishing to file written statements to be submitted to the Committee must also mail, or otherwise deliver, them to the Director, National Cemetery System.

Letters and written statements as discussed above must be mailed or delivered in time to reach the Director, National Cemetery System by 12 noon EST March 24, 1989. Oral statements will be heard only between 1:30 p.m. and 2:00 p.m.

Dated: February 7, 1989.

By direction of the Acting Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 89-3474 Filed 2-14-89; 8:45 am]

BILLING CODE 8320-01-M

VETERANS ADMINISTRATION

Veterans' Advisory Committee on Environmental Hazards; Meeting

The Veterans Administration gives notice under Pub. L. 92–463, section 10(a)(2), that a meeting of the Veterans Advisory Committee on Environmental Hazards will be held at the Veterans' Administration Central Office, 810 Vermont Avenue NW., Washington, DC 20420 on April 25 and 26, 1989. The purposes of the Committee are to review the scientific and medical literature relating to the possible health effects resulting from exposure to dioxin and ionizing radiation and to assist in the development of Agency policy with respect to veterans' claims for compensation based upon exposure.

The meeting will convene at 9:00 a.m. both days in the Omar Bradley Conference Room. This meeting will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Ms. Sylvia Arrington, Veterans Administration Central Office (phone 202/233–2115) prior to April 17, 1989.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. Frederic L. Conway, Special Assistant to the General Counsel, Room 1034, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Dated: February 7, 1989.

By direction of the Acting Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 89-3475 Filed 2-14-89; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 30
Wednesday, February 15, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, February 22, 1989 at 12:00 noon.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Certain wire electrical discharge machining apparatus and components thereof (Docket No. 1484).
   b. Certain insulated security chests (Docket No. 1485).
   c. Certain novelty teleidoscopes (Docket No. 1486).
5. Inv. No. 731-TA-429 (P) (Mechanical transfer presses from Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Kenneth Romason,
Secretary.
February 9, 1989.
[FR Doc. 89-3581 Filed 2-10-89; 4:54 pm]
BILLING CODE 7020-02-M

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting of the Board of Directors

TIME AND DATE: 4:00 p.m.—Tuesday, February 21, 1989.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street NW., Eighth Floor—Large Conference Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Martha A. Diaz-Ortiz, Assistant Secretary 376-2400.

AGENDA:

I. Call to Order and Remarks of Chairman
II. Approval of Minutes, November 22, 1988
III. Executive Director's Activity Report—General Update
IV. Budget Committee Report—Approval of FY 1989 Budget Allocations
V. Audit Committee Report
  a. Acceptance of Outside Audit Report
  b. Review of Investment and Banking Policies
VI. Treasurer's Report

Carol J. McCabe,
Secretary.
[FR Doc. 89-3630 Filed 2-13-89; 1:29 pm]
BILLING CODE 7570-02-M

RAILROAD RETIREMENT BOARD

Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on February 22, 1989, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

Portion Open to the Public

(1) Proposed Changes in the RUIA Regulations (Status Report)
(2) Appeal of the Employer Status of the Trustees of Galveston Wharves

Portion Closed to the Public

(A) Appeal from Referee's Denial of Disability Annuity, Harold J. Blevins.

The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 386-4920.

Dated: February 10, 1989.

Beatrice Ezerski,
Secretary to the Board.
[FR Doc. 89-3615 Filed 2-13-89; 1:28 pm]
BILLING CODE 7905-01-M

Corrections

Federal Register
Vol. 54, No. 30
Wednesday, February 15, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/41C] (FRL-3510-3)

Linuron; Conclusion of the Special Review

Correction

In notice document 89-1935 appearing on page 4072 in the issue of Friday, January 27, 1989, make the following correction:

In the first column, under **SUPPLEMENTARY INFORMATION**, in the third line, "dichlorophenyl" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/48A; FRL-3509-3]

Preliminary Determination To Cancel Registrations of Carbofuran Products, Availability of Technical Support Document and Draft Notice of Intent To Cancel

Correction

In notice document 89-1584 beginning on page 3744 in the issue of Wednesday, January 25, 1989, make the following correction:

On page 3748, in the third column, in the first column of the table, in the second entry, "10G" should read "15G".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 163

[Docket No. 86P-0297/CP]

Cacao Products; Proposal To Amend the Standards of Identity

Correction

In proposed rule document 89-1561 beginning on page 3615 in the issue of Wednesday, January 25, 1989, make the following corrections:

1. On page 3616, in the third column, in item C, in the first paragraph, in the eighth line, "present" should read "percent".

§ 163.111 [Corrected]

2. On page 3619, in the 3rd column, in § 163.111(c)(1), in the 10th line, "filed" should read "filled".

§ 163.112 [Corrected]

3. On page 3620, in the second column, in § 163.112(d), in the fourth line, "label" was misspelled.

§ 163.117 [Corrected]

4. On the same page, in the third column, in § 163.117(a), in the second line, "manufacturing" was misspelled.

§ 163.123 [Corrected]

5. On the same page, in the third column, in § 163.123(a), in the fifth line, "sweeteners" was misspelled.

§ 163.140 [Corrected]

6. On page 3621, in the third column, in § 163.140(b), in the fourth line, "or" was misspelled.

§ 163.153 [Corrected]

7. On page 3622, in the second column, in § 163.153(a), in the second line, remove "and".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

[Project Announcement No. SSA-OP-89-1]

Federal Old-Age, Survivors, and Disability Insurance

Correction

In notice document 89-2684 beginning on page 5682 in the issue of Monday, February 6, 1989, make the following corrections:

1. On page 5684, in the second column, in the last paragraph, in the second line, after "the" insert "limits of".

2. On the same page, in the 3rd column, in the 20th line from the bottom, "date" should read "data".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-932-09-4214-10; A-061696]

Conformance to Survey; Alaska

Correction

In notice document 89-1312 beginning on page 3151 in the issue of Monday, January 23, 1989, make the following correction:

On page 3152, in the first column, under **Seward Meridian, Alaska**, in the third line, "50°14'" should read "55°14'".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 89-24]

Customs Regulations Amendments Concerning Overflight Exemptions for Private Aircraft

Correction

In rule document 89-2576 beginning on page 5427 in the issue of Friday, February 3, 1989, make the following corrections:

PART 122—[CORRECTED]

1. On page 5429, in the third column, in the **Authority** citation, in the second line "1456" should read "1459".

§ 122.25 [Corrected]

2. On the same page, in the same column, in § 122.25(b), in the third line, after "which", insert "the".

3. On page 5430, in the second column, in § 122.25(c)(6), in the second line, "application" was misspelled.

NOTE: For a Department of the Treasury correction to this document see the Rules section of this issue.

BILLING CODE 1505-01-D

federal register

Wednesday
February 15, 1989

Part II

Department of Agriculture

Food and Nutrition Service

7 CFR Part 271 et al.

Food Stamp Program; Food Stamp Issuance and Issuance Liability; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 274, 275 and 276

[Amdt. No. 271]

Food Stamp Program; Food Stamp Issuance and Issuance Liability Rule

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This Food Stamp Program rule makes final a proposed rule which constitutes the first comprehensive review of the Food Stamp Program's issuance and State agency issuance liability rules since they were first published in 1978 following enactment of the Food Stamp Act of 1977. The rule implements a reorganization of some sections of the current regulations, changes some current policies, and edits current language. Areas in which major policy changes are found include: current regulatory requirements for replacement of benefits, issuance reconciliation requirements, liabilities related to direct mail issuance of benefits and liabilities related to the use of authorization-to-participate (ATP) cards. This rule also implements provisions of the Food Security Act of 1985 (Pub. L. 99–198) regarding staggered issuance of benefits, photographic identification, and alternative issuance systems for State agencies. The effect of these changes will be to make specific provisions easier to locate, agency policies and statutory provisions more clearly stated, issuance liabilities more fully outlined and the regulatory language, in general, easier to understand.

EFFECTIVE DATE: This rule becomes effective April 1, 1989. For information on implementation dates see "Implementation" in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Marilyn Carpenter, Chief, State Administration Branch, Program Accountability Division, Food Stamp Program, Food and Nutrition Service (FNS), USDA, 3101 Park Center Drive, Room 904, Alexandria, Virginia 22302, telephone: (703) 756–3383.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order No. 12291

This action has been reviewed in relation to the requirements of Executive Order No. 12291 and Secretary's Memorandum No. 1512–1, and it has been determined that the action will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Additionally, this action will 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. Therefore, this action has been classified as "not major."

Executive Order No. 12372

This Program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule related Notice(s) to 7 CFR 3015, Subpart V (cite 48 FR 29115, June 24, 1983; or 48 FR 54317, December 1, 1983, as appropriate, and any subsequent notices that may apply), this Program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act.

This action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). Anna Kondratas, Administrator of the Food and Nutrition Service (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities. This final rule streamlines and simplifies coupon issuance and State agency liability rules. No new requirements are being placed on small businesses or organizations. Some new requirements are being placed on State agencies. However, the requirements will not have a significant economic impact on local governments.

Reporting and Recordkeeping

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping burden required by a revision to the Form *FNS–46,* Issuance Reconciliation Report, and contained in § 274.4 of this rule has been approved by the Office of Management and Budget (OMB) under OMB No. 0584–0080. The other reporting and recordkeeping requirements (as shown below) contained in the rule are also approved by OMB. The requirements are simply being redesignated and remain unchanged by this rule.

7 CFR section where requirements are described	Current OMB control number
274.1(c)	0584–0009
274.3(d)	0584–0009, 0584–0069, 0584–0080
274.4(a)	0584–0080
274.4(b)	0584–0009, 0584–0015, 0584–0080, 0584–0081
274.4(f)	0584–0009, 0584–0053
274.6(a), (b) and (e)	0584–0080, 0584–0081
274.7(a)	0584–0009
274.7(c)	0584–0022
274.8 (a)–(c)	0584–0009
274.8(e)	0584–0053
274.9 (a)–(d)	0584–0009
274.11	0584–0009
276.2(b)	0584–0015

Reorganization of Part 274—Issuance and Use of Coupons

Part 274 of the food stamp regulations has been extensively revised and restructured. In order to help the reader relate previous provisions of this Part to the same provisions in this final rule, the following table of redesignations has been compiled:

TABLE OF REDESIGNATIONS (PART 274)

Previous section	New section
274.1(a)	274.1(a) and 274.2(a).
274.1(b)	274.1(b).
274.1(b)(3)	274.1(b)(3).
274.1(b)(4)	274.1(b)(3) (i), (ii) (A) and (B).
274.1(b)(5)	274.1(b)(4).
274.1(b)(6)	274.1(b)(5).
274.1(c)(1)	274.1(c).
274.1(c)(2)	274.1 (c)(1) and (c)(2)
274.1(d)	272.4(f).
274.2(a)	274.3(a).
274.2(b)	274.1(e).
274.2(c)	274.3(d)(1)(i).
274.2(d)(1)	274.3(d)(1).
274.2(d)(2)	274.3(d)(1)(i).
274.2(d)(3)	274.3(d)(1)(iii).
274.2(e)(1)	274.3(a)(1).
274.2(e)(2)	274.2 (c), (c)(1) and (c)(3).
274.2(e)(3)	274.3(e)(1).
274.2(e)(4)	274.7(e)(2).
274.2(e)(5)	274.3(d)(6).
274.2(e)(6)	274.7(g).
274.2(e)(7)	274.5(b) and 274.10(c) (1), (2).
274.2(e)(8)	Unnecessary.
274.2(e)(9)	274.3(d)(4).
274.2(e)(10)	274.4(a)(1)(i).
274.2(e)(11)	274.6(a)(1) and 274.6(f)(4)(i).
274.2(f) (1), (2), (3), (4)	274.3(d)(2).
274.2(f)(5)	Redundant.
274.2(f)(6)	274.2(c)(1).
274.2(f)(7)	274.3(e)(1) and 274.6(f)(4)(1).
274.2(g)(1)	Redundant.
274.2(g)(1)(i)	274.3(d)(2).
274.2(g)(2)	274.3 (d)(1)(ii) and (d)(3).
274.2(g)(3)	Redundant.
274.2(h)(1)	274.6 (c), (d), and (e).
274.2(h)(2)	274.6(i)(1).
274.2(h)(3)	274.6(g).
274.2(i)	274.2(e).

TABLE OF REDESIGNATIONS (PART 274)—Continued

Previous section	New section
274.2(j)	Deleted; provision expired.
274.3(a)	274.3(a)(3).
274.3(b)	274.3(d).
274.3(c)(1)	274.6 (a), (b) and (e).
274.3(c) (2) and (3)	Redundant.
274.3(c)(4)	276.2(b)(4).
274.3(d)	274.4(b)(1)(iv).
274.4	274.7.
274.5	274.8.
274.6	274.4(a).
274.7	274.11.
274.8(a)	274.4(b).
274.8(b)	274.4(f).
274.9	274.9.
274.10(a)	274.10(a).
274.10(b)	274.10(a)(4)(i).
274.10(c)	274.10(a)(4)(iii).
274.10(d)	Redundant.
274.10(e)	Redundant.
274.10(f)	274.10(a)(4)(iii).
274.10(g)	274.10(a).
274.10(h)	Redundant.
274.10(i)	Redundant.
274.11 (a), (b), (c) and (d).	Deleted; provision expired.
274.11(e)	274.7(h).

Amendments and Analysis

On April 9, 1986, the Department published in the **Federal Register** at 51 FR 12268 a proposed rule comprising a comprehensive revision of the Food Stamp Program's current issuance and State agency issuance liability rules. The publication proposed a reorganization of the current rules, changes in some policies, a clarification of current language to make the rules easier to understand and proposed to implement some provisions of the Food Security Act of 1985 (Pub. L. 99–198). The reader is referred to the April 9, 1986 publication for review and consultation in order to ensure a complete background and understanding of this document. All comments received on the proposed rule have been considered in the formulation of this final rule.

1. Definitions

The Department proposed adding definitions for "Authorization document" and "Claims collection point." Those proposed definitions have been adopted in this final rule without comment. One commenter suggested that the term "authorization to participate (ATP) card" be removed from the definitions list. Even though the Department is working to eliminate distinctions for separate types of issuance systems, in favor of "generic" descriptions and documents which would apply to many different issuance systems, the suggestion has not been accepted. Since the term "ATP" is still used throughout the regulations, the definition must remain in § 271.2. Another commenter proposed that the terms "Master issuance file", "Record-for-issuance", "Direct access system" and "Authorization document system" be added to the definitions list, since the terms were newly defined in the proposed rule, and are crucial to the description and understanding of current and yet-to-be-developed issuance systems. We think the suggestion will make the terms easier to locate and understand, and have, therefore, included the terms, with the exception of "authorization document *system*" in § 271.2 The definition for "authorization document" was included in the proposed rule and has not changed. One State agency suggested that a definition for household disaster be included. A disaster is a declared emergency for natural events such as tornadoes and floods, affecting a large number of households. An individual household may experience a misfortune such as a power outage or water damage from a storm, in which case benefits may be replaced under the replacement provisions. The above examples are merely guidelines, and since declared disasters and individual household misfortunes are treated separately, one definition for both would not be appropriate. The regulations which would be applicable in any particular situation would best be determined by the State agency. (§ 271.2)

2. Plan of Operation

The proposed timetable required State agencies to submit their unit level of reporting mail issuance losses by the 15th of August following publication of this final rule and by that date in succeeding years if the unit level of reporting is to change for their following fiscal year. Two State agencies commented that the August 15 date was impractical because their fiscal years started on July 1. However, the Department believes that the logical time for state agencies to submit changes would be with Budget Projection Statements, when costs and liabilities in other areas are being reviewed. Therefore, the Department has set May 15, 1989 as the deadline for an initial report (if a State agency is changing its level of reporting), and subsequent changes to be reported by August 15 in years thereafter. (§ 272.2(d)(1)(vi))

3. State Monitoring of Duplicate Participation

In reference to the Department's proposal for a reorganizational change by moving the provisions requiring State agencies to check for duplicate participation from § 274.1 to § 272.4, two comments favoring the move were received. The reorganizational change is adopted as final. (§ 272.4)

4. Issuance Agents

The proposal to exclude issuance agents from retail and wholesale food firms drew responses from 14 commenters. Four respondents agreed with the proposal, one was noncommittal, and nine were opposed, stating that there would be great inconvenience to disabled and elderly recipients, that the provision may eliminate Saturday issuance, that we have insufficient reason for discontinuing issuance in stores, and that recipients in some areas would be disadvantaged because of a lack of public transportation to "downtown" issuance offices. The Department has reviewed the situation and has decided to retain the current policy, but with some modifications to control its use. Coupon issuance will be permitted in retail food firms by two exceptions to the generally–proscriptive rule. First, coupons may be issued in a retail food firm if the issuance functions are performed by a bank, credit union, or other financial institution unrelated to the food firm; second, a retail food firm may issue coupons on its premises if the State agency presents adequate documentation that without the availability of on-site store issuance at a particular location there would be not merely an inconvenience, but a hardship, to recipients in obtaining coupons. In such a case, the State agency shall contract directly with the retail food firm and shall strictly supervise such entity for security, reporting and accountability. Without the hardship documentation, a retail food firm may perform the issuance functions itself, but only as a subcontractor to a bank, credit union or other financial institution, and with strict oversight by the financial institution. Retail food firms do not have to be authorized to accept and redeem food coupons from recipients in order to perform issuance. In addition banks and credit unions do not have to be chartered under Federal or State law. (§ 274.1(b))

5. State Agency Issuance Responsibility

In reference to the Department's proposal to require State agencies to report changes of location or activity of food stamp offices, three commenters voiced concern about what changes should be reported and the time frame in which the reports should be made. Two commenters stated that whenever a mail issuance or replacement point, issuance point and bulk storage point, as well as a project area, reconciliation point or coupon shipment receiving point, is added, changed or terminated, the action should be reported. The comment is accepted.

The third commenter voiced concern that State agencies were being required to report the change to FNS no later than 30 days prior to the effective date of the action, and thinks that State agencies "should" report the actions within that period. The Department feels that for efficient administration of the Program in the many areas involved, it is mandatory that the Department have at least a 30-day period in which to make necessary adjustments, such as changing mailing lists, delivery routes and possible leasing of new space. It will be incumbent on all State agencies which have local administration of the Program to make sure the aforementioned actions are reported to the State agencies on a timely basis. Therefore, the suggestion is not accepted, and the proposed amendment is retained. (§ 274.1(d))

6. Receipt of Benefits

A provision from the Food Security Act of 1985 requires that, for households applying for and receiving benefits in the last fifteen days of a month, benefits for the first full month of participation must be issued no later than the eighth day of the month following the month of application. (The current provision for expedited service requires benefits for the first full month to be issued by the first calendar day of the month after the month of application.) Six comments were received concerning this provision; two commenters thought that "the eighth day" should be changed to "the tenth day" to be consistent with other Federal and State Programs. Two other commenters expressed concern that if the State agency were allowed the option of issuing (prorated) benefits to a household which applied after the 15th day, within the month in which the application was made, State agencies would not issue benefits in the month of application, but would simply make one issuance by the eighth day of the following month. That issuance would be one full month and a partial allotment representing a period in the month of application. This is an option Congress made available to the State agencies. Another commenter was concerned that an automated issuance system could not handle a manual issuance in the second month (by the eighth day). The last commenter thought that a recipient may think he is to get issuance twice a month if, for example, he receives a prorated allotment on the 29th and a full allotment on the 6th. Since the eighth day is mandated by legislation, it remains in this final rule. (§ 274.2(b))

One commenter requested clarification of "* * * the eighth calendar day * * *" as it applies to Saturdays, Sundays and holidays. For households entitled to receive benefits for the first full month of participation by the eighth of the month after the month of application, the coupons or an ATP must be available to the households on that date. Regardless of the system used to meet this delivery standard, the State agency shall provide a reasonable opportunity for the negotiation of an ATP no later than the eighth calendar day. There are no exceptions to this requirement for weekends or holidays. This rule does not include the issuance provision from section 203 of the Hunger Prevention Act of 1988 (Pub. L. 100–435), which will be addressed in a separate rulemaking.

7. Staggered Issuance

Twenty-nine commenters addressed this provision from the Food Security Act of 1985, which permits the staggering of coupon issuance throughout an entire month and limits the interval between regular or supplemental issuances to 40 days. Eighteen comments were supportive of the provision as proposed. Six commenters expressed opposition to the 40-day maximum period between issuances, with all but one stating that the maximum should be no more than 35 days. Another commenter thinks that the State agencies' use of supplemental issuances would be confusing to recipients, who may assume they are to receive benefits twice a month. Three comments concerned the fact that if the proposed option for State agencies to use a supplemental issuance for applicants certified after the 15th of the month were retained, the State agencies would avoid issuing any benefits in the month of application, and would instead make one issuance between the first and eighth of the following month. Even though this is an option allowed by the legislation, it is hoped that State agencies will use it to get benefits to recipients on a timely basis, and not to unduly delay benefits. Six State agencies voiced concern about the impact of the change on current computer operations, especially since the systems cannot now handle a supplemental issuance made manually in the second month. Several commenters thought that those recipients receiving ATPs after the 15th should have as much time to redeem them as do those receiving ATPs prior to the 15th. A State agency opposed the staggered issuance change because it did not correspond to the direct-mail schedule for households not reporting monthly.

A commenter questioned whether or not the issuance of benefits under expedited service takes precedence over retrospective budgeting requirements. In a one-month retrospective system, the issuance of benefits under expedited service takes precedence over the monthly reporting requirement; that is, the second month's issuance must be made on the first calendar day of the month and not held pending receipt of the monthly report. The State agency must make an eligibility and allotment determination based on the best available information.

Another comment concerned the fact that at least one State agency has a "cyclical" issuance system based on the date of application, and that the "eighth calendar day" is not relevant to that system. In every issuance system there has to be an "issuance month", although it may not start on the first day of the calendar month; therefore, there has to be an eighth day (of the issuance month). Since the aforementioned changes are mandated by legislation, they are retained in this final rule. (§ 273.2)

All currently-approved waivers pertaining to increased or decreased staggered issuance will automatically be cancelled April 1, 1989. Any State agency which wants to continue a current waiver after that date must reapply to FNS.

8. Providing Benefits to Recipients

The Department proposed to move the provisions pertaining to delivery standards for issuing benefits to newly-certified households from Part 273 to Part 274, because the provisions are not certification related but are standards for the actual issuance of benefits. One commenter stated concern about the provision, since that part of the provision dealing with households which have not provided complete verification is a certification concern, not an issuance concern. The Department believes that the provision has more applicability and importance for the distribution of benefits than with the certification of the households to receive benefits. These provisions of the proposed rule are retained in the final rule. (§ 274.2)

Another commenter objected to the Department's proposed revision which stated that issuance authorization documents should be valid only in the geographic area that is encompassed by the reconciliation system through which the document will be processed. The commenter stated that the provision would present a hardship to recipients in rural areas. The Department has reviewed the provision and has decided to encourage its use so as to keep the reconciliation process from becoming needlessly complicated, but at the same time make it a State agency option in order to eliminate hardship for recipients who may be located nearer issuance offices outside their county or project area. ATPs may not, however, be negotiated across State lines. (§ 274.2(d))

9. Issuance Systems

The current regulations which define three types of issuance systems (ATP, HIR card, and mail) were developed in 1978 and, since that time, new systems have been developed which do not fit the definitions of the three basic systems. Also, the reporting and accountability requirements were based on the unique features of these systems. Therefore, the Department proposed to establish new generic classifications for issuance systems so that newly-developed systems can be accommodated by the rules.

Six comments were received on the first new classification, authorization document systems; three supported the classification as proposed and three wanted changes or clarifications. One commenter suggested that authorization documents show a project area identifying code, plus the number of each denomination book of coupons to be issued. The Department has no objection to either item being shown, but thinks they should be State agency options rather than regulatory requirements. A State agency commented that a description of the ATP system should not be in the regulations since the system is fast becoming a minor or secondary system nationwide. As of January 1986, 30 States used an ATP issuance system to some degree, with 10 States using ATPs for one hundred percent of issuance. Therefore, the Department does not consider it a minor issuance system at this time, although it may be replaced in the future. The description of an ATP system is being retained, but is being included as an example of the more general authorization document systems.

Another commenter suggested that rather than showing the "expiration date" on an authorization document, the "benefit month" should be shown. The Department believes that the "expiration date" would be more useful to recipients, since a date represents a definite end to the validity of the document. Such a date would also be less confusing for issuance cashiers. The same commenter stated that there should be four classifications of issuance systems, adding the classification "authorization issuance list." The Department considers the "authorization issuance list" and the "authorization document" systems to be the same since both require the signature of the recipient in order for the recipient to receive benefits. Three commenters thought it would be helpful if there were an explanation of exactly what constitutes an authorization document system. Such a system is one in which the recipient must sign a document (form, printout, register) in order to receive the issuance. A direct access system (manual household issuance record (HIR) or access to master file directly or through a computer terminal) does not usually require a signature on a document. The last comment concerned whether or not multiple files (physically separate) may constitute the master issuance file; multiple files may be used as long as the files are clearly identified as part of the master issuance file and contain all the required data.

There were no separate comments on the second new classification, direct access, or the third classification, mail issuance, as classifications *per se*. Comments regarding liability in mail issuance are reviewed later in this section.

Two commenters expressed concern that we were eliminating the permissibility of one-person mail issuance functions. This provision was mistakenly omitted from the proposed rule. If these functions are performed by one person, a second-party review shall be made to verify coupon inventory, the reconciliation of the mail issuance log, and the number of mailings prepared. This provision in the current rules has been retained in § 274.3(d)(2) of this final rule. A commenter wondered why the master issuance file must have data on disqualified households. The data on disqualified households does not need to be retained on the master issuance file, and may be kept in a separate file, automated or manual. The data is required on the revised Form *FNS-366B*, Program and Budget Summary Statement—Program Activity Statement.

10. Alternative Issuance System for a State Agency

The proposed rule, based upon section 1519 of the Food Security Act of 1985 (Pub. L. 99-198), states that the Secretary, in consultation with the Office of the Inspector General, shall require State agencies to change their systems of issuance if those systems are resulting in a loss of Program integrity (significant dollar losses). Sixteen comments were received and all were against the legislative change. If a change in a State agency's issuance system becomes necessary because of continuing issuance losses, the mandate to actually change the system will be made after discussions involving the Department's Office of the Inspector General, FNS and the State agency. Such discussions will be concerned with the type(s) of losses being experienced by the State agency, prior corrective action, local concerns and needs, resources available to the State agency, and the cost of a system change. Under this final rule, the cost of making such a change will be shared by the State agency and the Department.

Several comments wanted guidelines or a definition for "Program integrity", and an explanation of how the loss of Program integrity would require a system change. The loss of integrity could result from a large and continuing issuance loss. An exact percentage or dollar-amount threshhold which would trigger the requirement to change systems cannot be made across the board. Each situation regarding a large and continuing loss would need to be evaluated separately, and as such, there is not an "exact" threshhold which could be applied to all cases.

Other commenters expressed belief that in each case of a required change, the State agency should not be liable for losses from the new system, that there should be a definite time frame for when a new system has to be implemented and that there should be limits on conversion costs to protect State agencies' funds. The Department is unable to exempt a State agency from liability since the law specifically states that State agencies will be held liable for specific losses. A definite timetable for implementation of a new system cannot be set in advance; again, each situation will have to be reviewed independently. The Department does not want to set limits on conversion costs, but is willing to share the costs.

There were two comments centering on the belief that State agencies should have appeal rights when confronted with an order to change issuance systems. The appeal process exists only for actions in which the Department has billed State agencies; there is no statutory provision allowing appeal of an order to change an issuance system. However, an order to a State agency to change its issuance system may be negotiated if the State agency is able to provide information showing that it's losses are decreasing or are not as great as first indicated. (§ 274.3(c))

11. Validity Period for ATPs

In this area, the Department proposed to amend the regulations to clarify that a household would lose its right to a particular month's benefits if the benefits were not obtained during the validity period of the benefits for that month. This is a clarification and not a change in policy. Second, the proposed rule expanded the current requirements on validity periods to issuances made from Direct Access Systems, in that the protection afforded to recipients and State agencies using other systems would be applied to all recipients who do not have coupons delivered directly to them. Third, State agencies would be permitted to apply the 20-day addition or subsequent-month provision, at their option, to issuances made after the 20th day of the issuance month. Finally, if a State agency is experiencing excessive losses, it may institute a system which reduces or limits the validity period provided in this rule.

Eleven comments were received concerning the validity period for issuances; all supported the proposed amendment. The proposed changes are made final. The current provision allowing State agencies to add an additional 20 days to the validity period for authorization documents issued after the 20th day of the issuance month, as described in the proposed rule's preamble, was inadvertently omitted from the regulatory language, and has been inserted into this final rule. (§ 274.3(d)(7))

12. Reconciliation and Reporting

The Department proposed several revisions to the current reconciliation and reporting requirements which would tighten those requirements and ensure that they fit the proposed issuance system classification described above. The major change is the requirement that all issuance systems reconcile their issuance activity against their master issuance files and report the results to FNS monthly. Only State agencies operating ATP systems had been required to do this. This required report would be a revised version of the Form *FNS–46,* Issuance Reconciliation Report, currently submitted monthly for authorization document systems. In mail issuance systems, a record-for-issuance is created from the master issuance file; however, there is no accounting for problems that may occur in the creation of the record-for-issuance. In direct access systems there is no required report on issuance activity other than the Form *FNS–250,* Food Coupon Accountability Report. While the nature of such a system is that there is virtually no reason for additional reconciliation, there are other problems, such as replacements, for which accounting is necessary. The new Form *FNS–46* is being redesigned to be adaptable to the different types of systems, and will have new items as well as some of the current ones.

In addition to the above requirements, all systems would also continue to be required to reconcile inventory levels against issuances each month on the Form *FNS–250.* The remaining reconciliation requirements are directly related to the nature of the individual issuance systems. Direct access systems will have no other requirements, and the current requirement in § 274.6(d) that for HIR card systems, State agencies do a semiannual comparison of 20 percent of their case files against the master issuance file, would be eliminated. In authorization document systems, State agencies would need to take additional steps to reconcile the authorization documents against the record-for-issuance, in order to check for problems in issuance that occur in, or after, the generation of authorization documents from the record-for-issuance. The additional steps are the same as those required under current rules; the additional data would be reported on the revised Form *FNS–46.* In mail issuance systems, the steps required to report mail loss data on the Form *FNS–259* would still have to be taken. There were no proposed changes other than the new loss reporting levels and tolerance levels described in § 276.2, State Agency Liabilities. (§ 274.4(a))

Nineteen comments were received concerning the new reconciliation and reporting provisions for issuance systems; eleven commenters were opposed. Several of those opposed thought that a new "layer" of reconciliation was being created to add a new liability for which State agencies could be billed for errors. The primary purpose of the change was to emphasize the necessity for those State agencies which already have a record-for-issuance file to use the file in the reconciliation process; the proposal was not intended to require State agencies which did not already have a record-for-issuance file, to create one. In an authorization document system, the authorization document is reconciled against the master issuance file. In those systems in which there is no authorization document, but for which there is a record-for-issuance, the record-for-issuance file would be reconciled against the master issuance file.

Four commenters expressed the opinion that reconciliation of a record-for-issuance file with the master issuance file is duplicative. To some extent that is correct. However, since a record-for-issuance file contains only those households which are to be issued benefits, rather than all households which are (eligible) on the master issuance file, there is less data subjected to possible errors because not all households receive benefits each month and, therefore, would not be on the record-for-issuance file. To reconcile each issuance with the master issuance file increases the chance of an unintentional altering of the data on individual household records due to computer error. Another commenter wanted to know if batch reconciliation could be done, since it was thought that the proposed regulation implied that each individual issuance document had to be reconciled against an individual household record in the master issuance file. Regardless of whether or not a particular issuance system has a record-for-issuance file, batch reconciliation may still be used.

Another commenter wanted a clarification of the term "original allotment" as it pertains to replacements in § 274.6(b)(1)(iv). In reference to replacements, the term means the first benefits issued for a particular month to an on-going household, as opposed to "initial allotment" which refers to the first benefits issued a newly-certified household. The term "current month", also used in § 274.4(b)(1)(iv), refers to original allotments which are recovered in the same month they are issued. The same commenter asked what should be done with original allotments that are recovered after the current month of issuance. The allotments should be returned to inventory and the replacement allotment reported on the Form *FNS–46,* unlike the situation in which an original allotment is issued, returned and replaced, all in the same month. The same commenter also requested that the wording in § 274.4(b)(4)(i) be modified to cover methods other than telephoning for transmitting the data for the Form *FNS–388,* State Coupon Issuance and Participation Estimates. The comment is accepted and the wording has been changed to indicate that the data may be telephoned or electronically transmitted to FNS. (§ 274.4(b)(4)(i))

One comment received suggested that the reconciliation requirements be made more generic so that they could apply to any issuance system, and that there should be a more detailed relationship between files and records. The Department believes that it has done this to the extent that the requirements have not lost meaning by becoming too generic or general. As new issuance systems are developed, it may become necessary to redefine terms or requirements to make them applicable to all existing systems. However, the Department feels that the requirements which will become applicable with this rule are general enough for the foreseeable future. Concerning the relationship between files and records, we believe that the distinction has been made since State agencies are being urged to use a record-for-issuance, rather than a master issuance file for reconciliation. By so doing, there is less chance for creating errors in individual household records, and there are fewer records involved in reconciliation.

The Office of the Inspector General requested that the submission of the Form *FNS-46*, Issuance Reconciliation Report, by State agencies be limited to the initial report each month, and that revised reports be permitted only under unusual circumstances and with prior approval from FNS. The Department feels that State agencies should be given the opportunity to correct posting and transcription errors which may have been made on initial reports. Allowing revised reports could result in more accurate reconciliation and, therefore, reduced liabilities for State agencies.

A commenter stated that issuance systems using direct access should also report on issuance activity, since such a system is subject to undetected software errors. Direct access systems will have to report on replacements. With an audit trail prepared within the computer itself, and the Form *FNS-250*, Food Coupon Accountability Report, accounting for discrepancies in inventory, no additional reconciliation is needed.

One of several suggestions by a commenter was that, in the reconciliation of issuance in authorization document systems, discrepancies should be resolved by reviewing case files, if necessary, as well as by a review conducted with the coupon issuer. Since all methods of resolving any discrepancies should be used, the suggestion is accepted and the wording "* * * and/or a review of the case file" is added to § 274.4(a)(4)(ii).

The same commenter asked that the regulations define "participating household". For the purpose of State agency reporting on the Form *FNS-388*, State Coupon Issuance and Participation Estimates, a participating household is one that is certified and has been, or will be, issued benefits (whether or not the benefits are used), and on that has met the eligibility requirements, but will receive zero benefits. The definition will be added to § 274.4(b)(4)(iv).

Another question concerned how there could be a replacement in a Direct Access System. There would be no replacements for unreceived benefits, but there may be a replacement for coupons which are improperly manufactured or which are destroyed in a household disaster, or a replacement of an "access" card in an electronic issuance system.

Another commenter stated that a review of benefits indicated on the master issuance file should not be included in quality control. As stated previously, the master issuance file must contain the amount issued. This amount may be posted directly back to the master issuance file, as should be done in a direct access system, or indirectly, using a record-for-issuance file, as is usually done with mail issuance. If a record-for-issuance file is used, the actual issuance (posted to the record-for-issuance file) would then be posted to, and compared with, the master issuance file. Only by having the actual issuance amounts posted to the master issuance file can issuance errors be detected. If the posting of actual issuance stopped at the record-for-issuance, an issuance which was greater than that authorized on the master issuance file may be detected only in inventory reconciliation. If a mistake had been made during the creation of the record-for-issuance file from the master issuance file, and the record-for-issuance had been discarded, the only fact that would remain is that there was an overissuance; however, the overissuance could not be assigned to a specific household. If a record-for-issuance file is used, reconciliation must not stop with that file, but must be carried back to the master issuance file. Quality control reviews would then be concerned with the matching of benefits authorized to benefits issued, through a review of the record-for-issuance (as defined by this rule). With the use of a record-for-issuance, errors resulting in incorrect issuance could be correctly assigned to certification or issuance activity.

The same commenter suggested that, for HIR systems, the issued amounts shown on the cashiers' daily reports and receptionists' daily tally sheets must be reconciled against the household issuance records. The Department believes that this is a logical and needed part of the reconciliation process, especially since HIR systems do not have master issuance or record-for-issuance files, per se. The commenter also expressed the opinion that all types of issuances should be identified in the accountability system. Since all issuances, including manual issuances involving prorated and restored benefits, are to be posted to the master issuance files, these issuances will be included in reconciliation and accountability. Wording has been added to the regulatory text to indicate this fact more clearly. (§ 274.4(a)(1))

13. Authorized Representatives

As part of the effort to organize the rules so that all the rules pertaining to the issuance of coupons are grouped together, the Department proposed to move some of the provisions related to authorized representatives to Part 274. The provisions moved are those relating to the use of authorized representatives to obtain benefits on behalf of recipients, as well as those relating to the use of benefits to purchase food for Program recipients. By moving these provisions, currently found in § 273.1(f), a certain degree of redundancy is introduced into the regulations, since some provisions, such as those pertaining to the participation of disqualified individuals as authorized representatives, are found in both §§ 273.1 and 274.2. However, the Department believes that the advantage of having all rules regarding issuance grouped together outweighs the disadvantage of repetition. In order to reduce the overall volume of rules so that the rules would be more concise and easier to use, the Department proposed to eliminate the redundant provisions. Further, the provisions currently in the section that are not redundant have been moved to other places in the body of rules. No comments were received on this reorganizational change. Therefore, the proposal is adopted without change. (§ 274.5)

14. When a Replacement Issuance will be Provided

In the area of replacement issuances, the Department proposed to consolidate the rules pertaining to replacements and to simplify the provisions for easier understanding and application. Concerning policy changes, the Department proposed to establish a two-in-six months replacement policy for all categories (benefits destroyed, stolen or not received) of allowable replacements. State agencies would no longer have to track separate limits for different types of losses. In addition, it was proposed to use the concept of "countable replacement", meaning that a replacement would be applied toward the limit only if there existed a possibility of Program loss.

Twenty-one comments were received on this provision of the replacement rules. Ten approved of the provision as proposed, while five commenters expressed concern about the tracking required to distinguish "countable" from "noncountable" replacements. Under current rules, State agencies are keeping track of two limits for three categories of replacements; now there is one limit for two categories, with confirmed disasters having no limit. The Department thinks that the addition of a code to denote a "non-countable" replacement could be made in any system, and that the burden of making the change does not outweigh the advantage which the code would provide, especially considering the fact that all replacements should be considered "countable" unless proven and noted otherwise.

Five commenters thought that our proposal not to count replacements which resulted from State agencies' errors was not justified and/or warranted a definition of State agency error. State agency error, in this context, refers to incorrect data in the case file which affects the issuance and/or receipt of benefits (as opposed to eligibility and certification) by that household. An example may be a situation in which a recipient's address is incorrect, or in which a replacement issuance is made even though information in the case file indicates it should not have been. It is believed that any late or non-receipt of benefits which may have been caused by an inadvertent State agency error, should not result in a liability for the recipient. Therefore, the proposal is adopted without change. (§ 274.6(b)(2)(iv))

Another commenter thinks that the proposed rule presumes that if benefits are received by a particular household, it is that household that uses the benefits. The commenter suggests that the wording be changed to state that in order for a replacement to be countable, there must not only be the probability of a Program loss, but also an additional gain for the particular household. It is true that the Department does make the underlying assumption that the household which receives benefits uses those benefits. A State agency would be unable to prove whether or not any particular household, or someone else, redeemed certain coupons, unless food firms which accept coupons were required to match the identity of coupons presented to documents which noted the specific identity of the coupons issued to any particular household. Such a requirement is not feasible and would be impossible to monitor. Therefore, only the probability of Program loss is being retained as the reason for making a replacement countable, and the proposal is adopted without change. (§ 274.6(a))

Two comments received concerned the fact that State agencies should be able to deny replacements when certified, as well as registered, issuance is signed for by someone living with, or visiting, the household. Since the majority, if not all, of mail issuance which requires a signed receipt by the household is sent by certified mail, the suggestion is accepted and the wording in § 274.6(a)(2) has been changed to indicate either type of signature-required mailing. The Postal Service generally will not accept coupons for registered mail, since that type of mail service permits a declared value for insurance against losses. However, coupons sent by certified mail may be able to be designated for restricted delivery, meaning that only those individuals designated by the State agencies may receive and sign for the coupons. The reference to registered mail has been retained for those issuance offices which are able to use that type of mail delivery. (§ 274.6(a)(2))

There was also a request for a definition of what is meant by the phrase "* * * or otherwise recouped by the State agency * * *" in reference to replacement issuances which should not be considered countable (§ 274.6(b)(2)(iv)(A)). The phrase refers to a replacement being made in a situation in which the household later notifies the State agency that the household has received the original allotment. If the original allotment is not returned, the State agency may recoup the replacement by a voluntary cash or coupon reimbursement from the household, or through the reduction of subsequent allotments under terms worked out with the household. Until the State agency receives full reimbursement for the original allotment, the replacement should be deemed countable. (§ 274.6(b)(2)(iv)).

One respondent believes that the one-limit replacement policy for authorization documents stolen after receipt should remain, since in most jurisdictions a stolen property report can be filed based solely on the complainant's word. Since the State agency can later check to see who redeemed the original ATP and can compare signatures and/or reconciliation numbers appearing on the replacement ATP, the State agency would have recourse in filing a claim against the household, if necessary. While we continue to encourage the State agencies to reconcile ATPs and to aggressively pursue claims, we want to ease the State agencies' burdens by having them track only one limit. Therefore, we have not accepted the comment and have made no change in the proposal. (§ 274.6(b)(2)(i))

Another commenter on the same provision requested that the words "* * * or a serialized ID area" be added to the third sentence of § 274.6(f)(1) to cover all situations in which numbered IDs are used. However, there are areas which use "serialized" IDs voluntarily, and the annotation of the ID number on the reverse of the ATP is not required. Therefore, the suggested wording was not accepted.

Two commenters requested that State agencies not be held liable for replacement issuances made beyond the six-month or two-replacement limits if the State agencies have been unable to determine the countability of previous replacements within the same period. The intent of the provision is that all replacements are to be considered countable unless verified otherwise. Beyond that, the Department thinks that the six-month period is sufficient time for State agencies to determine the countability of a replacement through the reconciliation of the original authorization document or the receipt of a signed proof-of-receipt card for certified or registered mail delivery. In a situation of a third request for a replacement before all previous replacements had been reconciled, action on the third replacement shall be held until the State agency can determine that the limit on countable replacements has not been reached even if such a determination requires an administrative hearing or judicial proceeding. There may be a delay past the 10-day limit on providing replacements until that verification can be made. If a previous replacement is verified as non-countable, replacement benefits shall be issued to the household. (§ 274.6(d)(1)(ii))

Commenting on mail losses, another individual expressed the point that losses of certified mail should not be considered countable when there is no record of receipt and the coupons are not returned to the State agency. If such a situation happens, the State agency shall request from the Postal Service either the proof of delivery or the return of the coupons. In the meantime, the replacement shall be determined countable, since the household could possibly have received the coupons without the required signature, or the signed receipt could have been lost prior to being returned to the State agency. (§ 274.6(b)(2)(iv))

In response to the proposed § 274.6(h)(2), a commenter expressed concern that the Department was requiring State agencies to maintain Statewide listings of replacements. It is the commenter's opinion that tracking could best be done at the local level. There is no requirement for Statewide listings; the term "State agency" is used only to denote responsibility for compliance with the provisions. Even in those States that have mail issuance from one control point, there need not be one centralized replacement listing since the regulations permit a notation about replacements in case files. The requirement is for an accessible list or notation for each replacement.

A commenter questioned what the correct action would be in a situation in which a replacement was issued after the completion of the Form *FNS-259* for the quarter in which the original issuance was made. The replacement should be shown for the month the replacement is actually made, as stated in the instructions on the form, rather than the month in which the request is received by the State agency, since there is not an actual decrease in coupon inventory until the replacement is issued. Another commenter questioned whether or not a replacement issued later than the 10- or 15-day allowable period due to the inability of the State agency to determine the countability of a previous replacement should be considered restored benefits. A justified delay in making a replacement is not grounds for having the issuance considered restored benefits. However, if a State agency denies a third replacement request because it would be countable and the household had obtained the limit of two in six months and the State agency later determines a previous replacement to be noncountable, the benefits issued as a result would be restored benefits. (§ 274.6(a))

15. Time Frames for Requesting Replacements

The Department proposed to amend the regulations which required that the replacement of a non-received issuance must be requested during the period of intended use of the original issuance. Since there had been many questions raised about the policy of "period of intended use", the rules were re-examined and it was proposed that all requests for replacements be made within 10 days of the normal receipt date (ATPs or coupons not received in the mail) or 10 days from the occurrence of a particular incident (theft of ATP, receipt of partial allotment, or destruction of ATP, coupons or food in a household disaster).

Eighteen commenters responded to this portion of the replacement rules. Only two comments supported the 10-day limit for requesting replacements. The majority felt that the change from "period of intended use" to 10 days was far too restrictive, especially in mail issuance where there can be so much variation in the delivery date of benefits, particularly in the first few months of certification. Also, it seems reasonable that by allowing households more time to request a replacment, the State agency is allowing more time for the household to receive the original allotment, whether it was lost in the mail, or lost, but not destroyed, in a household disaster. In addition, there may be instances in which a household may not be physically able to make the request for replacement for the non-receipt of benefits within a 10-day limit, such as those households which have elderly or disabled members.

The Department has reconsidered the proposal in light of these comments and has decided to retain the two-part standard. For authorization documents and coupons lost in, or stolen from, the mail, the request for replacements must be made during the period of intended use, which means the month for which the benefits were not received. If the original issuance was made after the 20th of the month, the recipient would have until the end of the following month to obtain a replacement. In instances of theft of an authorization document from a household, or the accidental destruction of an authorization document in the possession of a household or the loss of coupons or food purchased with food stamps in a household misfortune, the report and request for replacement must be made within 10 days of the specific incident. (§ 274.6(b))

16. The Amount of the Replacement

Previous regulations did not address setting any specific limit on the amount that could be replaced for stolen, nonreceived or destroyed authorization documents, or nonreceived coupons. The rules did set a maximum of one month's allotment on the replacement of coupons and food (or a combination thereof) destroyed in a household misfortune. Subsequent interpretation, however, extended the limit of one month's benefits to authorization document replacements also. This limit was applied regardless of whether the issuance included restored benefits.

The Department proposed, with one change, to place the interpretation noted above into the rules. Thus, State agencies would issue replacements, within the required time frame, in the maximum of one month's benefits. The exception arises if the replacement is for restored benefits. In such a case, a replacement shall be made for the full value of the restored benefits not received by a household. To minimize losses, State agencies are encouraged to provide alternative forms of issuance, such as certified or registered mail or direct delivery, when substantial restored benefits are involved. There was one positive comment. The proposed wording is retained in the final rule. (§ 274.6(b)(3))

17. Time Limits for Issuing Replacements

Seven commenters responded to this portion of the rule which proposed to modify the requirement that State agencies issue replacements within 10 days of the requests in all situations. The proposed rule modified the rule to permit State agencies to delay the issuance of a third replacement beyond the 10-day limit, if need be, in order to determine whether or not the previous two replacements were countable. The Department also proposed to specify that the issuance of a replacement would not be made until the household submitted a signed statement of non-receipt. If the statement were not submitted to the State agency within 10 days of the request, no replacement would be issued. Finally, the proposed rule would have allowed State agencies which use certified/registered mail, a maximum of 15 days from the date of the request for a replacement to issue the replacement. This was seen as necessary since the Postal Service, on some occasions, is unable to provide the State agencies with signed receipts in time for the State agencies to verify receipt of benefits prior to issuing replacements. Requiring State agencies to issue replacements before verification would negate the added protection afforded by certified/registered mail. (§ 274.6(d)(1))

Of the seven comments received, six supported the proposed changes. One commenter stated that a third replacement within a six-month period should be made automatically, within the 10-day period, if the household requesting the replacement had requested an alternative issuance delivery method after the second replacement, but the State agency had not yet made the change. The Department thinks that this would unnecessarily complicate the replacement provision, especially if the second and third replacements were in successive months. For example, if a second replacement were requested on the 20th of the month and a third requested on the 10th of the following month, the time period between the two replacements may be too short to allow the State agency to implement an alternative issuance method, considering that replacements may be requested anytime during the month. If the second replacement had not yet been determined to be non-countable, the third request would also have to be delayed until the State agency could make that determination. Therefore, the proposed rule is implemented in this final rule. (§ 274.6(d))

18. Replacement of Mutilated Coupons and ATPs

Four comments were received, all but one of which supported the proposal which added authority for the replacement of improperly manufactured or mutilated authorization documents. The adverse commenter objected to the use of the "three-fifths" requirement for the replacement of mutilated coupons. This is a security requirement from the Department of the Treasury and, therefore, cannot be changed or eliminated. It is applicable to currency as well as food stamps, and is designed to prevent coupons from being torn approximately in half, with each half subsequently being redeemed or replaced at face value. The final rule has been clarified to state that households cannot receive a replacement for stolen coupons, and that improperly manufactured or mutilated authorization documents must be surrendered to the State agency. (§ 274.6(f)(4))

19. Alternate Issuance System for a Household

That portion of the proposed rule which required a State agency to offer a household an alternate issuance system after the first report of non-receipt, to automatically place the household in an alternate system after a second report of non-receipt, and to retain the household in that system for a minimum of six months, prompted five comments. Two commenters were opposed to the six-month period, stating that State agencies should be able to determine the length of time for the alternate system. Another commenter thought that in those areas that have only one form of issuance, the provision for an alternate system should be waived. In any issuance system, there are always options which are available, even though they may have to be accomplished manually. The Department has reviewed the comments and has decided to retain the current policy which permits State agencies to retain a household in an alternative issuance system for a length of time the State agency determines to be necessary, since that policy affords flexibility for individual situations. (§ 274.6(g))

20. Documentation and Reconciliation of Replacement Issuances

All four of the comments received were opposed to the part of the proposed rule requiring that replacements be reconciled to the month they are issued for, as well as the month in which they are actually issued. Commenters felt that "double posting" creates additional complications for the reconciliation process. Since in the majority of replacement situations there is already some notation and reconciliation for the initial issuance when the replacement is requested, making an additional notation and reconciliation for the same benefits when issued later does seem to be duplicative. Therefore, the requirement for posting the replacement to the month issued for, as well as for the month actually issued, has been finalized as an option for those State agencies which find it useful. All other proposed provisions are retained in this final rule. (§ 274.6(h))

21. Coupon Management

The Department proposed four changes in this area of the current rules. First, it was proposed to consolidate within Part 274 the destruction requirement at § 273.18(i) for coupons used to pay State agency claims against households, and the requirement at § 274.8(b) regarding coupons that are mutilated or improperly manufactured. A second proposal pertaining to the destruction of coupons eliminated the limit of $500 which was placed on the amount of coupons a State agency could destroy without prior approval from FNS. The one exception to this revision was whole boxes of improperly manufactured coupons. Third, the Department proposed to add the requirement that unusable coupons be disposed of within 30 days from the close of the month in which they were received from a household or identified as being mutilated or improperly manufactured. Finally, it was proposed to clarify and revise destruction reporting procedures by allowing State agencies, at their option, to consolidate destruction reporting for unusable coupons acquired through claims collections.

The Department received eight comments on this proposed change. A majority agreed with the provision, yet offered specific comment. There were no comments related to the consolidation of the destruction requirements currently found in two separate sections in the rules. There also were no comments regarding the elimination of the dollar limit on the value of coupons that could be destroyed without prior approval from FNS.

Another commenter was concerned with the provision that requires replacements for improperly manufactured and mutilated coupons to be made at issuance points. Rather than replacing the coupons, the commenter suggests that the coupons be examined by the State agency prior to issuance, and then reported on the *FNS–471*, Coupon Account and Destruction Report. The State agency (coupon issuer) should try to eliminate improperly manufactured and mutilated coupons from issuance. However, in those situations where it is not feasible to do so, such as mail issuance or direct delivery of benefits by an entity other than the State agency, the replacements must be made and the improperly manufactured or mutilated coupons returned to the State agency and destroyed. (§ 274.6(a)(1)(i))

Another commenter thought there should be guidelines for the retention of the information of coupon shipments within a State (routes to be taken, shipment departure time and estimated arrival time), as required in § 274.7(c)(iii). Since the information is "before the fact" with respect to the actual shipping, once the coupons have arrived at the designated point, the State agency may dispose of the information. Wording is added to the final version of § 274.7(c)(iii) to clarify the option.

One comment was received regarding the use and destruction of specimen coupons, in which the commenter thought there should be more specific instructions as to who may use specimen coupons. Specimen coupons may be provided upon written request, to any State or local agency concerned with the administration of the Program or enforcement of its rules, and to authorized food firms for the education and training of employees on Program operations. Specimen coupons may not be provided to individuals for purposes of display or collection. This specific instruction concerning who may use specimen coupons is not new with this rule. However, clarifying wording has been added. (§ 274.7(d))

The same commenter expressed the opinion that the destruction of specimen coupons should be done at the FNS regional offices for purposes of accountability. There is no accountability, as such, for specimen coupons. A perpetual record is maintained for the distribution of specimen coupons, for the purpose of determining to whom any particular specimen coupons were issued, in case it is determined that specimen coupons have been presented for redemption. The wording in the proposed rule is retained as final. (§ 274.7(d)(2))

Two comments were received regarding the time limit for destruction of unusable coupons. One commenter suggested that State agencies be allowed 30 days after FNS approval, rather than 30 days from the end of the month, in which to destroy boxes of improperly manufactured coupons. The Department is concerned about the security aspects of storing boxes of unusable coupons for an extended period. Therefore, the proposal places an explicit time limit on required actions by the State agency and an implicit time limit on FNS. In any situation dealing with boxes of improperly manufactured coupons, the State agency must destroy the box of coupons if the 30-day period is reached without the State agency receiving destruction approval from FNS, and document the manufacturing irregularity and the book numbers, and retain a copy of the State agency's request to FNS for permission to destroy. Another commenter thought that the time limit for destruction should correspond to the time limit for the submission of the *FNS–250* and *FNS–209* reports, and should not be more stringent. Again, the Department is concerned about the storage of unusable coupons for any extended period; therefore, the requirement of 30 days after the end of the month is retained as final. (§ 274.7(f))

There was one comment received concerning the use of coupons returned to State agencies as payment of claims, and coupons returned as undeliverable to the intended households. The commenter stated that returning such coupons to inventory creates accountability problems. The Department believes that the automatic destruction of returned coupons is wasteful if the coupons are in book form, complete, with original and unsigned covers. Therefore, the provisions of the proposed rule are retained in the final rule. (§ 274.7(g))

A final comment in this area questioned the type and extent of the documentation required for reports sent to the State agency concerning improperly manufactured and mutilated coupons. The documentation is not required if the State agency inspects the coupons at the issuance or storage points. If a report is prepared for submission to the State agency, it should contain enough information to enable the State agency to identify the coupons to FNS and the manufacturer. Dependent upon the extent of the damage, the beginning and ending numbers of the books involved should be noted. In addition, the specific problem should be noted in detail, such as a specific denomination coupon omitted from a book and staples not penetrating the entire book. The comprehensiveness of the content of the documentation is determined by the State agencies. No changes in the proposed rule resulted from this comment. (§ 274.8(e))

22. Return and Exchange of Coupons

The Food Stamp Act of 1977 eliminated the requirement that Program recipients pay cash for a portion of their benefits. Because there was a phase-in period for this provision, the rules that were issued to implement the provision contained provisions explaining how certain qualified households could obtain refunds for the cash requirement they had paid. The provisions for refunds were contained in § 274.11. Since the time for obtaining refunds has ended, the Department proposed to eliminate the rules governing them. Thus, the provisions of § 274.11 (a) through (d) have been eliminated by this rule. The provision pertaining to the exchange of old-series coupons has been relocated to § 274.7(h) and has been revised to eliminate sole reference to the previously-issued 50-cent coupon, and made applicable to any coupon denomination no longer used, now and in the future. No comments were received on this editorial change.

The Department is also making a technical amendment concerning the return and exchange of coupons by recipients and non-recipients. In the proposed rule, paragraphs (a), (b), (c) and (d) of § 274.11 of the current rules were removed, since the paragraphs concerned requests for refunds of the purchase requirement. In paragraph (c), there is reference to Form *FNS–287*, Request for Reimbursement or Notification of Return of Unused Food Coupons for Refund. When the purchase requirement was eliminated, the Form *FNS–287* was discontinued, and the new Form *FNS–135*, Affidavit of Return or Exchange of Food Coupons, was put into use. The new form covers not only the return of unused coupons but also the exchange of old-series coupons, coupons received in payment of a recipient claim, and the exchange of mutilated or improperly manufactured coupons. However, reference to the Form *FNS–135* was unintentionally omitted from the current rules and the April 9, 1986 proposed rule. This rule reinstates the provision in the rules. The Form *FNS–135* was designed to be a receipt for, as well as verification of, the person returning or exchanging coupons, and is to accompany the Form *FNS–471*, Coupon Account and Destruction Report, as proof of receipt of the coupons by the State agency. The two forms together serve as documentation by the State agency for coupons destroyed upon receipt, and coupons which are returned to inventory. Therefore, reference to the Form *FNS–135* has been added to the sections of this rule which concern the return or exchange of coupons. The amendment does not change the principle nor the policy intent of the provisions affected. (§§ 274.6(f)(4) and 274.7(f))

23. Identification Cards

One commenter misunderstood the wording in § 274.10(a)(1) which states in part that "all persons listed on the identification (ID) card shall sign the card prior to its use." The commenter thought that the provision meant that all persons listed on the card had to sign the card before the card could be used by any of those listed. The wording has been clarified to indicate that, before a person listed on the ID card may use the ID card, the person must sign the card. (§ 274.10(a)(1))

24. Photo IDs

The comment received on the use of photo IDs concerned their use by authorized representatives for elderly/homebound/disabled recipients. The commenter felt that because the authorized representatives for these recipients are usually home-health aides who change frequently as authorized representatives, they should not have to use the photo IDs. In those areas in which the photo ID is mandated, it is done so because of the risk of theft and fraud involved in a populous area and not because of who may be authorized to use an ID. Therefore, in those areas where photo IDs are required, the photo ID (of the authorized representative) must be used, regardless of the fact that the authorized representative may change frequently. (§ 274.10(b))

25. Identification Card Requirements and Substitution

Proposed § 274.10 contained only a minor change in the current ID card rules, specifically concerning photo IDs. The change is mandated by section 1528 of the Food Security Act of 1985, Pub. L. 99–198. Also, the proposed rulemaking consolidated and restructured current ID card requirements contained in § 273.10 (f) and (g), § 274.2 (e) and (f), and § 274.7(c). Therefore, these sections were removed from their current locations in the rules, combined, and inserted as § 274.10 of the proposed rules. In the change regarding photo IDs, Congress allowed State agencies to permit a member of a household to comply with the FNS photo ID card requirement by presenting a photo ID used to receive benefits under a public welfare or public assistance Program. Congress also wanted FNS to consider the cost effectiveness in determining where photo IDs must be used. Since the agency currently does this, no regulatory change is required. No comments were received on this change. (§ 274.10(b)(3)(iii))

26. Issuance Record Retention

A suggestion was made to add "rosters and lists" to those issuance and reconciliation documents which should be retained by the State agencies for three years. Since rosters and lists are commonly produced in issuance systems, the wording is accepted and added to § 274.11(a)(1).

27. Quality Control

The Department proposed to revise the provision pertaining to active-case reviews to specify that such reviews must not only determine if the household was entitled to receive benefits, but also whether or not the household was issued the correct allotment, by comparing the eligibility data and the amount authorized on the master issuance file with the amount shown on the record-for-issuance file. By making this comparison, the reason for any incorrect issuance which may have occurred could be determined, and the liability correctly assigned to either certification or issuance activities.

All four comments received on this provision were opposed. One comment stated that there was no convincing evidence that error rates would not increase as a result of this provision, and that there are methods other than quality control to check for issuance errors. With the new definition for issuance and the creation of the record-for-issuance, a clear demarcation has been made between certification and issuance. The only way to determine if there has been an issuance error in any particular situation is to compare the record-for-issuance against a file on the other side of the "line", which would be the master issuance file. What was proposed was a check of the amount on the master issuance file, which is accomplished by matching the eligibility data against the master issuance file. If the amount authorized by the eligibility data does not match the amount on the master issuance file in any specific case, there is a certification error covered by quality control. If a record-for-issuance amount does not match the corresponding amount of the master issuance file, there is an error covered by issuance liability. The Department believes that error rates will not be affected significantly with the additional check of the individual case records against the master issuance file, especially considering that most automated issuance systems are currently employing this check. (§ 275.10)

Another commenter was concerned about the fact that data entry errors resulting in subsequent replacement issuance errors would be counted as issuance errors and would not be covered by quality control or negligence billings. If such replacement errors were the result of data entry errors from information on eligibility, the resultant error, causing the issuance of an incorrect replacement amount, would still be classified as a certification error since it was during the certification process that an error was first made. Again, an issuance error is not concerned with the correctness of the amount of benefits authorized as determined by eligibility standards. Issuance liability is concerned with whether or not the amount issued matches the amount authorized for a particular household. (§ 275.10)

We have discovered that the language in the proposed rule did not fully conform with our intentions for the rule as correctly stated in the preamble. In order to clarify that quality control (QC) reviews will continue to determine whether a given household received the correct issuance, given its circumstances as of the review date, we have modified the proposed language. Therefore, the Department is revising the provision concerning active cases to specify that such reviews must still determine if the household was entitled to receive, and did receive, the correct allotment by comparing the eligibility data against the amount authorized on the master issuance file.

28. State Agency Liabilities

Another commenter expressed belief that the proposed rule which held State agencies liable for transacted ATPs which had been altered or which were counterfeit was too strict, stating that this was too great a responsibility to be placed on issuance cashiers. The Department did not mean to imply that cashiers would be personally liable. However, the State agency must be held responsible, since ATPs are procured, transacted and reconciled by the State agency. State agency personnel, and contract personnel, must be familiar with negotiable forms involving food stamps. Therefore, the provisions of the proposed rule are retained in the final rule. (§ 276.2(b)(1)(iii))

A second commenter stated that the Department should review the court's decision in *Perales v. Block*, 751 F.2d 95 (2nd Cir. 1984), concerning the question of a State agency's liability in the negotiation of expired ATPs. The court decision cited by the commenter applied to eight-day ATPs previously issued in New York City. This short-term ATP was used to decrease the number of invalid replacements. However, the court indicated that if an original of an eight-day ATP were presented for redemption after eight days, the ATP had to be honored, or the recipient issued another ATP valid for a total of 30 days. The court did not invalidate the Department's policy of holding State agencies liable as the policy applies to a regular, or 30-day, ATP. Therefore, the Department is finalizing the proposed liability provision. (§ 276.2(b)(2)(iii))

The Department's current policy on issuance documentation has been clarified to state that all coupon issuance has to be documented, and that the documentation has to be available to the Department. If a situation arises in which the primary documentation is unavailable, such as the loss of transacted ATPs in transit from an issuance agent to the State agency, the State agency should try to immediately reconstruct the documentation from other sources, if possible. (§ 276.2(a))

Wording has also been added to clarify the policy that State agencies are liable for losses of coupon issuance which occur during Federal, State and local investigations unless the investigations have been reported *directly* to FNS prior to the losses and FNS agrees to accept any losses which may occur. (§ 276.2(b)(2))

In issuance systems which utilize a record-for-issuance file, it is the responsibility of the issuance unit to obtain from the master issuance file only those households which are certified to receive benefits for the current month. We have clarified this policy by stating specifically that State agencies will assume an issuance liability for benefits issued to households not currently certified. (§ 276.2(b)(2)(vi))

29. Mail Issuance Liability

The Department proposed permitting State agencies to choose from a three-level reporting and liability assessment system. State agencies could report mail losses at the project-area level, with a loss tolerance of one-half (.5) percent; at an administrative-unit level, with a loss tolerance of thirty-five hundreths (.35) percent; or, at a Statewide level, with a tolerance of three-tenths (.3) percent. Each State agency would be allowed to choose (or change) its reporting level once a year.

Concerning the proposed three-level system for reporting and assessing liabilities, thirteen comments were received; six commenters agreed with the proposed change, and seven opposed it. Of those opposing the change, five commenters felt the tolerance levels (percentages) were too low, and that they were unrealistic and punitive. One commenter stated that the tolerance levels should be forty-five hundreths (.45) percent for administrative units and forty hundreths (.40) percent for project areas (lower than the proposed tolerance). Another commenter thought that the tolerance level for administrative units should be forty-five hundreths (.45) percent, since many administrative units are smaller than project areas. Another commenter stated that the tolerance level of thirty-five hundreths (.35) percent is too high for densely-populated areas. The last commenter who suggested different tolerance levels thought that the level for State reporting should be forty-five hundreths (.45) percent, and for administrative and project area levels, fifty hundreths (.50) percent. The tolerance percentage proposed for the project area level was the same as that which had been in effect since 1983. The percentages proposed for the administrative unit and State levels were commensurate with the larger issuance bases they represent. The project area reporting level was established to enable FNS to identify areas experiencing high losses of coupons in the mail. Responding to State agencies that wanted flexibility in their reporting, since some had Statewide mail issuance from one point and others were administered on an administrative unit basis, the Department proposed the other two levels for reporting. However, it was still a concern of the Department that areas experiencing high losses might be "hidden" when combined with larger reporting units. The Department feels that the proposed tolerance levels represent a fair balance between mail losses, regardless of fault, and the Department's obligation to seek reimbursement for those losses. Therefore, so as not to conceal and compensate for high loss areas, the tolerance level was decreased with each increase in reporting unit size. The Department feels that the tolerance levels selected are reasonable, and the proposed tolerance levels are retained as final. (§ 276.2(b)(3))

Another commenter thinks that State agencies should not be limited to the use of current administrative units for reporting losses, but should be allowed to change the units when needed, such as grouping postal jurisdictions for easier investigations of mail losses. Again, the Department is concerned that allowing changes in administrative units, for the purpose of reporting losses, may lead to the absorbing of higher losses by the Department. If a State agency chooses to report losses by project area or Statewide level the first year of the new tolerance levels, the State agency may, during that time, form administrative units for the purpose of Program administration. If the State agency decides to report by administrative-unit level for the second year, it may do so, but it may not create any new or changed administrative units during that year, for the sole purpose of reporting mail losses, without prior approval. By keeping administrative units stable, FNS will be able to more accurately track losses in particular areas over a period of time. If administrative units were to change during a reporting year, continued losses in a particular area might go unnoticed. (§ 276.2(b)(3))

The focus of another comment was that State agencies should be able to choose their reporting and assessment levels semi-annually, rather than annually, for more flexibility. The Department feels that permitting changes more frequently than annually would result in confusion in reporting. Further, State agencies should do everything to resolve and reduce the losses while in a current plan before simply changing to a lower tolerance and a larger geographic area. The Department thinks that six months is too short a period to review the problems, decide on solutions and implement the necessary actions.

A comment from another source was a request for definitions of "project area level" and "administrative unit level". Project-area level is reporting mail issuance losses for individual project areas which most commonly are counties or independent cities. An administrative unit is usually larger than a project area but smaller than Statewide. The unit may have been created for governmental purposes and adopted by the State agency for Program administration purposes. Such a unit might be a welfare district, a Postal Service zone, or an area which has been created specifically for administration of the Food Stamp Program.

The same commenter asked how State agencies would handle two project areas which are currently being reported singly, with the rest of the State reported as one separate unit. In such a situation, the State agency may continue to report the two project areas singly, and combine the remaining project areas into an administrative unit. Administrative units may not be created by the State agencies for the sole purpose of reporting mail issuance losses.

Concerning that portion of the proposed rule which dealt with the State agencies' liabilities for losses incurred by the Postal Service, seven comments were received, with only one in agreement. Those opposed unanimously stated that the Postal Service must be held accountable for its own losses, especially if State agencies have paid for premium service (certified or registered mail).

While the Postal Service will be requested to account for all food stamps it handles, the Department realizes that not all food stamp mail losses are the fault of the Postal Service, since there are thefts from mail boxes involving coupons sent by regular mail. When there is a loss of coupons from regular mail service, it is not always possible to determine whether it involves theft after delivery, or loss before delivery. Therefore, rather than automatically assigning each loss to a particular party, the Department has decided to absorb losses below specific tolerance levels, regardless of where liability is assigned. Even though State agencies are being relieved of some losses, the Department expects State agencies to make sure that benefits are received on time, that more secure delivery methods are employed when losses occur, and that the Postal Service is requested to account for benefits which are sent by premium service, but not received by households. (§ 276.2(b)(3))

30. Rescission of Proposed Provision

On April 2, 1982, the Department published a proposed rule at 47 FR 14160 (Administrative Flexibility Rule) which contained a provision allowing State agencies increased flexibility in the staggered issuance of ATPs and coupons. The provision was later determined to be more involved with issuance provisions than with certification and administration provisions, and the proposed regulatory change was omitted from the final rule published at 47 FR 53309 on November 26, 1982. The same regulatory change was later incorporated into the Food Stamp Issuance and Issuance Liability Rules published April 9, 1986, as a result of the same provision in the Food Security Act of 1985. The provision from the April 2, 1982 rule should have been rescinded with publication of the April 9, 1986 rule, but was inadvertantly omitted. The April 2, 1982 provision is rescinded with this final rule, and the staggererd issuance provision from the April 9, 1986 rule becomes final with this rule.

31. FNS Shipment of Coupons

The Department's proposal to have State agency coupon receiving points approved by FNS received no comments. Therefore, the amendment is adopted without change. (§ 274.7(c)(3))

32. Miscellaneous

In § 273.2, the proposed amendment to paragraph (g)(1) consisted only of the addition of the reference to § 274.2(b) in the first sentence. Since that was the only change, the paragraph has been replaced with simply the reference to that addition.

Implementation

All provisions shall be implemented April 1, 1989, with the following exceptions:

a. October l, 1989—The new provisions on replacement issuances shall be implemented *by* this date. (§ 274.6)

b. October 1, 1989—The new liabilities for State agencies using authorizations document issuance systems shall be implemented on this date. The liabilities specifically include authorization documents lost in transit (§ 276.2(b)(1)(ii)); single unmatched issuances, replacements not made in accordance with § 274.6, and altered and counterfeit authorizations negotiated (§ 276.2(b)(1)(iii)); undocumented issuances (§ 276.2(b)(2)(v)); issuances made to non-certified households (§ 276.2(b)(2)(vi)); and, issuance loss during an investigation if the investigation was not reported directly to FNS prior to the loss (§ 276.2(b)(2)(vii)).

c. October l, 1989—The new mail issuance reporting and liability assessments shall be implemented *on* this date. (§ 276.2(b)(4)) A State agency which wants to change from its current unit-level of reporting to either an administrative unit or Statewide basis shall submit a Mail Issuance Loss Reporting Plan, indicating its initial choice of reporting, *by* May 15, 1989, and by August 15 in years thereafter.

d. The new provision which requires reviews to be conducted on active cases to determine if households are eligible and are receiving the benefit amount authorized on the master issuance file shall be implemented for federal Fiscal Year 1990. (§ 275.10(a))

e. October 1, 1989—State agencies shall begin to use the revised Form *FNS-46,* Issuance Reconciliation Report, to report figures for that month.

f. Provisions pertaining to staggered issuance contained in any currently-approved waivers will automatically be cancelled April 1, 1989.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs-social programs.

7 CFR Part 272

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

7 CFR Part 273

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

7 CFR Part 274

Administrative practice and procedure, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

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.

Therefore, 7 CFR Parts 271, 272, 273, 274, 275 and 276 are amended as follows:

1. The authority citation for Parts 271, 272, 273, 274, 275 and 276 continues to read:

Authority: 7 U.S.C. 2011-2029.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. Section 271.2, Definitions is amended by adding the new definitions of "Authorization document", "Claims collection point", "Direct access system", "Master issuance file", and "Record-for-issuance file" in alphabetical order, to read as follows:

§ 271.2 Definitions.

* * * * *

"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.

* * * * *

"Claims collection point" 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, or to which it has assigned responsibility for the collection of claims.

* * * * *

"Direct access system" means an issuance system in which benefits are issued directly to the household, without the use of an intermediary document, based on the issuance agent's direct access to information in the household's individual record on the master issuance file, which may be a card document or an on-line computer system.

* * * * *

"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.

* * * * *

"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.

* * * * *

2a. In § 271.8:

a. The paragraph designations and corresponding OMB Control Numbers for PART 274 are revised; and

b. A paragraph designation and corresponding OMB Control Number for § 276.2, paragraph (b), is added in numerical order.

The revisions and addition read as follows:

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

7 CFR section where requirements are described	Current OMB control No.
* * *	* *
274.1(c)	0584-0009.
274.3(d)	0584-0009, 0584-0069, 0584-0080.
274.4(a)	0584-0080.
274.4(b)	0584-0009, 0584-0015, 0584-0080, 0584-0081.
274.4(f)	0584-0009, 0584-0053.
274.6 (a), (b) and (e)	0584-0080, 0584-0081.
274.7(a)	0584-0009.
274.7(c)	0584-0022.
274.8(a)-(c)	0584-0009.
274.8(e)	0584-0053.
274.9(a)-(d)	0584-0009.
274.11	0584-0009.
* * *	* *
276.2(b)	0584-0015.
* * *	* *

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

3. In § 272.1, a new paragraph (g)(105) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) Implementation * * *

(105) Amendment No. 271. This rule becomes effective April 1, 1989, and the State agencies shall implement all provisions on that date, with the exception of the following provisions: the new provisions on replacement issuances shall be implemented *by* October 1, 1989; the new liabilities for State agencies using authorization document issuance systems shall be implemented *on* October 1, 1989; the new mail issuance reporting and liability assessments shall be implemented *on* October 1, 1989; State agencies wanting to change their current unit-level of mail issuance loss reporting must submit their initial plans *by* May 15, 1989; the new provision on quality control case reviews shall be implemented for federal Fiscal Year 1990; State agencies shall begin to use the revised Form *FNS-46*, Issuance Reconciliation Report, to report figures for the month of October 1989; and, provisions pertaining to staggered issuance contained in any currently-approved waivers will automatically be cancelled April 1, 1989.

4. In § 272.2, paragraph (a)(2) is amended by adding a sentence at the end of the paragraph, and a new paragraph (d)(1)(viii) is added.

The amendment and addition read as follows:

§ 272.2 Plan of operation.

(a) *General purpose and content:* * * *

(2) *Content.* * * * The Plan's attachments shall also include the Mail Issuance Loss Reporting Level Plan.

* * * * *

(d) *Planning documents.*

(1) * * *

(viii) Mail Issuance Loss Reporting Level Plan required by § 276.2(b)(3), for the State agency using mail issuance, shall contain the unit level of reporting mail issuance losses for the upcoming fiscal year as elected by the State agency. If a State agency does not revise its Plan by August 15 in any given year, FNS shall continue to require reporting and to assess liabilities for the next fiscal year at the level last indicated by the State agency. If the agency has selected the unit provided for in § 276.2(b)(3)(ii), a listing of the issuance sites or counties comprising each administrative unit within the State agency shall also be included in the Plan.

* * * * *

5. In § 272.4, a new paragraph (f) is added to read as follows:

§ 272.4 Program administration and personnel requirements.

* * * * *

(f) *State monitoring of duplicate participation.* (1) Each State agency shall establish a system to assure that no individual participates more than once in a month, in more than one jurisdiction, or in more than one household within the State in the Food Stamp Program. To identify such individuals, the system shall use names and social security numbers at a minimum, and other identifiers such as birth dates or addresses as appropriate.

(i) If the State agency detects a large number of duplicates, it shall implement other measures, such as more frequent checks or increased emphasis on prevention.

(ii) If the State agency provides cash assistance in lieu of coupons for SSI recipients or for households participating in cash-out demonstration projects, the State agency shall check to assure that no individual receives both coupons and other benefits provided in lieu of coupons. Checks to detect individuals receiving both food coupons and cash-out benefits, or any other form of duplicate benefits, shall be made at the time of certification, recertification, and whenever a new member is added to an existing household. However, if the State agency can show that these time frames are incompatible with its system, the State agency shall check for duplicate benefits when necessary, but no less often than annually.

(2) Processing standards for duplicate participation checks at certification and recertification shall not delay the issuance of benefits.

(i) If the State agency chooses to check at the time of certification and recertification, the check for duplicates shall not delay processing of the application and provision of benefits beyond the normal processing standards in § 273.2(g).

(ii) If a duplicate is found in making such a check, the duplication needs to be resolved in accordance with § 273.2(f)(4)(iv) before the application can be processed and benefits provided. Delays in processing caused by this resolution shall be handled in accordance with § 273.2(h).

(3) State agencies shall develop follow-up procedures and corrective action requirements, including time frames within which action must be taken, to be applied to data obtained from matching for duplicate participation. Follow-up actions shall include, but not be limited to, the adjustment of benefits and eligibility, filing of claims, disqualification hearings, and referrals for prosecution, as appropriate.

(4) FNS reserves the right to review State agencies' use of data obtained from matching for duplicate participation and may require State agencies to take additional specific action to ensure that such data is being used to protect Program integrity.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

6. In § 273.1, paragraph (f) is amended as follows:

a. Introductory text is added after the heading *"Authorized representatives"*.

b. Introductory paragraph (f)(1), the last sentence of paragraph (f) (1)(i) and paragraphs (f)(1)(i)(A) and (f)(1)(i)(B) are removed, and paragraphs (f)(1)(i), (f)(1)(ii) and (f)(1)(iii) are redesignated as introductory paragraph (f)(1) and paragraphs (f)(1)(i) and (f)(1)(ii), respectively.

c. The last sentence of paragraph (f)(2)(i) is removed.

d. The sixth sentence of paragraph (f)(2)(ii), beginning with: "If the resident applies", is removed.

The addition reads as follows:

§ 273.1 Household concept.

* * * * *

(f) *Authorized representatives.* The head of household, spouse, or any other responsible member of the household may designate an authorized representative to act on behalf of the household in making application for the Program, in obtaining benefits, and/or in using benefits at authorized retail food firms and meal services. Rules pertaining to the use of authorized representatives to obtain household benefits or to use household benefits are in § 274.5. Rules pertaining to designating authorized representatives to apply for the Program are specified in this section.

* * * * *

§ 273.2 [Amended]

7. In § 273.2, paragraph (g) is amended as follows:

a. In the first sentence of paragraph (g)(1), the words "(as defined in § 274.2(b))", are added after the word "participate".

b. Paragraph (g)(2) is removed.

c. Paragraph (g)(3) is redesignated paragraph (g)(2).

§ 273.10 [Amended]

8. In § 273.10, paragraph (g)(3) is removed.

§ 273.11 [Amended]

9. In § 273.11, paragraph (k) is removed, and paragraph (l) is redesignated as paragraph (k).

10. In § 273.18, paragraphs (i) (1) and (2) are removed and the last sentence in paragraph (i) is revised to read as follows:

§ 273.18 Claims against households.

* * * * *

(i) * * * The State agency shall destroy any coupons or coupon books which are not returned to inventory in accordance with the procedures outlined in § 274.7(f).

* * * * *

PART 274—ISSUANCE AND USE OF COUPONS

11. Part 274 is revised in its entirety and reads as follows:

Authority: 7 U.S.C. 2011–2029.

§ 274.1 State agency issuance responsibility.

(a) *Basic issuance requirements.* State agencies shall establish issuance and accountability systems which ensure that only certified eligible households receive benefits; that coupons are accepted, stored, and protected after delivery to receiving points within the State; that Program benefits are timely distributed in the correct amounts; and that coupon issuance and reconciliation activities are properly conducted and accurately reported to FNS.

(b) *Contracting or delegating issuance responsibilities.* State agencies may assign to others such as banks, savings and loan associations, the Postal Service, community action and migrant service agencies, and other commercial businesses, the responsibility for the issuance and storage of food coupons. State agencies may permit contractors to subcontract assigned issuance responsibilities.

(1) Any assignment of issuance functions shall clearly delineate the responsibilities of both parties. The State agency remains responsible, regardless of any agreements to the contrary, for ensuring that assigned duties are carried out in accordance with these regulations. In addition, the State agency is strictly liable to FNS for all losses of coupons, even if those losses are the result of the performance of issuance, security, or accountability duties by another party.

(2) All issuance contracts shall follow procurement standards set forth in Part 277.

(3) The State agency shall not assign the issuance of coupons to any retail food firm unless the State agency provides evidence that such an arrangement is needed to maintain or increase the efficient and effective operation of the Program, as described below.

(i) Coupons may be issued inside or within a retail food store, if the issuance is performed by a bank, credit union or other financial organization independent of the retail food store.

(ii) Coupons may be issued on-site by a retail food store under the following conditions:

(A) The State agency adequately documents that unless the retail food store is permitted to issue coupons on-site there will be a hardship, not just an inconvenience, to recipients. The State agency shall contract directly with the retail food firm and shall provide oversight to such entity; or

(B) In the absence of the hardship documentation, a retail food firm itself may perform issuance as a subcontractor to a bank, credit union or other independent financial organization, with strict oversight by the financial organization.

(4) The State agency may contract with the U.S. Postal Service for the issuance of benefits. The Department and the Postal Service have signed an agreement which governs benefit issuance by the Postal Service. A State agency's contract with the Postal Service does not exempt the State agency from the requirement that it comply with these regulations. However, State agencies may negotiate contracts with the Postal Service on all terms and conditions as long as such provisions do not conflict with these regulations.

(5) In project areas or parts of project areas where FNS has required a Photographic identification (Photo ID) system to be used, the State agency shall include in any contract or agreement with an issuing agent a provision establishing the agent's liability to the State agency for the face value of coupons issued in any authorization document transaction where the authorization document is found to have been stolen or otherwise not received by the household certified as eligible, if the cashier has not fulfilled the requirements contained in § 274.10. This same provision shall apply to issuance contracts in project areas or parts of project areas where FNS has granted a waiver or waivers of any provision(s) of the Photo ID requirements based on a determination that State agency alternatives will not compromise the security of the ID system.

(c) *State monitoring of coupon issuers.* The State agency's accountability system shall include procedures for monitoring coupon issuers to assure that the day-to-day operations of all coupon issuers comply with these regulations, to identify and correct deficiencies, and to report violations of the Act or regulations to FNS.

(1) The State agency shall conduct an onsite review of each coupon issuer and bulk storage point at least once every three years. All offices or units of a coupon issuer are subject to this review requirement. The State agency shall base each review on the specific activities performed by each coupon issuer or bulk storage point. A physical inventory of coupons shall be taken at each location and that count compared with perpetual inventory records and the monthly reports of the coupon issuer or bulk storage point. This review may be conducted at branch sites as well as the main offices of each issuer and bulk storage point that operates in more than one office. Except in unusual

circumstances, the Postal Inspection Service will conduct onsite reviews of Postal Service issuance operations.

(2) This review requirement may be fulfilled in part or in total by the performance reporting review system, Part 275. The State agency may delegate this review responsibility to another unit of the State government or contract with an outside firm with expertise in auditing and accounting. State agencies may use the results of reviews of coupon issuers by independent audit or accounting firms as long as the food coupon issuance operations of the coupon issuer are included in the review.

(d) *Changes.* The State agency shall inform FNS whenever a project area, issuance point, reconciliation point, replacement point, bulk storage reporting point or coupon shipment receiving point is created, relocated, or terminated. The State agency shall report the change at least 30 days prior to the effective date of the change. Initial notification may be made by telephone but the State agency shall confirm the information in writing as soon as possible.

(e) *Advance planning documentation.* State agencies must comply with the procurement requirements of Part 277 for the acquisition, design, development, or installation of automated data processing (ADP) equipment. With certain exceptions detailed in Part 277, State agencies must receive prior approval for the design and acquisition of ADP systems through submission of advance planning documents (APD's).

§ 274.2 Providing benefits to participants.

(a) *General.* Each State agency is responsible for the timely and accurate issuance of benefits to certified eligible households in accordance with these regulations. Those households comprised of elderly or disabled members which have difficulty reaching issuance offices, and households which do not reside in a permanent dwelling or of a fixed mailing address shall be given assistance in obtaining their regular monthly benefits. State agencies shall assist these households by arranging for the mail issuance of coupons to them, by assisting them in finding authorized representatives who can act on their behalf, or by using other appropriate means.

(b) *Newly-certified households.*

(1) All newly-certified households, except those that are given expedited service, shall be given an opportunity to participate no later than 30 calendar days following the date the application was filed. An opportunity to participate consists of providing households with coupons or authorization documents and having issuance facilities open and available for the households to obtain their benefits. State agencies must mail authorization documents or coupons in time to assure that the documents can be transacted, or the coupons spent after they are received but before the 30-day standard expires. A household has not been provided an opportunity to participate within the 30-day standard if the authorization document or benefits are mailed on the 29th or 30th day. Neither has an opportunity to participate been provided if the authorization document is mailed on the 28th day but no issuance facility is open on the 30th day.

(2) Households which apply for benefits during the last 15 days of the month, which fulfill *all* eligibility requirements, and which are issued benefits during this period, must be issued benefits for their first full month of participation no later than the close of business on the eighth calendar day of that month. The full month's benefits may be issued in a lump sum or may be divided, with an initial and supplemental issuance; the supplemental issuance shall not provide the households more benefits than the household is entitled to receive.

(3) Newly-certified households that are given expedited service shall have benefits provided as explained in § 273.2(i). Households for which verification has been postponed shall *not* be given the first full month's benefits by the eighth calendar day of that month unless the postponed verification is provided prior to the eighth day, and shall be handled under the provisions contained in § 273.2(i).

(c) *Ongoing households.* All households shall be placed on an issuance schedule so that they receive their benefits on or about the same date each month. The date upon which a household receives its initial allotment after certification need not be the date that the household must receive its subsequent allotments.

(1) State agencies may stagger the issuance of benefits to households throughout the entire month. In doing so, however, State agencies shall not allow more than 40 days to elapse between any two issuances provided to a household. State agencies that use direct mail issuance shall stagger issuances over at least ten days of the issuance month and may stagger issuances over the entire issuance month. No matter what issuance schedule a State agency adopts, it shall adhere to the reporting requirements specified in § 274.4.

(2) When a participating household is transferred from one issuance procedure to another, which would result in more than 40 days elapsing between issuances of benefits, the State agency may divide the first issuance under the new procedure into two parts, with one part issued within the 40-day limit, and the second part, or supplemental issuance, issued on the established issuance date of the new procedure; the supplemental issuance cannot provide the household more benefits than the household is entitled to receive.

(3) Notwithstanding the above provisions, in months in which benefits have been suspended under the provisions of § 271.7, State agencies may stagger issuance to certified households following the end of the suspension. In such situations, State agencies may, at their option, stagger issuance from the date issuance resumes through the end of the month or over a five-day period following the resumption of issuance, even if this results in benefits being issued after the end of the month in which the suspension occurred.

(d) *Issuance services.* State agencies are responsible for determining the location and hours of operation of issuance services. In doing so, State agencies shall ensure that the issuance schedules set forth in paragraphs (b) and (c) of this section are met. In addition, issuance authorization documents, such as ATP cards, should be valid only in the geographic area within the State that is encompassed by the reconciliation system through which the issuance will be processed; however, the validity area may be extended within the State at the State agency's option. State agencies may also restrict the validity of these documents to smaller areas or particular issuance sites with minimal practicable inconvenience to affected households.

(e) *Issuance of coupons to households.* The State agency shall issue coupon books in accordance with a table for coupon-book issuance provided by FNS, except as provided in paragraphs (e)(1), (e)(2), and (e)(3) of this section. The State agency shall issue the coupon books in consecutive serial number order whenever possible, starting with the lowest serial number in each coupon book denomination. The household member whose name appears on the ID card shall sign the coupon books; if more than one name appears, any named member may sign the books.

(1) The State agency may deviate from the table if the specified coupon books are unavailable.

(2) Exceptions from the table are authorized for blind and visually-handicapped participants who request that all coupons be of one denomination.

Recipients who have no fixed address (homeless), and residents of shelters for battered women and children, as defined in § 271.2, and which are not authorized by FNS to redeem through wholesalers, may request that all or part of their coupons be of the $1 denomination. State agencies are authorized to grant this request when feasible.

(3) If a household is eligible for an allotment of $1, $3, or $5, the State agency shall adjust those allotments to $2, $4, or $6, respectively.

§ 274.3 Issuance systems.

(a) *System classification.* State agencies may issue benefits to households through any of the following three systems:

(1) An authorization document system that uses a document produced for each month's issuance. The intermediary document, such as an ATP, may be distributed on a monthly basis to each household and surrendered by the household to the coupon issuer, or provided monthly to issuers with either single household authorizations or multiple household authorizations on each (such as a computer-generated listing). For reconciliation and identification purposes, the authorization document shall contain the following:

(i) Serial number;

(ii) Case name and address;

(iii) Case number;

(iv) Allotment amount;

(v) Benefit month or expiration date;

(vi) Name of issuing project area; and,

(vii) Space for signature of household member. An additional space for an authorized representative may be included.

(2) A direct access system that directly accesses a master issuance file at the time that benefits are issued to households. This system shall use manual card access or an automated access to the master issuance file. Systems of this type include the manual Household Issuance Record (HIR) card system and on-line issuance terminals.

(3) A mail issuance system that directly delivers coupons through the mail to households.

(b) *Other systems.* A State agency may develop an issuance system which cannot be readily categorized into one of the three systems described in paragraph (a) of this section. FNS shall prescribe the reporting and reconciliation requirements which apply to that system.

(c) *Alternative benefit issuance system.* (1) If the Secretary, in consultation with the Office of the Inspector General, determines that Program integrity would be improved by changing the issuance system of a State, the Secretary shall require the State agency to issue or deliver coupons using another method. The alternative method may be one of the methods described in paragraph (a) of this section, or the Secretary may require a State agency to issue, in lieu of coupons, reusable documents to be used as part of an automated data processing and information retrieval system and to be presented by, and returned to, recipients at retail food firms for the purpose of purchasing food. The determination of which alternative to use will be made by FNS after consultation with the State agency. The cost of conversion will be shared by the Department and the State agency in accordance with the cost accounting provision of Part 277.

(2) The cost of documents or systems which may be required as a result of a permanent alternative issuance system pursuant to this section shall not be imposed upon retail food firms participating in the Program.

(d) *System requirements.* (1) The State agency shall establish a master issuance file which is a composite of the issuance records of all certified food stamp households. The State agency shall establish the master issuance file in a manner compatible with its system used for maintaining case record information and shall separate the information on the master issuance file into active and inactive case file categories. The master issuance file shall contain all the information needed to identify certified households, issue household benefits, record the participation activity for each household and supply all information necessary to fulfill the reporting requirements prescribed in § 274.4.

(i) The master issuance file shall be kept current and accurate. It shall be updated and maintained through the use of documents such as notices of change and controls for expired certification periods.

(ii) Before entering a household's data on the master issuance file, the State agency shall review the master issuance file to ensure that the household is not currently participating in, or disqualified from, the Program. If an authorization document is issued under the expedited service requirements of §§ 273.2(i) and 274.2(b), the State agency shall complete as much of the master issuance file review as possible prior to issuing the authorization document. Any uncompleted reviews shall be completed after issuance and appropriate corrective action shall be taken to recover overissuance.

(2) State agencies should divide issuance responsibilities between at least two persons to prevent any single individual from having complete control over the authorization of issuances and the issuances themselves. Responsibilities to be divided include maintenance of inventory records, assembly of benefits and preparation of envelopes for mailing. If issuance functions in an office are handled by one person, a second-party review shall be made to verify coupon inventory, the reconciliation of the mail log, and the number of mailings prepared.

(3) State agencies shall establish controls to prevent a household from concurrently receiving benefits through more than one issuance system.

(4) State agencies shall clearly identify issuances in their accountability systems as initial, original, supplemental, replacement, or restored benefits.

(5) State agencies shall establish a Statewide record of replacement issuances granted to households to prevent a household from receiving more than two countable replacement issuances as defined in § 274.6(b) in a six-month period.

(6) State agencies which issue benefits by mail shall, at a minimum, use first class mail and sturdy nonforwarding envelopes or packages to send benefits to households.

(e) *Validity periods.* (1) State agencies shall establish validity periods for issuances made in authorization document and direct access issuance systems. A validity period is the time frame during which a household may obtain benefits by transacting an authorization document or receiving the benefits directly at an issuance point. The validity period begins the day a household is issued its authorization document or the day a household is authorized to pick up its issuance at an issuance point. If such day is before the 20th day of the issuance month, the validity period shall last until the end of that issuance month. If the validity period begins on or after the 20th day of the issuance month, the State agency has the option of extending the validity period at least 30 days or until the end of the next issuance month. A household which does not transact its authorization document or pick up its authorized issuance during the issuance's validity period shall lose its entitlement to the benefits and the State agency shall not issue benefits to such a household for such a period.

(2) State agencies experiencing excessive issuance losses may develop systems that have authorization documents that expire in shorter time frames than those set forth in paragraph

(e) of this section. However, such systems shall include methods that allow households the opportunity to obtain their benefits for the full validity period of a month's issuance.

§ 274.4 Reconciliation and reporting.

(a) *Reconciliation.* State agencies shall account for all issuance through a reconciliation process. The manner in which this is done varies depending on the type of issuance system being used.

(1) Described below are the required reconciliation procedures for each type of system.

(i) In all issuance systems coupon issuers shall reconcile their issuances daily using daily tally sheets, cashiers' daily reports, tapes or printouts.

(ii) In systems where a record-for-issuance is used, all issuances authorized for the month shall be merged into one record-for-issuance at the end of each month. All issuances made during the month shall then be posted to the record-for-issuance. The record-for-issuance shall then be compared with the master issuance file. Findings from this comparison shall be reported on the Form *FNS-46* as prescribed in paragraph (b)(2) of this section.

(iii) In systems where no record-for-issuance is used, issuances made during each month shall be reconciled to the master issuance file. Findings from this reconciliation shall be reported on the Form *FNS-46* as prescribed in paragraph (b)(2) of this section.

(iv) In addition to the reconciliation activity prescribed in the paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) of this section, the following steps shall be followed in authorization document systems:

(A) The State agency shall determine and verify the transacted value of authorized coupon issuances.

(B) Any batches of transacted authorization documents that do not reconcile shall be maintained intact by the State agency until the discrepancy is resolved with the coupon issuer and/or a review of the case files.

(C) The State agency shall compare all transacted authorization documents with the record-for-issuance or master issuance file as appropriate. Any documents that do not match with the record-for-issuance or master issuance file shall be identified and reported as required in paragraph (b)(2) of this section.

(b) *Required reports.* The State agency shall review and submit the following reports to FNS on a monthly basis:

(1) Form *FNS-250*, Food Coupon Accountability Report.

(i) This report, executed monthly by coupon issuers and bulk storage points, shall be signed by the coupon issuer or appropriate official, certifying that the information is true and correct to the best of that person's knowledge and belief.

(ii) Coupon issuers and bulk storage points shall submit supporting documentation to the State agency which will allow verification of the monthly report. At a minimum, such documentation shall include documents supporting coupon shipments, transfers, issuances, and destruction.

(iii) For those State agencies which use an authorization document issuance system, coupon issuers shall submit transacted authorization documents batched according to each day's activity in accordance with a schedule prescribed by the State agency, but not less often than monthly.

(iv) All mail issuance activity, including the value of mail issuance replacements, shall be reported. Original allotments (first benefits issued for a particular month to an ongoing household) subsequently recovered by the issuance office during the current month shall be returned to inventory and noted on the mail issuance log. When the original allotment is returned to inventory and the replacement issuance is issued during the current month (month in which original benefits were issued), the "replacement" shall not be reported.

(v) The Form *FNS-250* shall be reviewed by the State agency for accuracy, completeness and reasonableness. The State agency shall attest to the accuracy of these reports and shall submit the reports so they will be received by FNS by the 45th day after the report month. Any revisions to the Form *FNS-250* for a given month shall be submitted to FNS within 105 days after the end of the report month.

(vi) FNS shall review each form, submitted through the State agency, for completeness, accuracy and reasonableness and shall reconcile inventory with shipping records, and shall review State agency verification of coupon issuer and bulk storage point monthly reports. FNS may supplement the above reviews by unannounced spot checks of inventory levels and coupon security arrangements at coupon issuers and at bulk storage points.

(2) Form *FNS-46*, Issuance Reconciliation Report, shall be submitted by each State agency operating an issuance system. The report shall be prepared at the level of the State agency where the actual reconciliation of the record-for-issuance and master issuance file occurs.

(i) The State agency shall identify and report the number and value of all issuances which do not reconcile with the record-for-issuance and/or master issuance file. All unreconciled issuances shall be identified as specified on this reporting document.

(ii) The final report shall be received by FNS no later than 90 days following the end of the report month.

(3) Form *FNS-259*, Food Stamp Mail Issuance Report.

(i) Form *FNS-259* reports shall be submitted by State agencies for each unit using a mail issuance system as specified in the Mail Issuance Loss Reporting Plan required in § 272.2(d)(1)(iv). The State agency shall submit the Form *FNS-259* reports so that they are received in FNS by the 45th day following the end of each quarter.

(ii) The State agency shall verify the issuance by a comparison with issuance on the appropriate coupon issuer's Form *FNS-250*.

(4) Form *FNS-388*, State Coupon Issuance and Participation Estimates.

(i) State agencies shall telephone or transmit by computer the Form *FNS-388* data and mail the reports to the FNS regional office no later than the 19th day of each month. When the 19th falls on a weekend or holiday, the Form *FNS-388* data shall be reported by telephone or transmitted by computer and mailed on the first work day after the 19th. The Form *FNS-388* report shall be signed by the person responsible for completing the report or a designated State agency official.

(ii) The Form *FNS-388* report shall provide Statewide estimated or actual totals of issuance and participation for the current and previous month, and actual or final participation totals for the second preceding month. In addition to the participation totals for the second preceding months of January and July, provided on the March and September reports, non-assistance (NA) and public assistance (PA) household and person participation breakdowns shall be provided. As an attachment to the March and September Form *FNS-388* reports, State agencies shall provide project area breakdowns of the coupon issuance and NA/PA household and person participation data for the second preceding months of January and July.

(iii) State agencies shall submit any proposed changes in their estimation procedures to be used in determining the Form *FNS-388* data to the FNS regional office for review and comment. FNS shall monitor the accuracy of the estimated dollar value of coupons issued as reported on the Form *FNS-388* against the Statewide total dollar value of coupons as reported by the issuance agents on the Form *FNS-250*, Food Stamp Accountability Report, for the corresponding month. FNS shall monitor the accuracy of the Statewide estimated number of households and persons participating as reported on the Form *FNS-388* report against the Statewide actual total participation as reported on succeeding Form *FNS-388* reports and against the semiannual project area participation totals attached to the March and September Form *FNS-388* reports. The FNS accuracy standards for the issuance and participation estimates are that estimates for the current month be within (+) or (−) four (4) percent of actual levels, and the estimates for the previous month be within (+) or (−) two (2) percent of actual levels. State agencies shall explain any unusual circumstances that cause coupon issuance and/or participation data to not meet these accuracy standards. If a State agency fails to meet these accuracy standards, FNS shall notify the State agency and assist the State agency in revising its estimating procedures to improve its reporting.

(iv) A participating household is one that is certified and has been, or will be, issued benefits (whether or not the benefits are used), and households that have met the eligibility requirements, but will receive zero benefits.

§ 274.5 Authorized representatives.

(a) *Household representation.* The head of household, spouse or any other responsible member of the household may designate an authorized representative to act on behalf of the household in making application for the Program, in obtaining benefits and/or in using benefits at authorized firms. Rules pertaining to designating authorized representatives to apply for the Program on behalf of a household are in § 273.1(f). Specified below are the rules pertaining to the use of authorized representatives to obtain household benefits or to use household benefits:

(1) An authorized representative may be designated to obtain coupons. The designation shall be made at the time the application is completed and any authorized representative shall be named on the ID card. The authorized representative for coupon issuance may be the same individual designated to make application for the household or may be another individual. Even if a household member is able to make application and obtain benefits, the household should be encouraged to name an authorized representative for obtaining coupons in case of illness or other circumstances which might result in an inability to obtain benefits.

(2) The State agency shall ensure that authorized representatives are properly designated. The name of the authorized representative shall be contained in the household's case file. Limits shall not be placed on the number of households an authorized representative may represent. In the event employers, such as those that employ migrant or seasonal farmworkers, are designated as authorized representatives or that a single authorized representative has access to a large number of authorization documents or coupons, the State agency should exercise caution to assure that each household has freely requested the assistance of the authorized representative, the household's circumstances are correctly represented, the household is receiving the correct amount of benefits and that the authorized representative is properly using the benefits.

(3) State agency employees who are involved in the eligibility determination and/or issuance processes and employees of authorized food firms and meal services that are authorized to accept food coupons shall not be authorized representatives unless the State agency determines that no other representative is available.

(4) An individual disqualified for fraud shall not be an authorized representative during the period of disqualification unless the individual is the only adult in the household and the State agency is unable to arrange for another authorized representative. State agencies shall separately determine whether these individuals are needed to apply on behalf of the household, to obtain coupons for the household, and to use the household's coupons to purchase food.

(5) In the event the only adult living with a household is classified as a nonhousehold member as defined in § 273.1(b), that individual may be the authorized representative for the minor household members.

(6) Drug or alcohol treatment centers shall receive and spend the food stamp benefits for food prepared by and/or served to the residents of the center who are participating in the Food Stamp Program.

(7) The head of a group living arrangement which acts as the authorized representative for the residents, may either receive and spend the residents' benefits for food prepared by and/or served to each eligible resident or allow each resident to spend all or any portion of the benefits on his/her own behalf. Meal providers for the homeless may not be authorized representatives, as specified in § 273.1(f)(4)(iv).

(b) *Emergency representative for obtaining benefits.* The State agency shall develop a system by which a household may designate an emergency authorized representative to obtain the household's benefits for a particular month. At a minimum, the method developed by the State agency shall require that a household member whose signature is on the household's ID card sign a designation authorizing the particular emergency representative to receive the household's benefits and attesting to the validity of the emergency representative's signature which must also be on the designation. Households shall not be required to travel to a food stamp office to execute the designation. Additional provisions pertaining to the use of identification cards by emergency authorized representatives are contained in § 274.10(c).

(c) *Authorized representatives for using benefits.* A household may enlist any household member or a nonmember to use its ID card and benefits to purchase food or meals for the household. However, individuals disqualified from the Program because of their commission of an intentional Program violation may only act as authorized representatives for households if no other representative can be found.

(d) *Disqualification.* An authorized or emergency representative may be disqualified from representing a household in the Program for up to one year if the State agency has obtained evidence that the representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household, or has made improper use of coupons. The State agency shall send written notification to the affected household and to the representative 30 days prior to the date of disqualification. The notification shall include the proposed action, the reason for the proposed action, the household's right to request a fair hearing, the telephone number of the office, and, if possible, the name of the person to contact for additional information. This provision is not applicable in the case of drug and alcohol treatment centers and to the heads of group living arrangements which act as authorized representatives for their residents. However, drug and alcohol treatment centers and the heads of group living arrangements that act as authorized representatives for their residents, and which intentionally misrepresent households' circumstances, may be prosecuted under applicable State fraud statutes for their acts.

§ 274.6 Replacement issuances to households.

(a) *Providing replacement issuance.* (1) Subject to the restrictions in paragraph (b) of this section, State agencies shall provide replacement issuances to a household when the household reports that:

(i) Its authorization document was not received in the mail or was stolen from the mail, was stolen after receipt, was destroyed in a household misfortune, or was improperly manufactured or mutilated;

(ii) Its coupons were not received in the mail, were stolen from the mail, were destroyed in a household misfortune, or were improperly manufactured or mutilated;

(iii) Food purchased with food stamps was destroyed in a household misfortune; or

(iv) It received a partial coupon allotment.

(2) State agencies shall not provide replacement issuances to households when coupons are lost, stolen or misplaced after receipt, authorization documents are lost or misplaced after receipt, when authorization documents or coupons are totally destroyed after receipt in other than a disaster or misfortune, or when coupons sent by registered or certified mail are signed for by anyone residing with or visiting the household. In addition, replacement issuances shall not be made if the household or its authorized representative has not signed and returned the household statement required in paragraph (c) of this section, where applicable.

(3) Where FNS has issued a disaster declaration and the household is eligible for disaster food stamp benefits under the provisions of Part 280, the household shall not receive both the disaster allotment and a replacement allotment for a misfortune.

(4) In order for a replacement to be considered non-countable, the replacement must not result in a loss to the Program.

(b) *Replacement restrictions.* (1) Replacement issuances shall be provided only if a household timely reports a loss orally or in writing, and provides a statement of nonreceipt if the original authorization document or allotment has not been returned to the State agency at the time of the request for replacement. The report will be considered timely if it is made to the State agency within 10 days of the date an authorization document is stolen from the household, or an authorization document, coupons, or food purchased with food stamps is destroyed in a household misfortune. In mail issuance (ATPs or coupons), the report must be made within the period of intended use, unless the original issuance was made after the 25th of the month, in which case the period of intended use is 20 days from original issuance, or the last day of the next month (State agency option).

(2) The number of replacement issuances which a household may receive shall be limited as follows:

(i) State agencies shall limit replacement issuances to a total of two countable replacements in six months for authorization documents or coupons not received in, or stolen from, the mail; authorization documents stolen after receipt; and partial coupon allotments. However, no limit shall be put on the number of replacements of partial allotments if the partial allotments were due to State agency error. Separate limits shall not apply for each of these types of loss.

(ii) State agencies shall limit replacement issuances per household to two countable replacements in six months for authorization documents or coupons reported as destroyed in a household misfortune. This limit is in addition to the limit in paragraph (b)(2)(i) of this section.

(iii) No limit on the number of replacements shall be placed on the replacement of authorization documents or coupons which were improperly manufactured or mutilated or food purchased with food stamp benefits which was destroyed in a household misfortune.

(iv) The replacement issuance shall *not* be considered a countable replacement if:

(A) The original or replacement issuance is returned or otherwise recouped by the State agency;

(B) The original authorization document is not transacted;

(C) The replacement authorization document is not transacted; or

(D) The replacement is being issued due to a State agency issuance error.

(3) Replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

(c) *Household statement of nonreceipt.* (1) Prior to issuing a replacement, the State agency shall obtain from a member of the household a signed statement attesting to the household's loss. This statement shall not be required if the reason for the replacement is that the original authorization document or coupons were improperly manufactured or mutilated, or if the original issuance has already been returned. The required statement may be mailed to the State agency if the household member is unable to come into the office because of age, handicap or distance from the office and is unable to appoint an authorized representative.

(2) If the signed statement or affidavit is not received by the State agency within 10 days of the date of report, no replacement shall be made. If the 10th day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the State agency shall consider the statement timely received.

(3) The statement shall be retained in the case record. It shall attest to the nonreceipt, theft, loss or destruction of the original issuance and specify the reason for the replacement. It shall also state that the original or replacement issuance will be returned to the State agency if the original issuance is recovered by the household and that the household is aware of the penalties for intentional misrepresentation of the facts, including but not limited to, a charge of perjury for a false claim. In addition, the statement shall advise the household that:

(i) The household may request to be placed on an alternate issuance system after one report of nonreceipt;

(ii) After two reports in a six-month period of loss or theft prior to receipt, the household shall be placed on an alternate delivery system;

(iii) After two reports in a six-month period of loss or theft prior to receipt and/or theft of an authorization document after receipt the State agency may delay or deny further replacements for such causes; and

(iv) If the statement of nonreceipt is not signed and returned within ten (10) days of the date the loss was reported, the State agency shall not replace the coupons or authorization document.

(d) *Time limits for making replacements.* (1) Replacement issuances shall be provided to households within 10 days after report of nondelivery or loss (15 days if issuance was by certified or registered mail) or within two (2) working days of receiving the signed household statement required in paragraph (c) of this section, whichever date is later.

(i) Replacement of mutilated coupons shall be delayed until a determination of the value of the coupons can be made in accordance with paragraph (f)(3) of this section.

(ii) If the household has already been issued the maximum allowable number of countable replacements, subsequent replacements shall be delayed until the agency has verified that the original issuance was returned or the original authorization document was not transacted. In a system using authorization documents, due to the time it takes to post and reconcile all authorization documents, it may not be known at the time of the replacement request whether prior replacements are countable replacements and, therefore, whether the household has reached its limit. In such cases, the allotment shall be restored when the State agency verifies that the limit on countable replacements has not been reached.

(iii) The State agency shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent.

(2) The household shall be informed of its right to a fair hearing to contest the denial or delay of a replacement issuance. Replacements shall not be made while the denial or delay is being appealed.

(e) *Replacing issuances lost in the mail or stolen prior to receipt by the household.* State agencies shall comply with the following procedures in replacing issuances reported lost in the mail or stolen prior to receipt by the household:

(1) Determine if the authorization documents or benefits were validly issued, if they were actually mailed, if sufficient time has elapsed for delivery or if they were returned in the mail. If a delivery of a partial allotment is reported, the State agency shall determine the value of the coupons not delivered and determine whether the report of receipt of a partial allotment is corroborated by evidence that the coupon loss was due to damage in the mail before delivery or by a discrepancy in the issuance unit's inventory;

(2) Determine, to the extent possible, the validity of the request for a replacement. This includes determining whether the original issuance has been returned to the State agency and, in a system utilizing authorization documents, whether the original authorization document has been transacted and, if so, whether the recipient's signature on the authorization document matches the signature on the ID card. In a Photo ID area, the State agency shall determine if the ID serial number annotated on the authorization document matches the serial number on the recipient's ID card;

(3) Issue a replacement in accordance with paragraphs (b), (c) and (d) of this section if the household is eligible;

(4) Place the household on an alternate delivery system, if warranted, in accordance with paragraph (g) of this section; and

(5) Take other action, such as correcting the address on the master issuance file, warranted by the reported nondelivery.

(f) *Replacing issuances after receipt by the household.* Upon receiving a request for replacement of an issuance reported as stolen or destroyed after receipt by the household, the State agency shall determine if the issuance was validly issued. The State agency shall also comply with all applicable provisions in paragraphs (b), (c) and (d) of this section, as well as the following procedures for each type of replacement:

(1) Prior to replacing an authorization document which was reported stolen after receipt by the household, the State agency shall determine, to the extent possible, the validity of the request for replacement. For example, the State agency may determine whether the original authorization document has been transacted and, if so, whether the signature on the original authorization document matches that on the household statement. In a Photo ID or serialized area, the State agency shall determine if the ID serial number annotated on the authorization document matches the serial number on the recipient's ID card. Any replacement which results in duplicate participation shall be considered a household error, and the replacement countable, when the ID serial number shown on the authorization document matches the serial number on the recipient's card, unless the ID card was reported lost or stolen prior to the replacement. The State agency may require households, on a case-by-case basis, to report the theft to a law enforcement agency and to provide verification of such report.

(2) Prior to replacing destroyed coupons or authorization documents, or destroyed food that was purchased with food stamp benefits, the State agency shall determine that the destruction occurred in a household misfortune or disaster, such as, but not limited to, a fire or flood. This shall be verified through a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit. The State agency shall provide replacements of coupons, authorization documents, and/or food in the actual amount of the loss, but not exceeding one month's allotment, unless the exception in paragraph (b)(3) of this section, applies.

(3) Households cannot receive a replacement for coupons lost or stolen after receipt.

(4) The State agency shall provide replacements for improperly manufactured or mutilated coupons or authorization documents as follows:

(i) Coupons received by a household, and subsequently mutilated or found to be improperly manufactured shall be replaced in the amount of the loss to the household. State agencies shall replace mutilated coupons when three-fifths of a coupon is presented by the household. The State agency shall examine the improperly manufactured or mutilated coupons to determine the validity of the claim and the amount of coupons to be replaced. If the State agency can determine the value of the improperly manufactured or mutilated coupons, the State agency shall replace the unusable coupons in a dollar-for-dollar exchange. After exchanging the coupons and completing a Form *FNS-135*, Affidavit of Return or Exchange of Food Coupons, the State agency shall destroy the coupons in accordance with the procedures contained in § 274.7(f). If the State agency cannot determine the value of the improperly manufactured or mutilated coupons, the State agency shall cancel the coupons by writing or stamping "canceled" across the face of the coupons and forward the coupons to FNS for a determination of the value by the U.S. Bureau of Engraving and Printing.

(ii) Authorization documents received by a household and subsequently mutilated or found to be improperly manufactured shall be replaced only if they are identifiable. "Identifiable" means that the State agency is able to determine the amount of the issuance and that the authorization document was validly issued to the household within the last 30 days. For example, if the authorization document serial number is legible, the State agency can determine from the record-for-issuance or manual authorization document log to which household the authorization document was issued, the date of issuance, and the amount. Similarly, if the case number and validity period are legible, the State agency may be able to determine to whom the authorization document was issued and the amount. If more than one authorization document was issued to the household and the State agency cannot determine which authorization document was mutilated, the replacement shall be issued in the lesser amount. Improperly manufactured or mutilated authorization documents shall be surrendered to the State agency.

(g) *Alternate issuance system for a household.* The State agency shall offer to place a household in an alternate issuance system after the first report of nonreceipt, or when circumstances exist that indicate that the household may not receive its benefits through the normal issuance system, such as when a household has a history of reported nonreceipt of ATP's. After two requests for replacement of original or replacement ATP's reported as nondelivered in a six-month period, the State agency shall issue benefits to that household under an alternate issuance system. The two requests may be for either an original or a replacement ATP. The State agency shall keep the household on the alternate issuance system for the length of time the State agency determines to be necessary. The State agency may return the household to the regular issuance system if the State agency finds that the circumstances leading to the loss have changed and the risk of loss has lessened. The placement of a household on an alternate issuance system and the length of time the household is on this system is not subject to the fair hearing process.

(h) *Documentation and reconciliation of replacement issuances.* (1) The State agency shall document in the household's case file each request for replacement, the date, the reason, and whether or not the replacement was provided. This information may be recorded exclusively on the household statement required in paragraph (c) of this section.

(2) The State agency shall maintain, in readily-identifiable form, a record of the replacements granted to the household, the reason, the month, and whether the replacement was countable as defined in paragraph (b)(2)(iv) of this section. The record may be a case action sheet maintained in the case file, notations on the master issuance file, if readily accessible, or a document maintained solely for this purpose. At a minimum, the system shall be able to identify and differentiate among:

(i) Authorization documents or coupons not received in, or stolen from, the mail, and authorization documents stolen after receipt; and

(ii) Replacement issuances which are not subject to a replacement limit.

(3) Upon completion of reconciliation in a system utilizing authorization documents, the State agency shall update the record required in paragraph (h)(2) of this section to indicate whether both the original and replacement authorization documents were transacted. If both were not transacted, the record shall clearly indicate that the replacement authorization document was not a countable replacement.

(4) When a request for replacement is made late in an issuance month, the replacement will be issued in a month subsequent to the month in which the original authorization document was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement and may be posted to the month of issuance of the original authorization document, so that all duplicate transactions may be identified.

(i) *Further action on replacement issuances.* The State agency shall take the following further actions on replacements:

(1) On at least a monthly basis, the State agency shall report to the appropriate office of the Postal Inspection Service all authorization documents reported as stolen or lost in the mail. The State agency shall assist the Postal Service during any investigation thereof and shall, upon request, supply the Postal Service with facsimiles of the original authorization document, if transacted, and the replacement authorization document and a copy of the nonreceipt statement. The State agency shall advise the Postal Service if the original authorization document is not transacted.

(2) When a duplicate replacement authorization document is transacted, the State agency shall, at a minimum:

(i) Compare the handwriting on the authorization documents to documents contained in the household's case file, including the nonreceipt statement;

(ii) Establish a claim in accordance with § 273.18, where it appears that the household has transacted, or caused both authorization documents to be transacted; and

(iii) Refer the matter to the State agency's investigation unit, where indicated.

§ 274.7 Coupon management.

(a) *Coupon inventory management.* State agencies shall establish coupon inventory management systems which ensure that coupons are requisitioned and inventories are maintained in accordance with the requirements of these regulations.

(1) State agencies shall monitor the coupon inventories of coupon issuers and bulk storage points to ensure that inventories are neither excessive nor insufficient to meet the issuance needs and requirements. In determining reasonable inventory needs, State agencies shall consider, among other things, the ease and feasibility of resupplying such inventories from bulk storage points within the State. The inventory levels at coupon issuers and bulk storage points should not exceed a six-month supply, taking into account coupons on hand and on order.

(2) State agencies shall establish accounting systems for monitoring the inventory activities of coupon issuers. State agencies shall review the Form *FNS-250*, from coupon issuers and bulk storage points, to determine the propriety and reasonableness of the inventories. Forms *FNS-261*, Advice of Shipment, Forms *FNS-300*, Advice of Transfer (or an approved State agency form), and reports of returned mail-issued coupons, reports of replacements of mail-issued coupons, reports of improperly manufactured or mutilated coupons, reports of shortage or overage of food coupon books and physical inventory controls shall be used by State agencies to assure the accuracy of monthly reports, issuers' compliance with required inventory levels, and the accuracy and reasonableness of coupon orders.

(b) *Coupon controls.* State agencies shall establish control and security procedures to safeguard coupons that are similar to those used to protect currency. The exact nature of security arrangements will depend on State agency evaluation of local coupon issuance and storage facilities. These arrangements must permit the timely issuance of coupons while affording a reasonable degree of coupon security. The State agencies, as well as all persons or organizations acting on their behalf, shall:

(1) Safeguard coupons from theft, embezzlement, loss, damage, or destruction;

(2) Avoid unauthorized transfer, negotiation, or use of coupons;

(3) Avoid issuance and transfer of altered or counterfeit coupons; and

(4) Promptly report in writing to FNS any loss, theft, or embezzlement of coupons.

(c) *Coupon requisitioning, shipping and transferring.* (1) State agencies shall arrange for the ordering of coupons on the Form *FNS-260*, Requisition for Food Coupon Books, and the prompt verification and written acceptance of each coupon shipment. FNS shall be furnished with appropriate delivery hours and the names of the persons authorized to sign delivery acknowledgements.

(2) FNS shall assess the reasonableness and propriety of food stamp requisitions submitted by State agencies based on prior inventory

changes and shall notify the State agency of any adjustments made to requisitions.

(3) FNS shall ship coupons, in such denominations as it may determine necessary, directly to State agency receiving points approved by FNS. FNS shall promptly advise the State agency in writing when coupons are shipped to receiving points using Form *FNS-261*, Advice of Shipment. Coupons shall be considered delivered to the State agency when FNS or its carrier has a signed receipt.

(4) Once coupons have been accepted by receiving points within the State, any further movement of the coupons between coupon issuers and bulk storage points within the State is at the risk of the State agency. To minimize the risk of loss, coupons should be shipped by armored vehicle or some other method of transportation that affords the State agency the maximum security available.

(5) In every instance when coupons are transported within a State, the person(s) transporting coupons shall:

(i) Acknowledge in writing the receipt of the coupons;

(ii) Provide as much protection for the coupons as is reasonable;

(iii) Advise issuance supervisors of the routes to be taken, the shipment departure time and the estimated arrival time. This information, if in written form, may be destroyed after the coupons have been received.

(d) *Specimen coupons.* FNS may provide upon written request, non-negotiable specimen coupons to State agencies for the administration of the Program and enforcement of the rules, and to authorized food firms for the purpose of educating and training employees on Program operations.

(1) The State agency or firm shall store specimen coupons in secure storage with access limited to authorized personnel. The State agency or firm should maintain a record of specimen coupons received.

(2) Specimen coupons that are mutilated, improperly manufactured, or otherwise unusable, shall not be distributed by the State agency. Such coupons shall be destroyed by the State agency and the destruction shall be witnessed by two persons and noted on the perpetual inventory records maintained by the FNS regional offices for specimen coupons.

(3) Specimen coupons shall not be issued to private individuals or firms for the purpose of collection or display.

(e) *Replacement and destruction of coupons and authorization documents by issuance points.* (1) The State agency shall provide for the replacement to issuers of improperly manufactured or mutilated coupons as provided below. Replacement provisions pertaining to households are contained in § 274.6.

(i) The State agency shall examine the improperly manufactured or mutilated coupons to determine the validity of the claim and the amount of coupons to be replaced.

(ii) If the State agency can determine the value of an improperly manufactured or mutilated coupon, the State agency shall replace the unusable coupon, dollar for dollar, when at least three-fifths of the coupon is presented by the issuer. After the exchange, the State agency shall destroy the unusable coupon in accordance with the procedures contained in paragraph (f) of this section.

(iii) If the State agency cannot determine the value of the improperly manufactured or mutilated coupons, the State agency shall cancel the coupons by writing or stamping "canceled" across the face of the coupons and forward the coupons to FNS for a determination of the value by the U.S. Bureau of Engraving and Printing. The dollar amount shall be shown on the Form *FNS-250* report.

(2) The State agency shall void all authorization documents mutilated or otherwise rejected during the preparation process. The voided authorization documents shall either be filed for audit purposes or destroyed, provided destruction is witnessed by at least two persons and the State agency maintains a list of all destroyed authorization documents. Provisions pertaining to the replacement of authorized documents mutilated subsequent to receipt by a household are provided in § 274.6.

(f) *Destruction of unusable coupons found in inventory or received as claim payments.* (1) The State agency shall require coupon issuers, bulk storage points and claims collection points to dispose of unusable coupons received from the manufacturer or received as payment for claims within 30 days from the close of the month in which the coupons were received. There is no dollar limit on the amount of coupons which may be disposed of by the State agency. Disposal shall be by one of the following two methods:

(i) Sending unusable coupons to the State agency for destruction; or

(ii) Holding the unusable coupons in secure storage pending examination and destruction by the State agency at the coupon issuance, bulk storage, or claims collection point.

(2) Prior to the destruction of improperly manufactured or mutilated coupons or coupon books that were exchanged, or collected from households for claims, the State agency shall:

(i) Verify that the coupons were improperly manufactured or mutilated.

If one or more boxes of coupons were improperly manufactured, the State agency shall contact FNS prior to disposition for instructions on the disposition of the coupons. If FNS has not responded within the 30-day time limit, the State agency shall destroy the box of coupons and document the manufacturing irregularity and the book numbers, and retain a copy of the State agency's request to FNS for permission to destroy.

(ii) If either the coupon issuer or bulk storage point, or the State agency cannot determine whether coupons or coupon books were in fact improperly manufactured or cannot establish the value of the coupons involved, the State agency shall promptly forward a written statement of findings and the canceled coupon(s) or coupon book(s) to FNS for determination.

(3) The State agency shall destroy the coupons and coupon books by burning, shredding, tearing, or cutting so they are not negotiable. Two State agency officials shall witness and certify the destruction and report the destruction information as follows:

(i) The destruction of improperly manufactured, mutilated or exchanged coupons from coupon issuers and bulk storage points shall be reported on the Form *FNS-471*, Coupon Account and Destruction Report, and submitted with the Form *FNS-250* for the appropriate month. For coupons received from recipients, a Form *FNS-135* shall be completed and attached to the Form *FNS-471*.

(ii) The destruction of coupons received from claims collection points that are the result of the payment of household claims shall be reported on the Form *FNS-471* (with Form *FNS-135* documentation) and submitted with the Form *FNS-209*, Status of Claims Against Households, for the appropriate months. A State agency may consolidate its monthly Form *FNS-471* for claims collection destruction reporting by providing one completed Form *FNS-471* that reflects the total claims destruction figure for each month. However, the State agency must attach a breakdown which reports the required Form *FNS-471* information for each reporting point. If a State agency chooses to submit a consolidated Form *FNS-471*, all individual Forms *FNS-471* must be retained by the State agency for future review and audit purposes. The Form *FNS-135* may not be consolidated, and all originals of that form must accompany a consolidated Form *FNS-471*.

(g) *Undeliverable or returned benefits*. The State agency shall exercise the following security and controls for authorization documents and coupons that are undeliverable or returned during the valid issuance period. Forms *FNS-471* and *FNS-135* shall be completed by the State agencies, as appropriate.

(1) Coupons which are in book form, complete, and with original and unsigned covers shall be returned to inventory and noted as such on the issuance log, and the Form *FNS-250*.

(2) Authorization documents shall be recorded in the control log noting the serial number, household name and case number. The documents shall be kept in secure storage with limited access. The documents may be voided as long as households which report nondelivery are provided an immediate replacement.

(h) *Old series coupon exchange*. Households which have old-series (no longer issued) coupons shall be entitled to a dollar-for-dollar exchange of old-series coupons for current series coupons. Households in possession of old-series coupons shall submit the coupons and a request for exchange to the State agency. State agencies may make direct exchange to claimants or request FNS to make the exchange. Forms *FNS-471* and *FNS-135* shall be completed by the State agencies, as appropriate.

§ 274.8 Responsibilities of coupon issuers, and bulk storage and claims collection points.

(a) *Receipt of coupons*. Coupon issuers, and bulk storage and claims collection points shall promptly verify and acknowledge, in writing, the content of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control, and storage of coupons.

(b) *Inventory levels*. Coupon issuers and bulk storage points shall maintain a proper level of coupon inventory not in excess of reasonable needs, taking into consideration the ease and feasibility of resupplying such coupon inventories. Such inventory levels should not exceed the six-month supply provided for in § 274.7(a).

(c) *Monthly reporting*. Coupon issuers, and bulk storage and claims collection points shall report monthly to FNS, through the State agency, using Form *FNS-250*, as provided in § 274.4.

(d) *Supporting documentation*. Coupon issuers and bulk storage points shall submit to the State agency supporting documentation which will allow verification of the monthly report as provided in § 274.4. At a minimum, such documentation shall include documents supporting coupon shipments, transfers, and issuances. In those States using issuance systems with authorization documents, coupon issuers shall submit transacted authorization documents batched according to each day's activity, in accordance with the schedule prescribed by the State agency but, in any case, not less often than monthly.

(e) *Handling of improperly manufactured or mutilated coupons*. Coupon issuers, and bulk storage and claims collection points shall cancel improperly manufactured or mutilated coupons or coupon books by writing or stamping "canceled" across the face of the coupon(s) and coupon book(s). Depending upon State agency policy, the coupon issuer or bulk storage point shall forward the coupons with the appropriate documentation (determined by the State agency) to the State agency, or hold the coupons in secure storage, pending examination and destruction by the State agency at the coupon issuer, bulk storage point or claims collection location. The documentation is not required if the State agency inspects the coupons at the issuance, storage or collection point. Additional requirements pertaining to the handling of these types of coupons by the State agency are provided in § 274.7(e).

§ 274.9 Closeout of a coupon issuer.

(a) *Definition of responsibilities*. Whenever the services of a coupon issuer or bulk storage point are terminated, the State agency shall perform the responsibilities described below. If a coupon issuer or bulk storage point has more than one functioning unit and one of these facilities is terminated, the coupon issuer or bulk storage point shall fulfill the responsibilities described in paragraphs (b) and (c) of this section. The coupon issuer or bulk storage point shall notify the State agency of the pending termination of any of its services prior to the actual termination. The State agency shall promptly notify FNS as provided in § 274.1(d).

(b) *Closeout accountability*. The State agency shall perform a closeout audit of a coupon issuer or bulk storage point within 30 days of termination of the issuance or storage point. The State agency shall report the findings of the audit to FNS immediately upon its completion. If the audit determines that the final Form *FNS-250* is incorrect, the State agency shall promptly provide a corrected report to FNS.

(c) *Transfer of coupon inventory*. (1) Prior to the transfer of coupon inventory to another coupon issuer or bulk storage point, the State agency shall perform an actual physical count of coupons on hand.

(2) The State agency shall transfer the inventory to another coupon issuer or bulk storage point, preferably within the same project area. The transfer of coupons shall be properly reported and documented by both the point being terminated and the point receiving the inventory.

(d) *Maintenance of participant service*. (1) At least 30 days before actual termination of a coupon issuer, the State agency shall notify project area participants of the impending closure. Notification shall include identification of alternative issuance locations and available public transportation. The State agency shall post notices at the offices of the coupon issuer of the impending closure and may use mass media or notices with allotments to advise participants about the expected closure of the issuance office.

(2) If closure of the issuer will affect a substantial portion of the caseload or a specific geographic area, the State agency shall take whatever action is necessary to maintain participant service without interruption.

(3) If a coupon issuer or bulk storage point is to be closed for noncompliance with contractual requirements and alternative issuance facilities or systems are not readily available, the State agency may continue to use the coupon issuer or bulk storage point for a limited time. In this situation, the State agency shall perform weekly onsite reconciliations of coupon issuance. The State agency shall continue to actively seek other issuance or storage alternatives.

§ 274.10 Identification cards.

(a) *General provisions*. State agencies shall issue an ID card to each certified household as proof of Program eligibility. Upon request, the household or the authorized representative, shall present the household's ID card at issuance points, retail food stores or meal services in order to transact the allotment authorization or when exchanging benefits for eligible food. The household member or members whose name(s) appear on the ID card shall sign the coupon books issued to the household.

(1) All ID cards shall be issued in the name of the household member who is authorized to receive the household's issuance. In areas not designated by FNS as requiring Photo ID cards, the ID card shall contain space for the name and signature of the household member

to whom the coupon allotment is to be issued and for any authorized representatives designated by the household. Section 274.5(b) provides further requirements pertaining to emergency authorized representatives. Any person listed on the ID card shall sign the ID card before that person can use it to obtain benefits. If the household does not name an authorized representative, the State agency shall void that area of the ID card to prevent names and signatures being entered at a later date. The ID card may be serially numbered.

(2) The State agency shall limit issuance of ID cards to the time of initial certification, with replacements made only in instances of loss, mutilation, destruction, changes in the person authorized to obtain coupons, or when the State agency determines that new ID cards are needed to keep the photographs up-to-date or if the State agency changes its ID card format or system. Whenever possible, the State agency shall collect the ID card that it is replacing.

(3) The State agency shall place an expiration date on those ID cards issued to households certified for delivered meals for a temporary period and to households eligible for expedited service.

(4) Specially-marked ID cards shall be issued in the following circumstances:

(i) Eligible household members 60 years of age or over or members who are housebound, physically handicapped, or otherwise disabled to the extent that they are unable to adequately prepare all their meals, and their spouses, may use coupons to purchase meals prepared for and delivered to them by a nonprofit meal delivery service authorized by FNS. Any household eligible for and interested in using delivered meal services shall have its ID card marked with the letter "M".

(ii) Eligible household members 60 years of age or over and their spouses, or those receiving SSI and their spouses, may use coupons issued to them to purchase meals prepared especially for them at communal dining facilities authorized by FNS for that purpose. Any household eligible for and interested in using communal dining facilities in those States or project areas where restaurants are authorized to accept food stamps, shall have its ID card marked with the letters "CD". In areas where restaurants are not authorized to accept food stamps, the State or project area may mark such ID's with the letters "CD".

(iii) Eligible households residing in areas of Alaska determined by FNS as areas where access to retail food stores is difficult and which rely substantially on hunting and fishing for subsistence may use all or any part of the coupons issued to purchase hunting and fishing equipment such as nets, hooks, rods, harpoons and knives, but may not use coupons to purchase firearms, ammunition, and other explosives. Any household residing in a remote section of Alaska which has been determined by FNS to be an area in which food coupons may be used to purchase hunting and fishing equipment shall have its ID card marked with the letters "HF".

(5) ID cards delivered to households by mail shall not be mailed in the same envelope with authorization documents or coupons.

(b) *Photo ID cards.* (1) Photo ID cards shall be issued in those project areas or portions thereof with 100,000 or more food stamp participants, except for those project areas serviced entirely by mail issuance, or where FNS, in consultation with the Office of the Inspector General, approves a State agency's request for an exemption. FNS shall respond to a State agency's request for exemption within 30 days of its receipt of the request.

(i) FNS shall evaluate the January participation data reported as an attachment to the March Form *FNS-388* report. Based on the evaluation, FNS shall notify State agencies at the beginning of each fiscal year of any areas that either require or no longer require the use of Photo ID cards. In cases where an entire State is a single project area, FNS shall consult with the State agency to determine whether Photo IDs should be required in any specific parts of the project area. At the conclusion of this consultation, FNS shall inform the State agency whether the use of Photo IDs will be mandated in any parts of the State agency, based on the need to protect Program integrity, and the cost-effectiveness of Photo ID cards.

(ii) In cases where a project area serves between 100,000 and 110,000 participants, FNS shall inform the State agency in which the project area is located that it is prepared to mandate the use of Photo IDs in the project area. FNS shall also inform the State agency that it will not mandate use of Photo ID's if, within 30 days of being notified by FNS that Photo ID's must be used, the State agency demonstrates to FNS that participation in the project areas has fallen below the 100,000 participant level in the recent past, or justifies to FNS why participation is likely to fall below that level during the next year.

(2) FNS may, at any time, in consultation with the Office of the Inspector General, designate project areas or portions thereof with less than 100,000 participants as requiring the use of Photo ID cards if, in reviewing such factors as the level of duplicate issuances and results of management evaluation reviews, the Department determines that the issuance of Photo ID cards in such areas would be justified.

(3) A State agency may request that FNS require that Photo IDs be mandated throughout either the entire State or specified project areas. FNS shall respond to such requests within 30 days of the request and, if the request is not approved, FNS shall justify its reasons for the disapproval to the State agency.

(4) In project areas where issuance of Photo ID cards is mandatory, the State agency shall issue a Photo ID card at the time of certification to each eligible household except those listed in § 274.10(b)(4). Households exempt from mandated Photo ID cards shall be issued ID cards which meet the specifications in paragraph (d) of this section except that in lieu of a photograph, the State agency shall annotate the cards to show an exception was granted to the household and that the ID card is valid. The following households are exempt from the Photo ID requirement:

(i) Households certified by out-of-office interviews as specified in § 273.2(e)(2). However, the State agency shall replace the non-Photo ID card issued to such households with a Photo ID card when the appropriate household member or authorized representative visits the certification office. The State agency shall not require any member of such a household to visit the office exclusively for the purpose of issuing a Photo ID card;

(ii) Household members whose religion does not allow them to be photographed. The State agency shall require such a household to provide a signed statement to the effect that the members' religious beliefs do not allow them to be photographed;

(iii) Households entitled to expedited service if the State agency's Photo ID card system is incapable of producing a Photo ID card in time for the household to participate as required by § 273.2(i). A Photo ID card shall be issued to the household prior to issuance of the household's next allotment;

(iv) Households certified under the SSA-food stamp joint processing rules in § 273.2(k). State agencies shall not require such households to obtain Photo IDs as long as they continue to be certified for food stamps at SSA offices. However, a household shall obtain a Photo ID if a household member or authorized representative reports to a food stamp office for recertification; and,

(v) Residents of drug/alcohol treatment and rehabilitation programs.

(5) In addition to the general provisions in paragraph (a) of this section, Photo ID cards shall include the photograph of the person who will receive the household's issuance; i.e., who will either transact the household's authorization document or pick up the household's allotment. A Photo ID card shall be signed by only the person pictured on the card, who may be the household member or authorized representative. Only the person photographed may obtain the household's coupons. All Photo ID card formats are subject to FNS approval.

(6) Photo ID cards shall be serially numbered and laminated after they are signed by the person whose photograph appears on the card. ID cards shall also include a color photograph of the person designated by the household to obtain coupons and the household's case number or other identifying information.

(7) A Photo ID card used to receive benefits under a welfare or public assistance program may be adapted for food stamp purposes if it meets the specifications contained in this section and can be annotated to indicate food stamp eligibility.

(8) The State agency shall provide a household with a reasonable opportunity to obtain a food stamp Photo ID card in any project area where its use is mandated.

(i) A household required to have a Photo ID card shall not participate until such time as a household member or a designated authorized representative obtains such a card. If a designated authorized representative does not obtain the required Photo ID, the household may designate a household member or another authorized representative to be photographed.

(ii) If the person whose photograph appears on the ID is unable to travel to the issuance point to obtain a particular allotment, the household may use the emergency authorized representative procedures provided in § 274.5 and in paragraph (c) of this section.

(9) State agencies which have the capability may develop systems to issue more than one household member a Photo ID card. These systems shall ensure that the safeguards provided by Photo ID cards, as specified in this section, are maintained.

(10) If a mutilated or altered Photo ID card is presented at the issuance point, the household shall obtain a replacement Photo ID card prior to issuance.

(11) A household shall be entitled to unobtained benefits, lost as a result of being unable to obtain a particular allotment, if the issuance month elapses between the time the household requested a replacement Photo ID card and the delivery of that card to the household.

(12) FNS may waive one or more of the requirements in this section if a State agency can demonstrate to FNS that its alternate ID card or system will provide adequate safeguards against fraudulent and/or duplicate issuances.

(c) *Emergency authorized representative and recipient identification.* State agencies shall develop a method by which a household may designate an emergency authorized representative to obtain the household's allotment when none of the persons specified on the ID is available.

(1) At a minimum, the method developed by the State agency shall require a document with the signature of the emergency authorized representative as well as a place for the household member named on the ID card to sign designating the emergency authorized representative and attesting to the signature of the emergency authorized representative. The designation may be on the ID card or authorization document or a separate form. The household shall not be required to travel to a food stamp office to execute an emergency designation. The emergency authorized representative may present a separately written and signed statement from the head of the household or his or her spouse, authorizing the issuance of the certified household's food stamps to the authorized representative. The emergency representative shall sign the written statement from the household and present the statement and the household ID card to obtain the allotment. A separate written designation is required each time an emergency representative is authorized.

(2) In any issuance system, the cashier shall compare the signatures on the issuance document and on the ID card. If they do not match, issuance shall not be made.

(i) If the household is required by these regulations to present a Photo ID card, coupons shall be issued only when the person presenting the authorization document or requesting the coupons is pictured on the ID card. The cashier shall write the serial number of the Photo ID card on the authorization or issuance document.

(ii) If the Photo ID card appears to be mutilated or altered, the issuing agent shall not issue the coupons, but shall require the household to obtain a replacement ID card from the State agency.

§ 274.11 Issuance record retention and forms security.

(a) *Availability of issuance records.* The State agency shall maintain issuance and reconciliation records for a period of three years from the month of origination. This period may be extended at the written request of FNS.

(1) Issuance and reconciliation records shall include, at a minimum, notices of change, HIR cards, inventory records, transacted authorizing documents, Forms *FNS–250* and substantiating documents, cashiers' daily reports, receptionists' daily tally sheets, master issuance files, the records-for-issuance for each month and any rosters or lists produced by issuance systems.

(2) In lieu of the records themselves, easily retrievable microfilm, microfiche, or computer tapes which contain the required information may be maintained.

(b) *Control of issuance documents.* The State agency shall control all issuance documents which establish household eligibility while the documents are transferred and processed within the State agency. The State agency shall use numbers, batching, inventory control logs, or similar controls from the point of initial receipt through the issuance and reconciliation process. The State agency shall also ensure the security and control of authorization documents in transit from the manufacturer to the State agency.

(c) *Accountable documents.* (1) HIR cards, authorization documents, and mandated Photo ID cards shall be considered accountable documents. The State agency shall provide the following minimum security and control procedures for these documents:

(i) Preprinted serial numbers;

(ii) Secure storage;

(iii) Access limited to authorized personnel;

(iv) Bulk inventory control records;

(v) Subsequent control records maintained through the point of issuance or use, and

(vi) Periodic review and validation of inventory controls and records by parties not otherwise involved in maintaining control records.

(2) For notices of change which initiate, update or terminate the master issuance file, and blank ID cards, the State agency shall, at a minimum, provide secure storage and shall limit access to authorized personnel.

PART 275—PERFORMANCE REPORTING SYSTEM

Subpart C—Quality Control (QC) Reviews

12. In § 275.10, paragraph (a) is amended by adding a new sentence after the third sentence, to read as follows:

§ 275.10 Scope and purpose.

(a) * * * The determination of whether the household received the correct allotment will be made by comparing the eligibility data gathered during the review against the amount authorized on the master issuance file. * * *

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PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

13. Sections 276.1 and 276.2 are revised in their entirety to read as follows:

§ 276.1 Responsibilities and rights.

(a) *Responsibilities.* (1) State agencies shall be responsible for establishing and maintaining secure control over coupons and cash for which the regulations designate them accountable. Except as otherwise provided in these regulations, any shortages or losses of coupons and cash shall strictly be a State agency liability and the State agency shall pay to FNS, upon demand, the amount of the lost or stolen coupons or cash, regardless of the circumstances.

(2) State agencies shall be responsible for preventing losses or shortages of Federal funds in the issuance of benefits to households participating in the Program. FNS shall strictly hold State agencies liable for all losses, thefts and unaccounted shortages that occur during issuance, unless otherwise specified. Issuance functions begin with the State agency's creation of a record-for-issuance to generate each month's issuances from the master issuance file. Shortages or losses which result from any functions that occur prior to the creation of the record-for-issuance are subject to either paragraph (a)(3) of this section or Subpart C—Quality Control (QC) Reviews, of Part 275—Performance Reporting System.

(3) State agencies shall be responsible for preventing losses of Federal funds in the certification of households for participation in the Program. If FNS makes a determination that there has been negligence or fraud on the part of a State agency in the certification of households for participation in the Program, FNS is authorized to bill the State agency for an amount equal to the amount of coupons issued as a result of the negligence or fraud.

(4) State agencies shall be responsible for efficiently and effectively administering the Program by complying with the provisions of the Act, the regulations issued pursuant to the Act, and the FNS-approved State Plan of Operation. A determination by FNS that a State agency has failed to comply with any of these provisions may result in FNS seeking injunctive relief to compel compliance and/or a suspension or disallowance of the Federal share of the State agency's administrative funds. FNS has the discretion to determine in each instance of noncompliance, whether to seek injunctive relief or to suspend or disallow administrative funds. FNS may seek injunctive relief *and* suspend or disallow funds simultaneously or in sequence.

(b) *Rights.* State agencies may appeal all claims brought against them by FNS and shall be afforded an administrative review by a designee of the Secretary as provided in § 276.7. State agencies may seek judicial review of any final administrative determination made by the Secretary's designee, as provided in § 276.7(j).

§ 276.2 State agency liabilities.

(a) *General provisions.* Notwithstanding any other provision of this subchapter, State agencies shall be responsible to FNS for any financial losses involved in the acceptance, storage and issuance of coupons. All coupon issuance shall be documented, and the State agency shall make available to the Department all primary documentation (or secondary, if the primary has been inadvertently destroyed) when required to do so. State agencies shall pay to FNS, upon demand, the amount of any such losses. State agencies shall be responsible for the monthly increased Federal benefit costs involved in granting households an income exclusion for child support payments as described in § 273.9(c)(12). State agencies shall reimburse FNS the amount of such increased cost in accordance with paragraph (e) of this section.

(b) *Coupon shortages, losses, unauthorized issuances, overissuances and undocumented issuances.* (1) State agencies shall be strictly liable for:

(i) Coupon shortages and losses that occur any time after coupons have been accepted by receiving points within the State and that occur during storage or the movement of coupons between bulk storage point issuers and claims collection points within the State;

(ii) Losses resulting from authorization documents lost in transit from a manufacturer to the State agency and untransacted authorization documents lost in transit from an issuer to the State agency; and

(iii) The value of coupons overissued and coupons issued without authorization, except for those duplicate issuances in the correct amount that are the result of replacement issuances made in accordance with § 274.6. Overissuances and unauthorized issuances for which State agencies are liable include, but are not limited to: Single unmatched issuances, duplicates made that are not in accordance with § 274.6, and transacted authorization documents that are altered, counterfeit, from out-of-State or expired (including those unsigned by the designated household member and/or not date stamped by the issuer).

(2) Coupon shortages and/or losses for which State agencies shall be held strictly liable include, but are not limited to, the following:

(i) Thefts;

(ii) Embezzlements;

(iii) Cashier errors (e.g., errors by the personnel of issuance offices in the counting of coupon books);

(iv) Coupons lost in natural disasters if a State agency cannot provide reasonable evidence that the coupons were destroyed and not redeemed;

(v) Issuances which cannot be supported by the required documentation;

(vi) Issuances made to households not currently certified;

(vii) Issuance loss during an official investigation, unless the investigation was reported *directly* to FNS prior to the loss; and

(viii) Unexplained causes.

(3) State agencies shall submit written reports on significant losses unless those losses were investigated by the Office of the Inspector General, USDA.

(4) A State agency shall be held strictly liable for mail issuance losses that are in excess of the tolerance level that corresponds to the preselected reporting unit. Each State agency shall select one of the three following units annually and report the selection as provided in §§ 272.2(a)(2) and 272.2(d)(1)(iii). Where reporting units issue less than $300,000 in mail issuance in a quarter, the State agency shall be liable for all losses in excess of $1,500 for the quarter.

(i) If a State agency elects to report and have liabilities based on an existing county or project area level of mail issuance, then the State agency shall be strictly liable to FNS for the value of all mail issuance losses in excess of five-tenths (.5) percent of the dollar value of each reporting unit's quarterly mail issuance. This level shall be used if the State agency does not designate one of the three levels herein by May 15, 1989, and by August 15 in years thereafter.

(ii) If a State agency elects to report and have liabilities based on an existing administrative level higher than the county or project area provided in paragraph (b)(3)(i) of this section, but lower than the Statewide level of mail issuance provided in paragraph (b)(3)(iii) of this section, then the State agency shall be strictly liable to FNS for the value of all mail issuance losses in excess of thirty-five hundredths (.35) percent per quarter of the dollar value of each reporting unit's quarterly mail issuance. State agencies shall not create new administrative units for the sole purpose of reporting mail issuance losses.

(iii) If a State agency elects to report and have liabilities based on a State level of mail issuance, then the State agency shall be strictly liable to FNS for the value of all mail issuance losses in excess of thirty hundredths (.30) percent per quarter of the dollar value of each State agency's total quarterly mail issuance.

(iv) FNS reserves the right to make all determinations on reporting requirements and on administrative divisions within the State for the purpose of determining and assessing liability for mail issuance losses. FNS also reserves the right to revise such determinations as necessary. Revisions will be communicated to State agencies by FNS. The liability assessment will be based on the revised reporting requirement for the next full fiscal quarter.

(v) For the purpose of this section, "mail issuance" means all original coupon issuances distributed through the mail. "Mail loss" means all replacements of mail issuances except for replacements of returned mail issuances.

(vi) The State agency's liability shall be computed using data from Form FNS-259, Food Stamp Mail Issuance Report, or alternative reporting document accepted in advance by FNS and the State agency, which is submitted for the quarter for the particular reporting unit agreed to by FNS and the State agency, as provided in §§ 272.2(a)(2) and 272.2(d)(1)(iii).

(5) State agencies shall be held strictly liable for the following overissuances:

(i) The value of overissued coupons issued as a result of a State agency's failure to comply with a directive issued by FNS in accordance with the provisions of § 271.7, to reduce, suspend or cancel allotments;

(ii) The value of coupons overissued by the State agency as a result of a court order or settlement agreement of a court suit which was not reported to FNS in accordance with the provisions of § 272.4(e); and

(iii) The value of coupons overissued as a result of a State agency entering into an out-of-court settlement of a court suit, the terms of which violate Federal laws or regulations.

(6) Coupon shortages and losses shall be determined from the Form FNS-250, Food Coupon Accountability Report and its supporting documents and from the Form FNS-46, Issuance System Reconciliation Report. Losses of Federal moneys resulting from overissuances shall be determined from sources such as audits, Performance Reporting System Reviews, Federal reviews, investigations and explanatory reports prepared by the State agency.

(c) Cash Losses. State agencies are liable to FNS for cash losses when money collected by State agencies from recipient claims has been lost, stolen or otherwise not remitted to FNS in accordance with the provision of § 273.18(h). The amount of such losses shall be determined from the sources outlined in paragraph (6) of this section.

(d) State agency payment to FNS. State agencies shall be billed for the exact amount of losses specified in this section. If a State agency fails to pay the billing, FNS shall offset the amount of loss from the State agency's Letter of Credit in accordance with § 277.16(c).

(e) Title IV reimbursements. (1) State agencies shall be liable to FNS for the increased dollar value of coupon allotments resulting from providing households with an income exclusion for child support payments as described in § 273.9(c)(12) based on one of the following methods:

(i) For each month the State agency grants the income exclusion to a household, the State agency shall reimburse FNS for the monthly difference between the household's benefit level which includes the exclusion and the benefit level the household would have received without the exclusion.

(ii) On a monthly basis, State agencies shall total the actual amount of income exclusion granted to affected households and shall reimburse FNS 30 percent of such total.

(2) The State agency shall utilize only one reimbursement method and that method shall be applied for determining a reimbursement amount for all affected cases in the caseload. State agencies may switch from one method to the other on an annual basis, but not on a case-by-case basis.

(3) The State agency shall reimburse FNS through an adjustment to the Letter of Credit (LOC). The reimbursement amount shall be reported quarterly on the Form FNS-209, Status of Claims Against Households, to be offset against LOC credit adjustments reported on that form. The State agency shall maintain monthly records which detail the computation of reimbursement amounts reported on the Form FNS-209 for audit purposes.

Date: February 6, 1989.

Anna Kondratas,

Administrator, Food and Nutrition Service.

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