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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Implementation of the Program Fraud Civil Remedies Act of 1986; Correction

AGENCY: Office of the Secretary, USDA.
ACTION: Correction.

SUMMARY: The Secretary of Agriculture is redesignating 7 CFR part 1, entitled "Subpart K—Procedures Related to Administrative Hearings Under the Program Fraud Civil Remedies Act of 1986," as "Subpart L—Procedures Related to Administrative Hearings Under the Program Fraud Civil Remedies Act of 1986."

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: David C. Rector, Deputy Director for Policy, Office of Finance and Management, room 4094-S, U.S. Department of Agriculture, Washington, DC 20250, Telephone No. (202) 720-8748.

SUPPLEMENTARY INFORMATION: The USDA rule implementing the Program Fraud Civil Remedies Act was published in final form on Thursday, March 7, 1991 (56 FR 9581 et seq.), erroneously bearing a heading designating it as subpart K of 7 CFR part 1, subtitle A. Therefore, the rule is being redesignated as "subpart L—Procedures Related to Administrative Hearings under the Program Fraud Civil Remedies Act of 1986."

List of Subjects in 7 CFR Part 1

Claims, Civil fraud.

PART 1 — [CORRECTED]

Accordingly, in title 7 Code of Federal Regulations, part 1 of subtitle A of title 7 is hereby amended by redesignating subpart K, §§ 1.301 through 1.346, as subpart L.

(Authority: 31 U.S.C. 3801-3812)

Done this 29th day of January 1992 at Washington, DC.

Edward Madigan,

Secretary of Agriculture.

[FR Doc. 92-2557 Filed 1-31-92; 8:45 am]

BILLING CODE 3410-90-M

Food and Nutrition Service

7 CFR Parts 271, 278 and 279

[Amdt. No. 334]

Food Stamp Program: Penalties for Unlawful Use or Acceptance of Food Stamp Coupons

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Mickey Leland Memorial Domestic Hunger Relief Act (Pub. L. No. 101-624; title XVII) amended the Food Stamp Act of 1977, as amended, (the Act) by making a number of modifications and additions to the penalties imposed against firms and persons for unlawful use or redemption of food stamp coupons. The purpose of this rule is to implement these statutory changes.

This final rulemaking provides for increased civil money penalties for trafficking in food coupons; permanent disqualification from the Food Stamp Program for accepting food coupons in exchange for firearms, ammunition, explosives or controlled substances; fines for the acceptance of loose coupons of denominations not authorized to be used in changemaking; and, fines against unauthorized persons who illegally accept or redeem food coupons. In addition, the rulemaking provides for increased criminal penalties against persons who unlawfully issue, redeem, use, transfer, acquire, alter or possess food coupons or food stamp benefit access devices. These changes are intended to broaden and strengthen anti-fraud provisions in the regulations for taking action on evidence of unauthorized use and redemption of food stamps and to improve the integrity of the Food Stamp Program.

DATES: This action is effective February 1, 1992. It should be noted that the statutory changes reflected in §§ 271.2 and 271.5 became effective November

28, 1990, as specified in Public Law No. 101-624.

FOR FURTHER INFORMATION CONTACT:

Dwight Moritz, Coupon and Retailer Branch, Benefit Redemption Division, Food and Nutrition Service, Alexandria, Virginia 22302, (703) 305-2419.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291 and Department Regulation No. 1512-1

The Department has reviewed this rule under Executive Order 12291 and Department Regulation No. 1512-1 and the rule has been classified as "not major". The rule will affect the economy by less than \$100 million a year. The rule is not likely to result in a major increase in costs or prices for consumers, industries, government agencies, or geographic regions. There will be no 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. Although this rule will affect the business community, the effect would be of a non-economic nature and is not expected to be significant.

Executive Order 12372

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

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. No. 96-354). The Administrator of the Food and Nutrition Service has certified that this action does not have a significant economic impact on a substantial number of small entities. The rule would have almost no impact on the vast majority of authorized firms, most of whom follow the program rules carefully.

Paperwork Reduction Act

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

Background

The Mickey Leland Memorial Domestic Hunger Relief Act (Pub. L. No. 101-624, title XVII) amended the Act by making a number of modifications and additions to the penalties imposed against firms and persons for unlawful use or redemption of food stamp coupons. A proposed rule dealing with these various modifications was published at 56 FR 23484 on May 21, 1991 and provided the public with a 30-day period to submit comments on the proposed provisions. A total of six comments were received regarding this proposed rule.

The major concerns raised by the commenters are discussed below. For a full explanation of the provisions of this final rule, the reader should refer to the preamble of the proposed rule, which was published at 56 FR 23484-87 on May 21, 1991.

This final rulemaking provides for increased civil money penalties for trafficking in food coupons; permanent disqualification from the Food Stamp Program for accepting food coupons in exchange for firearms, ammunition, explosives or controlled substances; fines for the acceptance of loose coupons of denominations not authorized to be used in changemaking; and fines against unauthorized persons who illegally accept or redeem food coupons. In addition, in accordance with the nondiscretionary provisions of Public Law No. 101-624, the rulemaking provides for increased criminal penalties against persons who unlawfully issue, redeem, use, transfer, acquire, alter or possess food coupons or food stamp benefit access devices.

Fines for the Acceptance of Loose Coupons (Section 278.6(l))

Section 1744 of Public Law No. 101-624 amends section 12(e) of the Act (7 U.S.C. 2021(e)) by providing the Secretary with the discretion to impose a fine against any retail food store or wholesale food concern that accepts food coupons that are not accompanied by the corresponding book cover (hereinafter referred to as "loose coupons"). This provision is not applicable to any denomination of coupons authorized by the Food Stamp Program regulations to be used for changemaking in food stamp

transactions. Moreover, as one commenter pointed out, this provision is not applicable to coupons accepted from authorized providers of meals for the homeless, as specified in § 278.2(c) of the current regulations. In response to this comment, a technical amendment has been made to § 278.6(l) to reference this additional exception and correct the original oversight in the proposed rule.

The law provides the Secretary with the authority to establish the amount of fines imposed. Section 278.6(l) of this rule provides that the fine assessed against a firm found to have accepted loose coupons shall be \$500 per investigation plus an amount that is equal to double the face value for each loose coupon that has been illegally accepted during the course of the investigation. The fine would have to be paid within 30 days of the firm's receipt of notification from FNS to pay the fine.

This rule also revises § 278.1(k) to provide that FNS may, consistent with current policy regarding a firm's business integrity, withdraw the authorization of any firm, including any location that is under the same ownership, that has failed to pay such a fine within 30 days.

The Department received very few comments on this provision. One commenter stated that the sanction/fine was too harsh given the context in which these types of violations usually occur. The commenter pointed out that the food industry in general has a very high rate of personnel turnover and that inadvertent errors on the part of firm personnel are bound to occur. The Department recognizes that this is sometimes the case. Consequently, as discussed in the proposal, fines for the acceptance of loose coupons will be imposed only when a clear pattern of abusive acceptance of loose coupons has been established and documented during the course of a formal investigation. The Department believes that a deterrent to prevent the illegal circulation of coupons as currency in places where such use of coupons has become common practice is necessary at this time and believes that the prescribed penalty is appropriate.

Another commenter acknowledged that the Department has the statutory authority to establish the amount of the fine that may be imposed on violators that accept loose coupons. However, this commenter argued that the Department has overstepped its statutory authority by asserting its prerogative to withdraw the authorization of any firm, including any location that is under the same ownership, that has failed to pay the fine in 30 days.

The Department does not agree with this commenter and believes that this provision will convey to firm management a sense of the seriousness with which the Department regards these violations while ensuring that the fines are paid in a timely manner. As in the proposed rule, the Department stresses here that administrative and judicial review are available to food concerns which are assessed fines under section 12 of the Act. Therefore, the penalties proposed for the illegal acceptance of loose coupons have been adopted as final with no changes.

Fines for Unauthorized Third Parties That Accept Food Stamps (Section 278.6(m))

Section 1745 of Public Law No. 101-624 provides the Secretary with the authority to impose a fine against any person not authorized to accept and redeem food coupons for violations of any provision of the Act or the program regulations, including the acceptance of food coupons. The Department interprets the term "person" to include a sole proprietorship, partnership, corporation or other legal entity, in addition to an individual.

Section 278.6(m) provides that the amount of such fine shall be \$1,000 for each violation plus an amount that is equal to three times the face value of the coupons accepted.

No comments were received on this provision; thus, the amendment to § 278.6(m) is incorporated in this final rule with no changes.

Civil Money Penalties in Lieu of Permanent Disqualification for Trafficking

The Hunger Prevention Act of 1988, Public Law No. 100-435, provided the Secretary with the discretion to impose a civil money penalty (CMP) of up to \$20,000 in lieu of permanent disqualification of a firm for trafficking in food coupons or other program benefit instruments if the Secretary determines that there is substantial evidence that the firm had an effective policy and program in effect to prevent violations of the Act and the program regulations.

Section 1743 of Public Law No. 101-624 changes the trafficking CMP to \$20,000 per trafficking violation, rather than the current maximum of \$20,000 per investigation. The law, however, specifies that the amount of trafficking CMPs imposed on a firm may not exceed \$40,000 during a 2-year period.

Section 1743 of Public Law No. 101-624 also provides for the permanent disqualification of a firm for the sale of

firearms, ammunition, explosives, or controlled substances and gives the Secretary discretion to impose a CMP in lieu of permanent disqualification if the Secretary determines that there is substantial evidence that the firm had an effective policy and program in effect to prevent violations of the Act and program regulations. The criteria applied in such a case would be the current criteria set forth in § 278.6(i).

This rule, therefore, amends § 278.6 to incorporate the above statutory changes into the program regulations. In addition, this rule amends § 271.2 to include the sale of firearms, ammunition, explosives or controlled substances in the definition of "trafficking."

The proposed rule set out a revision to the definition of "manager" included in Criterion 4 of § 278.6(i) of the regulations. The intent was to make the definition of manager conform with the definition suggested by House and Senate conferees in the Conference Report (H.R. Rep. No. 101-916, 2d Sess. 1098 (1990)). Under the proposed definition (published at 56 FR 23484 on May 21, 1991), a person would be considered a part of firm "management" if that individual performs substantial supervisory responsibilities, i.e., supervises the work of other employees and directs the activities and work assignments of store employees.

Several comments were received with regard to the definition of "manager" as it relates to eligibility of a firm for a trafficking civil money penalty. In general, the commenters felt that the Department did not comply with the Congressional intent to narrow the definition of "manager" in this context, and rather proposed a definition that would broaden the types of employees that could be considered to be part of firm management, thus making it more likely that a firm would be determined ineligible for a civil money penalty in lieu of permanent disqualification for trafficking.

In addition, there seemed to be confusion on the part of commenters between the general definition of "firm management" as stated in § 271.2 of the March 28, 1991 proposed rule entitled "Food Stamp Program: Retailer/Wholesaler Changes" (56 FR 12857-65) and the definition of manager as it relates to determining eligibility of a firm for a trafficking civil money penalty, as set forth in the regulations at § 278.6(i). The purpose of the definition of "Firm management" included in § 271.2 is to establish in general the responsibility of store management personnel for compliance with Food Stamp Program rules and regulations. This definition of "Firm management"

does not apply to § 278.6(i) of this rulemaking which defines "manager" exclusively for the purpose of determining eligibility for a civil money penalty in lieu of permanent disqualification for trafficking.

In response to the comments submitted, the Department has again revised the definition of manager for purposes of determining eligibility of a firm for a civil money penalty in lieu of permanent disqualification for trafficking. The pertinent part of § 278.6(i), Criterion 4 has been revised in this final rule to state: "For purposes of this section, a person is considered to be part of firm management if that individual has substantial supervisory responsibilities with regard to directing the activities and work assignments of store employees. Such supervisory responsibilities shall include the authority to hire employees for the store or to terminate the employment of individuals working for the store."

The Department believes that this revision adequately addresses concerns of the commenters and reflects the intent of Congress with regard to various levels of supervisory responsibility that exist within firm management structures in the food trade industry.

Other Technical Changes

Some technical changes have also been incorporated into the final rule to correct several oversights in the drafting of the proposal. The first entails an amendment to § 278.6(b) to ensure that any firm considered for a fine as specified under § 278.6(l) or § 278.6(m) shall have full opportunity to submit information in response to a charge letter sent by FNS which describes the basis for the administrative action taken by the Agency.

A second group of minor technical changes has been made to Part 279—Administrative and Judicial Review—Food Retailers and Wholesalers. These amendments have been made to ensure that retailers and wholesalers that are assessed a fine under § 278.6(1) or 278.6(m) are able to take advantage of their right to administrative and judicial review.

List of Subjects

7 CFR Part 271

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

7 CFR Part 278

Administrative practice and procedure, Banks, Banking, Claims, Food stamps, Groceries—retail,

Groceries, General line—wholesalers, Penalties.

7 CFR Part 279

Administrative practice and procedure, Food stamps, Groceries—retail, Groceries, General line—wholesaler.

Accordingly, 7 CFR parts 271, 278 and 279 are amended as follows:

1. The authority citation for parts 271, 278, and 279 continues to read as follows:

Authority: 7 U.S.C. 2011–2031.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2:

a. A definition for the term "Access device" is added in alphabetical order; and

b. The definitions of "Coupon" and "Trafficking" are revised.

The addition and revisions read as follows:

§ 271.2 Definitions.

Access Device means any card, plate, code, account number, or other means of access that can be used alone, or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under the Food Stamp Act of 1977, as amended.

Coupon means any coupon, stamp, access device or type of certification provided pursuant to the provisions of this subchapter for the purchase of eligible food.

Trafficking means the buying or selling of coupons, ATP cards or other benefit instruments for cash or consideration other than eligible food; or the exchange of firearms, ammunition, explosives, or controlled substances, as the term is defined in section 802 of title 21, United States Code, for coupons.

3. In § 271.5, paragraph (b) is revised to read as follows:

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

(b) **Penalties.** Any unauthorized issuance, redemption, use, transfer, acquisition, alteration, or possession of coupons, ATP cards, or other program access device may subject an individual, partnership, corporation, or other legal entity to prosecution under sections 15 (b) and (c) of the Food Stamp Act or under any other applicable Federal,

State or local law, regulation or ordinance.

(1) Section 15(b)(1) of the Food Stamp Act reads as follows:

Subject to the provisions of paragraph (2) of this subsection, whoever knowingly uses, transfers, acquires, alters, or possesses coupons, authorization cards, or access devices in any manner contrary to this Act or the regulations issued pursuant to this Act shall, if such coupons, authorization cards, or access devices are of a value of \$5000 or more, be guilty of a felony and shall be fined not more than \$250,000 or imprisoned for not more than twenty years, or both, and shall, if such coupons or authorization cards are of a value of \$100 or more but less than \$5000 or if the item used, transferred, acquired, altered or possessed is an access device that has a value of \$100 or more but less than \$5000 be guilty of a felony and shall upon the first conviction thereof, be fined not more than \$10,000 or imprisoned for not more than five years, or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not less than six months nor more than five years and may also be fined not more than \$10,000 or, if such coupons or authorization cards are of a value of less than \$100, or if the item used, transferred, acquired, altered, or possessed is an access device that has a value of less than \$100, shall be guilty of a misdemeanor, and upon the first conviction thereof, shall be fined not more than \$1000 or imprisoned for not more than one year or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not more than \$1000. In addition to such penalties, any person convicted of a felony or misdemeanor violation under this subsection may be suspended by the court from participation in the food stamp program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 6(b)(1) of this Act.

(2) Section 15(b)(2) of the Food Stamp Act reads as follows:

In the case of any individual convicted of an offense under paragraph (b)(1) of this section, the court may permit such individual to perform work approved by the court for the purpose of providing restitution for losses incurred by the United States and the State agency as a result of the offense for which such individual was convicted. If the court permits such individual to perform such work and such individual agrees thereto, the court shall withhold the imposition of the sentence on the condition that such individual perform the assigned work. Upon the successful completion of the assigned work the court may suspend such sentence.

(3) Section 15(c) of the Food Stamp Act reads as follows:

Whoever presents, or causes to be presented, coupons for payment or redemption of the value of \$100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Act or the regulations issued pursuant to this Act, shall

be guilty of a felony and, upon the first conviction thereof, shall be fined not more than \$20,000 or imprisoned for not more than five years, or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not less than one year nor more than five years and may also be fined not more than \$20,000 or if such coupons are of a value of less than \$100, shall be guilty of a misdemeanor and, upon the first conviction thereof, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not more than \$1,000. In addition to such penalties, any persons convicted of a felony or misdemeanor violation under this subsection may be suspended by the court from participation in the food stamp program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 6(b)(1) of this Act.

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

4. In § 278.1, the first sentence of paragraph (j)(2) is revised, the word "or" is removed from the end of paragraph (k)(1)(iii), paragraph (k)(1)(iv) is redesignated as paragraph (k)(1)(v), and a new paragraph (k)(1)(iv) is added. The revision and addition read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

- (j) Denying authorization. * * *
- (2) The firm has failed to pay in full any fiscal claim assessed against the firm under § 278.7 or any fines assessed under § 278.6(l) or § 278.6(m). * * *
- (k) Withdrawing authorization. (1) * * *
- (iv) The firm has failed to pay fines assessed under § 278.6(l) or § 278.6(m); or

5. In § 278.6:

- a. Paragraph (a) is amended by removing the words "in coupons or ATP cards" where they appear in the second sentence and replacing them with the words "as defined in § 271.2", and by revising the last sentence;
- b. Paragraph (b)(1) is amended by revising the first three sentences;
- c. Paragraph (b)(2)(i) is amended by removing the words "in food coupons, ATP cards or other benefit instruments" and replacing them with the words "as defined in § 271.2";
- d. Paragraph (e)(1)(i) is amended by removing the words "in coupons or ATP cards" and replacing them with the words "as defined in § 271.2";

e. The introductory text of paragraph (i) is amended by removing the words "in food coupons, ATP cards or other program benefit instruments" in the first sentence and replacing them with the words "as defined in § 271.2", and by revising Criterion 4;

f. Paragraph (i)(2)(iii) is revised;

g. The introductory text of paragraph (j) is amended by revising the first sentence;

h. Paragraphs (l) and (m) are redesignated as (n) and (o) respectively, and new paragraphs (l) and (m) are added.

The addition and revisions read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(a) Authority to disqualify or subject to a civil money penalty. * * * FNS may impose a civil money penalty of up to \$20,000 for each violation in lieu of a permanent disqualification for trafficking, as defined in § 271.2, in accordance with the provisions of § 278.6(i) and § 278.6(j).

(b) Charge letter—(1) General provisions. Any firm considered for disqualification or imposition of a civil money penalty under paragraph (a) of this section or a fine as specified under paragraph (l) or (m) of this section shall have full opportunity to submit to FNS information, explanation, or evidence concerning any instances of noncompliance before FNS makes a final administrative determination. The FNS regional office shall send the firm a letter of charges before making such determination. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification or imposition of a civil money penalty or fine. * * *

(i) Criteria for eligibility for a civil money penalty in lieu of permanent disqualification for trafficking. * * *

Criterion 4. Neither firm ownership nor management were aware of, approved, benefitted from, or were in any way involved in the conduct or approval of trafficking violations. For purposes of this section, a person is considered to be part of firm management if that individual has substantial supervisory responsibilities with regard to directing the activities and work assignments of store employees. Such supervisory responsibilities shall include the authority to hire employees for the store or to terminate the employment of individuals working for the store.

(2) *Compliance training program standards.* * * *

(iii) Written materials, which may include FNS publications and program regulations that are available to all authorized firms, are used in the training program. Training materials shall clearly state that the following acts are prohibited and are in violation of the Food Stamp Act and regulations: the exchange of food coupons, ATP cards or other program access devices for cash; and, in exchange for coupons, the sale of firearms, ammunition, explosives or controlled substances, as the term is defined in section 802 of title 21, United States Code.

(j) *Amount of civil money penalty in lieu of permanent disqualification for trafficking.* A civil money penalty assessed in accordance with § 278.6(i) shall not exceed \$20,000 for each violation, and shall not exceed \$40,000 during a 2-year period. * * *

(l) *Fines for the acceptance of loose coupons.* FNS may impose a fine against any retail food store or wholesale food concern that accepts coupons that are not accompanied by the corresponding book cover, other than the denomination of coupons used for making change as specified in § 278.2(d) or coupons accepted from homeless meal providers as specified in § 278.2(c). The fine to be assessed against a firm found to be accepting loose coupons shall be \$500 per investigation plus an amount equal to double the face value of each loose coupon accepted, and may be assessed and collected in addition to any fiscal claim established by FNS. The fine shall be paid in full within 30 days of the firm's receipt of FNS' notification to pay the fine. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine. FNS may withdraw the authorization of the store, as well as other authorized locations of a multi-unit firm which are under the same ownership, for failure to pay such a fine as specified under § 278.1(k). FNS may deny the authorization of any firm that has failed to pay such fines as specified under § 278.1(j).

(m) *Fines for unauthorized third parties that accept food stamps.* FNS may impose a fine against any individual, sole proprietorship, partnership, corporation or other legal entity not approved by FNS to accept and redeem food coupons for any violation of the provisions of the Food Stamp Act or the program regulations, including violations involving the acceptance of coupons. The fine shall be

\$1,000 for each violation plus an amount equal to three times the face value of the illegally accepted food coupons. The fine shall be paid in full within 30 days of the individual's or legal entity's receipt of FNS' notification to pay the fine. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the person to collect the fine. FNS may withdraw the authorization of any firm that is under the same ownership as an unauthorized firm that has failed to pay such a fine, as specified under § 278.1(k). FNS may deny authorization to any firm that has failed to pay such a fine, as specified under § 278.1(j).

6. In § 278.9, a new paragraph (i) is added to read as follows:

§ 278.9 *Implementation of amendments relating to the participation of retail food stores, wholesale food concerns and insured financial institutions.*

(i) *Amendment No. 334.* The program changes made to § 278.1 and § 278.6 by this amendment are effective February 1, 1992. The program changes made to § 271.2 and § 271.5 by this amendment are retroactively effective to November 28, 1990, as specified in Pub. L. No. 101-624.

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

§ 279.3 [Amended]

7. In § 279.3, paragraph (a)(2) is amended by adding the words "or imposition of a fine under § 278.6(l) or § 278.6(m);" to the end of the sentence.

§ 279.6 [Amended]

8. In § 279.6, paragraph (a) is amended by adding the words "or a fine" to the end of the paragraph.

§ 279.8 [Amended]

9. In § 279.8, paragraph (c) is amended by adding the words "or fine" after the words "civil money penalty" appear in the heading of the paragraph and after each of the three times the words "civil money penalty" appear in the first sentence.

10. In § 279.11, a new paragraph (c) is added to read as follows:

§ 279.11 *Implementation of amendments relating to administrative and judicial review.*

(c) *Amendment No. 334.* The program changes made to part 279 by this amendment are effective February 1, 1992.

Dated: January 28, 1992.

Phyllis R. Gault,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 92-2439 Filed 1-31-92; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Part 278

[Amt. No. 339]

Food Stamp Program: Authority To Require Retail Food Stores and Wholesale Food Concerns To Submit Taxpayer Identification Numbers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Food Stamp Program regulations at 7 CFR part 278 to require participating retail food stores or wholesale food concerns to furnish to the Food and Nutrition Service (FNS) taxpayer identification numbers including (a) the employer identification number of the firm and (b) the social security numbers of certain owners. Confidentiality and nondisclosure safeguards of taxpayer identification numbers are included in this final rule. Compiling a data base of taxpayer identification numbers will help to ensure that only properly authorized firms participate in the program.

DATE: This action is effective February 1, 1992.

FOR FURTHER INFORMATION CONTACT: Dwight Moritz, Coupon and Retailer Branch, Benefit Redemption Division, Food and Nutrition Service, Alexandria, Virginia, 22302, or telephone (703) 305-2418.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291/Secretary's Memorandum 1512-1

The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has classified it as "not major". The rule will affect the economy by less than \$100 million a year. The rule is not likely to result in a major increase in costs or prices for consumers, industries, government agencies, or geographic regions. There will be no 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. Although this rule will affect the business community, the effect will