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DÉPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 275, 276, 278, and 279

[Amdt. No. 356]

Food Stamp Program: Technical Amendments to Various Provisions of Food Stamp Rules

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule is implementing technical amendments to numerous provisions of the regulations governing the Food Stamp Program. These technical amendments: (1) Correct errors in spelling, grammar, regulatory references and typographical errors; (2) provide consistency or conformity with other regulatory provisions; and (3) finalize proposed technical changes published on March 28, 1991. These technical amendments do not change the substance of the affected provisions.

EFFECTIVE DATE: This final rule is effective June 9, 1994.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to Judith M. Seymour, Eligibility and Certification Regulation Section, Certification Policy Branch, Program Development Division, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302 or FAX (703) 305-2454.

SUPPLEMENTARY INFORMATION

Classification

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 proposed rule and related notices of 7 CFR part 3015, subpart V (48 FR 29115), this Program

is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This final rule is not intended to have retroactive effect unless so specified in the "Effective Date" paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Food Stamp Program, the administrative procedures are as follows: (1) For program benefit recipients—State administrative procedures issued to 7 U.S.C. 2020(e)(10) and 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 (for rules related to non-quality control (QC) liabilities) or part 284 (for rules related to QC liabilities); (3) for program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Regulatory Flexibility Act

The Department has also reviewed this final rule in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). William E. Ludwig, Administrator of the Food and Nutrition Service (FNS), has certified that this rule does not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they administer the Program. The amendments addressed in this final rule are technical corrections and do not change the principles nor the policy intent of the provisions affected.

Paperwork Reduction Act

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

Public Participation

Those portions of this final rule, which were not previously proposed in 56 FR 12857 on March 28, 1991, are being published without providing an opportunity for public comment and will become effective on the date published in the *Federal Register*. The action, with respect to those portions not previously proposed, is technical in nature and public comment would not be useful or necessary. The action concerns codification of prior approvals obtained from OMB of the information collection and recordkeeping burdens contained in Food Stamp Program regulations. These approvals were previously announced only in the preamble section of the regulations as they were individually published in the *Federal Register* over the years. For these reasons, William E. Ludwig, the Administrator of the Food and Nutrition Service has determined that, in accordance with 5 U.S.C. 553(b)(3)(B), good cause exists both for publishing this regulation without taking public comment and for making the rule effective upon publication. Those portions of this final rule which were previously proposed in 56 FR 12857 on March 28, 1991 received no comments. The remaining provisions of that proposed rule, which pertained to retail grocers, are being withdrawn by this rule.

Background

Technical Amendments and Corrections

On a periodic basis, the Department reviews the Food Stamp Program regulations to ensure the text is clear and correct. During the last review, the Department noted numerous technical errors in the text of the regulations. In order to correct these errors, the Department is making technical amendments to: (1) Correct errors in spelling, grammar, regulatory references, and other typographical errors; (2) provide consistency or conformity with other regulatory provisions; and (3) finalize proposed technical changes published on March

28, 1991 (56 FR 12857). The amendments do not change the substance of the provisions affected. There are several technical amendments that require some explanation about why the Department is making these changes.

On June 29, 1982 the Department published a final regulation at 47 FR 28067, "pursuant to the Food Stamp Act of 1977, and to legislation enacted on March 24, 1976, approving and reiterating the 'Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', Public Law 94-241 and Public Law 96-597." That final rule added part 284 to the food stamp regulations. Part 284 describes the general terms and conditions under which a modified Food Stamp Program shall be provided by the Food and Nutrition Service (FNS) to the Commonwealth of the Northern Mariana Islands (CNMI). In preparing this final rule, the Department failed to add a reference to part 284 in 7 CFR 271.1(b), which describes the scope of food stamp regulations. The Department is taking this opportunity to include a conforming amendment to § 271.1(b) to explain that part 284 provides for a nutrition assistance program for CNMI.

Current regulations at 7 CFR 273.1(e)(1)(i), originally published on October 17, 1978 at 43 FR 47889, grant food stamp eligibility to residents of federally subsidized housing for the elderly built under either section 202 of the Housing Act of 1959 or section 236 of the National Housing Act. Subsequently in 1988, FNS Policy Interpretation Response System (PIRS) Memo 88-9, dated April 19, 1988, was issued to explain that section 236 of the National Housing Act was no longer effective and other housing programs for the elderly had been developed since § 273.1(e)(1)(i) was originally implemented. For this reason, the Department is removing the reference to section 236 of the National Housing Act in 7 CFR 273.1(e)(1)(i).

The Department is also amending 7 CFR 273.17 by removing paragraph (i), which discusses the losses of benefits that occurred prior to elimination of the purchase requirement. The purchase requirement for food stamps was terminated with the enactment of the Food Stamp Act of 1977. The Department originally implemented § 273.17(i) to protect households during the change from the purchase requirement to the current Food Stamp Program system of benefit delivery. The Department believes there is no further need for § 273.17(i) at this time and is

removing this section from food stamp regulations.

Under current regulations at 7 CFR 273.20, the States of California and Wisconsin are listed as "SSI Cash-Out States". Under the "SSI Cash-Out" demonstration project, California and Wisconsin provide recipients of Supplemental Security Income (SSI) payments with the cash value of their food stamp allotment, in lieu of coupons, by increasing the SSI grant award. Residents of these states are considered ineligible for food stamp benefits.

On January 1, 1992, the State of Wisconsin officially ended its "SSI Cash-out" demonstration project, thereby making SSI recipients eligible for food stamp benefits. In order to ensure conformity, the Department is removing all references to Wisconsin throughout 7 CFR 273.20.

The Department is making several technical changes to regulations in part 278, which pertain to the participation of retail food stores, wholesale food concerns and insured financial institutions. The Department is also adding the word "accepted" immediately before the words "in accordance" in 7 CFR 278.2(g) which describes how firms may redeem coupons. The word was inadvertently omitted from the regulations when they were last published.

The Department is deleting the reference in 7 CFR 278.6(e) to "FNS regional offices" being the agent of FNS in disqualification actions taken against retail food stores and wholesale food concerns. Instead, the regulation will state that "FNS" shall take action. This change in wording is being made to reflect the fact that some FNS regional offices have delegated authority to act in these matters to their field offices.

Lastly, the Department is using this rulemaking to finalize proposed technical changes to part 279 that were originally published in a proposed rule on March 28, 1991 at 56 FR 12857. The remaining proposals in that rulemaking (pertaining to authorizing and educating retail grocers and assigning penalties to retailers who violate program rules) have been withdrawn by the Department. No comments were received concerning the proposed technical changes.

The amendments are being made to the following sections of 7 CFR:

271.1(b)
271.6(b)(1)(ii), (iii), (vi), and (vii)
271.7(d)(1)(ii)
272.1(g)(7)(viii), (g)(10), (g)(17)(i)(B), (g)(36), (g)(74), (g)(84)(i), (g)(90)
272.2(a)(2)
272.6(c)(3)

272.8(i)
272.10(a)(2)(iii)
273.1(c)(3)(i) and (ii), (e)(1)(i)
273.8(i)(2)(i)
273.11(b)(1)(ii)(A) and (B)
273.15(r)(2)
273.17(i)
273.18(d)(2)
273.20(a), (b), (c)
273.22(f)(6)(iii)(A)
275.8(a)
275.9(c)(1)
276.3(b)(3)
276.7(h)(4)
278.1(j)(1), (k)(1)(ii)
278.2(g)
279.2(a), (b)
279.3(a), (b)
279.7(b), (c), (d)
279.8(a), (a)(1), (b), (c), (d), (e), (f), (g)
279.9(a), (b)
279.10(a)

Effective Date

This final rule does not change the current policy under which State agencies are operating. Therefore, the final rule does not require special implementation procedures by State agencies. This rule is effective upon the date of publication.

List of Subjects

7 CFR Part 271

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

7 CFR Part 272

Alaska, Civil rights, Food stamps, Reporting and recordkeeping requirements.

7 CFR Part 273

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

7 CFR Part 275

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

7 CFR Part 276

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

7 CFR Part 278

Administrative practice and procedure, Banks, Banking, Claims, Food stamps, General line—wholesalers, Groceries, Groceries—retail, Penalties.

7 CFR Part 279

Administrative practice and procedure, Food stamps, General line—

wholesalers, Groceries, Groceries—retail.

Accordingly, parts 271, 272, 273, 275, 276, 278 and 279 are amended as follows:

1. The authority citations for parts 271, 272, 273, 275, 276, 278 and 279 continues to read as follows:

Authority: 7 U.S.C. 2011–2032.

PART 271—GENERAL INFORMATION AND DEFINITIONS

§ 271.1 [Amended]

2. In § 271.1, paragraph (b) is amended by adding a new sentence between the twelfth and last sentences of the paragraph to read as follows:

§ 271.1 General purpose and scope.

(b) *Scope of the regulations.* * * * Part 284 provides for a nutrition assistance program for the Commonwealth of the Northern Mariana Islands (CNMI).

§ 271.6 [Amended]

3. In § 271.6:
a. Paragraph (b)(1)(ii) is amended by removing the words "1100 Spring Street NW, Room 200, Atlanta, Ga. 30367" and adding in their place the words "77 Forsyth Street SW., Suite 112, Atlanta, GA 30303–3427";

b. Paragraph (b)(1)(iii) is amended by removing the words "50 East Washington Street, Chicago, Ill. 60602" and adding in their place the words "77 West Jackson Blvd., 20th Floor, Chicago, IL 60604–3507";

c. Paragraph (b)(1)(vi) is amended by removing the words "33 North Avenue, Burlington, Mass. 01803" and adding in their place the words "10 Causeway St., Boston, MA 02222–1069";

d. Paragraph (b)(1)(vii) is amended by removing the words "2420 West 26th Avenue, Suite 430–D, Denver, Colo. 80211" and adding in their place the words "1244 Speer Blvd., Suite 903, Denver, CO 80204–3581".

§ 271.7 [Amended]

4. In § 271.7, the first sentence of paragraph (d)(1)(ii) is amended by removing the words "upcoming month's allotments" and adding in their place the words "upcoming month's allotment".

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

§ 272.1 [Amended]

5. In § 272.1:
a. The third sentence of paragraph (g)(7)(viii) is amended by adding a comma after the words "Discrepancies and Other Information";

b. The second sentence of paragraph (g)(10) is amended by removing the word "separate" and adding in its place the word "separate";

c. The second sentence of paragraph (g)(17)(i)(B) is amended by removing the words "Secretary of Health, Education, and Welfare" and adding in their place the words "Secretary of Health and Human Services";

d. The second sentence of paragraph (g)(36) is amended by removing the hyphen in the word "State-wide";

e. Paragraph (g)(74) is amended by redesignating paragraphs (g)(74) (1), (2) introductory text, (i) and (ii) as (g)(74) (i), (ii) introductory text, (A) and (B), respectively;

f. In paragraph (g)(84)(i) the second sentence is amended by removing the words "any eligible determination" and adding in their place the words "any eligibility determination";

g. The first sentence of paragraph (g)(90) is amended by removing the words "applying the provisions" and adding in their place the words "applying the provision".

§ 272.2 [Amended]

6. In § 272.2, the fifth sentence of paragraph (a)(2) is amended by removing the words "State Plan of Operations" and adding in their place the words "State Plan of Operation".

§ 272.6 [Amended]

7. In § 272.6, paragraph (c)(3) is amended by removing the words "(iii), (iv)" and adding in their place the words "(iii) or (iv)".

§ 272.8 [Amended]

8. In § 272.8, the heading of paragraph (i) is amended by removing the words "Plan of Operations" and adding in their place the words "State Plan of Operation" and the introductory text of paragraph (i) is amended by removing the words "State Agency's Plan of Operations" and adding in their place the words "State Plan of Operation."

§ 272.10 [Amended]

9. In § 272.10, the first sentence of paragraph (a)(2)(iii) is amended by adding the word "and" between the words "each planned activity," and "including a consideration".

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

§ 273.1 [Amended]

10. In § 273.1:
a. Paragraphs (c)(3) (i) and (ii) are amended by removing the words "Thrifty Food Plan" and adding in their place the words "maximum food stamp allotment";

b. Paragraph (e)(1)(i) is amended by removing the words "or section 236 of the National Housing Act" at the end of the paragraph.

§ 273.8 [Amended]

11. In § 273.8, paragraph (i)(2)(i) is amended by removing the word "personnel" and adding in its place the word "personal".

§ 273.11 [Amended]

12. In § 273.11, paragraphs (b)(1)(ii) (A) and (B) are amended by removing the words "thrifty food plan" and adding in their place the words "maximum food stamp allotment".

§ 273.15 [Amended]

13. In § 273.15, the first sentence of paragraph (r)(2) is amended by adding a hyphen between the words "45" and "day".

§ 273.17 [Amended]

14. In § 273.17, paragraph (i) is removed.

§ 273.18 [Amended]

15. In § 273.18, the last sentence of paragraph (d)(2) is amended by removing the words "guilty of misrepresentation of fraud" and adding in their place the words "guilty of misrepresentation or fraud".

§ 273.20 [Amended]

16. In § 273.20, paragraphs (a), (b), and (c) are amended by removing the word "Wisconsin" wherever it appears.

§ 273.22 [Amended]

17. In § 273.22, the first sentence of paragraph (f)(6)(iii)(A) is amended by removing the comma between the words "income" and "standard".

PART 275—PERFORMANCE REPORTING SYSTEM

§ 275.8 [Amended]

18. In § 275.8, the last sentence of paragraph (a) is amended by removing the words "agencies would have 60 days" and adding in their place the words "agencies have 60 days".

§ 275.9 [Amended]

19. In § 275.9, the second sentence of paragraph (c)(1) is amended by removing the words "to determine if the project" and adding in their place the words "to determine if the project".

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

§ 276.3 [Amended]

20. In § 276.3, the first sentence in paragraph (b)(3) is amended by

removing the words "base it determinations" and adding in their place "base its determinations".

§ 276.7 [Amended]

21. In § 276.7, the last sentence in paragraph (h)(4) is amended by removing the words "prior of the expiration" and adding in their place the words "prior to the expiration".

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

§ 278.1 [Amended]

22. In § 278.1:
(a) Paragraph (j)(1) is amended by removing the reference to "paragraphs (b), (c), (d), and (e)" and adding in its place the reference to "paragraphs (b), (c), (d), (e), (f), (g), or (h)";
(b) Paragraph (k)(1)(ii) is amended by removing the reference to "paragraphs (b), (c), (d), or (e)" and adding in its place a reference to "paragraph (b), (c), (d), (e), (f), (g), or (h)".

§ 278.2 [Amended]

23. In § 278.2:
a. The first sentence of paragraph (g) is amended by adding the word "accepted" immediately preceding the words "in accordance";
b. The last sentence of paragraph (g) is amended by removing the word "and" from the words "and shelters for battered women".

§ 278.5 [Amended]

24. In § 278.5, the fourth sentence of paragraph (e) is amended by removing the words "Federal Operations Division, FNS, U.S. Department of Agriculture, Washington, DC 20250" and adding in their place the words "Benefit Redemption Division, FSP, FNS, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302".

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

§ 279.1 [Amended]

25. In § 279.1, the first and third sentences are amended by removing the words "food stamp" and adding in their place the word "administrative" each time they precede the words "review officer".

§ 279.2 [Amended]

26. In § 279.2:
a. The section heading is amended by removing the words "Food Stamp" and adding in their place the word "Administrative";
b. Paragraphs (a) and (b) are amended by removing the words "food stamp"

each time they appear and adding in their place the word "administrative".

§ 279.3 [Amended]

27. In § 279.3, paragraphs (a) and (b) are amended by removing the words "food stamp" each time they appear and replacing them with the word "administrative".

§ 279.7 [Amended]

28. In § 279.7:
a. Paragraph (b) is amended by removing the words "food stamp" in the first sentence and adding in their place the word "administrative" and by removing the word "regional" in the last sentence.
b. Paragraphs (c) and (d) are amended by removing the words "food stamp" each time they appear and adding in their place the word "administrative".

§ 279.8 [Amended]

29. In § 279.8:
a. The section heading is amended by removing the words "food stamp" and adding in their place the word "administrative";
b. The introductory text of paragraph (a) is amended by removing the words "food stamp" each time they appear and adding in their place the word "administrative";
c. Paragraph (a)(1) is amended by removing the words "FNS regional" and adding in their place the words "appropriate FNS";
d. Paragraph (b) is amended by removing the words "food stamp" and adding in their place the word "administrative";
e. Paragraph (c) is amended by removing the words "food stamp" each time they appear and adding in their place the word "administrative" and by removing the word "regional" whenever it appears and adding in its place the words "appropriate FNS";
f. Paragraphs (d) and (e) are amended by removing the words "food stamp" each time they appear and adding in their place the word "administrative";
g. The heading of paragraph (f) is amended by removing the word "regional" and adding in its place the words "appropriate FNS". The text of paragraph (f) is amended by removing the words "food stamp" and adding in their place the word "administrative", and by removing the word "regional";
h. Paragraph (g) is amended by removing the words "food stamp" and replacing them with the word "administrative".

30. In § 279.9, paragraphs (a) and (b) are amended by removing the words

"food stamp" each time they appear and adding in their place the word "administrative".

§ 279.10 [Amended]

31. In § 279.10, paragraph (a) is amended by removing the words "food stamp" each time they appear and adding in their place the word "administrative".

Dated: June 1, 1994.

William E. Ludwig,

Administrator.

[FR Doc. 94-13864 Filed 6-8-94; 8:45 am]

BILLING CODE 3410-30-U

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064-AB46

Assessments

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Board of Directors (Board) of the Federal Deposit Insurance Corporation (FDIC) is amending its regulations governing computation of an institution's assessment base to provide for the subtraction of certain liabilities arising under depository institution investment contracts. The subject liabilities are those not treated as insured deposits under section 11(a)(8) of the Federal Deposit Insurance Act (FDI Act). Under the final rule, these liabilities would be excluded from the deposit base on which deposit insurance premiums are assessed, thereby reducing assessment payments for affected institutions. The purpose of the amendment is to give effect, by regulation, to apparent congressional intent.

EFFECTIVE DATE: July 11, 1994.

FOR FURTHER INFORMATION CONTACT: William Farrell, Chief, Assessments Management Section, Division of Finance, (703) 516-5546; or Gerald J. Gervino, Senior Attorney, (202) 898-3723; Federal Deposit Insurance Corporation, Washington D.C. 20429.

SUPPLEMENTARY INFORMATION: Prior to December 1993, liabilities arising under bank or thrift investment contracts (BICs) that qualified as deposits under section 3(l) of the FDI Act, 12 U.S.C. 1813(l), were insured in accordance with the statutory and regulatory provisions governing federal deposit insurance coverage. Similarly, BIC liabilities that qualified as deposits were included in an institution's deposit base