

through special recognition and other incentive programs, and provision of assistance in the implementation and upgrading of performance management systems;

(6) Emergency operations, such as under hazardous weather conditions and natural or man-made disasters; responding to blood donation needs; and communicating related leave policies;

(7) Recognition of the service of American Veterans and dissemination of information relating to programs and benefits available for veterans in the Federal service; and

(8) Other programs, projects, and operations as approved by the Director.

(d) The Office of Personnel Management shall advise Federal Executive Boards on activities in the areas of performance appraisal and incentives, interagency training programs, the educational development of Government employees, improvement of labor-management relations, equal employment opportunity, the Federal Women's Program, the Federal Equal Opportunity Recruitment Program, the Hispanic Employment Program, the Veterans Employment Program, and selective placement programs for individuals with disabilities.

(e) The Director may direct one or more of the Federal Executive Boards to address specific programs or undertake cooperative activities.

§ 960.108 Are there additional rules and directives for Federal Executive Boards?

The Director may issue additional rules, guidance, and directives to the Federal Executive Boards.

[FR Doc. 02-29848 Filed 11-22-02; 8:45 am]

BILLING CODE 6325-46-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 278 and 279

RIN 0584-AD23

Food Stamp Program: Administrative Review Requirements—Food Retailers and Wholesalers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action will revise Food Stamp Program regulations affecting the administrative review process available to retail and wholesale firms participating in the Food Stamp Program. It proposes to streamline and

make technical corrections to this process by amending portions of current regulations. The changes will eliminate repetitious, outdated and unnecessary provisions without taking away a firm's right to an administrative review. This rule also proposes to make technical corrections.

DATES: Comments must be received on or before January 24, 2003 to be assured of consideration.

ADDRESSES: Comments should be submitted to Karen Walker, Chief, Retailer Management Branch, Benefit Redemption Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302. Comments may also be datafaxed to the attention of Ms. Walker at (703) 305-1863, or by e-mail to karen.walker@fns.usda.gov. All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 408.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to Ms. Walker at the above address or by telephone at (703) 305-2418.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

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 in 7 CFR part 3015, subpart V and related Notice (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 13132, Federalism

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments and consult with them as they develop and carry out those policy actions. The Food and Nutrition Service (FNS) has considered the impact of this rule that proposes streamlining and making technical changes to FNS' administrative review process available to retail food stores and wholesale concerns participating in the Food Stamp Program. This proposed

rule has no Federalism implications in that procedural changes set forth do not affect State and local governments. This proposed rule does not impose any substantial or direct compliance costs on State and local governments. Therefore, under section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. §§ 601-612). Eric M. Bost, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. It proposes to eliminate repetitious, outdated and unnecessary provisions; aggrieved businesses will continue to have the right to administrative reviews under this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collections.

Written comments must be submitted on or before January 24, 2003.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology. *Comments may be sent to:* Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20203. Comments may also be submitted to Karen Walker, Chief, Redemption Management Branch, Benefit Redemption Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302. Comments may also be faxed to the attention of Ms. Walker at (703) 305-1863, or e-mailed to Karen.Walker@fns.usda.gov.

All responses to this notice will be summarized and included in the request

for OMB approval. All comments will also become a matter of public record.

OMB Number: To be assigned.

Expiration Date: 3 years from date of approval.

Type of Request: New collection.

Abstract: The Food and Nutrition Service (FNS) of the U.S. Department of Agriculture is the Federal agency responsible for the Food Stamp Program. The Food Stamp Act of 1977, as amended, (7 U.S.C. 2011–2036) requires that the Agency determine the eligibility of firms and certain food service organizations to participate in the Food Stamp Program. If a retail food store is found to be ineligible by FNS, that store has the right to request an administrative review of the decision. Such requests must be made in writing. This is not a new collection requirement, but the Food Stamp Program has never accounted for the burden associated with this activity.

Affected Public: Retail food stores and wholesale concerns.

Estimated Number of Respondents: 1,140

Number of Responses per

Respondent: 1.2

Estimated Total Annual Responses: 1,368

Hours per Response: .17.

Total Annual Reporting Hours: 232.56.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not 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 rule is not intended to have retroactive effect unless so specified in the “Effective Date” paragraph of the preamble of the final rule. In the Food Stamp Program, the administrative procedures for retailers and wholesalers are as follows: for Program retailers and wholesalers—administrative procedures are issued pursuant to section 14 of the FSA (7 U.S.C. 2023) and 7 CFR 279.

Public Law 104–4

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, or

tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of \$100 million or more in any one year. Thus, this rule is not economically significant, nor subject to the requirements of sections 202 and 205 of the UMRA.

Background

In this rule, FNS is proposing to revise food stamp regulations affecting the administrative review process for retail food stores and wholesale food concerns participating in the Food Stamp Program. The revisions will streamline the administrative review process by eliminating repetitive and unnecessary provisions and consolidating other provisions in current regulations found in 7 CFR 278 and 279. These revisions will not change the rights of aggrieved food retailers and wholesale food concerns to request and obtain an administrative review from FNS. Also, this rule proposes to make technical corrections involving regulatory cites listed in section 278.1.

7 CFR 278.1—Approval of Retail Food Stores and Wholesale Food Concerns

This section provides information regarding the authorization withdrawals and denials of firms participating or seeking to participate in the Food Stamp Program. References included in paragraphs (k)(1) and (2) and (l)(1)(ii) and (iii) are not correct and this rule proposes to correct them.

7 CFR 278.8—Administrative Review—Retail Food Stores and Wholesale Food Concerns

This section in current regulations provides information regarding how food retailers or wholesale food concerns aggrieved by an administrative action can file a request for an administrative review. It references sections that deal with specific administrative actions that are subject to review and provides the address where requests for reviews must be sent. This same information in more detail is provided in 7 CFR 279, and the Department believes including that

same or similar information in two places is repetitive. Therefore, this rule proposes to remove the language from 7 CFR 278.8. Reference changes reflecting this removal have been made throughout in §§ 278.1, 278.6 and 278.7.

7 CFR 279 Subpart A—Administrative Review—General; Subpart B—Rules of Procedure; and, Subpart C—Judicial Review

Under Current regulations, 7 CFR 279 is divided into three subparts. Subparts A and B pertain to the administrative review process, while subpart C pertains to the judicial review process. The Department believes having two different subparts for the administrative review process may be confusing to readers and should be clarified. Therefore, the rule proposes to collapse subpart B into subpart A and redesignate subpart C as subpart B. This change will provide a clear distinction between the two different review processes. Under the proposed change, subpart A will cover the administrative review process and subpart B will cover the judicial review process. In addition, throughout part 279 of the proposed rule, the term “administrative review officer” is changed to “designated reviewer”, which conforms to section 14(a)(5) of the Food Stamp Act of 1977 (7 U.S.C. § 2023(a)(5)), which gives the Secretary the authority to designate such reviewers. The responsibilities of the designated reviewer will be the same as the administrative review officer under current rules.

Scope and purpose—7 CFR 279.1

Scope and purpose: The introductory paragraph at 7 CFR 279.1 clarifies the scope of purpose of each of the subparts mentioned above. Since the proposed rule would collapse subpart B into subpart A, such clarification is unnecessary. Therefore, under the proposed regulation, the introductory paragraph at 7 CFR 279.1 is removed and replaced with amended language from 7 CFR 279.3 in current rules which explains the jurisdiction and authority of the administrative review process.

Administrative Review Officer—7 CFR 279.2.

Administrative review officer: Current regulations include a section describing how review officers are designated and are assigned cases to review. The Department believes this is internal guidance for FNS and does not belong in regulations. Therefore, the proposed rule would remove this section entirely.

Authority and Jurisdiction—7 CFR 279.3

Authority and jurisdiction: Current regulations describe the authority and jurisdiction of the administrative review process at 7 CFR 279.3. The proposed regulation would include that section at 7 CFR 279.1. It also proposes to amend that section for clarification purposes by adding a separate paragraph for disqualifications. Current regulations include that with a paragraph on the imposition of fines.

Rules of Procedure—7 CFR 279.4

Rules of procedures: Current regulations at 7 CFR 279.4 separate the administrative review process into two subparts, A and B. These regulations include an introductory paragraph clarifying what information is included under subpart A and subpart B, which is not included in the proposed rule. Under the proposed rule, all information involving the administrative review process is included under a single subpart (subpart A); therefore, there is no longer a need for an introductory paragraph clarifying two subparts.

Content of Request—7 CFR 279.6

Content of request for review: Current regulations at 7 CFR 279.6 include language regarding requests for in person meetings with administrative review officers. Currently there are only three locations where such meetings take place, so most firms that wish to have meetings must travel long distances to participate in them. The review is based on the facts of the case which can be presented in writing or orally by phone. Firms can and do talk with reviewers by phone. Even though very few firms request in-person meetings, the Department believes that offering in-person meetings gives the impression that stores which cannot avail themselves of the meeting are disadvantaged. Therefore, the rule proposes to eliminate these meetings. Aggrieved retailers can participate in conference calls with administrative review staff if requested.

Action Upon Receipt of a Request for Review—7 CFR 279.7

Failure to meet with review officer: Current regulations at 7 CFR 279.7(c), include a paragraph dealing with the in-person meetings. This provision would no longer be relevant if these meetings no longer take place; therefore, the proposed rule would remove this paragraph.

Determination of the Administrative Review Officer—7 CFR 279.8

Determination notification: Current regulations at 7 CFR 279.8(e) and (f) include information about the determination notification process. This proposed rule would combine paragraphs (e) and (f) into paragraph (e) and redesignate paragraph (g) as paragraph (f). In addition, technical corrections are proposed for paragraph (b) to reflect changes made by a prior regulation.

Implementation

The Department is proposing that the provisions of this rulemaking be implemented 60 days after publication of the final rule.

List of Subjects**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, 7 CFR parts 278 and 279, are proposed to be amended as follows:

1. The authority citation for parts 278 and 279 continue to read as follows:

Authority: 7 U.S.C. 2011–2036.

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

§ 278.1 [Amended]

2. In § 278.1:

a. Paragraph (k)(1) is amended by removing the reference “(g) or (h)” and adding in its place the reference “(g), (h) or (i)”;

b. Paragraph (k)(2) is amended by removing in the first sentence the words “the Food Stamp Act of 1977, as amended;” and adding in its place the words “paragraph (b)(1)(i) of this section;” and by removing the reference “(b)(1)(iv)” and adding in its place the reference “(b)(1)(vi)”;

c. Paragraph (l)(1)(ii) is amended by removing the reference “(g), or (h)” and adding in its place the reference “(g), (h) or (i)”;

d. Paragraph (l)(1)(iii) is amended by removing the words “the Food Stamp Act of 1977, as amended;” and adding in its place the words “paragraph (b)(1)(i) of this section;” and by removing the reference “(b)(1)(iv)” and adding in its place the reference “(b)(1)(vi)”.

e. The regulatory reference “§ 279.5” is removed in paragraph (l)(2) and the regulatory reference “part 279” is added in its place; and

f. The regulatory reference “§ 278.8,” is removed in paragraph (p) and the regulatory reference “part 279” is added in its place.

§ 278.6 [Amended]

3. In 278.6, the regulatory reference “§ 279.5” is removed wherever it appears in paragraphs (b), (c) and (n), and the regulatory reference “part 279” is added in its place.

§ 278.7 [Amended]

4. In § 278.7, the regulatory reference “§ 278.8” is removed in paragraph (f) and the regulatory reference “part 279” is added in its place.

§ 278.8 [Removed and Reserved]

5. § 278.8 is removed and reserved.

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

6. In part 279:

a. The words “administrative review officer” are removed wherever they appear and the words “designated reviewer” are added in their place; and

b. The words “review officer” are removed wherever they appear and the words “designated reviewer” are added in their place.

7. Subpart A is further amended by removing the word “—General” in the Subpart heading.

8. Revise § 279.1 to read as follows:

§ 279.1 Jurisdiction and authority.

A food retailer or wholesale food concern aggrieved by administrative action under § 278.1, § 278.6 or § 278.7 of this chapter may, within a period stated in this part, file a written request for review of the administrative action with FNS. On receipt of the request for review, the questioned administrative action shall be stayed pending disposition of the request for review, except in the case of a permanent disqualification as specified in § 278.6(e)(1) of this chapter.

(a) *Jurisdiction.* Reviewers designated by the Secretary shall act for the Department on requests for review filed by food retailers or wholesale food concerns aggrieved by any of the following actions:

(1) Denial of an application or withdrawal of authorization to participate in the program under § 278.1 of this chapter;

(2) Disqualification under § 278.6 of this chapter, except that a disqualification for failure to pay a civil

money penalty shall not be subject to administrative review and a disqualification imposed under § 278.6(e)(8) of this chapter shall not be subject to administrative or judicial review;

(3) Imposition of a fine under § 278.6 of this chapter;

(4) Denial of all or part of any claim asserted by a firm against FNS under § 278.7(c), (d), or (e) of this chapter;

(5) Assertion of a claim under § 278.7(a) of this chapter; or

(6) Forfeiture of part or all of a collateral bond under § 278.1 of this chapter, if the request for review is made by the authorized firm. FNS shall not accept requests for review made by a bonding company or agent.

(b) *Authority*. The determination of the designated reviewer shall be the final administrative determination of the Department, subject, however, to judicial review under section 14 of the Food Stamp Act and subpart B of this part.

§§ 279.2 through 279.4 [Removed]

9. Remove §§ 279.2 through 279.4.

§§ 279.5 through 279.11 [Redesignated and Transferred]

10. Subpart B is further amended by redesignating §§ 279.5 through 279.9 as §§ 279.2 through 279.6, respectively, and transferring them to Subpart A.

§ 279.2 [Amended]

11. Amend newly redesignated § 279.2 as follows:

a. The heading of paragraph (a) is amended by removing the word "Addressing" and adding in its place the word "Submitting".

b. Paragraph (a) is further amended by removing the words "Room 304".

c. Paragraph (c) introductory text is amended by removing the words "with the Director, Administrative Review Division,".

§ 279.3 [Amended]

12. Remove the last two sentences of paragraph (b) in newly redesignated § 279.3.

13. Amend newly redesignated § 279.4 as follows:

a. Paragraph (a) is amended by revising the first two sentences and by removing the last sentence;

b. Paragraph (c) is revised; and

c. Paragraph (d) is removed.

The revisions read as follows:

§ 279.4 Action upon receipt of a request for review.

(a) Upon receipt of a request for review of administrative action, the administrative action shall be held in abeyance until the designated reviewer

has made a determination. However, permanent disqualifications for trafficking shall not be held in abeyance and shall be effective immediately as specified in § 278.6(b)(2) of this chapter.

* * *

* * * * *

(c) *Extensions of time*. Upon timely written request to FNS by the firm requesting the review, FNS may grant extensions of time if, in FNS' discretion, additional time is required for the firm to fully present information in support of its position. However, no extension may be made in the time allowed for the filing of a request for review.

14. Amend newly redesignated § 279.5 as follows:

a. The heading of this section is revised and the heading of paragraph (a) is amended by removing the word "officer",

b. Paragraph (b), (c) and (e) are revised; and

c. Paragraph (f) is removed and paragraph (g) is redesignated as paragraph (f).

The revisions read as follows:

§ 279.5 Determination of the designated reviewer.

* * * * *

(b) *Review of denial or withdrawal of authorization*. When the action under review is the denial of an application for authorization or the withdrawal of an existing authorization, the designated reviewer shall sustain the action under review; sustain the action under review, but specify a shorter period of time the action will remain in effect; or direct that the action under review be reversed.

(c) *Review of disqualification or civil money penalty or fine*. When the action under review is disqualifying a firm from program participation or assessing a civil money penalty or fine against a firm, the designated reviewer shall: sustain the action under review; specify a shorter period of disqualification; specify a reduced money penalty or fine; direct that an official warning letter be issued to the firm in lieu of a disqualification, civil money penalty or fine; or, direct that the action under review be reversed. The designated reviewer may change a disqualification of a firm to a civil money penalty if the disqualification would cause a hardship to participating households (except in the case of a permanent disqualification). The designated reviewer, working with the appropriate FNS office, shall determine if circumstances warrant a civil money penalty in accordance with § 278.6 of this chapter.

* * * * *

(e) *Determination notifications*. FNS shall notify the firm of the determination. Such notification will be sent to the representative of the firm who filed the request for review.

* * * * *

15. In newly redesignated § 279.6, revise paragraph (a) to read as follows:

§ 279.6 Legal advice and extensions of time.

(a) *Advice from Office of the General Counsel*. If any request for review involves any doubtful questions of law, the Benefit Redemption Division shall obtain the advice of the Department's Office of the General Counsel.

* * * * *

Subpart B—[Removed]

16. Subpart B is removed.

Subpart C—[Redesignated as Subpart B]

17. Subpart C is redesignated as Subpart B.

§§ 279.10 and 279.11 [Redesignated as §§ 279.7 and 279.8]

18. Redesignate §§ 279.10 and 279.11 as §§ 279.7 and 279.8.

§ 279.7 [Amended]

19. Amend newly redesignated § 279.7 as follows:

a. Paragraph (a) is amended by removing the regulatory reference "§ 279.8(e)" and adding in its place the regulatory reference "§ 279.5(e)".

b. Paragraph (b) is amended by removing the words the "officer or".

Dated: November 14, 2002.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 02-29889 Filed 11-22-02; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02-AEA-20]

Amendment of Class D Airspace, White Plains, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class D airspace at White Plains, NY. Controlled airspace extending upward from the surface is needed to contain aircraft executing Instrument Flight Rule (IFR) procedures