

**§ 336.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.**

Employees of the Federal Deposit Insurance Corporation (Corporation) are subject to the Executive Branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the Corporation regulation at 5 CFR part 3201 which supplements the Executive Branch-wide Standards, the Executive Branch-wide financial disclosure regulations at 5 CFR part 2634, and the Corporation regulation at 5 CFR part 3202 which supplements the Executive Branch-wide financial disclosure regulations.

**§§ 336.2–336.23 [Removed]****§§ 336.29–336.37 [Removed]****Appendix to Part 336 [Removed]**

4. Sections 336.2 through 336.23 and 336.29 through 336.37 and all subpart headings are removed and reserved and the appendix to part 336 is removed.

[FR Doc. 95–9733 Filed 4–24–95; 8:45 am]

BILLING CODE 6714–01–P

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 58**

[DA–91–010A]

**Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; United States Standards for Grades of Colby Cheese; Correction**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Correction to final rule.

**SUMMARY:** This document corrects the final rule [DA–91–010A], published Wednesday, March 1, 1995 [60 FR 11246]. The regulations related to changes in the United States Standards for Grades of Colby Cheese.

**EFFECTIVE DATE:** April 25, 1995.

**FOR FURTHER INFORMATION CONTACT:** Roland S. Golden, Dairy Products Marketing Specialist, Dairy Standardization Branch, USDA/AMS/Dairy Division, Room 2750–S, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–7473.

**SUPPLEMENTARY INFORMATION:****Background**

The final rule that is the subject of these corrections inadvertently omitted the word “not” in the third sentence of 7 CFR 58.2475. This omission created

an error in the maximum moisture content for colby cheese.

**Need for Corrections**

As published, the final rule contained an error which needs to be corrected to provide accuracy.

**§ 58.2475 Colby cheese. [Corrected]**

On page 11247, at the top of the third column, in § 58.2475, in sentence three of the paragraph, after “common salt and” and before “more than 40 percent moisture” add the word “not”.

Dated: April 19, 1995.

**Lon Hatamiya,**

*Administrator.*

[FR Doc. 95–10154 Filed 4–25–95; 8:45 am]

BILLING CODE 3410–02–M

**Food and Consumer Service****7 CFR Parts 272 and 274**

[Amendment No. 333]

RIN 0584–AB32

**Food Stamp Program: Benefit Delivery Rule**

**AGENCY:** Food and Consumer Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rulemaking finalizes three Food Stamp Program provisions relating to benefit delivery. These regulations relate to the staggered issuance of benefits on Indian reservations, combined or aggregate allotments, and the issuance of benefits in rural areas where households may experience difficulty in obtaining program benefits.

In addition to the regulatory changes described above, this rule makes final three minor technical changes in current regulatory issuance provisions which are deemed appropriate by the Department to improve benefit issuance.

**DATES:** The amendments to §§ 272.2(a)(2) and (d)(1)(xi), and §§ 274.2(a), (c), and (g) are effective February 1, 1992. State agencies were instructed through an agency directive dated May 20, 1992, to implement these provisions on that date. The amendment to § 274.2(d)(2) is effective March 25, 1994. State agencies were instructed through an agency directive dated March 31, 1994, to implement this provision on that date. All remaining amendments are effective September 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** James I. Porter, Supervisor, Issuance and Accountability Section, State Administration Branch, Program

Accountability Division, Food Stamp Program, Food and Consumer Service, USDA, 3101 Park Center Drive, Room 904, Alexandria, Virginia 22302, telephone (703) 305–2383.

**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

This 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.

**Regulatory Flexibility Act**

This action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Ellen Haas, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this final rule will not have a significant impact on a substantial number of small entities. The requirements of the rule will affect State and local agencies which administer the Food Stamp Program, as well as food stamp applicants and recipients.

**Paperwork Reduction Act**

The provisions of this final rule do not contain record-keeping or reporting requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

**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 rule is not intended to have retroactive effect unless so specified in the “Effective Date” section 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 pursuant to 7 U.S.C. 2020(e)(10) and set out at 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 and set out at 7 CFR 276.7; and (3) for program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 and set out at 7 CFR 278.8.

### 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 at 7 CFR part 3015, subpart V, and related Notice (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

### Public Participation

Section 274.2(c) is simply a restatement of existing Food Stamp Program regulations regarding the obligation of State agencies to provide combined or aggregate allotments in certain circumstances and makes no changes in existing policy. Section 274.2(d)(2) is the regulatory adoption of Section 102 of Pub. L. 103-225 regarding the availability of staggered issuance of benefits on Indian reservations. Therefore, the amendments to 7 CFR 274.2(c) and (d)(2) are being issued as final rules without prior notice and public comment. The language of § 274.2(d)(2) is the same as that employed in Pub. L. 103-225. Section 102 of Pub. L. 103-225 is non-discretionary in that it makes an existing policy, staggered issuance, available to Indian reservations for at least 15 days per month at the request of the tribal governing authority. Because of the non-discretionary nature of the amendments to 7 CFR 274.2(c) and (d)(2), the Department has determined, pursuant to 5 U.S.C. 553, that public comment on these provisions prior to implementation is unnecessary as it would serve no practical purpose.

### Background

The Mickey Leland Memorial Domestic Hunger Relief Act (Title XVII of Pub. L. 101-624, enacted November 28, 1990) amended three provisions of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2011 *et seq.*) (the Act), relating to the timing and method of benefit delivery (issuance). These amendments related to staggered issuance of benefits on Indian reservations, aggregate (combined) allotments to households applying after the 15th of the month, and mail issuance in rural areas where households experience transportation difficulties in obtaining benefits.

The Department issued a proposed rulemaking and sought comments on these three provisions of Pub. L. 101-624 on May 20, 1991, at 56 FR 23027. In the same publication, the Department also announced its intent to make three

minor technical changes to existing issuance provisions deemed appropriate to improve benefit issuance. Comments were sought on these changes as well. Each of the six regulatory changes proposed on May 20, 1991, will be separately discussed in this rulemaking.

### *The 1990 Amendments (Pub. L. 101-624): Comments and Analyses*

1. Section 1728 of Pub. L. 101-624 amended Section 7(h)(1) of the Act, 7 U.S.C. 2016(h)(1) to mandate the use of staggered issuance throughout the month on Indian reservations. This provision reflected the findings of a GAO audit (Recipient and Expert Views on Food Assistance at Four Indian Reservations, GAO/RCED 90-152, dated June 28, 1990) in which auditors were told by recipients that each month certain retail food stores authorized to accept food stamps on or near reservations were increasing the prices of eligible food during the week containing the one or more issuance days.

Subsequent to the publication of the proposed rule on this issue, Congress enacted Section 908 of Pub. L. 102-237, delaying the implementation of Section 1728 of Pub. L. 101-624 until April 1, 1993. Section 908 of Pub. L. 102-237 directed GAO to report to Congress by June 13, 1992, on the difficulties that residents on Indian reservations experience in obtaining benefits. The study was to examine prices at food stores, determine issuance-period preferences of households, analyze any transportation problems that may exist, and examine monthly reporting requirements.

On November 25, 1992, GAO released Letter Report RCED-93-70R concerning the need for staggered issuance on Indian reservations. This report summarized comments from 13 State agencies and two national Indian organizations, but arrived at no conclusive recommendation.

Due in significant part to the inconclusive nature of the GAO Report, Congress, on April 1, 1993, in Pub. L. 103-11, "Food Stamp Requirements on Indian Reservations: Delay," delayed implementation of the mandatory staggered issuance requirement of Section 1728 of Pub. L. 101-624, until January 24, 1994. Implementation of Section 1728 was further delayed until March 15, 1994, by section 1 of Pub. L. 103-205, "Food Stamp Program on Indian Reservations," on December 17, 1993.

With section 102 of the Food Stamp Improvements Act of 1994, Pub. L. 103-225, enacted on March 25, 1994, Congress amended Section 7(h)(1) of the

Act by deleting the mandatory requirement for staggered issuance on Indian reservations, which had been provided for in Section 1728 of Pub. L. 101-624, and making staggered issuance on Indian reservations discretionary with each tribal organization. Section 7(h)(1) of the Act, 7 U.S.C. 2016(h)(1), now provides that staggered issuance shall be provided to tribal organizations by State agencies over a period of at least 15 days each month if so requested by the organization exercising governmental jurisdiction over the reservation.

In light of the amendment to section 7(h)(1) of the Act by section 102 of Pub. L. 103-225, making staggered issuance an Indian tribal organization option, the Department believes that a lengthy discussion of the public comments on the proposed rule, pertaining to the parts of the statutory provision which were amended, is no longer necessary, since the comments, while appreciated, are no longer relevant. The Department also believes that the implementation of section 102 of Pub. L. 103-225 does not require public comment. Congress has given the Department and State agencies no discretion and no options with regard to the use of staggered issuance on Indian reservations; the sole discretion to be exercised is with Indian tribal organizations. Under the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553, public comment on a regulatory change is not required if that comment would serve no practical purpose. As a reflection of the Department's absence of discretion in this matter, the Department hereby implements as a final rule without prior notice and comment section 102 of Pub. L. 103-225 in regulatory language identical to that employed by Congress in the legislation. This provision will be located at § 274.2(d)(2).

2. In the May 20, 1991, rulemaking published at 56 FR 23027, the Department sought comments on its proposal to implement section 1732 of Pub. L. 101-624. That provision amended section 8(c)(3) of the Act, 7 U.S.C. 2017(c)(3), to change program requirements concerning aggregate benefits (combined benefits for the month of application and the first full month of benefit receipt) for eligible households applying after the 15th of the month. Prior to the amendment, section 8(c)(3) required that an initial allotment reflecting an aggregate of prorated benefits for the application month and benefits for the first full month was required if the application was made after the 15th day of the month. Amended section 8(c)(3) made

the combined allotment a State agency option for eligible households applying under normal processing standards. Despite the amendment to section 8(c)(3), combined allotments, however, remained mandatory for eligible households that met the requirements for expedited service. This program change was implemented by State agencies retroactively to February 1, 1992, pursuant to an FNS directive dated May 20, 1992.

To implement section 1732 of Pub. L. 101-624 in the Code of Federal Regulations, the Department proposed amendments to several paragraphs of § 274.2(b). Subsequently, it was determined that program regulatory provisions regarding eligibility for combined allotments would more appropriately be located in § 273.2(i) of program regulations, which deals with household application requirements. A rule reflecting this redesignation, including the adoption as final of the changes previously proposed for § 274.2(b), will be published in the near future. Comments received on this program change in response to the May 20, 1991, proposed rule will be discussed in that rulemaking.

The effect of the above-described modification will be to locate in part 273 of the program regulations all provisions regarding eligibility for combined or aggregate allotments. Section 274.2 will contain only program provisions regarding State agency benefit issuance requirements. To reflect this redesignation, the Department adopts as a final rule an amendment to § 274.2, paragraph (c), which simply restates existing program policy with regard to State agency obligations concerning combined allotments. As § 274.2(c) summarizes existing regulations and makes no changes to those regulations, the Department, pursuant to 5 U.S.C. 553, deems prior notice and public comment on this regulatory provision to be unnecessary.

3. Section 1738 of Pub. L. 101-624 amended section 11(e) of the Act, 7 U.S.C. 2020(e), to require State agencies to use mail issuance in rural areas where State agencies determine that recipients face substantial difficulties in obtaining transportation to issuance points. Amended section 11(e) provides an exception to mandatory mail issuance for households which have experienced excessive mail issuance losses. In addition, mail issuance is not required in localities where the mail loss rates exceed standards set by the Secretary. This amendment was prompted by concern that some eligible households in rural areas have difficulty getting to issuance sites because they

lack cars or sufficient funds to hire someone to drive them (House Report No. 101-569, pages 433-34).

Under the proposed rule, a State agency which is not currently using mail issuance throughout the State must engage in an assessment of transportation barriers which rural recipients may experience in getting to issuance offices, and report both the assessment process and its results as an attachment to its State Plan of Operation. Section 272.2 of the regulations is revised to add this requirement to the State Plan of Operation. Section 274.2 is also revised to add a new subsection describing the required content of this new attachment to the State Plan of Operation.

In enacting Section 1738 of Pub. L. 101-624, Congress was concerned with transportation problems that make it difficult for recipients to obtain their benefits at issuance offices (House Report No. 101-569, pages 433-34). These problems, rather than transportation problems in general, should be the focus of the State agency's assessment of the need for mail issuance. For example, mail issuance is not required where electronic benefits transfer (EBT) removes the need for transportation to an issuance office. As an alternative to mail issuance, State agencies finding substantial transportation difficulties could reduce or eliminate them by a variety of methods, such as through the use of authorized representatives as provided for in 7 CFR 274.5.

To implement the exception to mail issuance for individual households that experience excessive mail losses, the Department proposed to use the current standard at 7 CFR 274.6(c)(3)(ii), which provides that households experiencing two losses or thefts of benefits from the mail within a six-month period shall be placed on an alternative delivery system.

To implement the exception to mail issuance in amended Section 11(e)(25) of the Act for localities with excessive mail losses, the Department proposed to utilize the standards set by the mail issuance loss tolerance levels provided at 7 CFR 276.2(b)(4). State agencies would not have to use mail issuance where mail losses exceed, or could reasonably be expected to exceed, the mail loss tolerance levels for the reporting unit within which the particular rural area is located. Section 276.2(b)(4) provides three separate mail issuance tolerance levels. The applicable mail loss tolerance level depends on the size of the reporting unit. In determining whether mail losses in a given rural area would be excessive,

State agencies without mail issuance in that area may use the tolerance level associated with a hypothetical reporting unit. Tolerance levels applied to any hypothetical reporting area would have to be consistent with existing rules and any existing reporting units. For example, States with some mail issuance in place, and currently reporting issuance losses by project areas, could not exempt a rural area without mail issuance from the mail issuance requirements of amended Section 11(e)(25) on the basis of its losses exceeding a State-wide tolerance. Similarly, a State agency that does not have mail issuance would have to use the same tolerance levels in assessing any rural areas subject to this rule; the State could not exempt some areas because they would exceed the State-wide tolerance level and other areas because they would exceed the project area tolerance level. States which choose not to introduce mail issuance based upon findings that losses would exceed tolerance levels will be required to provide evidence to support such findings.

Three comments were received on these proposals. One State agency was concerned that the provision requiring mail issuance would eliminate the State's current practice of offering recipients either mail issuance or direct delivery of benefits. This is not the case. State agencies may accommodate individual household requests; the requirement is to provide or offer mail issuance as a means of overcoming transportation difficulties. Another commenter was concerned that the proposed provisions might overturn established efforts and procedures geared to reduce mail losses. It would subvert the purpose of the legislation, namely to encourage mail issuance, if the implementing rules prevented reductions in mail losses that in turn created pressures to abandon mail issuance altogether. Therefore, the Department will not require mail issuance in situations in which State agencies can demonstrate that losses incurred in attempts to issue benefits by mail in rural areas would be excessive. The third comment came from a State agency which stated that it would not be affected by the provision because the State currently has statewide direct-mail issuance.

The wording in the first sentence of the proposed paragraph has been revised slightly for conformity with the description of other planning documents listed in 7 CFR 272.2(d). This minor change does not alter the intent of the provision.

Accordingly, with this final rule, the wording of the proposed rule, with the exception noted above, is adopted.

#### *Changes to Current Regulations*

On February 15, 1989, at 54 FR 6990, the Department issued a final rule constituting the first comprehensive review and modification of food stamp issuance regulations since their adoption pursuant to the Food Stamp Act of 1977 (Pub. L. 95-113).

This final rule makes changes to three of those provisions, in an effort to clarify interpretive problems brought to the Department's attention over the past three years. These changes were proposed on May 20, 1991, at 56 FR 23028-29.

4. In the May 20, 1991, proposed rule the Department suggested changes to make clear that staggering may be used in any issuance system and that the 40-day limit on intervals between issuances applies to all issuance systems. Current rules at § 274.2(c)(1) refer to a 40-day limit between "mail issuances" because, in the past, State agencies staggered only mail issuance. The word "mail" is being removed to make it clear that the 40-day limit applies to all staggered issuance situations, and to remove any implication that staggering is relevant only to mail issuance.

Whenever staggered issuance is utilized, the State agency must ensure that the interval between any two issuances after the first full month of participation is not longer than 40 days as required by Section 7(h) of the Act, 7 U.S.C. 2016(h)(2). This applies to instances in which a State agency changes its issuance system, is starting to stagger within any issuance system, decides to no longer stagger within a system, or is fluctuating the issuance schedule by a day or two within a current staggered system. The only exception to the 40-day limit occurs for some households which apply after the 15th of the month and receive their first and second month's benefit as a combined allotment. Since they may receive their benefits for the first and second months of participation in the first month, more than 40 days may elapse before they are put on a regular issuance schedule, beginning with benefits issued for the third month.

Three commenters addressed this proposal. One stated that households which are required to submit monthly reports may have to wait as long as 50 days between issuances. Such an interval would only be permissible in situations in which the State agency is required to wait for the household to meet its monthly reporting requirement. The 40-day rule pertains to on-going

households which have complied with all reporting requirements and expect their benefits at about the same time every month.

Another commenter was concerned that the Department is reading something into the law which established the 40-day requirement that Congress did not intend, and that more than 40 days should be allowed under normal fluctuations within an established staggered issuance system. The Department disagrees; intervals beyond 40 days between normal issuances do not meet the requirement of the law and its legislative history. The 40-day requirement is an extension of the requirement at 7 CFR 274.2(c), which states that issuance schedules shall be established so that households receive benefits on or about the same time each month. The amendment gives State agencies room to adjust issuance schedules when issuance systems are being changed, rather than holding the State agency to the requirement that households receive benefits on or about the same day each month. The Department considers the amendment less restrictive, not more so.

The provision in this rule has been reworded to state more clearly the situations to which it applies. This also addresses a third commenter who said the 40-day rule is simply burdensome.

With this final rule, the Department adopts as final 7 CFR 274.2(c)(1) as proposed to indicate that the requirements of staggered issuance are applicable to all issuance systems.

5. The regulations at 7 CFR 274.3(e) currently provide for validity periods for issuances made in authorization document, direct access, and direct delivery issuance systems. A validity period is the time-frame during which a household may obtain benefits by transacting an authorization document or receiving benefits at an issuance point. The validity period begins the day a household is issued an authorization document or is authorized to obtain its issuance at an issuance point. The validity period for issuances ends on the last day of the month in which authorization to receive benefits is made, with two exceptions. First, for normal issuances made on or after the 20th day of the month, the State agency must extend the validity or availability period at least 20 days into the following month and may extend the validity or availability period until the end of the following month; second, for combined issuances for households applying after the 15th of the month, the validity period must continue until the end of the month following application since benefits for which the household

is eligible are intended for use during both months. States have pointed out that Program administration would be simplified if normal issuances made after the 15th of the month could have the same validity period as the validity period for combined issuance made in the month of application. The proposed rule addressed that concern by changing the issuance date that initiates an extension for validity periods for normal issuances from "on or after the 20th" to "after the 15th" of the month.

Three commenters addressed this provision. One simply stated the amount of time (3 months) that would be required to make the necessary computer changes, but made no statement for or against the provision. Another commenter questioned whether the new trigger date would allow State agencies to retain the option to extend the validity period for normal issuances for 20 days or until the end of the following issuance month. The answer to this question is that, as stated in the proposed rule, State agencies will retain the option. The third commenter suggested that the provision of having the validity dates coincide be optional because of the time and expense required in modifying the State agency's on-line issuance computer. Because this provision was adopted in response to State agency requests as a means of easing the Program's administrative burden, the Department is making this date change an option for State agencies. The Department would also like to clarify that when a combined allotment is issued with the use of two documents in authorization document systems during the month of application, the validity period for both documents must continue until the end of the second month, as that is the period of intended use for the combined benefits.

With this final rule, the Department adopts as final 7 CFR 274.3(e) as previously proposed by making the proposed modification of the validity period for normal issuances a State agency option.

6. In 7 CFR 274.11(a) a change was proposed by the Department to clarify which issuance documents, including signature cards used by direct-delivery agents, are required to be retained for three years in order to provide an audit trail for accountability. The current regulation at 7 CFR 274.11(a)(1) lists specific forms required to be retained. However, as established issuance systems have changed and newer ones have been implemented, the list has not been revised. The Department proposed to replace the listing of specific forms with a general retention requirement covering all issuance system documents

which provide an audit record for accountability. An additional change made the wording about the period of retention conform to 7 CFR 272.1(f).

The one commenter responding to the Department's proposal stated that the provision would not affect the program operations of that State. Wording and punctuation within the first ten words in paragraphs (a) and (a)(1) of 7 CFR 274.11 are revised slightly from the proposed rule to make clearer the fact that the provision addresses four separate groups of documents to be retained—issuance records, inventory records, reconciliation records, and other records. These latter changes do not affect the meaning or intent of the proposed rule.

Therefore, the wording of the proposed rule, regarding sections 7 CFR 274.11(a) and (a)(1) with the exception noted above, is adopted as final.

**Dates**

1. *Effective.* Section 1738 of Pub. L. 101-624 was effective February 1, 1992. Section 102 of Pub. L. 103-225 was effective March 25, 1994. The effective date for the amendments to 274.2(d)(1), 274.3(e), and 274.11(a) is September 1, 1995.

2. *Implementation.* The implementation date for Section 102 of Pub. L. 103-225 was March 25, 1994. The implementation date for Section 1738 of Pub. L. 101-624 was February 1, 1992. By that date, or soon thereafter, States should have submitted to FCS, an approvable amendment to the State Plan of Operation, for direct-mail issuance in rural areas. The timetable for actual implementation of any new direct-mail issuance system will be set by the State agency, with FCS approval. The implementation date for the amendments to 274.2(d)(1), 274.3(e), and 274.11(a) is September 1, 1995.

**List of Subjects**

*7 CFR Part 272*

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.

As stated in the Preamble, parts 272 and 274 of chapter II of Title 7, Code of Federal Regulations, are amended as follows:

1. The authority citation for parts 272 and 274 continues to read as follows:

**Authority:** 7 U.S.C. 2011-2032.

**PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES**

2. In § 272.1, a new paragraph (g)(140) is added to read as follows:

**§ 272.1 General terms and conditions.**

\* \* \* \* \*

(g) *Implementation.* \* \* \* (140) *Amendment No. 333.* The provisions of Amendment No. 333 are effective and must be implemented as follows:

(i) The provisions relating to aggregated (combined) allotments to households applying after the 15th of the month and mail issuance in rural areas where households experience transportation difficulties in obtaining benefits are effective and must be implemented by statute retroactive to February 1, 1992.

(ii) The provision relating to staggered issuance on Indian reservations was in place on March 25, 1994, is effective and must be implemented according to statute retroactive to March 25, 1994.

(iii) The remaining provisions are effective and must be implemented September 1, 1995.

3. In § 272.2, a new sentence is added to the end of paragraph (a)(2), and a new paragraph (d)(1)(xi) is added, to read as follows:

**§ 272.2 Plan of operation.**

(a) *General purpose and content.* \* \* \*

(2) *Content.* \* \* \* The Plan's attachments shall describe the State agency's review of direct-mail issuance requirements in rural areas.

\* \* \* \* \*

(d) *Planning Documents.*

(1) \* \* \*

(xi) A plan to review direct-mail issuance requirements in rural areas. State agencies using direct-mail issuance throughout the State with exceptions only for individual households, shall simply state this fact. State agencies which use methods of benefit issuance other than direct-mail issuance in any part of the State shall submit an attachment to their State Plan of Operation which includes the State agency's procedure for reviewing direct-mail issuance requirements in rural areas, and the results of applying that procedure for designating parts of, or entire, project areas as requiring direct-mail issuance because they are rural, and are areas in which benefit-eligible households face substantial difficulties in obtaining transportation. The requirements for this attachment to the State Plan of Operation are described in § 274.2(g) of this chapter.

\* \* \* \* \*

**PART 274—ISSUANCE AND USE OF COUPONS**

4. In § 274.2:

a. a new sentence is added at the end of paragraph (a);

b. the heading of paragraph (b) is revised;

c. paragraphs (b)(2), (b)(3), and (b)(4) are removed;

d. paragraphs (b)(1), (c), (d), and (e) are redesignated as paragraphs (b), (d), (e), and (f), respectively;

e. two new sentences are added at the end of newly-redesignated paragraph (b);

f. newly-redesignated paragraph (d)(1) is revised;

g. paragraphs (d)(2) and (d)(3) are redesignated as paragraphs (d)(3) and (d)(4), respectively;

h. newly-redesignated paragraph (d)(3) is revised; and

i. new paragraphs (c), (d)(2) and (g) are added.

The additions and revisions read as follows:

**§ 274.2 Providing benefits to participants.**

(a) *General* \* \* \* Requirements to assure timely and accurate issuance of benefits to eligible households in rural areas are described in paragraph (g) of this section.

(b) *Availability of benefits.* \* \* \* For households entitled to expedited service, the State agency shall make benefits available to the household not later than the fifth calendar day following the date of application. Whatever system a State agency uses to ensure meeting this delivery standard shall be designed to allow a reasonable opportunity for redemption of ATPs no later than the fifth calendar day following the date of application.

(c) *Combined allotments.* For those households which are to receive a combined allotment, the State agency shall provide the benefits for both months as an aggregate (combined) allotment, or as two separate allotments, with the same validity period, made available at the same time, in accordance with the timeframes specified in § 273.2 of this chapter.

(d) *Ongoing households* \* \* \*

(1) State agencies that use direct-mail issuance shall stagger issuance over at least 10 days of the issuance month, and may stagger issuance over the entire issuance month. State agencies using a method other than direct-mail issuance may stagger issuance throughout the month, or for a shorter period. When staggering benefit delivery, however, State agencies shall not allow more than 40 days to elapse between the issuance of any two allotments provided to a

household participating longer than two consecutive, complete months. Regardless of the issuance schedule used, the State agency shall adhere to the reporting requirements specified in § 274.4.

(2) Upon the request of the tribal organization that exercises governmental jurisdiction over a reservation, the State agency shall stagger the issuance of benefits for eligible households located on reservations for at least 15 days each month.

(3) When a participating household is transferred from one issuance system or procedure to another issuance system or procedure, the State agency shall not permit more than 40 days to elapse between the last issuance under the previous system or procedure, and the first issuance under the new system or procedure. The 40-day requirement does not apply to instances in which actions by recipients, such as failure to submit a monthly report, disrupt benefits. Transfers include, but are not limited to, households being moved into or out of a staggered issuance procedure, households on a fluctuating schedule within a staggered system, and households being moved from a direct-mail issuance system to an authorization document system. If the State agency determines that more than 40 days may elapse between issuances, the State agency shall divide the new issuance into two parts, with one part being issued within the 40-day period, and the second part, or supplemental issuance, being issued on the household's established issuance date in the new system or procedure. The supplemental issuance cannot provide the household more benefits than the household is entitled to receive.

(g) *Issuance in rural areas.* State agencies shall use direct-mail issuance in any rural areas where the State agency determines that recipients face substantial difficulties in obtaining transportation in order to obtain their food stamp benefits by methods other than direct-mail issuance. Exceptions shall be made for households which have exceeded the two allowable reported losses within a six-month period and replacements set forth in § 274.6 (b) and (g), and direct-mail issuance is not required in those localities where the direct mail loss rates exceed, or are likely to exceed, standards set by the Secretary at § 276.2(b) of this chapter. The State agency shall:

(1) Submit an attachment to the State Plan of Operation (§ 272.2(d)(1)(xi) of

this chapter) which describes the State's exemption from this requirement, because the State agency uses direct-mail issuance throughout the State, or

(2) Submit an attachment to the State Plan of Operation (§ 272.2(d)(1)(xi) of this chapter) which describes:

(i) The areas designated by the State agency as rural;

(ii) The rural areas where direct-mail issuance will not be used because:

(A) Recipients do not face substantial difficulties in obtaining transportation to obtain their benefits, and/or;

(B) Direct-mail issuance losses exceed the loss tolerance levels, or there is evidence which indicates that direct-mail issuance, if used, would produce losses which would exceed the loss tolerance levels established under § 276.2(b)(4) of this chapter.

(iii) The State agency's criteria for designating an area as rural. Such criteria may include, but are not limited to: the use of the Bureau of the Census definition; the distances that recipients may need to travel to reach an issuance office; or, other criteria described by the State agency.

(iv) The State agency's minimum criteria for determining that recipients in an area designated as rural do not face substantial difficulties in obtaining transportation to obtain their benefits.

(v) The State agency's schedule for introducing direct-mail issuance into any rural areas requiring direct-mail issuance because of substantial transportation problems.

5. In § 274.3, paragraph (e)(1) is revised to read as follows:

§ 274.3 Issuance systems.

(e) *Validity periods.* (1) State agencies shall establish validity periods for issuances made in both authorization document and direct access 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. Generally, the validity period coincides with the issuance month or the period of intended use, which may or may not be a calendar month. However, in instances in which authorization documents are distributed, or benefits become available for ongoing households late in the issuance month, the State agency shall extend the validity or availability period for either twenty (20) additional days, or until the end of the following issuance month, at the State agency's option. The State agency may also choose one of two dates which will initiate this extension of the validity or availability period.

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The State agency may choose to extend the period for authorization documents distributed or for benefits made available, on or after the 20th day of the issuance month or after the 15th day of the issuance month. Whichever date the State agency chooses to initiate the required extension, the State agency must use the date consistently for all extensions in this category. A household which does not transact its authorization document, or obtain the benefits directly from an issuance point 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.

\* \* \* \* \*

6. In § 274.11, the section heading, the heading and introductory text of paragraph (a), and paragraph (a)(1) are revised to read as follows:

**§ 274.11 Issuance and inventory record retention, and forms security.**

(a) *Availability of records.* The State agency shall maintain issuance, inventory, reconciliation, and other accountability records for a period of three years as specified in § 272.1(f) of this chapter. This period may be extended at the written request of FNS.

(1) Issuance, inventory, reconciliation, and other accountability records shall include all Agency, State, and local forms involved in the State agency's receipt, storage, handling, issuance, and destruction of coupons completed by contract agents or any other individuals or entities involved in issuance or inventory, as well as those completed by the State agency.

\* \* \* \* \*

Dated: April 11, 1995.

**Ellen Haas,**

*Under Secretary for Food, Nutrition, and Consumer Services.*

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**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 20**

**RIN 3150-AA38**

**Standards for Protection Against Radiation; Clarification**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule; clarification.

**SUMMARY:** A final rule was published in the **Federal Register** on December 22, 1993 (58 FR 67657) that made a number