

(k) *Amendment No. 331.* The program changes made to §§271.2 and 278.5 by this amendment are effective December 22, 1994.

(l) *Amendment No. 335.* Expanded authority to use and disclose information about firms participating in the FSP under CFR 278.1(r) for currently authorized firms is effective and will be implemented beginning February 25, 1997 but not before 60-days after the date of notices to such firms, notifying them of the changes. The only exception to the above is that such disclosure of information shall not apply to firms that are withdrawn or are disqualified from FSP participation prior to implementation, unless such firms participate in the FSP at a future date subsequent to the implementation date.

[Amdt. 136, 43 FR 43274, Sept. 22, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §278.9, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

§278.10 [Reserved]

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

Subpart A—Administrative Review—General

- Sec.
- 279.1 Scope and purpose.
- 279.2 Administrative review officer.
- 279.3 Authority and jurisdiction.
- 279.4 Rules of procedure.

Subpart B—Rules of Procedure

- 279.5 Manner of filing requests for review.
- 279.6 Content of request for review.
- 279.7 Action upon receipt of a request for review.
- 279.8 Determination of the administrative review officer.
- 279.9 Legal advice and extensions of time.

Subpart C—Judicial Review

- 279.10 Judicial review.
- 279.11 Implementation of amendments relating to administrative and judicial review.

AUTHORITY: 7 U.S.C. 2011–2032.

SOURCE: Amdt. 136, 43 FR 43279, Sept. 22, 1978, unless otherwise noted.

Subpart A—Administrative Review—General

§279.1 Scope and purpose.

Subpart A sets forth the procedure for the designation of the administrative review officers and the authority and jurisdiction of those officers. Subpart B states the rules of procedure to be followed in the filing and disposition of the requests for review provided for in §278.8. Subpart C concerns the rights of food retailers and food wholesalers to judicial review of the final determinations of the administrative review officer.

[Amdt. 136, 43 FR 43279, Sept. 22, 1978, as amended by Amdt. 356, 59 FR 29714, June 9, 1994]

§279.2 Administrative review officer.

(a) *Designation of review officers.* The Administrator, FNS, shall designate one or more persons to act as administrative review officers.

(b) *Assigning cases to review officers.* The officers shall serve for periods which the Administrator, FNS, shall determine. Changes in designations and additional designations may be made from time to time at the discretion of the Administrator, FNS. When more than one administrative review officer has been designated, requests for review will be assigned for handling to individual administrative review officers by a person designated by the Administrator, FNS. The names of the administrative review officers shall be on file in the Office of the Administrator, FNS.

[Amdt. 136, 43 FR 43279, Sept. 22, 1978, as amended by Amdt. 356, 59 FR 29714, June 9, 1994]

§279.3 Authority and jurisdiction.

(a) *Jurisdiction.* An administrative review officer shall act for the Department on requests for review filed by firms aggrieved by any of the following actions:

- (1) Denial of an application or withdrawal of authorization to participate in the program under §278.1;
- (2) Disqualification from participation in the program or imposition of a

civil money penalty under § 278.6 or imposition of a fine under § 278.6(l) or § 278.6(m);

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

(4) Assertion of a claim under § 278.7(a); or

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

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

[Amdt. 136, 43 FR 43279, Sept. 22, 1978, as amended by Amdt. 258, 49 FR 28393, July 12, 1984; Amdt. 257, 49 FR 32538, Aug. 15, 1984; Amdt. 262, 49 FR 50598, Dec. 31, 1984; Amdt. 334, 57 FR 3913, Feb. 3, 1992; Amdt. 356, 59 FR 29714, June 9, 1994; Amdt. 364, 61 FR 54320, Oct. 17, 1996]

§ 279.4 Rules of procedure.

Rules of procedure for the orderly filing and disposition of requests for review of firms submitted in accordance with § 279.5 are issued in subpart B of this part. The Administrator, FNS, may later issue amendments to any rules of procedure which are appropriate.

Subpart B—Rules of Procedure

§ 279.5 Manner of filing requests for review.

(a) *Addressing requests for review.* Requests for review submitted by firms shall be mailed to or filed with Director, Administrative Review Division, U.S. Department of Agriculture, Food and Nutrition Service, Room 304, 3101 Park Center Drive, Alexandria, Virginia 22302.

(b) *Content of requests.* Requests for review shall be in writing and shall state the name and business address of the firm involved, and the name, address and position with the firm of the person who signed the request. The request shall be signed by the owner of the firm, an officer or partner of the

firm, or by counsel, and need not be under oath.

(c) *Time limit for requesting review.* A request for review shall be filed with the Director, Administrative Review Division, within 10 days of the date of delivery of the notice of the action for which review is requested. For purposes of determining whether a filing date is timely:

(1) The filing date shall be the post-mark date of the request, or equivalent if the written request is filed by a means other than mail;

(2) In computing the 10 day period, the day of delivery of the notice of the action for which review is requested may not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. In that case, the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. As used in this paragraph, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day designated as a holiday by the President or the Congress of the United States.

[Amdt. 136, 43 FR 43279, Sept. 22, 1978, as amended by Amdt. 236, 49 FR 22058, May 25, 1984]

§ 279.6 Content of request for review.

(a) *Identifying the request.* Requests for review shall clearly identify the administrative action from which the review is requested. This identification shall include the date of the letter or other written communication notifying the firm of the administrative action, the name and title of the person who signed the letter or other communication, and whether the action under appeal concerns a denial of an application or a withdrawal of authorization to participate, a disqualification from further participation, a civil money penalty, or a denial of all or any part of a claim or a fine.

(b) *Supporting the request.* The request shall include information in support of the request showing the grounds on which review is being sought, or shall state that supporting information will