

Food and Nutrition Service, USDA

§ 279.4

Subpart B—Rules of Procedure

- 279.5 Manner of filing requests for review.
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Subpart C—Judicial Review

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AUTHORITY: 7 U.S.C. 2011–2036.

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) Imposition of a fine under §§ 278.6(1) or 278.6(m) of this chapter or disqualification from participation in the program or imposition of a civil money penalty under § 278.6 of this chapter, except for disqualification actions imposed under § 278.6(e)(8) of this chapter;

(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; 64 FR 23174, Apr. 30, 1999]

§ 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.