

is intended to interfere with an agency's discretion to assign official duties and limit such assignments as the agency deems appropriate.

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 271, 272, and 275

RIN 0584-AD86

#### Supplemental Nutrition Assistance Program: Review of Major Changes in Program Design and Management Evaluation Systems

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

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** This Notice of Proposed Rulemaking (NPRM) proposes to amend the Supplemental Nutrition Assistance Program (SNAP) (formerly the Food Stamp Program) regulations to implement Section 4116 of the Food, Conservation, and Energy Act of 2008 (the Farm Bill). Section 4116 of the Farm Bill, *Review of Major Changes in Program Design*, requires the United States Department of Agriculture (the Department) to identify standards for major changes in operations of State agencies' administration of SNAP. The provision also requires State agencies to notify the Department if they implement a major change in operations and to collect data that can be used to identify and correct problems relating to integrity and access, particularly by certain vulnerable households.

This NPRM proposes criteria for changes that would be considered "major changes" in program operations and identifies the types of data State agencies must collect in order to identify problems relating to integrity and access. It also proposes when and how State agencies must report on implementation of a major change.

This NPRM proposes to amend the Management Evaluation (ME) Review regulations by modifying the requirements for Federal and State reviews of State agency operations. It also proposes to revise the definitions of large, medium and small project areas. Finally, it proposes to remove sections of the regulations pertaining to coupons and coupon storage since they are obsolete.

**DATES:** Comments must be received on or before July 5, 2011.

**ADDRESSES:** The Food and Nutrition Service (FNS) invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

*Federal eRulemaking Portal:* Preferred method. Go to <http://www.regulations.gov>; follow the online instructions for submitting comments on Docket FNS-2011-0035.

*Fax:* Submit comments by facsimile transmission to (703) 305-2486, attention: Moira Johnston.

*Mail:* Send comments to Moira Johnston, Branch Chief, Program Design Branch, Program Development Division, Supplemental Nutrition Assistance Program, Food and Nutrition Service, 3101 Park Center Drive, Room 810, Alexandria, Virginia 22302, (703) 305-2501.

*Hand Delivery or Courier:* Deliver comments to Ms. Johnston at the above address. All comments on this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the Internet via <http://www.regulations.gov>.

All submissions will be available for public inspection at the office of FNS during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Room 810, Alexandria, Virginia 22302-1594.

**FOR FURTHER INFORMATION CONTACT:** For further information concerning this NPRM you may contact Moira Johnston, Branch Chief, Program Development Division, Supplemental Nutrition Assistance Program, 3101 Park Center Drive, Room 800, Alexandria, Virginia 22302, (703) 305-2501, or by e-mail at [Moira.Johnston@fns.usda.gov](mailto:Moira.Johnston@fns.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has been designated a "significant regulatory

action," although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

#### Regulatory Impact Analysis Summary

##### Need for Action

This action is needed to implement section 4116 of the Farm Bill (Pub. L. 110-234). Section 4116, *Review of Major Changes in Program Design*, amends Section 11 of the Food and Nutrition Act of 2008 (the Act) (7 U.S.C. 2020). It requires the Department to develop standards for identifying major changes in the operations of State agencies that administer SNAP; State agencies to notify the Department upon implementing a major change in operations; and State agencies to collect any information required by the Department to identify and correct any adverse effects on program integrity or access, including access by vulnerable households. The provision identifies four major changes in operations: (1) Large or substantially-increased numbers of low-income households that do not live in reasonable proximity to a SNAP office; (2) substantial increases in reliance on automated systems for the performance of responsibilities previously performed by merit pay personnel; (3) changes that potentially increase the households' difficulty in reporting information to the State; and (4) changes that may disproportionately increase the burdens on specific vulnerable households. In addition, the provision gives the Department the discretion to identify other major changes that a State agency would be required to report as well as to identify the types of data the State agencies would have to collect to identify and correct adverse effects on integrity and access.

In addition, the Department proposes to modify the requirements for Federal and State reviews of State agency operations, which will result in the more efficient use of staff and resources. This rule proposes several changes to the ME review regulations: (1) Remove the requirements that FNS conduct an annual review of a State agency's operation of SNAP and a biennial review of a State agency's ME system; (2) modify the regulations to reflect the elimination of the use of paper coupons and the nationwide implementation of the Electronic Benefit Transfer System (EBT); (3) redefine the terms, large project area, medium project area, and small project area.

### *Benefits*

This rule will require State agencies to report on the impacts of implementing major changes in State agency operations and to identify and correct problems caused by implementing these changes. This rule will benefit State agencies by requiring them to identify and correct problems before they cause hardships for applicants or recipients or the integrity of the program is compromised. This rule will benefit applicants, recipients or individuals otherwise eligible for SNAP by requiring State agencies to identify and correct adverse impacts.

This rule will modify the requirements for Federal and State reviews of State agency operations. It will allow FNS the flexibility to put resources where the risks are greatest and to conduct more effective reviews. It will benefit State agencies by allowing them more time to conduct higher quality reviews.

### *Costs*

The proposed rule will have a minimal cost in FY 2011 and over the 5 years FY 2011 through FY 2015. To estimate the cost impact, we multiplied the total burden hours by the average hourly wage of the staff likely to fulfill the reporting requirements. We assumed 70 percent of the work would be completed by a GS-11 employee, 20 percent by a GS-12 employee, and 10 percent by a GS-13 employee. We used the Step 5 hourly wages in the Rest of U.S. locality pay area. Seventy percent of the 7,696 burden hours are completed by a GS-11 employee with an hourly wage of \$31.17 at a cost of \$167,919. Twenty percent are completed by a GS-12 employee with an hourly wage of \$37.37 at a cost of \$57,520, and ten percent are completed by a GS-13 employee with an hour wage of \$44.43 at a cost of \$34,193. The annual cost is estimated at \$259,632 (\$167,919 + \$57,520 + \$34,193) or approximately \$1.3 million over the 5 years FY 2011 through FY 2015.

### **Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on small entities. Pursuant to that review, it is certified that this proposed rule would not have a significant impact on small entities. State agencies that administer SNAP will be affected to the extent they implement major changes in program operations. State agencies will also be

affected to the extent they perform ME reviews of large, medium and small project areas.

### **Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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, the Department 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 the Department 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) that impose costs on State, local, or tribal governments or to the private sector of \$100 million or more in any one year. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

### **Executive Order 12372**

SNAP 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.

### *Federalism Impact Statement*

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. FNS has considered the impact of this rule on State and local governments and has determined that this rule does not have federalism implications. This rule does not impose 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.

### *Prior Consultation With State Officials*

After the Farm Bill was enacted on June 18, 2008, FNS held a series of conference calls with State agencies and FNS regional offices to explain the SNAP provisions included in the law and to answer questions that State agencies had about implementing the changes to the program. On July 3, 2008, FNS issued an implementation memorandum that described each SNAP-related provision in the Farm Bill and provided basic information to assist State agencies in meeting statutorily mandated implementation timeframes. FNS responded to additional questions that State agencies submitted and posted the answers on the FNS Web site. Another forum for consultation with State officials on implementation of the Farm Bill provisions included various conferences hosted by FNS regional offices, State agency professional organizations, and program advocacy organizations. During these conferences, held in the latter part of 2008 and early months of 2009, FNS officials responded to a range of questions posed by State agency officials related to implementation of Farm Bill provisions.

### *Nature of Concerns and the Need To Issue This Rule*

Recently many State agencies have redesigned how they operate SNAP. Some of these changes have been small and have predominately impacted internal State agency operations. Some of the changes have included major overhauls of the State agency operations and how they interact with the public. As States face rising caseloads and shrinking budgets as well as the availability of new technologies that could help streamline State agency operations, the Department anticipates that more State agencies will implement major changes in their operations of SNAP. The provisions of this rule will require States to closely monitor the impact of the changes and to correct any problems before they have a negative effect on applicants and recipients or on the payment error rates of State agencies.

In addition, the regulations concerning Federal monitoring of State agency operations are very prescriptive concerning the nature and frequency of Federal reviews, whereas the Act is not. As resources have become scarce, it has become clear that by regulating itself in this manner FNS is restricting its ability to adapt the nature of Federal reviews to changes in staffing and resource

levels. Therefore, the Department is proposing to remove the regulations concerning the frequency of Federal reviews of State agency operations. In addition, the regulations proscribe the frequency with which States are required to review large, medium and small project areas in relation to their caseload size. Large project areas are required to be reviewed more frequently. In response to rising caseloads and decreasing State budgets, the Department is proposing to modify the definition of large, medium and small project area. This will reduce the number of reviews State agencies are required to conduct on an annual basis and enable them to use their limited resources to conduct more targeted reviews. Finally, with statewide implementation of electronic benefit transfer (EBT) and the elimination of paper coupons, many of the provisions in this section have become obsolete. The Department is proposing to eliminate outdated and obsolete regulations pertaining to issuance and storage of paper coupons.

#### *Extent to Which We Meet Those Concerns*

In drafting this NPRM, FNS considered the impact of the proposed rule on State and local agencies. In addition, the Department is seeking comments on those areas of discretion and will use those comments to inform its decision making before issuing final regulations. This NPRM is required to implement changes required by the Farm Bill, which were effective on June 18, 2008.

#### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule, when published final, 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" paragraph of the final rule. 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 SNAP, the administrative procedures are as follows: For program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(1) of the Act and regulations at § 273.15; for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 of the Act and regulations at § 276.7 (for rules related

to non-Quality Control liabilities) or Part 283 (for rules related to Quality Control liabilities); for Program retailers and wholesalers—administrative procedures issued pursuant to Section 14 of the Act (7 U.S.C. 2023) and regulations at 7 CFR 279.

#### **Civil Rights Impact Analysis**

FNS has reviewed this rule in accordance with the Department Regulation 4300–4, "Civil Rights Impact Analysis," to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, and the characteristics of SNAP households and individual participants, FNS has determined that an important impact of this rule will be to help identify and correct the adverse effects of changes in program operations on certain protected classes. All data available to FNS indicate that protected individuals have the same opportunity to participate in SNAP as non-protected individuals. FNS specifically prohibits the State and local government agencies that administer the Program from engaging in actions that discriminate based on race, color, national origin, gender, age, disability, marital or family status (SNAP's nondiscrimination policy can be found at 7 CFR 272.6 (a)). Where State agencies have options, and they choose to implement a certain provision, they must implement it in such a way that it complies with the regulations at 7 CFR 272.6.

#### **Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR part 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This proposed rule contains new requirements that are subject to review and approval by OMB; therefore, FNS is seeking public comment on the changes in the information collection burden that would result from adoption of the proposals in the rule, and will submit a request to OMB for approval of a new information collection package covering the requirements in Section 272.12. Once approved, FNS will publish a separate announcement in the **Federal Register**.

Comments on the information collection pursuant to this proposed rule must be received by July 5, 2011.

Send comments to Moira Johnston, Branch Chief, Program Design Branch, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. For further information, or for copies of the information collection package, please contact Moira Johnston at the above address or via e-mail at [Moira.Johnston@fns.usda.gov](mailto:Moira.Johnston@fns.usda.gov).

*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 shall have 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; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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. For further information, or for copies of the information collection requirements, please contact Moira Johnston at the address indicated above.

*Title:* Review of Major Changes in Program Design.

*OMB Number:* [0584–NEW].

*Expiration Date:* Not Yet Determined.

*Type of Request:* NEW.

*Abstract:* As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Food and Nutrition Service is submitting a copy of this section to the Office of Management and Budget (OMB) for its review. Section 4116, *Review of Major Changes in Program Design*, amends Section 11 of the Food and Nutrition Act of 2008 (the Act) (7 U.S.C. 2020). It requires the United States Department of Agriculture (the Department) to develop standards for identifying major changes in the operations of State agencies that administer the Supplemental Nutrition Assistance Program (SNAP). Section 272.12 of this proposed rule requires State agencies to notify the Department when planning to implement a major change in operations; and State agencies to collect any information required by the Department to identify and correct any adverse effects on program integrity or access, including access by vulnerable households. Since decisions to make major changes to program operations rest with each individual

State agency, the frequency and timing of the changes can only be estimated. The proposed rule will require that State agencies provide descriptive information regarding the major change together with an analysis of its projected impacts on program operations. Based upon this information and analysis, FNS may require that the State collect and report additional information regarding the impact of implementing the major change. The reports would be monthly or quarterly depending upon the nature of the change and data availability. Reporting would continue for up to a year after the change is completely implemented. It is not uncommon for a State to pilot a change prior to statewide implementation. FNS could require information from the pilot and then after full implementation, similar information regarding the statewide impacts of the change.

*Respondents:* The 53 State agencies that administer SNAP.

*Estimated Number of Responses per Respondent:* Although by the time this rule is implemented in fiscal year 2012 the current budget crises facing many States may have abated, there is no reason to expect that the pressures and opportunities that contribute to States' decisions to modernize will change significantly. The rule proposes five categories of major changes: replacement of the States automated system, contracting for use of non-merit pay personnel, office closings, and significant reductions in State SNAP staff, and changes that may make it more difficult for households to report. Such changes in operations are made by States based upon a variety of interrelated factors, but there is no evidence that the States size (population), or regional location predict when or what type of changes States will make.

In examining the first of the above criterion, it is reasonable to expect States may continue to replace automated systems at one or two per year, but with so many States running older systems and the delays required by their budget difficulties, we are more likely to see three per year beginning in fiscal year 2011. However, it is likely that we will see several more States look into using call centers and developing on-line applications that will be used by larger proportions of their applicants. Since it appears that as many as 30

States will have on-line applications in place and perhaps 20 States will be using phone centers by fiscal year 2012, the number of additional States that might implement these systems in a year is most likely no more than five. The estimate would then be eight States per year would report major changes under this criterion.

With regard to the second criterion, to date only two States have implemented a process that uses non-merit personnel in the certification process. It is unlikely that many more States will pursue this course of action, and while one State exploring such a change every three years would be the most reasonable estimate, one per year will be used in estimating reporting burden to avoid underestimation.

The third criterion, office closings, may become more common with the expanded use of call centers and on-line applications. A fair estimate would be three per year.

The fourth criterion is staff reductions and this tends to fluctuate with States' budgetary situations, caseloads and other changes they make in their program design. We estimate that there would be three significant staff reductions per year.

The fifth criteria would occur in conjunction with or as a result of changes in the States administration. This is the most difficult to predict, but as States continue to take advantage of new technology and streamlined processes, changes of this type may become more common. An estimate of five such changes per year would appear to be reasonable.

Criterion	Responses per year
Replacement of automated system .....	8
Contracting for use of non-merit pay staff .....	1
Office closings .....	3
Significant reductions in SNAP staff .....	3
Changes that may make it more difficult for households to report .....	5
<b>Total .....</b>	<b>20</b>

The second step in the major change process is FNS determining what, if any, additional data the State will be required to collect and report. FNS believes that most often, the ongoing

data collection tools it employs will be sufficient to provide the needed information on a major change. Additional data will sometimes need to be generated from States' automated eligibility systems. In more limited cases, FNS may require the State to gather data by conducting additional case review surveys.

#### *Estimated Total Annual Burden on Respondents*

Section 272.12(3) requires that States provide both descriptive and analytic information regarding the major change. FNS believes that States will have completed the majority of the analysis in the normal course of their own planning and decisionmaking. The descriptive information should also be readily available and require minimal data gathering since it is the State's decision to make the major change. We estimate that it will take 8 hours to describe the change and 32 hours to repackage and complete the required analysis for a total of 40 hours per response. Thus, with 20 States reporting one major change per year, the initial reporting and analysis aspect of the rulemaking would be 20 annual responses  $\times$  40 hours per State = an estimated 800 burden hours per year (20 States  $\times$  1 response per respondent = 20 annual responses  $\times$  40 hours per respondent to respond = 800 annual burden hours).

FNS believes that for 30 percent of the major changes States report, no additional reporting will be necessary. In another 35 percent of the major changes some additional reporting of already available information will be necessary and that additional data collection will be required for the final 35 percent of the reported major changes. Therefore for six of the 20 major changes there would be no reporting burden.

For the seven major changes requiring additional reporting without additional data collection, some automated system reprogramming to generate the data will be necessary. At 24 hours per reprogramming effort, this would be 168 hours per year ( $7 \times 24$ ). The reports themselves would be estimated to require 8 hours and that out of 53 States (including Puerto Rico, the Virgin Islands, and Guam), four States would be required to report monthly and three States quarterly.

Respondents	Estimated annual responses	Responses per year	Hours per response	Total hours per year
4 States monthly .....	12	48	8	384
3 States quarterly .....	4	12	8	96
7 States .....	16	60	8	480

The total for these seven States would be 168 + 480 hours = 648 total hours for reporting divided by the seven states = (92.6 hours per State per year).

For the last seven States the 648 hours from the above would be required in addition to the time needed to collect additional data. Such data will generally be collected through a sample of case reviews. While the required sample sizes may vary based on the type of major change and the proportion of the State's SNAP caseload it may affect, 200

cases per quarter would likely be an upper limit on what FNS could ask of a State. At an estimated one hour to review and report on a case, this would require 800 hours per year per State. Seven States times 800 hours yields 5,600 hours. (7 State respondents × 1 response per respondent = 7 annual responses × 800 hours per respondent to respond = 5,600 annual burden hours). When the 648 hours is added for the non-sample information, the total for

these seven States is 6,248 (892.6 per State per year). With four States reporting monthly and three of the States reporting quarterly, there would be 60 responses. (4 States × 12 = 48 annual responses) + (3 states × 4 response per respondent = 12 annual responses) = 60 annual responses. Twenty eight of the 60 reports would contain information from sample data since it would all be reported quarterly from all seven States).

Section	Requirement	States responding per year	Responses per respondent	Number of responses	Hours per response	Total burden hours
272.12(a)(3) .....	Initial analysis of Major Change .....	20	1	20	40	800
272.12(b)(1) .....	Reports required without additional data collection.	7	<sup>a</sup> 8.57	60	10.8	648
272.12(b)(1) .....	Reports required with additional data collection.	7	<sup>a</sup> 8.57	60	104	6,248
Totals .....	.....	20	<sup>a</sup> 7	140	54.9	7,696

<sup>a</sup> (Average).

**Note:** Although this proposed rule contains amendments to section 275.3, Federal Monitoring, there are no changes in the burden based on these changes. All required burden for this section is already approved under OMB No. 0584-0010, Performance Reporting System, Management Evaluation, expiration date 4/30/2013.

### E-Government Act Compliance

FNS is committed to complying with the E-Government Act of 2002 (Pub. L. 107-347), in order to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to government information and services and for other purposes.

### Background

Section 4116 of the Farm Bill amended Section 11 of the Act to require the Department to define "major changes" in SNAP (or Program) operations, State agencies to notify the Department when they implement a major change in Program operations, and to collect data for use in identifying and correcting problems with Program integrity and access, particularly among vulnerable populations. Many State agencies have changed or are in the process of changing the way they operate SNAP. Some of these changes

have been small and have predominately impacted internal State agency operations. Some of the changes have included major overhauls of the State agency operations and how the State interacts with applicants and participants. While the goal of such changes is to improve the efficiency and the effectiveness of the States' operations, some of these changes have adversely impacted the States' payment accuracy rates as well as access to the Program. With most States facing rising caseloads and restricted budgets, many are likely to make use of new technologies that could help streamline their SNAP operations. Section 4116 of the Farm Bill anticipates this and provides the Department the authority to better provide States with technical assistance and monitor implementation of major changes in their operation of SNAP.

We are proposing to update the Management Evaluation (ME) regulations to allow FNS greater flexibility to target its monitoring resources to those States/situations that constitute the greatest risk. In addition we propose to update the States ME requirements to allow States more time to conduct more effective reviews. With limited resources the proposed changes

will allow FNS and States to streamline operations while maintaining the integrity of the Program.

### What acronyms or abbreviations are used in this supplementary discussion of the proposed provisions?

In the discussion of the proposed provisions in this rule, we use the following acronyms or other abbreviations to stand in for certain words or phrases:

Phrase	Acronym, abbreviation, or symbol
Code of Federal Regulations.	CFR.
<b>Federal Register</b> .....	FR.
Federal Fiscal Year .....	FY.
Food and Nutrition Act of 2008.	Act.
Food and Nutrition Service Food, Conservation, and Energy Act of 2008.	FNS.
Supplemental Nutrition Assistance Program.	Farm Bill.
U.S. Department of Agriculture.	SNAP.
	the Department.

### What is a major change in the operation of SNAP?

The Farm Bill requires the Secretary to develop standards for identifying

major changes in the operation of a State agency's SNAP and provides general guidance on what changes are to be included in those standards. The four major changes that were identified by legislation are:

- Large or substantially-increased numbers of low-income households that do not live in reasonable proximity to an office performing the major functions described in Section 11(e) of the Act (Section 11(e) enumerates the procedural requirements States must adhere to in the certification of households and operation of the Program);

- Substantial increases in reliance on automated systems for the performance of responsibilities previously performed by personnel described in Section 11(e)(6)(B) of the Act (this subsection requires that State agency personnel utilized in the certification process shall be employed in accordance with the standards for a Merit System of Personnel Administration);

- Changes that potentially increase the difficulty of reporting information under Section 11(e) or Section 6(c) of the Act (7 U.S.C. 2015(c)). Section 6(c) specifies the options and requirements States must implement that govern a household's responsibility to report changes while Section 11(e) requires that each State identify the reporting requirements it has implemented in its place of operation); and

- Changes that may disproportionately increase the burdens on any of the types of households described in Section 11(e)(2)(A) of the Act. (Section 11(e)(2)(A) of the Act includes elderly households, households living in rural areas, households containing a disabled member, homeless households, non-English speaking households, and households living on a reservation).

The Department is proposing to include the first three types of changes described above as major changes (with additional specificity). The Department believes that the fourth criteria is a critical factor in considering the impact of any major changes and is consequently proposing that it be considered and analyzed in relation to all major changes. The Department proposes to add a fourth and fifth type of change to the definition. The Department includes these changes based upon past experience that demonstrates that they can have a significant impact on State operations:

- The use of non-merit pay staff to perform functions previously performed by merit personnel described in Section 11(e)(6)(B) of the Act (again, this subsection requires that State agency

personnel utilized in the certification process shall be employed in accordance with the standards for a Merit System of Personnel Administration); and

- Independent of any other change in operation, significant reductions in the number of State or local staff involved in the operation of SNAP.

**The criteria for defining a major change are general rather than specific. How does the Department propose to clarify when States are to report major changes?**

To assist States in evaluating if they are making a major change, the Department proposes the following additional guidance for each of the six criteria that would better define when a major change would need to be reported:

*(1) Large or substantially-increased numbers of low-income households that do not live in reasonable proximity to an office performing the major functions described in Section 11(e) of the Act.*

States would report a major change under this criterion when an office is closed that serves 500 or more SNAP households and there is not another office available to the affected households within 25 miles, or that can be reached via public transportation. For the purposes of this section an "office performing major functions" would be defined as an office where people can file an application in person.

*(2) Substantial increases in reliance on automated systems for the performance of responsibilities previously performed by personnel described in Section 11(e)(6)(B) of the Act.* Since any new system that States would build would add functionality to the certification process, States would report a major change whenever the primary automated systems used by caseworkers during the certification process to determine eligibility are replaced. Additions to the States existing systems that automate tasks previously performed by caseworkers in the certification of applicant households would also be reported as a major change. This would include the establishment of an online application process through the Internet or the use of call centers to accept applications if it is expected that these would account for 5 percent or more of the State's SNAP applications. States would report a major change if they projected that 5 percent or more of the applications would be submitted through the call center or on-line system during the year following full implementation. The use of document imaging would not be considered a major change if that were

the only change the State is making. Reporting a major change as required under this authority does not relieve States of meeting the requirements for new system approvals in § 277.18.

*(3) Changes that potentially increase the difficulty of reporting information under Section 11(e) or Section 6(c) of the Act.* While call centers and other innovations are designed to make reporting changes more efficient, such changes can also make reporting more difficult for some households.

Therefore, any change a State makes to the way households are allowed or required to report changes in their circumstances would be considered major and be evaluated as explained later in this preamble. This would include implementation of a call center for change reporting, a major modification to any forms that households use to report changes or the discontinuation of an existing avenue for reporting changes, e.g., households can no longer call the local office to report a change. Major changes would not include altering change reporting policy options, or the implementation of policy waivers.

*(4) The establishment of a contract to use non-merit pay staff to perform functions previously performed by merit personnel described in Section 11(e)(6)(B) of the Act.* Section 11(e)(6) reads as follows: "(A) the State agency shall undertake the certification of applicant households in accordance with the general procedures prescribed by the Secretary in the regulations issued pursuant to this Act; and (B) the State agency personnel utilized in undertaking such certification shall be employed in accordance with the current standards for a Merit System of Personnel Administration \* \* \*".

Under this proposal, when a State contracts with a private entity to perform SNAP work that is currently being handled by State employees, a major change in operations would occur and would have to be reported to FNS. While the interview and the eligibility decision functions must be performed by merit personnel (unless FNS approves a waiver request under Section 17(b) of the Act 7 U.S.C. 2025(b)), other functions can be performed by non-merit staff. These other functions could include obtaining verification of household circumstances, accepting reports of changes in household circumstances, accepting applications and screening households for expedited service. In each of these instances non-merit pay staff would be interacting directly with households which have the potential of increasing the burden on households applying for and

participating in SNAP. In addition, FNS has determined that use of non-merit pay staff in these functions can have a detrimental impact on the efficient and effective operation of the program and, as a consequence, must approve States' use of such staff before sharing in the costs of non-merit pay staff in the performance of the above functions.

Because functions such as data entry and document imaging do not involve interaction with households, the use of non-merit pay staff in activities of this type would not constitute a major change. If a State obtains a waiver from FNS under Section 17 of the Act to allow non-merit pay staff to conduct interviews or the eligibility decision functions reserved for merit pay staff in the Act and regulations, this would not be reported as a major change since the waiver approval would specify all necessary reporting and evaluation requirements.

(5) *Significant reductions in the number of State or local staff involved in the certification of SNAP households.* While changes in States' staffing levels are not unusual, reductions can have a significant impact on SNAP operations and household participation. Since there are no staffing standards or baselines for determining what minimum level of staffing is necessary, and States are generally operating as efficiently as they can, almost any decrease has the potential of adversely affecting operations and pursuant to this proposed rulemaking would have to be reported as a major change. We propose that any decrease in staffing levels from one year to the next of more than five percent would have to be reported as a major change. This would include decreases resulting from State budget cuts or hiring freezes, but it would not include loss of staff through resignation, retirement or release when the State is seeking to replace the staff unless it were with non-merit pay personnel as discussed above. While the Department believes that the reduction in State staffing levels has as much potential to impact State operations as any other change, it recognizes that this is a difficult change to define and analyze. Therefore, the Department is particularly interested in comments on this proposal.

The Department recognizes that Section 11(a)(4)(iv) of the Act also identifies "changes that may disproportionately increase the burdens on any of the types of households described in Section (e)(2)(A) [7 U.S.C. 2020 (e)(2)(A)] of the Act", as a major change. The Department believes that this is such a critical consideration that any major change a State makes needs

to be examined to determine if it would have such an effect. Therefore, rather than including this as a major change in and of itself, the Department is requiring that the analysis of the impact of any major change include a determination of whether the major change has such a disproportionate effect on vulnerable households, as defined in Section 11(e)(2)(a) of the Act.

#### **When will States be required to report major changes in their operation of SNAP?**

The Department realizes that the specifics of many changes evolve over time and plans for changes are often modified. Many plans for change are never realized because of funding issues or a shift in State leadership and its priorities. Since any properly planned major change would be approved by State leadership well in advance of implementation, the Department proposes that States report any major change to FNS as soon as it is approved by State leadership, but no less than 120 days prior to implementation. If the plans for the major change are modified after the States initial report to FNS, the State would update its report to FNS. The Department is interested in hearing from States on whether some major changes are approved and implementation begun in less than 120 days.

#### **What information must be included in States' initial reports to FNS regarding a major change?**

The Department proposes that the initial report to FNS include a description of the change and an analysis of its anticipated impacts on select measures of program performance. The description would explain the change the State is implementing, the schedule for implementation, if the change is State-wide or, if not, it will identify the jurisdictions it will encompass, and what the change is intended to accomplish. It would also include answers to the following questions as they apply to the type of change being implemented.

- How will the change affect recipients? How will they be informed?
- How will the change affect caseworkers? How will they be trained?
- How will the change be tested? Will it be piloted?
- How will impacts of the change be monitored?
- How will the change affect the State automated system?
- If the change in operations creates significant problems, what is the State's contingency plan?

The Department proposes that the analysis portion of the report include the expected impact of the change on:

- Payment accuracy;
- Program access—impact on applicants in filing initial applications and reapplications;
- Negative error rates;
- Application timeliness, including both the households entitled to 7-day expedited service and 30-day processing standards;
- The types of households described in Section 11(e)(2)(A) of the Act (the determination of whether the major change disproportionately increases the burden on these households would include the difficulty these types of households would have: obtaining SNAP information, filing an initial application, providing verification, being interviewed, reporting changes and reapplying for benefits); and
- Customer service. The Department believes that States should measure the impact on customer service depending upon the nature of the major change, but at a minimum the time it takes for a household to contact the State, be interviewed and report changes would need to be evaluated.

In addition, the analysis must include an evaluation of the impact of the change during implementation (pilot/rollout) versus its expected long term impact. The Department believes that it is important to understand States' plans for implementation because even changes that are meant to be beneficial to SNAP operations can often have unintended consequences during long term implementation that can be difficult for States to correct.

The Department believes that much of the information and analysis it is requesting in this proposal will be readily available to most States since they will have thoroughly planned the change and evaluated its potential impacts prior to implementation. If this assumption is correct, the burden on States in developing reports should be minimal. To the extent that this proposal requires additional analysis of the potential impact of the change, this should generally be helpful to the State in its planning and implementation and, in the longer run, beneficial to its SNAP participants. The Department recognizes that, depending upon the nature of the major change, there may be minimal or no impact on one or more of the above areas.

#### **What format should States use to report a major change?**

The Department is not proposing any standard format for the initial report required by this rule. The types of



changes can vary significantly and without prior experience, the Department has no preference on format. So long as the required information is clear and complete, FNS should be able to understand and evaluate the major change. Initial reports should be sent to FNS Regional Offices.

**What data will FNS require States to report regarding the impact of its major change?**

Section 11(a)(4)(B)(ii) of the Act provides that States implementing major changes, “collect such information as the Secretary shall require to identify and correct any adverse effects on program integrity or access, including access by any of the types of households described in Section (e)(2)(A).” FNS will evaluate the initial report provided by a State to determine if it agrees that the change is in fact, “major” and if so will propose what additional information it will require from the State. While the Department reserves the right provided by the Act to require the information it needs to determine the impact of a major change on integrity and access in SNAP, as States make major changes the Department intends to work with States to determine what information is practicable and require only the data that is necessary and not otherwise available. SNAP standard reports provide a good deal of information, but depending on the nature of the major change and how it is implemented, more specific or timely data may be required. States also obtain performance data as part of Program management and monitoring and when possible the Department will meet its needs by obtaining already existing data.

For any major change the Department needs some level of information on the effect of the change on one or more of the five areas States must include in their evaluation of the impact of the change. Within these areas, the Department will require additional, more specific or more timely data as explained below:

- *Payment accuracy*—The quality control (QC) system provides sound information on payment accuracy on a statewide basis, but the data is not as reliable at the county level. In addition, the data is not available for several months and would not be specific to the effects of the major change. FNS intends to use QC generated data as much as possible, but is likely to need data from focused case reviews with local reliability and/or more timely data.

- *Negative error rates*—The QC system provides sound information on negative error rates on a statewide basis,

but the data is not as reliable at the county level. In addition, the data is not available for several months and would not be specific to the effects of the major change. FNS intends to use QC generated data as much as possible, but is likely to need data from focused case reviews with local reliability and/or more timely data. Where QC data is not sufficient, FNS may require a State to report on applications and reapplications filed and processed with a breakout of approvals and denials.

- *Application timeliness*—The QC system provides sound information on application processing timeliness on a statewide basis, but the data is not as reliable at the county level. In addition, the data is not available for several months and would not be specific to the effects of the major change. FNS intends to use QC generated data as much as possible, but is likely to need data from focused case reviews with local reliability and/or more timely data. In addition FNS may request information on the timeliness of processing recertifications. As noted below this information could be required to be reported by mode of intake: paper, on-line or call center.

- *Impact on the types of households described in Section 11(e)(2)(A) of the Act*—For any major change that could disproportionately impact the vulnerable households with special needs as defined in Section 11(e)(2)(A), information on the number of applications received from such households and the number certified or recertified would be needed. It is likely that the nature of the change and its potential impact would dictate how this information would need to be reported, e.g., broken out between applications filed on-line and on paper.

- *Customer service*—In many instances, customer satisfaction can help determine if a change is having an adverse effect or simply provide information for improvements in process. States would define customer service as best addresses the major change with a focus of the change’s effect on program access.

**What are other data elements may the Department ask States to report depending on the type of major change?**

Following are examples of additional data that could be required depending upon the type of major change being implemented.

If a State were to implement a change that allowed or required households to report changes in their individual circumstances through a change center, the following general data could be required:

- The number of changes received;
- The average time to process a change; and

- The number of changes processed.

If a State were to implement a change that allows applicants to apply on-line the following data could be required:

- Number of applications submitted, approved, denied;
- Number of expedited versus regular 30-day processing cases;
- Number of applications abandoned/terminated before completion;
- Processing time for approved applications including those subject to the expedited time frames; and
- Demographic information on the households using on-line applications.

FNS recognizes that States and their call center software are measuring performance using a variety of different definitions and statistics. If a State were to implement a major change that allows applicants to apply through the use of call centers, FNS would expect to negotiate the exact definitions and reporting requirements, but believes the following data elements would be central to understanding the call center’s performance:

- Volume of calls to the center;
- Average hold time from the time the request is made to speak to an agent;
- Percentage of calls with excessive total waiting times to speak with a caseworker (e.g. 15 minutes combined time spent waiting for an initial response and holding after the initial response);
- Percentage of calls abandoned prior to and after the initial response; and
- Customer satisfaction based upon survey results.

If a State were to implement a change that allows applicants to apply on-line and through the use of a call center, the following general data could also be required:

- The number of applications and recertifications submitted by paper including faxing; and mailing; online; and call center; and
- The number of applications and recertifications approved by paper including faxing; and mailing; online; and call center.

**Under what circumstances would FNS require separate reports regarding the impact of the major change on the types of households described in Section 11(e)(2)(A) of the Act, particularly the elderly and disabled?**

Whenever FNS believes that the major change has the potential to have a disproportionate impact on these households, specific reports on these households would be required. The decision that such potential exists could



be based upon the State or FNS analysis of the major change.

**How often will States be required to report?**

Depending on the type of major change and its implementation schedule, FNS would work with the State to establish either a monthly or quarterly reporting schedule.

**How long after implementation would reports continue to be required?**

While dependent on the type of major change, FNS would need reports for a minimum of one year after the change had been fully implemented. Based upon FNS' assessment of the reports submitted by the State, it may find it necessary to extend the reporting timeframe beyond the one-year minimum. The rule provides FNS with this discretion.

**What is the process if FNS believes that a State is implementing a major change, but the State has not reported the change?**

If it came to FNS' attention that a State appeared to be implementing a major change that had not been formally reported, FNS would contact the State about the change, determine if it were major and proceed as specified above.

**When will FNS notify the State of that data that must be reported?**

FNS will evaluate the State's analysis of the impact of its change, and determine if it is a major change that requires additional reporting and if so, what data is necessary to identify potential adverse effects on SNAP access and integrity. While the nature and extent of the change will impact the time necessary to complete its evaluation, FNS intends to respond within 90 days. During this 90-day period FNS will be in communication with appropriate State officials and, to the extent possible, negotiate with them regarding the most efficient way to obtain the needed information.

**If the data a State submits regarding its major change indicates an adverse impact on SNAP access or integrity, what action will FNS take?**

As with any problem FNS identifies, FNS would work with the State to correct the cause of the problem and provide whatever technical assistance it can. Some problems can be addressed quickly through a simple adjustment to the State operations. In other instances, the cause and/or the solution is more difficult to determine and a formal corrective action plan would be needed. In either case FNS would intend to work

in partnership with the State to resolve the issue(s).

**Where does FNS propose revising the regulations to include Major Changes in Program Design?**

FNS proposes to codify these provisions in a new § 272.12.

**Why is the Department proposing to update the Management Evaluation (ME) Reviews regulations?**

The proposed regulation will amend the regulations at §§ 275.3 through 275.7. While the Act does not require Federal monitoring of SNAP in the form of annual or biennial reviews, current regulations are very proscriptive about the type and frequency of reviews. For example, the regulations at 7 CFR 275.3(a) and (b) require FNS to conduct an annual review of certain functions performed at the State agency level and a biennial review of each State agency's management evaluation system. However, since the regulations were published, FNS has experienced reductions in staff and resources. Consequently, over time FNS has adjusted its expectations concerning how often and the methods to be used to conduct reviews of the State agency operations of SNAP. In the course of developing program specific ME review guides and in light of the current reality of reduced resources, FNS has recognized the need to redefine what constitutes a Federal review of a State agency's operation of SNAP and change the frequency of reviews. Revising the regulations to modify how often FNS conducts reviews of State agency operations will allow FNS the flexibility to put resources where the risks are greatest and to conduct more effective reviews.

**What changes to the regulations is the Department proposing that affect FNS?**

Current regulations at 7 CFR 275.3(a) provide that FNS shall conduct an annual review of State agency operations of SNAP. This review has been called informally a State Agency Operations Review or SAOR. The Department is proposing to remove the requirement that such a review be conducted on an annual basis. In addition, FNS is proposing to use one term to define any Federal review of State agency operations. The use of the term "State Agency Operations Review" will be discontinued and the term Management Evaluation or ME is proposed to cover all future reviews. Since these terms were so often interchanged we believe this change will improve communication across the Program. The Department proposes to

revise the regulations at 7 CFR 275.3(a) to reflect these changes.

The Department proposes to remove the regulations at 7 CFR 275.3(b) which requires FNS to review a State agency's ME system on a biennial basis. Removing this requirement will provide FNS the flexibility to conduct reviews of State agencies' ME systems on an at-risk basis resulting in more efficient allocation of staff and resources. In keeping with current practice, FNS will continue to identify national target areas that Regional Offices are required to review each year, which will generally include reviews of State agency ME systems, and will communicate what these areas are via memorandum. In accordance with § 275.8, FNS will also continue to notify State agencies of the national target areas to be incorporated into their reviews of local agencies.

**What changes is the Department proposing to make that affect State agencies?**

Current regulations at § 275.7 provide for the selection of sub-units for review. Paragraphs 275.7(a)(2) through 275.7(a)(5) define sub-units as issuance offices, data management units, bulk storage points and reporting points. All of these sub-units deal with the issuing or storage of paper coupons and therefore are outdated and obsolete. The regulations at 7 CFR 275.7(b), (c), and (d) also refer to these out-dated sub-units. The Department proposes to remove these paragraphs in their entirety to reflect the elimination of the use of paper coupons and the nationwide implementation of the Electronic Benefit Transfer System (EBT). The Department also proposes to remove 7 CFR 275.7(a)(1) and to modify 7 CFR 275.7(a) to provide that sub-units are the physical locations of organizational entities within project areas responsible for operating various aspects of the SNAP and include but are not limited to certification offices, call centers, and employment and training offices. The Department proposes to renumber 7 CFR 275.7(e) to 7 CFR 275.7(b) and modify it to remove the term "on-site." The term "on-site" is outdated since current technology and the availability of data allows many aspects of a review to be conducted effectively off-site. Current regulations at 7 CFR 275.9(b)(1)(iii) and (b)(1) (iv) provide that the State agency review plan shall identify the issuance offices and reporting points selected for review. The Department is proposing to revise the regulations at 7 CFR 275.9(b)(1)(iii) and (b)(1) (iv) to reflect the elimination of the use of paper coupons and the nationwide implementation of the EBT.

Under current regulations at 7 CFR 275.5(b) State agencies are required to conduct a review of large project areas once a year, a review of medium project areas once every two years and a review of small project areas once every three years. Current rules at § 271.2 define the term large project area as project areas with monthly active caseloads of more than 15,000 households; medium project area as project areas with caseloads of 2,001 to 15,000 households and small project area as project areas with caseloads of 2,000 households or less.

The Department proposes to modify § 271.2 to redefine the term large project area as those project areas with monthly active caseloads of more than 25,000 households; medium project area as project areas with caseloads of 5,000 to 25,000 households; and small project area as project areas with caseloads of 4,999 households or less. The proposed changes will recognize the growth of SNAP over the last 25 years (about 30 percent) and allow States more time to conduct higher quality reviews.

#### List of Subjects

##### 7 CFR Part 271

Food stamps, Grant programs—social program, Reporting and recordkeeping.

##### 7 CFR Part 272

Alaska, Civil rights, SNAP, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Unemployment compensation, Wages.

##### 7 CFR Part 275

Administrative practice and procedure, SNAP, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 271, 272 and 275 are proposed to be amended as follows:

1. The authority citation for parts 271, 272 and 275 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036.

#### PART 271—GENERAL INFORMATION AND DEFINITIONS

##### § 271.2 Definitions.

2. In § 271.2:

a. Amend the definition of *Large project area* by removing the word “15,000” and adding in its place the word “25,000”.

b. Amend the definition of *Medium project area* by removing the words “2,001 to 15,000” and adding in their place the words “5,000 to 25,000”.

c. Amend the definition of *Small project area* by removing the word

“2,000” and adding in its place the word “4,999”.

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

3. A new § 272.12 is added to read as follows:

##### § 272.12 Major changes in program design.

(a) *State's reporting of major changes.* (1) State agencies shall notify FNS when they make major changes in their operation of SNAP. State agencies shall notify FNS when the plans for the change are approved by State leadership, but no less than 120 days prior to beginning implementation of the change.

(2) Major changes shall include the following:

(i) Closure of one or more local offices that perform major functions for 500 or more SNAP households and there is not another office available to serve the affected households within 25 miles or that can be reached via public transportation. An office performing major functions includes any office where households can file an application for SNAP in person.

(ii) Substantial increased reliance on automated systems for the performance of responsibilities previously performed by State merit personnel (as described in Section 11(e)(6)(B) of the Act). This includes the replacement of the State's primary automated systems used by caseworkers during the certification process to determine eligibility and additions to the States' existing system that automate tasks previously performed by caseworkers in the certification of applicant households. Establishment of an online application process through the Internet or the use of call centers to accept applications would not be a major change unless one of these methods is expected to account for 5 percent or more of the State's SNAP applications. Reporting a major change as required in this section does not relieve States of meeting the requirements for new system approvals in § 277.18.

(iii) Changes in operations that potentially increase the difficulty of households reporting required information. This includes implementation of a call center for change reporting, a major modification to any forms that households use to report changes or the discontinuation of an existing avenue for reporting changes, e.g., households can no longer call the local office to report a change. Modifying selected change reporting policy options, or the implementation of

policy waivers would not be major changes.

(iv) Use of non-merit pay staff to perform functions previously performed by merit personnel. While the interview and the eligibility decision functions must be performed by merit personnel (unless FNS approves a waiver request under Section 17 of the Act), other functions including obtaining verification of household circumstances, accepting reports of changes in household circumstances, accepting applications and screening households for expedited service may be performed by non-merit personnel (although FNS must approve a State's use of non-merit pay staff before matching funds will be provided for the performance of these functions). Functions such as data entry and document imaging do not involve interaction with households, and consequently, the use of non-merit pay staff in activities of this type would not constitute a major change. If a State obtains a waiver from FNS to allow non-merit Staff to conduct interviews or the eligibility decision functions reserved for merit staff in the Act and regulations, this would not be reported as a major change since the waiver approval would specify all necessary reporting and evaluation requirements.

(v) Any decrease in staffing levels from one year to the next of more than five percent in the number of State or local staff involved in the certification of SNAP households. This would include decreases resulting from State budget cuts or hiring freezes, but not include loss of staff through resignation, retirement or release when the State is seeking to replace the staff.

(3) When a State initially reports a major change to FNS as required in paragraph (a)(1) of this section an analysis of the expected impact of the major change shall accompany the report. The initial report to FNS that the State is making one of the major changes identified in paragraph (a)(2) of this section shall include a description of the change and an analysis of its anticipated impacts on program performance.

(i) The description of the change shall include the following:

(A) Identification of the major change the State is implementing,

(B) An explanation of what the change is intended to accomplish,

(C) The schedule for implementation,

(D) How the change will be tested and whether it will be piloted,

(E) Whether the change is Statewide or identification of the jurisdictions it will encompass,

(F) How the major change is expected to affect recipients and how recipients will be informed,

(G) How the change will affect caseworkers and as applicable how they will be trained,

(I) How the impact of the major change will be monitored,

(J) How the major change will affect operation of the State automated system, and

(K) The State's backup plans if the major change creates significant problems in one or more of the program measures in paragraph (a)(3)(ii) of this section.

(ii) The analysis portion of the State's initial report shall include the projected impact of the major change on:

(A) The State's payment error rate,

(B) Program access, including the impact on applicants filing initial applications and reapplications,

(C) The State's negative error rate,

(D) Application processing timeliness including both the households entitled to 7-day expedited service and those subject to the 30-day processing standards;

(E) Whether the major change will disproportionately increase the difficulty elderly households, households living in rural areas, households containing a disabled member, homeless households, non-English speaking households, and households living on a reservation will have obtaining SNAP information, filing an initial application, providing verification, being interviewed, reporting changes and reapplying for benefits;

(F) Customer service as defined by the State agency, but shall include the time it takes for a household to contact the State, be interviewed, and report changes.

(G) The State's performance as measured by paragraphs 272.12(a)(3)(ii)(A) through (a)(3)(ii)(F) of this section during implementation of the major change.

(b) *FNS action on State's reports.* (1) FNS will evaluate the initial report provided by a State to determine if it agrees that the change is, in fact, major and, if so, will propose what information it will require from the State. While FNS reserves the right to require the information it needs to determine the impact of a major change on integrity and access in SNAP, FNS will work with States to determine what information is practicable and require only the data that is necessary and not otherwise available from ongoing reporting mechanisms. Depending upon the nature of the major change, FNS will require specific or more timely

information concerning the impact of the major change within the following general areas.

(i) *Payment accuracy.* FNS will use QC generated data as much as possible, but may need data from focused case reviews with local reliability or more timely data.

(ii) *Negative error rates.* FNS will use QC generated data as much as possible, but may need data from focused case reviews with local reliability or more timely data. Where annual statewide QC data is not sufficient, FNS will require a State to report on applications and reapplications filed and processed with a breakout of approvals and denials.

(iii) *Application processing timeliness.* FNS will use QC generated data as much as possible, but is likely to need data from focused case reviews with local reliability, more timely data and/or information on the timeliness of actions to re-certify households. As noted in paragraph (b)(2) of this section, this information could be required to be reported by mode of intake: paper, on-line or call center.

(iv) *Impact on the types of households identified in paragraph (a)(3)(ii)(E) of this section.* For any major change that could disproportionately impact these households, information on the number of applications received from such households and the number certified or recertified would be needed. It is likely that the nature of the change and its potential impact would dictate how this information would need to be reported.

(v) *Customer service.* States should define and measure customer service in a manner that best indicates if the major change is having an adverse affect on program access.

(2) Additional data that States could be required to provide depending upon the type of major change being implemented includes, but are not be limited to the following:

(i) If a State were to implement a major change that allows applicants to apply on-line, the following data could be required:

(A) Number of applications submitted, approved, denied,

(B) Number of expedited versus regular 30-day processing cases,

(C) Number of applications abandoned/terminated before completion,

(D) Processing time for approved applications including those subject to the expedited time frames, and

(E) Demographic information on the households using on-line applications.

(ii) If a State were to implement a major change that allowed or required households to report changes in their individual circumstances through a

change center, the following data could be required:

(A) The number of changes received,

(B) The average time to process change, and

(C) The number of changes processed.

(iii) If a State were to implement a major change that allows applicants to apply through the use of call center, the following data could be required:

(A) Volume of transactions and calls to the center;

(B) Average hold time from the time the request is made to speak to an agent;

(C) Percentage of calls with excessive total waiting times to speak with a caseworker (e.g. 15 minutes combined time spent waiting for an initial response and holding after the initial response);

(D) Percentages of calls abandoned prior to and after the initial response; and

(E) Customer satisfaction based upon survey results.

(iv) If a State were to implement a major change that allows applicants to apply on-line and through the use of a call center, the following additional data could be required:

(A) The number of applications and recertifications submitted by paper including faxing and mailing; online; and call center, and

(B) The number of applications and recertifications approved by paper including faxing and mailing, online, call center.

(3) Depending on the type of major change, its implementation schedule, and negotiations with FNS, States shall submit reports on their major changes either monthly or quarterly.

(4) States shall submit reports for one year after the major change is fully in place. FNS may extend this timeframe as it deems necessary.

(5) If FNS becomes aware that a State appeared to be implementing a major change that had not been formally reported, FNS would work with the State to determine if it is a major change, and if so proceed as required by this section.

(6) If the data a State submits regarding its major change or other information FNS obtains indicates an adverse impact on SNAP access or integrity, FNS would work with the State to correct the cause of the problem and provide whatever technical assistance it can. Depending upon the severity of the problem, FNS may require a formal corrective action plan as identified in § 275.16 and § 275.17 of this chapter.

**PART 275—PERFORMANCE REPORTING SYSTEM**

4. In § 275.3:
- Revise paragraph (a).
  - Remove paragraph (b).
  - Redesignate paragraph (c) as paragraph (b).
  - Redesignate paragraph (d) as paragraph (c).

The revision reads as follows:

**§ 275.3 Federal monitoring.**

\* \* \* \* \*

(a) *Management Evaluation Reviews of State Agency's Administration/Operation of SNAP.* FNS shall conduct management evaluation reviews of certain functions performed at the State agency level in the administration/operation of the program. FNS will designate specific areas required to be reviewed each fiscal year.

\* \* \* \* \*

5. In § 275.7:
- Revise paragraph (a).
  - Remove paragraph (b).
  - Remove paragraph (c).
  - Remove paragraph (d).
  - Redesignate paragraph (e) as paragraph (b).
  - Amend newly redesignated paragraph (b) by removing the word "on-site".

The revision reads as follows:

**§ 275.7 Selection of sub-units for review.**

(a) *Definition of sub-units.* Sub-units are the physical locations of organizational entities within project areas responsible for operating various aspects of the SNAP and include but are not limited to certification offices, call centers, and employment and training offices.

\* \* \* \* \*

6. In § 275.9:
- Revise paragraph (b)(1)(iii).
  - Amend paragraph (b)(1)(iv) by removing the first sentence.

The revision reads as follows:

**§ 275.9 Review process.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iii) Identification of the sub-units selected for review and the techniques used to select them;

\* \* \* \* \*

Dated: April 22, 2011.

**Kevin Concannon,**  
Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 2011-10541 Filed 5-2-11; 8:45 am]

**BILLING CODE 3410-30-P**

**NUCLEAR REGULATORY COMMISSION****10 CFR Part 26**

**RIN 3150-AI94**

**[NRC-2011-0058]**

**Alternative to Minimum Days Off Requirements**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule; correction.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is correcting a proposed rule that appeared in the **Federal Register** on April 26, 2011 (76 FR 23208). The NRC is proposing to amend its regulations governing the fitness for duty of workers at nuclear power plants. This document corrects a typographical error in a Web site address.

**FOR FURTHER INFORMATION CONTACT:** Howard Benowitz, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555; telephone: 301-415-4060; e-mail: [Howard.Benowitz@nrc.gov](mailto:Howard.Benowitz@nrc.gov).

**SUPPLEMENTARY INFORMATION:** On page 23216, in the first column, the second sentence of the third paragraph is corrected to read: "The NRC Form 670 and proposed rule are available at the NRC's Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html> for 30 days after the signature date of this notice.

Dated at Rockville, Maryland, this 27th day of April 2011.

For the Nuclear Regulatory Commission.

**Cindy Bladely,**  
Chief, Rules, Announcements and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2011-10647 Filed 5-2-11; 8:45 am]

**BILLING CODE 7590-01-P**

**NUCLEAR REGULATORY COMMISSION****10 CFR Part 61**

**RIN 3150-AI92**

**[NRC-2011-0012]**

**Site-Specific Analyses for Demonstrating Compliance With Subpart C Performance Objectives**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability of preliminary proposed rule language and public meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require low-level radioactive waste disposal facilities to conduct site-specific analyses to demonstrate compliance with the performance objectives. While the existing regulatory requirements are adequate to protect public health and safety, these amendments would enhance the safe disposal of low-level radioactive waste. The NRC is proposing additional changes to the regulations to reduce ambiguity, facilitate implementation, and to better align the requirements with current health and safety standards. In addition, the NRC is making available the rulemaking's associated regulatory basis documents. The NRC will conduct a public meeting on May 18, 2011, to discuss the preliminary proposed rule language and its associated regulatory basis documents. The availability of the preliminary proposed rule language and its associated regulatory basis documents are intended to inform stakeholders of the current status of the NRC's activities and solicit early public comments.

**DATES:** Comments on the preliminary proposed rule language and the regulatory basis documents should be postmarked no later than June 18, 2011. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

See **SUPPLEMENTARY INFORMATION** section for public meeting information.

**ADDRESSES:** Please include Docket ID NRC-2011-0012 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID