and rehabilitation programs and public or private nonprofit homeless meal providers, shall use the redemption certificates to present coupons to insured financial institutions for credit or for cash. All retail food stores which wish to redeem coupons at wholesale food concerns shall use the redemption certificates for that purpose. An authorized retail firm using redemption certificates to redeem coupons shall fill out the redemption certificate to show the value of the coupons redeemed, the name of the insured financial institution or wholesaler, the date, and the signature and title of the official of the firm redeeming coupons.

[Amdt. 136, 43 FR 43274, Sept. 22, 1978, as amended by Amdt. 286, 52 FR 7558, Mar. 11, 1987; Amdt. 344, 56 FR 54778, Oct. 23, 1991; Amdt. 343, 61 FR 53601, Oct. 15, 1996]

§ 278.5 Participation of insured financial institutions.

(a) *Accepting coupons.* (1) Financial institutions that are insured by the Federal Deposit Insurance Corporation (FDIC) or financial institutions which are insured under the Federal Credit Union Act and which have retail food stores or wholesale food concerns in their field of membership may redeem coupons only from authorized retail food stores, meal services, and wholesale food concerns in accordance with the rules contained in this part and instructions of the Federal Reserve Banks. No financial institution may impose on or collect from a retail food store a fee or other charge for redemption of coupons that are submitted to the financial institution in a manner consistent with the requirements, except for coupon cancellation, for the presentation of coupons by the financial institution to the Federal Reserve banks. Coupons submitted to insured financial institutions for credit or cash must be properly endorsed in accordance with § 278.4 of this part and shall be accompanied by a properly completed and signed redemption certificate. All verified and encoded redemption certificates accepted by insured financial institutions shall be forwarded with the corresponding coupon deposits to the Federal Reserve Bank along with the accompanying Food Coupon Deposit Document (Form FNS–521). In accordance with Federal Reserve requirements, the coupon deposit value entered on the Food Coupon Deposit Document must be equal to the actual value of coupons being deposited and to the total value of verified amounts encoded on the corresponding redemption certificates.

(2) An insured financial institution shall verify the amount of the coupons being redeemed and record the amount in the designated space on the redemption certificate. In order to conform with Federal Reserve requirements, the verified amount shall be recorded in the appropriate field on the redemption certificate using Magnetic Ink Character Recognition (MICR) encoding. Redemption certificates accepted by insured financial institutions shall be forwarded with the corresponding coupon deposits to the Federal Reserve Bank along with the Food Coupon Deposit Document (Form FNS–521).

(3) Redeemed coupons must be indelibly cancelled on the face of the coupon by the first insured financial institution receiving them. If the cancellation on the coupon face does not show the depositing institution's name or its routing symbol transit number, this identifying information must appear on the straps affixed to each bundle of coupons of like denomination. Deposits not meeting these cancellation requirements may be returned to the depositing institution for reprocessing. Retail food stores may not be required to cancel the coupons by the insured financial institution nor may the insured financial institution charge the retail food stores a fee or other charge for cancellation of coupons. A portion of a coupon consisting of less than three-fifths of a whole coupon may not be redeemed.

(4) Insured financial institutions which are members of the Federal Reserve System, insured nonmember clearing institutions, and insured nonmember institutions which have arranged with a Federal Reserve Bank to deposit coupons for credit to the account of a member institution on the books of a Federal Reserve Bank may

forward coupons directly to the Federal Reserve Bank. Other insured financial institutions may forward cancelled coupons through ordinary collection channels.

(b) *Role of Federal Reserve Banks.* Federal Reserve Banks, acting as fiscal agents of the United States, will receive canceled coupons for collection as cash items from armed forces installations, member insured financial institutions of the Federal Reserve System, nonmember clearing insured financial institutions, and nonmember insured financial institutions which have arranged with a Federal Reserve Bank to deposit coupons for credit to the account of a member insured financial institution on the books of the Federal Reserve Bank, and will charge those items to the general account of the Treasurer of the United States.

(c) *FNS liability for losses.* FNS shall not be liable for the value of any coupons lost, stolen, or destroyed while in the custody of an insured financial institution or for the value of coupons lost, stolen, or destroyed while in transit from an insured financial institution to a Federal Reserve Bank.

(d) *FNS use of coupons to detect violations.* Regardless of any other provision in these regulations, coupons may be issued to, purchased by, or redeemed by persons authorized by FNS to use those coupons in examining and inspecting program operations, and for other purposes determined by FNS to be required for proper administration of the program. Coupons which have been so issued and used, as well as any coupons which have been issued under paragraph (g) of this section, or which FNS believes may have been issued, transferred, negotiated, used, or received in violation of this subchapter or of any applicable statute, shall at the request of FNS and on issuance of a receipt for them be turned over to FNS by the insured financial institution receiving the coupons, or by any other person to whom the request is addressed, together with any certificate(s) of redemption accompanying the coupons. Any coupons so requested shall not be eligible for redemption through Federal Reserve Banks or other collection channels. However, FNS may redeem coupons from any insured financial institution or person by payment of the face amount of the coupons upon determination by FNS that this direct redemption of coupons is warranted. FNS shall determine the proper disposition of any coupons held by FNS on completion of the examination or inspection in which the coupons were used. Claims or demands for unredeemed coupons surrendered to FNS may be mailed to the local FNS field office for the project area involved.

(e) *Selling coupons to stores for internal checks.* FNS may sell coupons at face value to any authorized retail food store which wishes to use coupons to conduct internal checks of coupon transactions. The retail food store must submit a written request to FNS which shall include a certification that the store recognizes that its use of coupons will not affect FNS action to enforce program regulations and that the requested coupons will be used only for internal checks of the store's employees and only to uncover sales of items other than eligible foods. The request shall also include the name of the city or county in which the stores to be checked through the use of the requested coupons are located and the name and address of any outside agency with which the retail food store has or will have a contract to conduct checks of the store's employees using coupons. The request shall be directed to the Benefit Redemption Division, FSP, FNS, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302, and shall be accompanied by a check or money order made payable to the Food and Nutrition Service to cover the face value cost of the coupons requested. Coupons bought by retail food stores for use in internal checks may be later redeemed for full value in accordance with §278.4, and in redeeming those coupons, retail food stores are authorized to make the certification required for redemption.

(f) *Continued participation of households under investigation.* Upon the written request of Federal, State, or local government agencies which have authority to investigate, and are investigating, suspected violations of Federal or State statutes concerning the enforcement of the Food Stamp Act or the regulations, the State agency may

allow ineligible households to continue program participation. The State agency may allow the households to continue participation in the program until the earlier of (1) expiration of the period of 90 days after the request is received or any longer period which FNS, upon request of the State agency, may approve in a particular case, or (2) receipt of notification from the investigative agency that participation may be terminated or that the investigation has been completed. Regardless of any other provision of these regulations, FNS may not hold the State agency liable for the value of any coupons issued to households under this paragraph.

[Amdt. 136, 43 FR 43274, Sept. 22, 1978, as amended by Amdt. 257, 49 FR 32538, Aug. 15, 1984; Amdt. 267, 51 FR 6514, Feb. 25, 1986; Amdt. 272, 51 FR 12498, Apr. 11, 1986; Amdt. 288, 52 FR 11815, Apr. 13, 1987; Amdt. 272, 52 FR 18198, May 14, 1987; Amdt. 356, 59 FR 29714, June 9, 1994; Amdt. 331, 59 FR 60062, Nov. 22, 1994]

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(a) *Authority to disqualify or subject to a civil money penalty.* FNS may disqualify any authorized retail food store or authorized wholesale food concern from further participation in the program if the firm fails to comply with the Food Stamp Act of 1977, as amended, or this part. Such disqualification shall result from a finding of a violation on the basis of evidence that may include facts established through onsite investigations, inconsistent redemption data, evidence obtained through a transaction report under an electronic benefit transfer system, or the disqualification of a firm from the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), as specified in paragraph (e)(8) of this section. Disqualification shall be for a period of 6 months to 5 years for the firm's first sanction; for period of 12 months to 10 years for a firm's second sanction; and disqualification shall be permanent for a disqualification based on paragraph (e)(1) of this section. Any firm which has been disqualified and which wishes to be reinstated at the end of the period of disqualification, or at any later time, shall file a new application under § 278.1 so that FNS may determine whether reauthorization is appropriate. The application may be filed no earlier than 10 days before the end of the period of disqualification. FNS may, in lieu of a disqualification, subject a firm to a civil money penalty of up to an amount specified in § 3.91(b)(3)(i) of this title for each violation if FNS determines that a disqualification would cause hardship to participating households. FNS may impose a civil money penalty of up to an amount specified in §3.91(b)(3)(ii) of this title for each violation in lieu of a permanent disqualification for trafficking, as defined in § 271.2 of this chapter, in accordance with the provisions of paragraphs (i) and (j) of this section.

(b) *Charge letter*—(1) *General provisions.* Any firm considered for disqualification or imposition of a civil money penalty under paragraph (a) of this section or a fine as specified under paragraph (l) or (m) of this section shall have full opportunity to submit to FNS information, explanation, or evidence concerning any instances of noncompliance before FNS makes a final administrative determination. The FNS regional office shall send the firm a letter of charges before making such determination. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification or imposition of a civil money penalty or fine. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification or imposition of a civil money penalty. The letter shall inform the firm that it may respond either orally or in writing to the charges contained in the letter within 10 days of receiving the letter. The firm's response shall set forth a statement of evidence, information, or explanation concerning the specified violations or acts. The firm shall make its response, if any, to the officer in charge of the FNS field office which has responsibility for the project area in which the firm is located. In the case of a firm for which action is taken in accordance with paragraph (e)(8) of this section, the charge letter shall inform such firm that the disqualification action is not subject to