

Food and Nutrition Service, USDA

§ 272.2

(165) *Amendment No. 387*—This rule is effective no later than {insert the first day of the month 60 days after publication of the final rule, except for the amendment to 7 CFR 272.2(d)(1)(xiii) which is effective August 1, 2001. State agencies must implement the provisions in this final rule no later than August 1, 2001.

(166) *Amendment No. 393*. The provisions of Amendment No. 393, regarding the Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 are effective August 19, 2002.

(167) *Amendment No. 376*. The provisions of Amendment No. 376 are effective May 29, 2003 and must be implemented no later than November 1, 2003. The provisions must be implemented for all households that newly apply for Program benefits on or after either the required implementation date or the date the State agency implements the provision prior to the required implementation date. The current change reporting caseload shall be converted to these provisions no later than the required implementation date in accordance with procedures established by the State agency. However, for households subject to the reporting requirements at §273.12(a)(1)(i)(C)(1) or (2) of this chapter, the State agency has until January 1, 2004 to convert households to 6 month certification periods. Monthly reporting households shall be converted in accordance with §273.21(r) of this chapter. For quality control purposes, any variances resulting from the implementation of this rule shall be excluded from error analysis for 120 days from the required implementation date, in accordance with §275.12(d)(2)(vii) of this chapter.

(168) *Amendment No. 394*. The interim and final provisions of Amendment No. 394 are effective May 11, 2005. State agencies may implement the provisions anytime after May 11, 2005 but no later than October 11, 2005.

(169) *Amendment No. 395*. The provisions of Amendment 395 are effective December 15, 2003.

(170) *Amendment No. 396*. The provisions of amendment number 396 are effective April 8, 2005.

[Amdt. 132, 43 FR 47884, Oct. 17, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §272.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTE: By Amdt. 397, 70 FR 72353, Dec. 5, 2005, §272.1 was amended by adding paragraph (g)(171), effective January 4, 2006. For the convenience of the user, the added text is set forth as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(171) *Amendment No. 397*. The provisions of Amendment No. 397 are effective January 4, 2006. State agencies may implement the provisions anytime after the rule is published but no later than June 5, 2006.

§ 272.2 Plan of operation.

(a) *General purpose and content*—(1) *Purpose*. State agencies shall periodically plan and budget program operations and establish objectives. When planning and budgeting for program operations for the next year, State agencies shall consider major corrective action objectives, existing program strengths and deficiencies, and other factors anticipated to impact on the operation of the State's Food Stamp Program and on projected expenditures.

(2) *Content*. The basic components of the State Plan of Operation are the Federal/State Agreement, the Budget Projection Statement, and the Program Activity Statement. In addition, certain attachments to the Plan are specified in this section and in §272.3. The requirements for the basic components and attachments are specified in §272.2(c) and §272.2(d) respectively. The Federal/State Agreement is the legal agreement between the State and the Department of Agriculture. This Agreement is the means by which the State elects to operate the Food Stamp Program and to administer the program in accordance with the Food Stamp Act of 1977, as amended, regulations issued pursuant to the Act and the FNS-approved State Plan of Operation. The Budget Projection Statement and Program Activity Statement provide information on the number of

§ 272.2

7 CFR Ch. II (1-1-06 Edition)

actions and amounts budgeted for various functional areas such as certification and issuance. The Plan's attachments include the Quality Control Sample Plan, the Disaster Plan (currently reserved), the Employment and Training Plan, the optional Nutrition Education Plan, the optional plan for Program informational activities directed to low-income households, the optional plan for intercepting Unemployment Compensation (UC) benefits for collecting claims for intentional Program violations, the Systematic Alien Verification for Entitlements (SAVE) Plan, and the plan for the State Income and Eligibility Verification System. The State agency shall either include the Workfare Plan in its State Plan of Operation or append the Workfare Plan to the State Plan of Operation, as appropriate, in accordance with §273.22(b)(3) of this chapter. The Workfare Plan shall be submitted separately, in accordance with §273.22(b)(1) of this chapter. The ADP/CIS Plan is considered part of the State Plan of Operation but is submitted separately as prescribed under §272.2(e)(8). State agencies and/or political subdivisions selected to operate a Simplified Application/Standardized Benefit Project shall include that Project's Work Plan in the State Plan of Operation. The Plan's attachments shall also include the Mail Issuance Loss Reporting Level Plan.

(b) *Federal/State Agreement.* (1) The wording of the pre-printed Federal/State Agreement is as follows:

The State of _____ and the Food and Nutrition Service (FNS), U.S. Department of Agriculture (USDA), hereby agree to act in accordance with the provisions of the Food Stamp Act of 1977, as amended, implementing regulations and the FNS-approved State Plan of Operation. The State and FNS (USDA) further agree to fully comply with any changes in Federal law and regulations. This agreement may be modified with the mutual written consent of both parties.

PROVISIONS

The State agrees to: 1. Administer the program in accordance with the provisions contained in the Food Stamp Act of 1977, as amended, and in the manner prescribed by regulations issued pursuant to the Act; and to implement the FNS-approved State Plan of Operation.

2. Comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), section 11(c) of the Food Stamp Act of 1977, as amended, the Age Discrimination Act of 1975 (Pub. L. 94-135) and the Rehabilitation Act of 1973 (Pub. L. 93-112, sec. 504) and all requirements imposed by the regulations issued pursuant to these Acts by the Department of Agriculture to the effect that, no person in the United States shall, on the grounds of sex, race, color, age, political belief, religion, handicap, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under the Food Stamp Program.

3. (For States with Indian Reservations only). Implement the Program in a manner that is responsive to the special needs of American Indians on reservations and consult in good faith with tribal organizations about that portion of the State's Plan of Operation pertaining to the implementation of the Program for members of the tribe on reservations.

FNS agrees to: 1. Pay administrative costs in accordance with the Food Stamp Act, implementing regulations, and an approved Cost Allocation Plan.

2. Carry-out any other responsibilities delegated by the Secretary in the Food Stamp Act of 1977, as amended.

Date _____

Signature _____
(Governor or Authorized Designee)

Date _____

Signature _____
(Regional Administrator, FNS)

(2) The State agency may propose alternative language to any or all the provisions listed in paragraph (b)(1) of this section. The alternative language is subject to approval by both parties before signature.

(c) *Budget Projection Statement and Program Activity Statement.* (1) The State agency shall submit to FNS for approval a Budget Projection Statement and Program Activity Statement in accordance with the submittal dates in §272.2(e).

(i) The Budget Projection Statement solicits projections of the total costs for major areas of program operations. The Budget Projection Statement shall be submitted annually and updated as necessary through the year. The Budget Projection Statement shall contain projections for each quarter of the next Federal fiscal year. The State agency shall submit with the Budget Projection Statement a narrative justification documenting and explaining the

Food and Nutrition Service, USDA

§ 272.2

assumptions used to arrive at the projections. The narrative shall cover such subjects as: The number and salary level of employees; other factors affecting personnel costs including anticipated increases in pay rates or benefits, and reallocations of staff among units or functions, insofar as these might result in cost increases or decreases; costs for purchasing, leasing, and maintaining equipment and space, especially as concerns any upcoming, one-time-only purchases of new capital assets such as ADP equipment, renegotiation of leases, changes in depreciation rates or procedures, relocation of offices, maintenance and renovation work, and inflation; issuance system costs, including renegotiation of issuing agent fees and plans to change issuance systems; changes in caseload and factors contributing to increases or decreases in the number of participants; recertifications, including the anticipated impact of economic conditions (and in particular unemployment) and seasonality; cost implications of corrective action plans; anticipated changes in program regulations and operating guidelines and instructions; training needs; travel costs; and adjustments in insurance premiums. The narrative should cover as many of the items listed above, and any other items deemed relevant by the State agency, that will have a significant impact on costs. The State agency is not required to discuss every item in the list in every submission of a Budget Projection Statement. The narrative should concentrate on items that account for increases or decreases in costs from the preceding submissions.

(i) The Program Activity Statement, to be submitted annually, solicits a summary of program activity for the State agency's operations during the preceding fiscal year.

(2) The organizational outline submitted in 1982 as an attachment to the Program Activity Statement shall be considered the basic outline. Henceforth, changes to this outline shall be provided to FNS as they occur. The outline contains the following information:

(i) The position of the head of the State agency responsible for administering the Food Stamp Program in

relation to the overall State organizational structure, i.e., the Program Director in relation to the Commissioner of Welfare;

(ii) A description of the organizational structure through which the State agency will administer and operate the Food Stamp Program, including whether the Program is State, county, locally, or regionally-administered; whether the workers have single Food Stamp Program or multi-program functions; and the title and position of the individual or panel designated as the hearing authority and whether officials conduct both fair and fraud hearings.

(iii) A description of the funding arrangement by which State, county, and local jurisdictions will contribute to the State agency portion of administrative costs;

(iv) The position within the State organizational structure of the Performance Reporting System (PRS) coordinator, including whether the PRS coordinator is full or part-time, and is responsible for direct supervision over Quality Control or Management Evaluation or if these functions are handled separately, and whether quality control reviewers have single Food Stamp Program or multi-program review responsibilities;

(v) The position of the training coordinator and whether this is a full or part-time position; and

(vi) The organizational entity responsible for corrective action.

(3) *Additional attachments.* Attached for informational purposes (not subject to approval as part of the plan submission procedures) to the Program Activity Statement and submitted as required in paragraph (e)(3) of this section shall be the agreements between the State agency and the United States Postal Service for coupon issuance, and between the State agency and the Social Security Administration for supplemental income/food stamp joint application processing and for routine user status.

(d) *Planning documents.* (1) The following planning documents shall be submitted:

(i) Quality Control Sampling Plan as required by § 275.11(a)(4);

§272.2

(ii) Disaster Plan as required by §280.6 (currently reserved), or certification that a previously submitted Disaster Plan has been reviewed and remains current;

(iii) Nutrition Education Plan if the State agency elects to request Federal Food Stamp Program administrative matching funds to conduct nutrition education programs as discussed in paragraph (d)(2) of this section.

(iv) A plan for the State Income and Eligibility Verification System required by §272.8.

(v) Employment and Training Plan as required in §273.7 (c)(6).

(vi) ADP/CIS Plan as required by §272.10.

(vii) A plan for the Systematic Alien Verification for Entitlements (SAVE) Program as required by §272.11(e).

(viii) Mail Issuance Loss Reporting Level Plan required by §276.2(b)(4), for the State agency using mail issuance, shall contain the unit level of reporting mail issuance losses for the upcoming fiscal year as elected by the State agency. If a State agency does not revise its Plan by August 15 in any given year, FNS shall continue to require reporting and to assess liabilities for the next fiscal year at the level last indicated by the State agency. If the agency has selected the unit provided for in §276.2(b)(4)(ii), a listing of the issuance sites or counties comprising each administrative unit within the State agency shall also be included in the Plan.

(ix) A plan for Program informational activities as specified in §272.5(c).

(x) A plan for intercepting UC benefits for collecting claims for intentional program violations as specified in §272.12 if the State agency elects to use that procedure.

(xi)-(xii) [Reserved]

(xiii) If the State agency chooses to implement the optional provisions specified in (273.11(k), (l), (o), (p), and (q) of this chapter, it must include in the Plan's attachment the options it selected, the guidelines it will use, and any good cause criteria under paragraph (o). For §273.11(k) of this chapter, the State agency must identify which sanctions in the other programs this provision applies to. The State

7 CFR Ch. II (1-1-06 Edition)

agency must also include in the plan a description of the safeguards it will use to restrict the use of information it collects in implementing the optional provision contained in §273.11(p) of this chapter.

(xiv) The State agency's disqualification plan, in accordance with §273.7(f)(3) of this chapter.

(xv) If the State agency chooses to implement the provisions for a work supplementation or support program, the work supplementation or support program plan, in accordance with §273.7(1)(1) of this chapter.

(2) *Nutrition Education Plan.* If submitted, the Nutrition Education Plan shall contain:

(i) The number and positions of staff that will be conducting nutrition education;

(ii) Description of activities in the nutrition education program; and

(iii) Assurance that nutrition education programs for which USDA provides Food Stamp Program administrative matching funds are conducted exclusively for the benefit of Food Stamp Program applicants and participants and do not duplicate USDA's Expanded Food and Nutrition Education Program's efforts in the State.

(e) *Submittal requirements.* States shall submit to the appropriate FNS Regional Office for approval each of the components of the Plan of Operation for approval within the timeframes established by this paragraph. Approval or denial of the document may be withheld pending review by FNS. However, if FNS fails to either approve, deny, or request additional information within 30 days, the document is approved. If additional information is requested, the State agency shall provide this as soon as possible, and FNS shall approve or deny the Plan within 30 days after receiving the information.

(1) The Federal/State agreement shall be signed by the Governor of the State or authorized designee and shall be submitted to FNS within 120 days after publication of these regulations in final form and shall remain in effect until terminated.

(2) The Budget Projection Statement and Program Activity Statement shall be signed by the head of the State

Food and Nutrition Service, USDA

§ 272.2

agency or its chief financial officer and submitted as follows:

(i) The Budget Projection Statement shall be submitted annually, no later than August 15 of each year.

(ii) The Program Activity Statement shall be submitted annually, not later than 45 days after the end of the State agency's fiscal year. The first report is due 45 days after the end of the State's 1981 fiscal year. The first report is not required to contain information that is not currently captured by the State agency's information system. State agencies shall amend their data gathering systems so that all items can be completed on the second report, due for the 1982 fiscal year.

(3) Changes to the organizational outline required by § 272.2(c)(2) and the agreements with other agencies outlined in § 272.2(c)(3)(ii) shall be provided to FNS as changes occur. The attachments outlined in § 272.2(c)(3)(i) shall be submitted annually with the Program Activity Statement.

(4) The Quality Control Sampling Plan shall be signed by the head of the State agency and submitted to FNS prior to implementation as follows:

(i) According to the timeframes specified in paragraph (e)(4)(ii) of this section, prior to each annual review period each State agency shall submit any changes in their sampling plan for FNS approval or submit a statement that there are no such changes. These submittals shall include the statement required by § 275.11(a)(2), if appropriate. The Quality Control Sampling Plan in effect for each State agency as of the beginning of Fiscal Year 1984 shall be considered submitted and approved for purposes of this section, provided that the State agency has obtained prior FNS approval of its sampling plan.

(ii) Initial submissions of and major changes to sampling plans and changes in sampling plans resulting from general changes in procedure shall be submitted to FNS for approval at least 60 days prior to implementation. Minor changes to approved sampling plans shall be submitted at least 30 days prior to implementation.

(5) *Disaster Plan.* [Reserved]

(6) The Nutrition Education Plan shall be signed by the head of the State agency and submitted prior to funding

of nutrition education activities when the State agency elects to request Federal administrative matching funds to conduct Nutrition Education Programs. The plan shall then be submitted annually no later than August 15. The initial submission may be for a period of less than or more than a year in order to meet the August 15 deadline.

(7) Where applicable, State agencies shall consult (on an ongoing basis) with the tribal organization of an Indian reservation about those portions of the State Plan of Operation pertaining to the special needs of the members of the tribe.

(8) *ADP/CIS Plan.* The ADP/CIS Plan shall be signed by the head of the State agency and submitted to FNS by October 1, 1987. State agencies which require additional time to complete their ADP/CIS plan may submit their plan in two phases as described in § 272.10(a)(2), with the first part of the plan being submitted October 1, 1987. State agencies requiring additional time shall submit the second part of their plans by January 1, 1988. If FNS requests additional information to be provided in the State agency ADP/CIS Plan or if FNS requests that changes be made in the State agency ADP/CIS Plan, State agencies must comply with FNS comments and submit an approvable ADP/CIS Plan within 60 days of their receipt of the FNS comments but in no event later than March 1, 1988. Requirements for the ADP/CIS plan are specified in § 272.10.

(9) The Employment and Training Plan shall be submitted as specified under § 273.7(c)(7).

(f) *Revisions.* Revisions to any of the planning documents or the Program and Budget Summary Statement shall be prepared and submitted for approval to the appropriate FNS Regional Office in the same manner as the original document. However, revisions to the budget portion of the Budget Projection Statement and Program Activity Statement shall be submitted as follows:

(1) *Program funds.* (i) For program funds, State agencies shall request prior approvals promptly from FNS for budget revisions whenever:

§ 272.3

7 CFR Ch. II (1-1-06 Edition)

(A) The revision indicates the need for additional Federal funding;

(B) The program budget exceeds \$100,000, and the cumulative amount of transfers among program functions exceeds or is expected to exceed five percent of the program budget. The same criteria apply to the cumulative amount of transfers among functions and activities when budgeted separately for program funds provided to a subagency, except that FNS shall permit no transfer which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended;

(C) The revisions involve the transfer of amounts budgeted for indirect costs to absorb increases in direct costs; or

(D) The revisions pertain to the addition of items requiring prior approval by FNS in accordance with the provisions of the applicable cost principles specified in part 277 appendix A of the regulations.

(ii) No other changes to the Program fund budget require approval from FNS. Examples of changes which do not require Federal approval are: The use of State agency funds to accomplish program objectives over and above the State agency minimum share included in the approved Program budget; and the transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs.

(iii) The requirements of paragraph (f)(1)(i)(B) of this section may be waived by FNS provided that:

(A) No different limitation or approval requirement may be imposed; and,

(B) FNS shall not permit a transfer which would cause any Federal appropriation, or part, thereof, to be used for purpose other than those intended.

(2) *Authorized funds exceeding State agency needs.* When it becomes apparent that the funds authorized by the Letter of Credit will exceed the needs of the State agency, FNS will make appropriate adjustments in the Letter of Credit in accordance with part 277.

(3) *Method of requesting approvals.* When requesting approval for budget revisions, State agencies shall use the same format as the Budget Projection Statement used in the previous submission. However, State agencies may re-

quest by letter the approvals required by paragraph (f)(1)(i)(D) of this section.

(4) *Notification of approval or disapproval.* Within 30 days from the date of receipt of the request for budget revisions, FNS shall review the request and notify the State agency whether or not the budget revisions have been approved. If the revision is still under consideration at the end of 30 days, FNS shall inform the State agency in writing as to when the decision will be made.

[Amdt. 156, 46 FR 6315, Jan. 21, 1981]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 272.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 272.3 Operating guidelines and forms.

(a) *Coverage of operating guidelines.* State agencies shall prepare and provide to staff responsible for administering the Program written operating procedures. In those States which have State regulations that outline these Operating Procedures, these are equivalent to Operating Guidelines. Other examples of Operating Guidelines are manuals, instructions, directives or transmittal memos. The following categories shall be included in the Operating Guidelines:

(1) Certification of households, including but not limited to:

(i) Application processing;

(ii) Nonfinancial eligibility standards;

(iii) Financial criteria and the eligibility determination;

(iv) Actions resulting from eligibility determinations;

(v) Determining eligibility of special situation households as specified in § 273.11;

(vi) Additional certification functions such as processing changes during certification periods and reporting requirements for households;

(vii) Lost benefits/claims against households;

(viii) Fair/fraud hearings;

(ix) A list of Federal and State energy assistance programs that qualify for the resource and income exclusions discussed in § 273.8(e)(14) and § 273.9(c)(11) and how these payments