

## § 278.7

## 7 CFR Ch. II (1-1-08 Edition)

by this part will constitute notice to the addressee of its contents.

[Amdt. 136, 43 FR 43274, Sept. 22, 1978, as amended by Amdt. 236, 47 FR 56471, Dec. 17, 1982; Amdt. 236, 49 FR 22057, May 25, 1984; Amdt. 258, 49 FR 28393, July 12, 1984; Amdt. 286, 52 FR 7558, Mar. 11, 1987; Amdt. 280, 52 FR 13222, Apr. 22, 1987; Amdt. 311, 54 FR 18645, May 2, 1989; Amdt. 323, 55 FR 31812, Aug. 6, 1990; Amdt. 344, 56 FR 54778, Oct. 23, 1991; Amdt. 334, 57 FR 3912, Feb. 3, 1992; Amdt. 354, 59 FR 27434, May 27, 1994; 62 FR 40928, July 31, 1997; 64 FR 23172, Apr. 30, 1999; Amdt. 391, 66 FR 2800, Jan. 12, 2001; 68 FR 41052, July 10, 2003; 70 FR 29579, May 24, 2005; Amdt. 397, 70 FR 72354, Dec. 5, 2005]

EFFECTIVE DATE NOTE: By Amdt. 397, 70 FR 72354, Dec. 5, 2005, § 278.6 was amended by removing the words “certified mail or personal service” and adding in their place the words “any method that provides evidence of delivery” in the first sentence in paragraph (o), effective January 4, 2006.

### § 278.7 Determination and disposition of claims—retail food stores and wholesale food concerns.

(a) *Claims against violators.* FNS may establish and pursue claims against firms or other entities which have accepted or redeemed coupons in violation of the Food Stamp Act or this part regardless of whether the firms or entities are authorized to accept food stamps. If a firm fails to pay a claim, FNS may collect the claim by offsetting against amounts due the firm on redemption of other coupons or by deducting the amounts due from bonds posted by firms in compliance with the provisions of § 278.1(b)(4). FNS shall deny an application for authorization or reauthorization by a firm which has failed to pay a claim.

(b) *Forfeiture of a collateral bond.* If FNS establishes a claim against an authorized firm which has previously been sanctioned, collection of the claim may be through total or partial forfeiture of the collateral bond. If FNS determines that forfeiture is required for collection of the claim, FNS shall take one or more of the following actions, as appropriate.

(1) Determine the amount of the bond to be forfeited on the basis of the loss to the Government through violations of the act, and this part, as detailed in a letter of charges to the firm;

(2) Send written notification by using any delivery method as long as the

method provides evidence of delivery to the firm and the bonding agent, of FNS’ determination regarding forfeiture of all or a specified part of the collateral bond, and the reasons for the forfeiture;

(3) Advise the firm and the bonding agent of the firm’s right to administrative review of the claim determination;

(4) Advise the firm and the bonding agent that if payment of the current claim is not received directly from the firm, FNS shall obtain full payment through forfeiture of the bond;

(5) Proceed with collection on the bond for the amount forfeited if a request for review is not filed by the firm within the period established in § 279.5, or if such review is unsuccessful; and

(6) Upon the expiration of time permitted for the filing of a request for administrative and/or judicial review, deposit the bond in a Federal Reserve Bank account or in the Treasury Account, General. If FNS requires only a portion of the face value of the bond to satisfy a claim, the entire bond will be negotiated, and the remaining amount returned to the firm.

(c) *Coupons accepted without authorization.* (1) The FNS officer in charge may approve the redemption under § 278.4 of coupons accepted by firms before the receipt of an authorization card from FNS if the following conditions exist:

(i) The coupons were received in accordance with the requirements of this part governing acceptance of coupons except the requirement that the firm be authorized before acceptance;

(ii) The coupons were accepted by the firm in good faith, and without intent to circumvent this part; and

(iii) The firm receives authorization to participate in the program.

(2) Firms seeking approval to redeem coupons accepted without authorization shall present a written application for approval to the local FNS field office. This application shall be accompanied by a written statement signed by the firm of all the facts about the acceptance of the coupons. The statement shall also include a certification that the coupons were accepted in good faith, and without any intent to circumvent this part.

(d) *Burned or mutilated coupons.* FNS may redeem burned or mutilated coupons only to the extent that the Bureau of Engraving and Printing of the United States Treasury Department can determine the value of the coupons. The firm presenting burned or mutilated coupons for redemption shall submit the coupons to the local FNS field office with a properly filled-out redemption certificate. In the section of the redemption certificate for entering the amount of coupons to be redeemed, an estimate of the value of the burned or mutilated coupons submitted for redemption shall be entered if the exact value of the coupons is unknown. The phrase "Deputy Administrator for Fiscal Management, FNS, USDA," should be entered in the section of the redemption certificate for entering the name and address of the insured financial institution or wholesaler.

(e) *Old series coupons.* FNS may redeem the old series food coupons issued in 50-cent, 2-dollar, and 5-dollar denominations when they are presented for redemption. Firms presenting the coupons for redemption shall submit the coupons to the local FNS field office with a properly completed redemption certificate and a written statement, signed by a representative of the firm, detailing the circumstances of the acceptance of the coupons.

(f) *Denials of claims brought by authorized firms against FNS.* If a claim brought by a firm against FNS under this section is denied in whole or in part, notification of this action shall be sent to the firm by using any delivery method as long as the method provides evidence of delivery. If the firm is aggrieved by this action, it may seek administrative review as provided in part 279.

(g) *Lost or stolen coupons.* FNS may not be held liable for claims from retail food stores, meal services, or wholesale food concerns for lost or stolen coupons.

[Amdt. 136, 43 FR 43274, Sept. 22, 1978, as amended by Amdt. 258, 49 FR 28393, July 12, 1984; Amdt. 257, 49 FR 32538, Aug. 15, 1984; Amdt. 262, 49 FR 50598, Dec. 31, 1984; 68 FR 41052, July 10, 2003; Amdt. 397, 70 FR 72354, Dec. 5, 2005]

#### § 278.8 [Reserved]

#### § 278.9 Implementation of amendments relating to the participation of retail food stores, wholesale food concerns and insured financial institutions.

(a) *Amendment 224.* Retail food stores shall have signs posted as required by this amendment no later than 30 days after distribution of the signs by FNS.

(b) *Amendment 257.* With the exception of the provisions in §278.5 requiring redeeming financial institutions to verify that coupons are supported by redemption certificates, the revisions to part 278 shall be effective September 14, 1984. Redeeming financial institutions shall begin verifying coupon deposits as required by §278.5 in accordance with the schedule determined by the Federal Reserve Board. Insured financial institutions shall adhere to preexisting requirements for handling redemption certificates (at 7 CFR 278.5(a)) until their Federal Reserve District implements the procedures contained in this final rule. FNS shall not be liable for any losses of coupons in transit to Federal Reserve Banks or as a result of a burglary or robbery of an insured financial institution which occur after September 14, 1984.

(c) *Amendment 267.* The federally insured credit unions authorized to redeem food stamps under this amendment may begin accepting food stamps for redemption not later than March 27, 1986.

(d) The program changes of *Amendment 272* at §278.5(a) (1) and (3) are effective upon publication of the amendment. Financial institutions must implement the provisions no later than April 21, 1986.

(e) *Amendment No. 286.* The provisions for part 278 of *Amendment No. 286* were effective March 11, 1987 for purposes of submitting applications for authorization to accept food stamps. For all other purposes, the effective date was April 1, 1987.

(f) *Amendment No. 280.* The provisions for part 271 and §§278.1(r) and 278.6(f) of No. 280 are effective retroactively to April 1, 1987. The provision for §278.1(o) is effective May 22, 1987.