

review, the questioned administrative action shall be stayed pending disposition of the request for review, except in the case of a permanent disqualification as specified in § 278.6(e)(1) of this chapter.

(a) *Jurisdiction.* Reviewers designated by the Secretary shall act for the Department on requests for review filed by food retailers or wholesale food concerns aggrieved by any of the following actions:

(1) Denial of an application or withdrawal of authorization to participate in the program under § 278.1 of this chapter;

(2) Disqualification under § 278.6 of this chapter, except that a disqualification for failure to pay a civil money penalty shall not be subject to administrative review and a disqualification imposed under § 278.6(e)(8) of this chapter shall not be subject to administrative or judicial review;

(3) Imposition of a fine under § 278.6 of this chapter;

(4) Denial of all or part of any claim asserted by a firm against FNS under § 278.7(c), (d), or (e) of this chapter;

(5) Assertion of a claim under § 278.7(a) of this chapter; or

(6) Forfeiture of part or all of a collateral bond under § 278.1 of this chapter, if the request for review is made by the authorized firm. FNS shall not accept requests for review made by a bonding company or agent.

(b) *Authority.* The determination of the designated reviewer shall be the final administrative determination of the Department, subject, however, to judicial review under section 14 of the Food Stamp Act and subpart B of this part.

§§ 279.2 through 279.4 [Removed]

■ 9. Remove §§ 279.2 through 279.4.

§§ 279.5 through 279.11 [Redesignated]

■ 10. Subpart B is further amended by redesignating §§ 279.5 through 279.9 as §§ 279.2 through 279.6, respectively.

§ 279.2 [Amended]

■ 11. Amend newly redesignated § 279.2 as follows:

■ a. The heading of paragraph (a) is amended by removing the word “Addressing” and adding in its place the word “Submitting”.

■ b. Paragraph (a) is further amended by removing the words “Room 304”.

■ c. Paragraph (c) introductory text is amended by removing the words “with the Director, Administrative Review Division,”.

§ 279.3 [Amended]

■ 12. Remove the last two sentences of paragraph (b) in newly redesignated § 279.3.

■ 13. Amend newly redesignated § 279.4 as follows:

■ a. Paragraph (a) is amended by revising the first two sentences and by removing the last sentence;

■ b. Paragraph (c) is revised; and

■ c. Paragraph (d) is removed.

The revisions read as follows:

§ 279.4 Action upon receipt of a request for review.

(a) Upon receipt of a request for review of administrative action, the administrative action shall be held in abeyance until the designated reviewer has made a determination. However, permanent disqualifications for trafficking shall not be held in abeyance and shall be effective immediately as specified in 278.6(b)(2) of this chapter.

* * *

(c) *Extensions of time.* Upon timely written request to FNS by the firm requesting the review, FNS may grant extensions of time if, in FNS’ discretion, additional time is required for the firm to fully present information in support of its position. However, no extension may be made in the time allowed for the filing of a request for review.

■ 14. Amend newly redesignated § 279.5 as follows:

■ a. The heading of paragraph (a) is amended by removing the word “officer”.

■ b. Paragraph (b), (c) and (e) are revised; and

■ c. Paragraph (f) is removed and paragraph (g) is redesignated as paragraph (f).

The revisions read as follows:

§ 279.5 Determination of the designated reviewer.

* * *

(b) *Review of denial or withdrawal of authorization.* When the action under review is the denial of an application for authorization or the withdrawal of an existing authorization, the designated reviewer shall sustain the action under review; sustain the action under review, but specify a shorter period of time the action will remain in effect; or direct that the action under review be reversed.

(c) *Review of disqualification or civil money penalty or fine.* When the action under review is disqualifying a firm from program participation or assessing a civil money penalty or fine against a firm, the designated reviewer shall: Sustain the action under review; specify a shorter period of disqualification;

specify a reduced money penalty or fine; direct that an official warning letter be issued to the firm in lieu of a disqualification, civil money penalty or fine; or, direct that the action under review be reversed. The designated reviewer may change a disqualification of a firm to a civil money penalty if the disqualification would cause a hardship to participating households (except in the case of a permanent disqualification). The designated reviewer, working with the appropriate FNS office, shall determine if circumstances warrant a civil money penalty in accordance with § 278.6 of this chapter.

* * *

(e) *Determination notifications.* FNS shall notify the firm of the determination. Such notification will be sent to the representative of the firm who filed the request for review.

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■ 15. In newly redesignated § 279.6, revise paragraph (a) to read as follows:

§ 279.6 Legal advice and extensions of time.

(a) *Advice from Office of the General Counsel.*

If any request for review involves any doubtful questions of law, the Benefit Redemption Division shall obtain the advice of the Department’s Office of the General Counsel.

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Subpart B [Removed]

■ 16. Subpart B is removed.

Subpart C [Redesignated as Subpart B]

■ 17. Subpart C is redesignated as Subpart B.

§§ 279.10 and 279.11 [Redesignated as §§ 279.7 and 279.8]

■ 18. Redesignate §§ 279.10 and 279.11 as §§ 279.7 and 279.8.

§ 279.7 [Amended]

■ 19. Amend newly redesignated § 279.7 as follows:

■ a. Paragraph (a) is amended by removing the reference “§ 279.8(e)” and adding in its place the reference “§ 279.5(e)”.

■ b. Paragraph (b) is amended by removing the words the “officer or”.

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