

(7) Are there regulations, reporting requirements, or regulatory processes that are unnecessarily complicated or could be streamlined to achieve regulatory objectives in more efficient ways?

(8) Are there rules or reporting requirements that have been overtaken by technological developments? Can new technologies be leveraged to modify, streamline, or do away with existing regulatory or reporting requirements?

(9) How can the Department best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of existing regulations? Are there existing sources of data the Department can use to evaluate the post-promulgation effects of regulations over time? We invite interested parties to provide data that may be in their possession that documents the costs, burdens, and benefits of existing requirements.

(10) Are there regulations that are working well that can be expanded or used as a model to fill gaps in other DOE regulatory programs?

The Department notes that this RFI is issued solely for information and program-planning purposes. Responses to this RFI do not bind DOE to any further actions related to the response. All submissions will be made publically available on <http://www.regulations.gov>.

Issued in Washington, DC on May 3, 2016.

**Steven P. Croley,**  
General Counsel.

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 272, 274, and 280

[FNS 2015-0021]

RIN 0584-AE00

#### Supplemental Nutrition Assistance Program (SNAP): Disaster Supplemental Nutrition Assistance Program (D-SNAP)

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the Supplemental Nutrition Assistance Program (SNAP) (formerly the Food Stamp Program) regulations to establish procedures for planning, requesting and operating a Disaster Supplemental Nutrition Assistance

Program (D-SNAP). The rulemaking is necessary to implement a section of the Food and Nutrition Act of 2008. This rulemaking also addresses a section of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 and accompanying Executive Order 12673, which provides the authority for the Department to determine the need for SNAP assistance during a presidentially-declared disaster.

**DATES:** Written comments on this proposed rule must be received on or before July 11, 2016.

**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 2015-0021.

*FAX:* Submit comments by facsimile transmission to (703) 305-2486, attention: Sasha Gersten-Paal.

*Mail:* Send comments to Sasha Gersten-Paal, Branch Chief, Certification Policy Branch, Program Development Division, Supplemental Nutrition Assistance Program, Food and Nutrition Service, 3101 Park Center Drive, Room 812, Alexandria, Virginia, 22302, (703) 305-2507.

*Hand Delivery or Courier:* Deliver comments to Sasha Gersten-Paal at the above address.

*Additional electronic filing information:* You may download a copy of this rule from [www.fns.usda.gov/SNAP](http://www.fns.usda.gov/SNAP). You may also comment via the Internet at the same address. Please include ATTENTION RIN: 0584-AE00 in the subject line and your name and address in the message. If you do not receive a confirmation that we have received your comment please call Sasha Gersten-Paal at 703-305-2507.

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 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Room 810, Alexandria, Virginia 22302-1594.

Written comments on this proposed rule should be specific, confined to issues pertinent to the rule, and should

explain the reason for any change you recommend. Where possible, you should reference the specific section or paragraph you are addressing. We may not consider or include in the Administrative Record that supports the final rulemaking comments that we receive after the close of the comment period or comments delivered to an address other than that listed above. We will make available all comments for public inspection, including, name, address and other contact information of respondents. If you wish to request that we consider withholding your name, address, or other contact information from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. We will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. We will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

**FOR FURTHER INFORMATION CONTACT:** For further information concerning this Notice of Proposed Rulemaking (NPRM) you may contact Sasha Gersten-Paal, Branch Chief, Certification Policy Branch, Program Development Division, Supplemental Nutrition Assistance Program, 3101 Park Center Drive, Room 810, Alexandria, Virginia, 22302, or by email at [Sasha.Gersten-Paal@fns.usda.gov](mailto:Sasha.Gersten-Paal@fns.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The basic premise underlying the D-SNAP and this proposed rule is that when a disaster occurs (and after commercial channels of food distribution are operating again) there is an increased and immediate need for nutrition assistance for families that have suffered loss of income and/or incurred additional costs due to the disaster. SNAP is not designed to take disaster-related expenses into account in determining eligibility. SNAP eligibility requirements typically do not match the sudden (but temporary) needs of households affected by disaster, and SNAP's procedural requirements make it difficult for States to handle the large number of people suddenly in need of immediate assistance. Thus, it may be necessary to implement a D-SNAP that uses a different set of rules to determine need and issue benefits.

*How D-SNAP Currently Operates*

D-SNAP provides temporary food assistance for households affected by a disaster when there is a Presidential disaster declaration that includes the provision of individual assistance. Currently, D-SNAP provides one month of benefits to eligible disaster survivors and can facilitate the issuance of supplemental SNAP benefits for currently certified households. To be eligible for D-SNAP, a household must live (or in some cases, work) in the identified disaster area, have been

affected by the disaster, and meet certain D-SNAP eligibility criteria. D-SNAP is designed for situations where a large number of households have disaster-related expenses not contemplated when an individual applies for SNAP.

The primary responsibility for providing emergency food assistance rests with the State agency. Currently, utilizing FNS Guidance, State agencies design their own D-SNAP Plan, evaluate the need for a D-SNAP or another feeding program should a disaster strike, submit to FNS a detailed

request to operate a D-SNAP, effectively implement the D-SNAP, ensure program integrity in D-SNAP operations, submit daily reports, perform post-disaster reviews and report their findings to FNS.

**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.
United States Code .....	U.S.C.
Disaster Supplemental Nutrition Assistance Program .....	D-SNAP.
Electronic Benefit Transfer .....	EBT.
Individual Assistance .....	IA.
Federal Register .....	FR.
Federal Fiscal Year .....	FY.
Food and Nutrition Act of 2008 .....	Act.
Food and Nutrition Service .....	FNS.
Secretary of Agriculture .....	the Secretary.
Supplemental Nutrition Assistance Program .....	SNAP.
U. S. Department of Agriculture .....	the Department.
Robert T. Stafford Disaster Relief and Emergency Assistance Act .....	Stafford Act.
Federal Emergency Management Agency .....	FEMA.

**Legislation and Regulations***What authorities does the Department have regarding disasters?*

FNS can provide disaster nutrition assistance in three ways:

- Provide USDA purchased foods for shelters and other mass feeding sites (42 U.S.C. 5180);
- Provide USDA commodity (food) assistance for distribution directly to households in need in certain limited circumstances (42 U.S.C. 5180);
- Approve a State D-SNAP operation and provide funding for 100 percent of disaster benefits and 50 percent of State administrative costs. FNS supports the State's efforts to provide D-SNAP benefits by providing policy guidance, training, and technical assistance to State agencies as they plan, implement, and assess their D-SNAP activities (42 U.S.C. 5179).

All three types of assistance may be needed for disaster victims throughout or at different points of time following the disaster. However, households cannot simultaneously receive both D-SNAP benefits and commodity assistance.

Under the Stafford Act the President is authorized to declare a "major disaster" when requested to do so by the Governor of a state struck by a natural

disaster. The President may direct Federal agencies to support States' response efforts and assist in the distribution of food and other consumable supplies.

After consultation with FEMA, the Secretary also has the authority to establish temporary emergency standards of eligibility for victims of a disaster if they are in need of temporary food assistance, and commercial channels of food distribution were disrupted, but have again become available. FNS has generally approved States' requests for D-SNAP under Stafford Act authority when areas affected by disasters have received a Presidential disaster declaration that includes an individual assistance declaration, since this establishes the need for assistance at the household level.

*What does legislation say about D-SNAP?*

The Stafford Act provides the Secretary of Agriculture with the authority to operate a D-SNAP when affected areas have received a Presidential major disaster declaration for individual assistance (IA) and when commercial channels of food distribution are available. Section (5)(h) of the Act provides the Secretary with

the authority to establish temporary emergency standards of eligibility for households who are survivors of a disaster that disrupts commercial channels of food distribution, after those channels have been restored. The Act requires that the Secretary establish a disaster task force to assist States in the implementation and operation of a D-SNAP and send members to the disaster site if cost-effective. The Act also requires that the regulations address replacement benefits for households currently certified in SNAP that experience food loss, and provides for the adjustment of issuance and reporting requirements in the D-SNAP.

Under Section 11(e)(14) of the Act, as part of a State agency's overall Plan of Operation, the State agency is required to specify a plan for providing SNAP for households that are victims of a disaster and that such plan shall include, but not be limited to, procedures for informing the public about the disaster program and how to apply for its benefits. The plan should also give consideration to coordinating efforts with other Federal and private relief agencies, as well as local government officials.

*Has the Department previously published rules for D-SNAP?*

The Department published the interim rule in 1981, at 46 FR 8922–01 (January 27, 1981) (amended in 1991 and 2005), which established the Department's authority to approve temporary emergency standards of eligibility for disaster victims without regard to Section 4(c) of the Act or the procedures set forth in the Administrative Procedure Act (5 U.S.C. 553). Based on this authority, as disasters have occurred, the Department has approved the specific procedures to be used, depending on the circumstances of each particular disaster. The procedures in the interim rulemaking (that was never published as a final rule) for certifying disaster-affected households and issuing D-SNAP benefits initially served as a basis for D-SNAP guidance to States. FNS guidance has since evolved and has been updated as necessary based on experience and States' needs.

*Would this proposed rule address the "Disaster Task Force" discussed in the Act?*

The proposed rule does not address the D-SNAP task force. FNS employs staff at its national office and in its regional offices that work with State staff, and coordinate with other Federal agencies in preparing for disasters. FNS staff assists with D-SNAP operations as appropriate, including going on-site in many instances. While these staffs change over time in response to the need for disaster-related activity, they constitute the flexible type of task force contemplated by the Act. Thus, there is no need to regulate this provision of the Act.

*What do the current interim regulations for D-SNAP say?*

The interim regulations currently in effect state that:

- The Secretary shall, after consultation with the official empowered to exercise the authority provided for by the Stafford Act, establish temporary emergency standards of eligibility for the duration of the emergency for households who are victims of a disaster which disrupts commercial channels of food distribution, if such households are in need of temporary food assistance and if commercial channels of food distribution have again become available to meet the temporary food needs of such households.
- Such standards as are prescribed for individual emergencies may be promulgated without regard to section

4(c) of this Act or the procedures set forth in 5 U.S.C. 553.

- In addition to establishing temporary emergency standards of eligibility, the Secretary shall provide for emergency allotments to eligible households to replace food destroyed in a disaster. Such emergency allotments would be equal to the value of the food actually lost in such disaster but not greater than the applicable maximum monthly allotment for the household size.

- The Secretary may also approve alternate methods for issuing food stamp benefits during a disaster when reliance on Electronic Benefits Transfer (EBT) systems is impracticable.

*What has the Department learned using this authority?*

The Department has learned several lessons over the years. First, each disaster situation is different and it is important to provide States flexibility in requesting a D-SNAP that will meet the needs of the disaster victims and is compatible with the State's plans and administration. Second, disaster planning and preparation are critical to a timely and well coordinated response to different disaster situations. Third, State monitoring and reporting on program operations and integrity must be integrated into the planning and implementation of any D-SNAP.

*What aspects of the D-SNAP does the proposed rule address?*

This proposed rule primarily addresses several aspects of the D-SNAP, including:

- The development of a Disaster Plan
- Circumstances necessary for approval of a D-SNAP
- Required content of the State request to FNS for a D-SNAP
- The basic eligibility and benefit policy for participation in D-SNAP
- The application processing requirements for D-SNAP
- Policy regarding currently certified SNAP participants residing in disaster areas
- Monitoring State D-SNAP operations
- State Reporting on D-SNAP (both during and at the conclusion of disaster operations)

*Does this proposed rule establish detailed operating and policy requirements for all D-SNAP operations?*

This proposed rule is intended to provide as much flexibility as possible in the design of each D-SNAP operation while establishing consistent rules for requesting, monitoring and reporting on the D-SNAP. The reason for this is the

varied and unpredictable nature of each disaster. While there are similarities among disasters, each set of circumstances is different enough that any attempt to limit State and FNS flexibility could cause delays in Federal and State response time in providing benefits to the victims of disasters. Thus, regulations that inherently seek to standardize policy and procedures, regardless of specific circumstances, can become problematic when the circumstances call for flexibility. In this proposal, the Department provides a basic framework for D-SNAP that sets clear expectations for State and local administrators while still allowing as much flexibility as possible. Furthermore, the Department is attempting to provide responsible fiscal controls of the disaster benefits while ensuring that benefits are provided to eligible applicants during disasters.

*Does FNS provide additional direction or guidance regarding D-SNAP?*

Yes, FNS provides detailed guidance which can be found on the FNS Web site at [http://www.fns.usda.gov/disasters/response/D-SNAP\\_Handbook/D-SNAP\\_handbook.pdf](http://www.fns.usda.gov/disasters/response/D-SNAP_Handbook/D-SNAP_handbook.pdf). This guidance is based upon lessons learned by FNS and States' best practices in several types of disasters. It is designed to assist States in all aspects of the D-SNAP. Adherence to this guidance can improve preparedness, expedite approval of requests and reduce the potential for waste and fraud in D-SNAP operations.

*When is it appropriate to request D-SNAP?*

D-SNAP timing varies with the unique circumstances of each disaster, but begins after there has been a Presidentially-declared disaster for IA and commercial channels of food distribution have been restored so families are able to purchase and prepare food.

*What is IA?*

IA is financial or direct assistance to individuals and families whose property has been damaged or destroyed as a result of a Presidentially-declared disaster, and whose losses are not covered by insurance. The decision to designate an area as eligible for IA is made by FEMA. The IA is intended to help households with critical expenses that cannot be covered in other ways.

FNS proposes to approve the operation of D-SNAP under Stafford Act authority when affected areas have received a Presidential disaster declaration for IA because receipt of an individual assistance declaration is indicative of households' need for food

assistance in the affected area. However, since D-SNAP is intended to meet households' immediate needs, States would be required to implement D-SNAP within a reasonable time period following the IA declaration. FNS is reluctant to approve requests for D-SNAP that are made after the immediate need for food assistance has passed.

#### *How is D-SNAP funded?*

FNS provides 100 percent of disaster benefits and 50 percent of State administrative costs.

#### *What is a State's responsibilities in D-SNAP?*

The Department proposes that the primary responsibility for providing emergency food assistance continue to rest with the States. State agencies would continue to design their own D-SNAP Plan, evaluate the need for a D-SNAP or another feeding program when a disaster strikes, submit a detailed request to FNS to operate a D-SNAP, effectively implement the D-SNAP, ensure program integrity in D-SNAP operations, submit daily reports, perform post-disaster reviews, and report their findings to FNS.

#### **Basic D-SNAP Policies**

##### *How do D-SNAP non-financial eligibility criteria differ from SNAP?*

Eligibility criteria vary depending upon the disaster, the demographics of the affected jurisdictions and States' D-SNAP requests. FNS has exercised its disaster authority to waive SNAP eligibility restrictions, streamline States' D-SNAP operations and ensure that families in the affected areas are served as efficiently as possible.

##### *How is the allotment calculated in D-SNAP?*

D-SNAP provides a full month's allotment to disaster affected households who may not normally qualify for or participate in SNAP. The allotment for a household is equal to the maximum monthly allotment for the household size provided under SNAP.

D-SNAP allotments are updated yearly and available on the FNS Web site. In order to serve disaster affected households already participating in SNAP and residing in areas approved to operate a D-SNAP, States may supplement the SNAP benefit up to the maximum allotment for the household size.

##### *What is the D-SNAP "Application Period"?*

The Department proposes that States may only accept applications for D-SNAP benefits from households not

participating in SNAP and requests for supplements only from households currently certified in SNAP during the approved application period. FNS has generally approved application periods of 7 consecutive days (business days at the State's option), though States have the option to request more or fewer days in the D-SNAP request. FNS proposes to continue with this approach. The State should also inform FNS, as part of the D-SNAP request, whether applications will be accepted on Saturday and/or Sunday. If the State is accepting requests for supplements from households currently certified in SNAP over the phone and mailing the forms to the household, the required affidavit attesting to the loss of food purchased with SNAP benefits must be requested during the application period.

##### *What is a D-SNAP "Benefit Period"?*

The Department proposes that the benefit period be a 30-day period approved by FNS for each D-SNAP. The benefit period is the period during which disaster-related expenses are to be counted; the start date is used to determine household composition and resources. Only income received, expenses incurred and resources that are accessible during the benefit period are considered in determining D-SNAP eligibility. The benefit period begins on the first date of the disaster generally referred to as the "Incident Period" identified in the Presidential Disaster Declaration.

##### *Can the Application and Benefit Periods be modified?*

The Department proposes that any modifications to a D-SNAP be approved by FNS in writing. For example, if a State agency determines that the initial benefit period requested is not appropriate, it may request a modification of the benefit period start/end dates. This could, for example, accommodate disaster related expenses incurred in preparation for the disaster. However, once the application period has commenced the benefit period could not be changed. Doing so would introduce unnecessary complexity and potential inequity into the D-SNAP.

If demand for D-SNAP benefits increases or remains high during the initially approved application period, FNS may consider a State's request for an extension of the application period. States requesting an extension should address the ongoing demand for assistance and any program integrity concerns in their request.

##### *What are the basic eligibility criteria for D-SNAP?*

To be eligible for D-SNAP, the Department proposes that an applicant household must first meet basic criteria, including: (1) Residency; (2) Household Composition; (3) Adverse effects due to the disaster; and (4) Income requirements.

##### *How is residency determined?*

Under this proposed rule, the household must have lived in the disaster area at the time of the disaster. However, States may also choose to extend eligibility to those who worked in the disaster area at the time of the disaster. When submitting their D-SNAP requests, States should specify if they will serve households that (a) lived in the disaster area, or (b) lived or worked in the disaster area.

##### *How is household composition established?*

The Department proposes that D-SNAP household composition be established based upon persons who live, purchase food, and prepare meals together on the date of the first day of the disaster benefit period, which will be considered to be the earliest date that households are in need. This rulemaking proposes that the benefit period begin on the date of the disaster or the date of any mandatory evacuation preceding the disaster.

##### *What is an adverse effect?*

The Department proposes that disaster-related adverse effects include three categories:

- Loss or inaccessibility of income involving a reduction or termination of income, or a significant delay in receipt of income.
- Inaccessibility of liquid resources, including situations in which the household is unable to access cash resources for a portion of the disaster benefit period.
- Disaster related expenses that the household has incurred during the disaster benefit period that result from the effects of the disaster.

The FNS Disaster SNAP Guidance provides specific expenses that shall be considered disaster related, and States can propose other reasonable expenses in their disaster request.

##### *How is household income dealt with for D-SNAP?*

The Department proposes that the income of households that meet the residency, household composition and adverse effect criteria be measured against the D-SNAP gross income limit

(DGIL) in order to determine eligibility. The DGIL is explained below.

Unlike SNAP, which includes separate tests for income and resources, the Department proposes that D-SNAP would group income and resources together under one test. This is the method that is already being used in D-SNAP. To determine a household's D-SNAP income:

- Add all income received or expected to be received during the benefit period to accessible liquid resources (liquid resources include cash on hand, and funds in accessible checking and saving accounts on the first day of the benefit period);
- Subtract the value of unreimbursed disaster related expenses incurred during the disaster benefit period from the income/liquid resource amount (any reimbursements received or anticipated to be received by the household during the benefit period, including insurance and FEMA payments would reduce the allowable disaster-related expense amount); and
- Compare the result compared to the DGIL and if it is less than or equal to the DGIL, the household would be eligible for D-SNAP benefits.

*What is the Department proposing to include as D-SNAP income?*

The Department proposes that D-SNAP income would be the net (take-home) pay of all household members during the benefit period, including:

- Wages a household actually receives after taxes and all other payroll withholding (including contributions to 401(k) or other inaccessible accounts, automatic payments to creditors, etc.);
- Public assistance payments or other unearned income; and
- Net self-employment income.

As determined by the State agency, income that has been delayed for a substantial portion of the benefit period due to the disaster would be considered inaccessible.

For example, household X consists of four people who are not currently participating in SNAP. Their household was impacted by the disaster and they apply for D-SNAP. One individual is employed and receives monthly take-home pay of \$1200, after payroll taxes and health insurance premium are taken out. The other individual receives \$850 in TANF benefits each month. The household's total income for D-SNAP purposes is  $\$1200 + \$850 = \$2050$ .

*What is the Department proposing to exclude as D-SNAP resources?*

The Department proposes that the following be deemed as not accessible liquid resources:

- Retirement accounts;
- Disaster insurance payments;
- Disaster assistance received or expected to be received during the benefit period; and
- Payments from Federal, state or county/local government agencies or disaster assistance organizations (including disaster-related Unemployment Compensation).

Inaccessible liquid resources would also include otherwise liquid resources that are temporarily inaccessible (for instance, because a bank with a household's certificate of deposit is closed due to the disaster) during the benefit period. In the Department's experience, this is an infrequent occurrence, as households can usually access their resources via online banking or ATMs even if bank branches are closed in the affected area. For example, on the day the disaster struck, household X had \$50 in cash, and \$250 in its checking account, with an additional \$300 in a savings account. The funds in these accounts are accessible. The household has applied for FEMA assistance for the property damage it incurred. The household's total accessible liquid resources are  $\$50 + \$250 + \$300 = \$600$ , since the FEMA assistance will not be received before the benefit period ends. Their household's total accessible liquid resources are  $\$50 + \$250 + \$300 = \$600$ .

*How is the DGIL calculated?*

The Department proposes to calculate each year's disaster gross income limit by adding together the SNAP maximum monthly net income limit, the SNAP maximum standard income deduction amount, and the SNAP maximum capped shelter expense deduction for each household size. Together, these amounts establish a simplified process to determine if households are in need of assistance that is grounded in the SNAP income methodology and standards for determining eligibility. For household X in the above examples, the total D-SNAP "income" of \$2650 ( $\$2050 + \$600$ ), would be compared to the DGIL for a household of four to determine eligibility for D-SNAP.

*How is the requirement that households purchase food applied?*

The Department proposes that, to be eligible, households must either plan on purchasing food during the disaster benefit period, or have already purchased food during the benefit period. This would clearly apply to most households, other than with very large disasters where households may remain in shelters and be served

through congregate feeding throughout the benefit period.

*What are disaster-related expenses?*

These are expenses that the household has incurred during the disaster benefit period due to the disaster. Eligible expenses would include the following, plus any other reasonable disaster-related expenses determined by the State agency:

- Home or business repairs
- Temporary shelter expenses
- Evacuation expenses
- Home/business property protection
- Medical expenses due to personal injury
- Disaster-related funeral expenses
- Expenses related to replacing necessary personal and household items, such as clothing, appliances, tools, and educational materials
- Fuel for primary heating source
- Clean-up items expense
- Disaster-damaged vehicle expenses
- Storage expenses
- Food lost in the disaster

*Are all disaster-related expenses deductible?*

In the past, all of the above expenses would be deductible if they have been or are anticipated be paid during the benefit period unless the household receives or anticipates receiving a reimbursement for these expenses during the benefit period, in which case only any remaining obligation expense is deductible. The Department's practice to date has been only to allow a deduction for expenses which are paid during the benefit period. Consequently, bills paid by credit card or other payments over time have not been allowed as deductions. The Department is now proposing to allow deductions for expenses that are incurred during the benefit period even if those expenses will be paid after the benefit period. The Department believes that this policy would be more equitable since households that incur similar disaster related expenses should not be treated differently simply because they pay using a credit card instead of cash or a check. The Department is interested in receiving comments on this proposed change.

*What options do States have in determining deductions?*

In conjunction with the options discussed below, the Department proposes that States may also choose to consider households that have experienced food loss as their only disaster-related expense to be eligible for the D-SNAP. The State would use available information such as power

outage maps showing affected homes or zip codes to determine if allowing eligibility based upon food-loss alone is appropriate. Households reporting excessively large amounts of food loss, or any other questionable information, would be referred to fraud investigators or senior staff for further review.

This proposed rule would provide States the following two options in determining if households have disaster-related expenses and the amount of the expense to use in determining D-SNAP income. The option selected would be identified in the State's D-SNAP request.

- Use of the disaster-related expenses identified above and in the FNS Disaster SNAP Guidance. Under this option, states may choose to have food-loss only or food loss plus one additional disaster related expense in order to be eligible.

- Use of a Disaster Standard Expense Deduction (DSED). For households with \$100 or more in deductible disaster-related expenses (including food loss), the DSED would be added to the disaster gross income limit and households whose take-home pay plus available liquid resources is less than or equal to this amount (DSED+DISASTER GROSS INCOME LIMIT) would qualify for D-SNAP benefits. Because the DSED is designed to capture food loss along with other disaster-related expenses, such as loss of income and damage to or destruction of property, as noted earlier, it could not be applied to cases in which food loss is the only disaster-related expense.

The DSED that has been used by several States is based upon information gathered from actual disaster-related expenses reported in a prior D-SNAP. As proposed in this rulemaking, only households with actual, unreimbursed disaster-related expenses equal to or greater than \$100 would qualify for the DSED. Households with deductible disaster-related expenses that fall below the \$100 threshold would have their eligibility determined using their actual expenses. If a household has disaster expenses which exceed the DSED for its size, the State may, at its option, use actual expenses to determine eligibility.

*How is food loss in a disaster addressed in the proposed rule?*

The Department proposes that the loss of food due to the disaster be considered a disaster-related expense and that including "food loss alone" as a criterion for eligibility be optional and be addressed in the D-SNAP request to FNS. It is important to note that households currently certified in SNAP can always request the replacement of lost food that was purchased with their

SNAP benefits under standard SNAP rules. Food lost or spoiled due to the disaster or extended power outage is always considered a disaster expense.

*What verification is required in a D-SNAP?*

The Department proposes that verification rules be eased (relative to SNAP) to reduce administrative burdens and to reflect the reality that due to the nature of a disaster, households and eligibility workers may not have access to usual verification sources. Proposed verification requirements for D-SNAP in the proposed rule are three-tiered:

- Identity must be verified;
- Verification of residency and household composition must be attempted in all cases, and must be pursued if questionable; and
- Loss/inaccessibility of income or liquid resources and food loss must be verified if questionable.

Such verification shall be performed in accordance with the requirements at 7 CFR 273.2(f).

*What requirements are proposed regarding duplicate participation*

The Department proposes that States check for duplicate information up front or accept applications and inform applicants that eligibility is contingent upon a subsequent duplicate check. States would be required to screen all household members for duplicate participation in:

- D-SNAP and SNAP
- D-SNAP and disaster commodity food assistance
- Multiple D-SNAPs with overlapping benefit periods
- Approved D-SNAP and denied D-SNAP applicants (to identify attempted duplicate participation)

## Disaster Plan

*What does the rule propose requiring in States' disaster plans?*

The Department proposes in § 280.1(b) that the State Disaster Plan must include the following information:

- Agencies and Responsibilities. This would identify State and Federal government agencies with responsibilities for disaster assistance, including a description of responsibilities for each agency.
- Points of Contact. This would provide names, positions, and phone numbers of county/local, State and Federal government officials, and their back-ups, who are key contact persons during a disaster (including the State agency disaster coordinator).
- Community Partners and Roles. This would identify private disaster

relief agencies within the State, such as the Red Cross, Salvation Army, or community groups, and a description of their roles in D-SNAP implementation.

- Staffing and Resources. This would identify staffing and related resources available to assist in a disaster, and how they will be mobilized to target disaster areas in need. It would also explain how the State/counties will manage the increased administrative burden associated with running a D-SNAP and SNAP operations simultaneously.

- Application System. This would describe application systems to be used for D-SNAP household management, including any workarounds to the SNAP system, considerations associated with running SNAP and D-SNAP operations concurrently, compliance with D-SNAP reporting requirements, etc.

- Issuance System. This would describe benefit issuance systems to be used for D-SNAP household management.

- EBT Card Stock. This would identify EBT card stock available, type of cards to be used, steps and timeline for ordering additional cards, and any special procedures or resources that will be needed to meet SNAP and D-SNAP issuance timeframes.

- Application Sites. This would describe site selection procedures, including potential application/issuance sites for disasters that vary in size and scope, and any agreements in place with those locations. If D-SNAP will operate out of local offices, it would explain how application sites will handle running D-SNAP and SNAP concurrently.

- Data. This would identify general demographic data that can help the agency tailor its response to a disaster. It would identify resources and contact information for disaster impact data, including preliminary data assessments, flood maps, or electrical outage data.

- Public Information and Outreach. This would describe public information strategy to ensure that timely, accurate information reaches eligible households. It would outline roles, expectations, and responsibilities of any SNAP outreach partners included in the State Outreach Plan that will assist with D-SNAP.

- Retailer Communication. This would describe procedures to notify retailers of new waivers (see discussion of the potential for hot foods below) and new D-SNAP households.

- Procedures to Reduce Applicant Hardship. This would outline steps the State will take to reduce hardship for D-SNAP applicants and SNAP caseload, including provisions for security, human needs, language services, elderly/disabled, etc.

- **Certification Process.** This would describe the specifics of the certification process, including potential application sites, staffing, separation of eligibility and issuance, and how application sites will manage large crowds. If online applications are to be used by workers or households, the plan would describe that process and back-up systems in place if the online system is not available.

- **Use of a DSED and the income limits.**

- **Reasonable Accommodations for Individuals with Disabilities.** This would describe what special accommodations will be made for individuals with disabilities at the application and issuance sites. This section may also include special accommodations to provide program access to individuals with disabilities beyond those required at application and issuance sites, such as transportation services or home visits, as determined by the State agency on a case by case basis, but without imposing an undue burden on the State agency.

- **Household Materials.** This would include sample household application and household notices in various languages.

- **Issuance Process.** This would describe how benefits will be made available within 72 hours of D-SNAP application and how to ensure continuation of SNAP certification, issuance, and other actions concurrently. It would indicate how the State will monitor stock levels and ensure sufficient EBT card stock. It would describe EBT card on-site or mail issuance procedures and reconciliation, as well as security procedures, including how D-SNAP benefits will be tracked separately from SNAP benefit issuance. Plans would need to adhere to FNS reconciliation guidelines so benefits posted to accounts can be compared to benefits issued by the State eligibility system.

- **Security and Fraud Prevention Plan.** This would describe how the State will ensure security and mitigate the risk of fraud, including a specific plan for handling applications submitted by State agency employees, procedures for handling questionable applications, process for checking all household members for duplicate participation, and any onsite security.

- **Disaster Reporting and Post-Disaster Review Report.** This would describe procedures to ensure that required federal reporting and post-disaster review report will be complete and timely. This would include daily reporting.

Disaster plans should also address any circumstances unique to the State which may affect D-SNAP operations, including: Coordination of resources among County-level administrations; serving isolated populations, the development of “work-arounds” to allow SNAP systems to accommodate D-SNAP operations; and, contingency plans for local offices located in flood plains or otherwise subject to closure.

Conforming amendments are proposed in 7 CFR 272.2(a), 272.2(d), and 272.2(e) to acknowledge the Disaster component of the State agency’s overall State plan.

*How often should the D-SNAP Plan be updated?*

To ensure that necessary advance preparations are current, the Department proposes in § 280.1(b) of this rulemaking that State agencies be required to review their existing Disaster Plan on at least an annual basis and submit a revision, if a substantive change is being made, or a notice of no substantive change, for FNS approval by the 15th of August each year or another negotiated due date approved by FNS. As specified in § 280.8(f), State agencies would be required to amend the plan if deficiencies are found in a D-SNAP post-disaster review. If plans are not changed from the prior submissions, States would be able to submit letters to this affect rather than a complete plan.

*What training is required related to the D-SNAP plan?*

The Department proposes that, at a minimum, States be required to provide D-SNAP training to management in each SNAP local office and call center. While FNS encourages that training be as complete and inclusive as practical, at least one manager (perhaps a D-SNAP coordinator) from each SNAP office must be included in whatever training the State deems appropriate.

*What State System requirements are there related to D-SNAP preparations?*

While there is a variety of programming that could be in place to be ready in preparation for a disaster and improve operational efficiency, each State is expected to make such choices based upon their administrative needs and system capabilities. The exception to this general expectation is that the Department proposes to require that every State have the ability to check for duplicate participation for all household members, as well as conduct reconciliation of D-SNAP benefits and generate the reports required by this rule. This includes being able to track disaster benefits separately from SNAP

benefit issuance. States would also need to have a method in place to allow for tracking of multiple D-SNAPs simultaneously should they be struck by two disasters within a short timeframe. States also must adhere to FNS reconciliation requirements so that they can compare benefits posted to accounts to benefits issued by the State eligibility system.

### **Requesting D-SNAP**

*What is required in the D-SNAP request?*

The Department proposes that D-SNAP requests be submitted with a signed cover memorandum from the State that includes a thorough explanation of the components listed below. Well-documented requests can be considered and approved more quickly—clearly a priority in a disaster situation. It is proposed that each D-SNAP request include:

- A description of the disaster—what happened, dates it occurred, the affected area.

- The geographic area and explanation of any differences between the area included in the presidential declaration and the requested area in which to operate the D-SNAP.

- The start and end dates of the application period. If it will be staggered, give dates for each county/area. Note if application sites will be open over the weekend or for extended hours.

- The start and end dates of the 30-day benefit period. The start of the benefit period should generally match the first day of the “incident period” on the disaster declaration. If not, the State should explain the reason for the difference.

- Whether a DSED is being used and how it is structured.

- Whether only households that lived in the disaster area will be eligible for D-SNAP or if households that worked in the disaster area will also be eligible.

- Whether “food loss alone” will be a criterion for eligibility.

- Whether supplements will be automatic or individual (by affidavit of disaster) for currently participating SNAP households. If automatic, the request would need to describe who is eligible and include supporting data. Supporting data may include but is not limited to an estimate of the value of issuances for automatic supplements. If individual, the request would need to include information on the process for requesting supplements—by phone/mail affidavit, electronically, or in person at a local office/D-SNAP application site.

- The estimated total number of people, homes, businesses, etc.,



impacted by the disaster, as well as estimates of anticipated D-SNAP applicants and number of currently certified SNAP households expected to be served, along with an explanation of how the estimates were derived.

- A description of issuance procedures, the number of EBT cards on hand, and plans for requesting, receiving, and distributing additional cards as needed. The request would need to indicate whether D-SNAP cards can be replaced if lost or stolen.

- A description of the plans for publicity, application sites, and security/crowd control.

- Plans for utilizing staff from other program areas, counties, or States, as appropriate. The request would need to indicate number of staff available and how staff/supervisors will be distributed among the application sites.

- A description of application sites, security/crowd control, and procedures to ensure program access and reasonable accommodation for persons with disabilities.

- A description of when and how program information will be disseminated to the public. This would include a list of partner organizations involved and describe the responsibilities of each, including role of volunteers, if applicable. It is important that sufficient time be allowed to notify the public prior to the start of the program. Examples of partner activities include providing D-SNAP information on behalf of the State or providing onsite application assistance.

- A description of the fraud prevention strategies and security measures in place.

- A description of the recipient claim procedures and thresholds to be followed if they differ from regulations at § 273.18 or the State's FNS-approved procedures for handling recipient claims in SNAP.

- A description of the procedures that will be used for identifying and handling applications by State agency/State employees.

- Draft press releases, sample application, preliminary damage assessments, and map of disaster area. In addition to these required items, other supporting documentation may be included.

*When should requests for D-SNAP be submitted?*

Since the purpose of D-SNAP is to meet households' immediate needs, the request should be submitted to allow for implementation of D-SNAP within a reasonable amount of time following the IA declaration. In addition, it should be

submitted to FNS at least several days prior to the planned implementation date to allow time for FNS review and approval. Most importantly, the State should allow sufficient time to effectively publicize the availability of D-SNAP for the affected population prior to implementation. The Department is interested in receiving comments on whether there is a need to establish a standard time frame for submission of requests for D-SNAP relative to the projected implementation date.

*What changes can be made to the D-SNAP after implementation?*

Sometimes, States' approved requests for D-SNAP need modification. As with the initial submission, the Department is proposing that States must submit written, signed requests for changes to an approved D-SNAP. These requests, and their corresponding approvals, would generally be approved more quickly than the initial waiver, since much of the information about the disaster is already known. The three most likely types of changes to the D-SNAP are listed below, along with an explanation of each.

*Expansion*—After initial approval, a State may want to expand operations because an additional county is in need of the program. While the application period in the expanded area may differ from what was originally approved, the benefit period will generally remain the same. In such cases, the State should submit to FNS a request for expansion, detailing the impact of the disaster in the new area, the application period, and the anticipated number of applicants and currently certified SNAP households that will be served. If the benefit period will change, for example, because flooding due to the same storms struck another County at a later date, the new benefit period's dates and justification should also be included.

*Extension*—In some cases, States may find that their initial application period is not sufficient to serve all eligible households, and so they may wish to request that the application period be extended. Requests to extend the D-SNAP application period must be submitted with sufficient time for FNS review and approval prior to the end of the initial application period and must be accompanied with justification of the need for additional time. Once the application period has ended and operations have closed, further extensions would not be permitted.

*Modification*—A request to change an aspect of the D-SNAP other than those mentioned above is known as a modification. Most modifications,

including any that would affect applicant eligibility, can only be made prior to the start of the application period to ensure that the eligibility criteria are applied equitably to all applicants. Occasionally, modifications may be made after D-SNAP operations have begun, such as when a State that was originally approved for individual supplements decides to issue automatic supplements in a certain area. Because of the limited window of time in which most modifications can be requested, FNS encourages State agencies to carefully consider their program options prior to submitting the initial request.

*Are there other waivers that must be requested separate from the D-SNAP request?*

There are operational and policy issues that, while are related to the disaster situation, are not included under the authority of the D-SNAP and so are not addressed in this proposed rule. The one exception is the extension of the timeframe to report a loss and request replacement of food purchased with SNAP benefits as addressed below. While this proposed rule only addresses the waiver for Timely Reporting of Food Loss, three additional waivers are also discussed, for informational purposes only, because they are the most frequently requested and approved relative to D-SNAP operations.

*Timely Household Reporting of Food Loss*—SNAP regulations at § 274.6 require that replacement issuances be provided to current SNAP recipients only if a household reports a loss of food purchased with SNAP benefits to the State within 10 days of the date the food is destroyed in a household misfortune. This waiver has allowed the State agency to extend the amount of time households have to report the loss of food purchased with SNAP benefits beyond 10 days. The Department proposes to change the reporting timeframe for the loss of food purchased with SNAP benefits from 10 days to 30 days when the President issues a major disaster declaration for IA. In all other cases, the 10-day timeframe would remain intact.

*Automatic/Mass Replacements*—Per SNAP regulations at § 274.6, replacement benefits are available (by affidavit) to SNAP households anytime they experience an adverse effect causing them to lose food purchased with their benefits. This waiver allows the automatic replacement of a certain percentage of a household's benefit (depending on the time of the month, the State's benefits issuance cycle, and the type of disaster) for all participating households within the disaster area,



without the need to submit individual requests. This waiver may be granted without a D-SNAP approval or IA designation. This waiver does not remove the responsibility of local offices to process individual affidavits before or after the waiver implementation as required by § 274.6(a).

**Hot Foods**—A waiver of the hot foods exclusion in the Act allows SNAP households to purchase hot, prepared foods at authorized retailers with their EBT cards. FNS has the authority to grant this waiver provided that an IA declaration has been issued. The coverage of this waiver may extend to areas beyond those that received D-SNAP approval if households that lived in the disaster area have been displaced or temporarily relocated to other parts of the State.

**Expunging D-SNAP benefits**—State agencies may request to use a shorter timeframe (typically 90 days) for expunging benefits for D-SNAP-only households. Following the implementation of the Food and Nutrition Act of 2008, Pub. L. 110-246, this waiver requires approval from FNS. State agencies that wish to implement this waiver must submit it along with their D-SNAP requests. Any State operating under this waiver must inform D-SNAP-only households of the timeframe for expunging benefits. This waiver may only be used when the State has received approval to operate a D-SNAP and an IA declaration has been issued. A prerequisite for this waiver is the ability of the State automated system to identify the disaster cases and benefits separately from SNAP cases (this is required for FNS reporting as well).

### Issuance and Reconciliation

#### *What are the Issuance requirements in D-SNAP?*

The Department proposes to require that each State be prepared to issue D-SNAP benefits through its EBT system during an emergency. As noted earlier, EBT issuance is also proposed as a required component of State Disaster Plans. As such, a State's D-SNAP issuance plan should incorporate procedures for:

- Ensuring that approved households have benefits available, including EBT cards, and Personal Identification Numbers (PINs), and that their benefits are available no more than 72 hours from when the application was filed, unless there is questionable information on the application that requires verification. In these latter situations the State may extend the 72-hour time frame for making benefits available to

no more than a total of seven days from the date of application.

- Accessing sufficient card stock to operate a D-SNAP.
- Replacing households EBT cards that are lost in a disaster as soon as possible but within the card replacement timeframes required at 7 CFR 274.6(b). If the normal EBT replacement process is to mail the replacement card to the household's home, and the disaster response requires card delivery to a disaster issuance site or alternative address in a non-disaster area, the State must be able to override the EBT system.

#### *What does the rule require regarding replacing EBT Cards for currently certified SNAP households?*

The Department proposes that when SNAP households lose their EBT cards in a disaster, the EBT disaster system design have procedures for providing currently certified SNAP cases with replacement cards as soon as possible, but always within the card replacement timeframes required at 7 CFR 274.6(b). Specifically, current SNAP regulations require State agencies to make replacement EBT cards available for pick up, or to place the card in the mail, within two business days following notice by the household to the State agency that the card has been lost, stolen or damaged. However, under a D-SNAP situation, the Department proposes to require State agencies to make reasonable efforts to replace EBT cards sooner if possible; the Department is not requiring a specific or more stringent timeframe for making card replacements under D-SNAP situations in order to provide States and their EBT processors some flexibility in unpredictable situations. However, the Department also wishes to ensure that clients receive their cards as soon as possible under circumstances in which the household may have not only lost their card, but all their food as well. The Department welcomes comments on whether or not a more specific and stricter card replacement timeframe should be implemented for D-SNAP situations.

#### *What are the D-SNAP reconciliation requirements?*

The Department is proposing that the State be required to develop a system for reconciling both cards and benefits. Cards shipped from a central location would be required to be tracked until distributed locally to households. Each issuance site would be required to maintain a beginning and ending inventory and track new cards received, total cards available, and cards issued.

If the State assigns PINs, they must also account for PIN mailers or envelopes to ensure adequate security, except when the PIN is formulated by some other means, such as from the Primary Account Number (which is a number on the EBT card and encoded onto the card to identify the State and EBT account holder.) The State would also be required to:

- Reconcile the number of cards set-up with EBT accounts and the number of cards issued and then research and explain any discrepancies;
- Track D-SNAP benefits separately from SNAP benefit issuance; and
- Adhere to FNS reconciliation guidelines so that they can compare benefits posted to accounts with benefits issued by the State eligibility system.

### Currently Certified SNAP Households

#### *How does the SNAP work during a disaster?*

The Department recognizes that SNAP households will often need replacement benefits or supplements. As noted earlier in the discussion of the D-SNAP request, currently certified SNAP households are not eligible for D-SNAP, but those affected by the disaster are generally eligible for a supplemental issuance.

#### *What are supplements?*

Supplements are additional benefits issued to SNAP households affected by the disaster in amounts that bring the households' benefit level up to the maximum allotment for their household size. Supplemental benefits provide parity between new D-SNAP households and SNAP households. By virtue of their participation in SNAP, the food needs of SNAP households are already known. The request to issue individual or automatic supplements (see below), and the supporting justification, must be included in the State's D-SNAP request. By addressing the needs for SNAP households immediately, and prior to the start of D-SNAP operations, overcrowding of SNAP participants seeking service at D-SNAP locations can be minimized.

#### *What is the difference between individual and automatic supplements?*

Under this proposed rule, the State agency must decide if it is most appropriate to issue supplemental benefits on an individual basis, via the filing of an affidavit by the household, or automatically, to all currently certified SNAP households in a designated area. To obtain an individual supplement, households are required to

complete an affidavit of disaster impact. For this reason, individual supplements work best in areas where there is a small-scale disaster and applicant volume is not anticipated being very high. For individual supplements to be effective, the State agency must have the capacity to handle the individual requests for supplements, and issue the supplemental benefits, while it is also taking D-SNAP applications.

Automatic supplements are additional benefits issued to all currently certified SNAP households in a defined geographic area and are appropriate when the majority of that area is impacted by a disaster. They are intended to help SNAP households deal with the impact of the disaster and generally work best when the State agency is able to clearly identify areas in which households share the adverse effects of the disaster, such as the loss of electrical power. Automatic issuance can help the State agency quickly and efficiently meet the needs of SNAP households, while freeing up staff and resources to direct toward the population of new D-SNAP applicants.

The Department is proposing that States include their desire to issue automatic supplements in their D-SNAP requests and demonstrate their ability to effectively target the benefits to geographic areas that were heavily impacted by the disaster. Any SNAP households not designated to receive automatic supplements, that were living in the area approved to operate D-SNAP and experienced disaster losses, may still request supplemental benefits via an affidavit of disaster. As with replacement benefits (discussed below), requests for automatic supplements must be accompanied by supporting data which indicates that a majority of the population in a given area has suffered an adverse effect as a result of the disaster. States should work closely with FNS to determine how to best find, use and evaluate available information in a post-disaster situation. This can include information from power companies, flood maps, or FEMA assessments.

#### *Can already certified SNAP households obtain replacement benefits?*

Replacement benefits are always available on an individual basis to SNAP households that lose food purchased with their benefits in a household misfortune. However, replacement issuances shall be provided to current SNAP recipients only if a household reports a loss of food purchased with SNAP benefits orally or in writing to the State within 10 days of the date the food is destroyed in a

household misfortune. The Department is proposing that the 10-day timeframe to report a loss of food purchased with SNAP benefits be extended to 30 days when there is a major disaster declared under 7 CFR part 280. Reports will be considered timely if made to the State agency within 30 days of the date the food is destroyed. Household misfortunes such as mass power outages and flood and structural damage would qualify. In all other cases, the 10-day timeframe to report a loss of food would remain the same.

#### *How do automatic/mass replacements work in D-SNAP?*

As discussed earlier, the automatic/mass replacement requires a waiver that allows a State agency to replace a portion/percentage of currently certified households' monthly SNAP allotments in a disaster without the requirement that a household request a replacement individually, and travel to a local office to sign an affidavit of disaster. With this option/waiver, households would not have the added burden of signing paperwork and local offices would not have to process cases manually for each household needing a benefit replacement.

As with automatic supplements, approval of the mass replacement waiver typically requires a majority of the residences in the disaster area (county, zip code) to have lost power or be in another way affected by the disaster, resulting in the loss of food purchased with their benefits. Outages of four hours or more are typically considered. The replacement percentage is not fixed and generally depends on the time of the month in which the disaster took place as well as the State's issuance schedule. The extent and type of disaster (e.g., flooding or power outages), perishables/non-perishables, and consumption, are also factors in determining the percentage of benefits to be replaced. In preparing requests for mass replacements, States need to assess the extent of the losses and provide justification for the percentage they request. Further, a mass replacement waiver does not remove the responsibility of local offices to process individual affidavits before or after the waiver implementation as required by 7 CFR 274.6(a).

#### **Reporting**

##### *What does the proposed rule require in the daily reports?*

The Department proposes that States operating a D-SNAP submit a daily report to FNS. Daily reports are used to monitor progress, troubleshoot problem

areas, inform FNS policy officials, ensure that adequate funds are available in States' letters of credit and provide information to allow responses to inquiries from the media and other government agencies. The State agency would be required to begin submitting reports on the day following the first day of D-SNAP operations and continue submitting the reports on a daily basis until all applications are processed. FNS is proposing that all States utilize a daily reporting template provided by FNS in its D-SNAP guidance. Data would be submitted by county, as indicated in the template provided in FNS' D-SNAP guidance. The reports would contain:

1. Number of D-SNAP applications received
  2. Number of new D-SNAP households approved
  3. Number of new D-SNAP persons approved
  4. Number of SNAP households receiving supplements
  5. Number of people previously certified for SNAP approved for supplements
  6. Number of new D-SNAP households denied
  7. Number of SNAP households receiving replacement issuance
  8. Value of new D-SNAP benefits approved
  9. Value of SNAP supplements approved
  10. Value of SNAP replacement issuance
  11. Average benefit per new D-SNAP household
  12. Average benefit per SNAP household
  13. Any additional information the State believes FNS should be aware of
- In addition to the quantitative data above, the inclusion of any qualitative information on challenges the State may have encountered with the daily reports will help keep State and Federal policymakers up to date on the situation on the ground.

##### *What other D-SNAP reports does the proposed rule require?*

In addition to the daily report, the Department proposes that the following be required from States with approved D-SNAPs:

*Form FNS-292B, Report of Supplemental Nutrition Assistance Program Benefit Issuance for Disaster Relief*—Within 45 days of the termination of a D-SNAP operation, the State agency would be required to submit its final disaster figures on form FNS-292B. All reports would be submitted electronically in the Food Programs Reporting System (FPRS).

Form FNS 292B would contain the following issuance data for D-SNAP operations:

- Number of new households issued D-SNAP benefits
- Total number of new persons issued D-SNAP benefits
- Number of households certified in SNAP that were issued supplements
- Total value of benefits issued to D-SNAP households and supplements issued to SNAP households.

The FNS-292B report would not include the value of any replacements issued. States would report the value of replacements on the FNS 388 Monthly Issuance Report.

*Form FNS-388, Monthly Issuance Report*—Form FNS-388 would reflect disaster issuance and participation figures, including replacement benefits. Replacement benefits should be reported for the month for which they are intended.

*Form FNS-209, Status of Claims Against Households Report*—In the remarks section of the FNS-209, State agencies would be required to indicate the number of D-SNAP claims established and collected. D-SNAP claims must be identified on backup documentation in accounting systems for form FNS-209.

• *Form FNS-46, Issuance Reconciliation Report*—States would be required to report D-SNAP issuance and returns in the Issuance and Returns section of form FNS-46. Forms FNS-46 and FNS-388 should reconcile with the reported net issuance.

*Post-disaster Report*—The Department is proposing that a post-disaster review report be required and that it be comprised of four parts: Comprehensive review, individual case reviews, problem analysis, and proposed improvements to the disaster plan. The comprehensive review should begin with an overview of the D-SNAP operation, including where and when it took place, how it was staffed, and the total number of applications approved and amount of benefits issued. The State should then describe the systems or methods employed, document any major issues (*i.e.* problems or challenges) encountered in any of the areas below, and discuss the interventions used to address those issues.

- Certification systems
- Fraud control
- Issuance
- Public information and outreach
- Program accessibility
- Security

The Department is proposing that individual case reviews include: A

sample of approved D-SNAP cases; a sample of actions taken to deny applications for D-SNAP benefits; and a review of all approved applications for State agency employees. The review of approved cases would include: A case record review; an interview with the participant; verification of each element of eligibility for the State's D-SNAP program including identity, residency, income, household size and disaster related expenses; a determination of eligibility for disaster assistance; and an analysis of errors.

The Department proposes that States with 10,000 or more approved D-SNAP households (excluding State employees) select a sample of 400 approved cases for review. States with less than 10,000 but more than 300 approved D-SNAP households would select a sample of between 300 and 400 cases as shown below. States with 300 or fewer households would review all cases.

Approved D-SNAP households (N)	Minimum sample size (n)
10,000 and over .....	n = 400.
300 to 9,999 .....	n = 300 + [0. 01031 (N – 300)].
Under 300 .....	n = all cases.

The Department is proposing that a sample of 100 denied D-SNAP applications be reviewed to identify errors made in not providing benefits to eligible households. If there are fewer than 100 denied applications, all denied applications would be reviewed. Finally, the Department is proposing that States be required to review 100 percent of all State agency employee applications—approved and denied.

For all three types of case reviews, no cases would be dropped from the review results for any reason and the State would be required to report information gathered from all case reviews.

State agencies would be required to submit the post disaster report containing the results of the reviews, the problem analysis, and proposed improvements (that would be included in their next D-SNAP plan submission) within 6 months of the close of each D-SNAP operation.

#### Integrity

Along with the duplicate participation and verification discussed above, the Department proposes that additional safeguards should be built into D-SNAP operations.

*What does the proposed rule require regarding fraud prevention?*

An important aspect of fraud prevention is appropriate internal controls. To ensure that only eligible

households receive benefits and that the amount of benefits issued is accurate, the Department is proposing that States operating a D-SNAP be required to:

- Input information for all household members into the eligibility determination system to prevent individuals from obtaining benefits as a member of more than one household.
- Input denied applications into the eligibility determination system each day, so that households that are denied and later reapply are detected and referred to fraud prevention staff. Note that such households may be eligible if their circumstances have changed.
- Check for duplicate participation by any individual applying for D-SNAP using onsite or offsite computer databases (or in disasters with very few applicants, hardcopy participant lists). Update computer database participant lists every day.
- Refer households without required verification or with inconsistent information to onsite investigators or highly-experienced staff for review.

*What does the proposed rule require concerning employee fraud?*

The Department recognizes that State agency employees may be legitimately eligible for D-SNAP benefits. States should take care to balance encouragement of eligible employees to apply for program benefits with the risk of employee fraud. The Department proposes that States be required to take these special measures to prevent employee fraud:

- Use separation of duties for certification and issuance.
- Include a question on the D-SNAP application asking if anyone in the household (or its authorized representative) is employed by the State, State SNAP agency, or County, if applicable.
- Utilize supervisors or investigators to conduct employee certification interviews.
- Audit all State agency employee applications and publicize that policy. The proposed rule would require the State to review all applications from its employees and to communicate that to employees up front.

*Are D-SNAP cases subject to quality control (QC) reviews?*

Since the rules governing the determination of D-SNAP benefits differ significantly from the SNAP, D-SNAP cases are not subject to QC review and are not included when determining SNAP timeliness and payment accuracy rates. This is specified in 7CFR 275.11(f) (1). This is why the Department is proposing that States be required to

conduct a comprehensive review of general program performance and reviews of individual cases.

*What are the D-SNAP recipient claims collection requirements?*

The Department is proposing that if a household receives D-SNAP benefits to which it was not entitled, the State agency must establish a claim against the household consistent with the claims collection requirements of SNAP regulations. Claims must be established as soon as possible after the close of the disaster operation. States may also either follow their FNS-approved procedures and thresholds for establishing claims in SNAP for claims arising from D-SNAP, or include alternate procedures or thresholds in their D-SNAP request.

If a claim is established against a household for an overpayment of SNAP benefits, the Department proposes that this amount may not be collected from the D-SNAP allotment. However, claims based upon D-SNAP over-issuances can be collected through a repayment agreement or through offsets against SNAP issuances.

#### **D-SNAP Close Out**

*What happens after D-SNAP operations end?*

The Department proposes that close out of D-SNAP Operations includes the following:

- Close out the D-SNAP application/issuance sites;
- Transition eligible cases to SNAP;
- Submit issuance reporting and reconciliation;
- Pursue fair hearings, claims and restored benefits; and
- Submit post-disaster report.

*What are the fair hearings requirements in a D-SNAP?*

The proposed rule would require that:

- Any household who applied for D-SNAP benefits and was denied benefits may request a fair hearing;
- A household which has requested a fair hearing is entitled to an immediate onsite supervisory review;
- Households not satisfied with the outcome of this review retain the right to request a fair hearing through the normal process; and
- The number of fair hearings is reported on form FNS-366B, Program Activity Statement.

*Are households entitled to restored benefits in D-SNAP?*

SNAP regulations require State agencies to issue restored benefits to households when benefits were lost due to an agency error and when a denial of

benefits is subsequently reversed. The Department proposes that this requirement also apply to D-SNAP benefits; State agencies should follow their normal procedures for issuance in such cases. The State's eligibility system must clearly indicate that an issuance was a restored D-SNAP benefit.

*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 not significant regulatory action. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

*Regulatory Impact Analysis*

This proposed rule has been designated as not significant by OMB, therefore, no Regulatory Impact Analysis is required.

*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, FNS Administrator, Audrey Rowe, has 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 choose to 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 by State, local or tribal governments, in the aggregate, or

the private sector, of \$146 million or more (when adjusted for 2015 inflation; GDP deflator source: Table 1.1.9 at <http://www.bea.gov/iTable>) 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 most cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and Tribal governments or the private sector of \$146 million or more in any one year. Thus, the rule is 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, June 24, 1983), 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 proposed 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*

While FNS did not seek direct consultation with State officials on this proposed rule, FNS staff works with several different States' staff on D-SNAP requests and operations every year. This has provided valuable feedback on the need for flexibility in program design and operations. In addition, FNS regional offices host periodic training meetings and review States' D-SNAP plans. These interactions provide insights into the

challenges States face and are reflected in this proposed rule.

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

The primary intent of this NPRM is to improve clarity for States in their planning for and requests to implement a D-SNAP. This should help ensure timely approval of requests and improved Federal/State coordination in responding to disaster situations. The NPRM is also intended to inform States of their responsibilities in reporting and monitoring D-SNAP. The USDA Office of Inspector General has recommended publication of regulations for the D-SNAP to improve controls over D-SNAP operations and reduce the potential for threats to program integrity.

#### Extent to Which We Meet Those Concerns

The Department believes that the proposals in this rulemaking would provide the necessary clarity and structure for D-SNAP planning, requests, and reporting while maintaining the needed flexibility for States. In drafting this NPRM, FNS considered its impact 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.

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule, when published as a final rule, 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 proposed rule is not intended to have retroactive applicability unless so specified in the "Effective Date" paragraph of the final rule. Prior to any judicial challenge to the provisions of this rulemaking or the application of its provisions, all applicable administrative procedures must be exhausted.

#### Executive Order 13175

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy

statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FNS has assessed the impact of this proposed rule on Indian tribes and determined that this rule does not, to our knowledge, have Tribal implications that require tribal consultation under EO 13175. On February 18, 2015 the agency held a webinar for tribal participation and comments. During the comment period, FNS did not receive any comments on the proposed rule. If a Tribe requests consultation, FNS will work with the Office of Tribal Relations to ensure meaningful consultation is provided for those changes, additions and modifications identified herein that are not expressly mandated by Congress.

#### Civil Rights Impact Analysis

FNS has reviewed this proposed 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 participants, FNS has determined that an important impact of this proposed rule will be to help alleviate the adverse effects of disasters on certain protected classes. All data available to FNS indicate that protected individuals have the same opportunity to participate in D-SNAP as non-protected individuals. FNS specifically prohibits the State and local government agencies that administer SNAP 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 requirements that are subject to review

and approval by OMB; therefore, FNS has submitted a new information collection request under OMB Control No: 0584-NEW Supplemental Nutrition Assistance Program (SNAP): Disaster Supplemental Nutrition Assistance Program (D-SNAP) Plans, Procedures, and Reports which contains the proposed reporting burden from adoption of the proposals in the rule, for OMB's review and approval. The estimated burden for the information collections in the proposed rulemaking accompanying this request will be merged into the approved OMB Control Numbers listed in the following sections, contingent upon OMB approval. When the information collection requirements have been approved, FNS will publish a separate action in the **Federal Register** announcing OMB's approval. The D-SNAP certification burden for State participation is included in the currently approved reporting burden under the OMB Control No. 0584-0064, SNAP: Applications, Periodic Reports, and Notices (expiration date: 4/30/2016), which includes all information collection activities associated with the certification of participating and applicant households. Under SNAP regulations, States are responsible for designing their own forms (this burden is included in OMB No. 0584-0064 and will not be duplicated here) including the application for D-SNAP assistance used by individual households. The burden associated with Statewide D-SNAP plans is included in the currently approved burden for OMB Control No. 0584-0083, SNAP: Operating Guidelines, Forms, and Waivers, Program and Budget Summary Statement (expiration date 04/30/2017), which includes all the information collection activities associated with the preparation, review, and submission of updated D-SNAP plans by State agencies. The burden associated with the submission of State agency requests to operate a D-SNAP to FNS is included under the currently approved burden for OMB Control No. 0584-0336, SNAP: Supplemental Nutrition Assistance for Victims of Disaster (expiration date 11/30/2015).

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.

Send comments to the Office of Information and Regulatory Affairs, OMB, attention: Desk Officer for FNS, Washington, DC 20503. Please also send a copy of your comments to Sasha Gersten-Paal, Branch Chief, Certification Policy 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 Sasha Gersten-Paal at the above address or via email at [Gersten-Paal@fns.usda.gov](mailto:Gersten-Paal@fns.usda.gov).

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. These proposed changes are contingent upon OMB approval under the Paperwork Reduction Act of 1995. When the information collection requirements have been approved, FNS will publish a separate action in the **Federal Register** announcing OMB's approval.

Comments on the information collection pursuant to this proposed rule must be received by July 11, 2016.

**Title:** Supplemental Nutrition Assistance Program (SNAP): Disaster Supplemental Nutrition Assistance Program (D-SNAP) Plans, Procedures, and Reports.

**OMB Number:** 0584-NEW.

**Expiration Date:** N/A.

**Type of Request:** Information Collection Request.

**Abstract:** The Disaster Relief and Emergency Assistance Act (1974), as amended by the Robert T. Stafford Disaster Relief and Assistance Act (1988) (enclosed), and Section (5)(h) of the Food and Nutrition Act of 2008 (the Act) provides the Secretary of Agriculture with the authority to establish temporary emergency standards of eligibility for households who are survivors of a disaster that disrupts commercial channels of food distribution after those channels have been restored.

This proposed rule would establish the requirements for planning, requesting and monitoring D-SNAP while maintaining State flexibility in program design within the basic eligibility requirements for D-SNAP. This information collection accounts for

information that State agencies are required to provide to FNS in support of a request to operate a D-SNAP. As this proposed rule merely codifies practices State agencies already perform, it will have minimal impact on the State agency workloads.

**Respondents:** 53 State agencies.

**Estimated Number of Responses per Respondent:** 53 annual reviews of D-SNAP plan; 5 updates of D-SNAP plan; 9 D-SNAP requests; 45 D-SNAP daily reports; 9 D-SNAP post-Disaster reports.

The Department is proposing in this rulemaking that States would be required to review their existing Disaster Plan on at least an annual basis, and when applicable, submit a revision or a notice of no change, by the 15th of August each year. As the majority of States have already prepared disaster plans, the Department estimates that it will take an average of 6.58 staff hours per State each year to review their Disaster Plans, for a total burden of 349 hours (53 States  $\times$  1 time annually = 53 total annual response  $\times$  6.58 hours = 349 hours). The Department further estimates that on average five of these States will update their plans and require an additional 2.5 hours to do so, for an annual total of 12.5 burden hours. Once approved by OMB, this proposed burden will be merged with the currently approved burden for OMB Control No. 0584-0083, SNAP: Operating Guidelines, Forms, and Waivers, Program and Budget Summary Statement (expiration date 04/30/2017), which includes all the information collection activities associated with the preparation, review, and submission of updated D-SNAP plans by State agencies.

The number of disasters that occur annually and the average number of households affected by the disasters cannot be predicted. For example, during the period from fiscal year 2009 through fiscal year 2014, the number of State requests for disaster programs ranged from 3 to 23 requests per year. However, the Department estimates an average of 9 State agencies will submit 1 D-SNAP request per year to operate D-SNAPs for a total annual request of 9 applications per year. A D-SNAP request normally contains a request to waive the normal SNAP operating procedures and outlines the State's proposed procedures including: Description of incident; geographic area; application period; benefit period; eligibility criteria; currently certified SNAP households eligibility; affected population; electronic benefit card issuance process; logistical plans for D-

SNAP rollout; staffing; public information outreach; duplicate participation check process; fraud prevention strategies; and employee application procedures. It is estimated that preparation of a request under the proposed rule will require approximately 10 staff hours for each State, for a total of 90 burden hours. Once approved by OMB, this proposed burden will be merged with the currently approved burden for OMB Control No. 0584-0083, SNAP: Operating Guidelines, Forms, and Waivers, Program and Budget Summary Statement (expiration date 04/30/2017).

In addition, the Department is proposing that States operating a D-SNAP must submit a daily report to FNS. Daily reports are used to monitor progress, troubleshoot problem areas, inform FNS policy officials, ensure that adequate funds are available, and respond to inquiries from the media and other government agencies. The State agency should begin submitting reports on the day following the first day of D-SNAP operations and continue submitting the reports on a daily basis until the end of the application period—typically five days. It is estimated that 0.5 hours will be required to prepare each daily report. Therefore, the burden would be 22.5 total hours for these reports (nine disasters  $\times$  five reports  $\times$  0.5 hours = 22.5). The Department further proposes that a post-disaster report be submitted that includes four parts: a comprehensive review, individual case reviews, problem analysis, and proposed improvements. It is estimated that this report will require 0.5 hours to complete so the total burden for nine disaster reports would be 4.5 hours. FNS will not require a standardized form or specific format for daily reports or post-disaster reports, due to the dynamic nature of emergency situations and the need to quickly respond to conditions on the ground. Once approved by OMB, this proposed burden will be merged with the currently approved burden for OMB Control No. 0584-0083, SNAP: Operating Guidelines, Forms, and Waivers, Program and Budget Summary Statement (expiration date 04/30/2017).

No new recordkeeping burden is estimated.

The average burden per respondent is summarized in the following chart, with an estimated total annual burden of 478 hours. However as noted above, States have been performing many of these practices for years, so the actual new burden would be significantly less.

Section of Regulation	Requirement or burden activity	States responding per year	Responses per respondent	Number of responses	Hours per response	Total burden hours
280.1 .....	Annual review of D–SNAP Plan .....	53	1	53	6.58	348.7
280.1 .....	Revision of D–SNAP plan .....	5	1	5	2.5	12.5
280.3 .....	D–SNAP Request .....	9	1	9	10	90
280.8 .....	D–SNAP Daily report .....	9	5	45	0.5	22.5
280.8 .....	D–SNAP Post Disaster Report .....	9	1	9	0.5	4.5
Totals .....	.....	53	2.28	121	3.95	478

### E-Government Act Compliance

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

### List of Subjects

#### 7 CFR Part 272

Alaska, Civil rights, Supplemental Nutrition Assistance Program, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Unemployment compensation, Wages.

#### 7 CFR Part 274

Supplemental Nutrition Assistance Program, Grant programs—social programs, Reporting and recordkeeping requirements.

#### 7 CFR Part 280

Emergency food assistance for victims of disasters.

For reasons set forth in the preamble, 7 CFR parts 272, 274, and 280 are proposed to be amended as follows:

### PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

- 1. The authority citation for part 272 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036.

- 2. In § 272.2 revise paragraph (a)(2), (d)(1)(ii), and (e)(5) to read as follows:

#### § 272.2 Plan of operation.

(a) \* \* \*

(2) *Content.* The basic components of the State Plan of Operation (“the Plan”) 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 Supplemental Nutrition Assistance Program and to administer the program in accordance with the Food and Nutrition Act of 2008 and the FNS-approved State Plan of Operation. The Budget Projection Statement and Program Activity Statement provide information on the number of 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, 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.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) Disaster Plan as required by § 280.1(b) of this chapter, or certification that a previously submitted Disaster Plan has been reviewed and remains current;

\* \* \* \* \*

(e) \* \* \*

(5) *Disaster plan.* State agencies shall review their existing disaster plan on at least an annual basis and submit a revision, if necessary, or a notice of no change, by the 15th of August (or as negotiated by individual states) each year for FNS approval.

\* \* \* \* \*

### PART 274—ISSUANCE AND USE OF PROGRAM BENEFITS

- 3. The authority citation for part 274 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036.

- 4. Revise § 274.6 (a)(3)(i) to read as follows:

#### § 274.6 Replacement issuances and cards to households.

(a) \* \* \*

(3) \* \* \*

(i) Replacement issuances shall be provided only if a household timely reports a loss orally or in writing. When the loss is a Presidentially-declared disaster (with or without individual assistance) the report shall be considered timely if it is made to the State agency within 30 days of the date food purchased with Program benefits is destroyed in the disaster. When the loss is the result of other household misfortune, the report shall be considered timely if it is made to the State agency within 10 days of the date food purchased with Program benefits is destroyed.

\* \* \* \* \*

### PART 280—DISASTER SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (D–SNAP)

- 5. Revise the part heading to read as set out above.

- 6. Revise part 280 to read as follows:

### PART 280—DISASTER SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (D–SNAP)

Sec.

280.1 Purpose.

280.2 Eligibility and benefits.

280.3 Disaster request.



- 280.4 Application processing and certification periods.
- 280.5 Households participating in the SNAP when D-SNAP is operating.
- 280.6 Reconciliation.
- 280.7 Post disaster review and corrections.
- 280.8 D-SNAP reporting.

**Authority:** 7 U.S.C. 2011–2036.

#### **§ 280.1 Purpose.**

(a) This section establishes the requirements for planning, requesting, operating, and reporting on a D-SNAP. In addition, the appropriate Food and Nutrition Service directives and guidance provide additional detail and direction on the steps States should take to prepare for an emergency situation, and the procedures States should employ in operating D-SNAP.

(b) *Planning for D-SNAP.* State agencies shall review their existing disaster plan on at least an annual basis and submit a revision, if necessary, or a notice of no change, by the 15th of August (or as negotiated by individual states) each year for FNS approval; this submission shall be an attachment of the Plan of Operation as provided in § 272.2 of this chapter. As specified in § 280.8(f), FNS will require State agencies to amend the plan if deficiencies are found in a D-SNAP post-disaster review. The plan shall include:

(1) Identification of Federal and State government agencies involved in disaster relief activities in the State during a disaster, as well as a description of responsibilities for each agency.

(2) *Key points of contact.* Provide names, positions, and phone numbers of county/local, State, and Federal government officials and their back-ups who are key contact persons during a disaster (including the State agency disaster coordinator).

(3) *Community partners.* Identify private disaster relief agencies within the State such as the Red Cross, Salvation Army, or community groups and a description of their role in D-SNAP implementation.

(4) *SNAP staffing and resources.* Identify staffing and related resources available to assist in a disaster and how they will be mobilized to target disaster areas in need. Explain how the State/counties will manage the increased administrative burden associated with running a D-SNAP and SNAP operations simultaneously.

(5) *D-SNAP application system development.* Describe application systems to be used for D-SNAP household management, including any workarounds to the SNAP system, considerations associated with running

SNAP and D-SNAP operations concurrently, compliance with D-SNAP reporting requirements, etc.

(6) *Issuance system.* Describe the issuance systems to be used for D-SNAP household management.

(7) *EBT card stock.* Identify EBT card stock available, type of cards to be used, steps and timeline for ordering additional cards, and any special procedures or resources that will be needed to meet SNAP and D-SNAP issuance timeframes, including having cards available at D-SNAP certification sites.

(8) *Application sites.* Describe site selection procedures, including potential application/issuance sites for disasters that vary in size and scope and any agreements in place with those locations. If D-SNAP will operate out of local offices, explain how application sites will handle running D-SNAP and SNAP concurrently.

(9) *Demographic data.* Identify general demographic data that can help the agency tailor its response to a disaster. Identify resources for disaster impact data, including preliminary data assessments, flood maps, or electrical outage data.

(10) *Public information and outreach.* Describe public information strategy to ensure that timely, accurate information reaches households potentially eligible for D-SNAP benefits. Outline roles, expectations, and responsibilities of any SNAP outreach partners included in the State Outreach Plan that will assist with D-SNAP.

(11) *Retailer communication.* Describe procedures to notify retailers of new waivers (see discussion of the potential for hot foods, below) and new D-SNAP households.

(12) *Procedures to reduce applicant hardship.* Outline steps States will take to reduce hardship for D-SNAP applicants and the already certified SNAP caseload, including provisions for security, human needs, language services, etc.

(13) *Certification process.* Describe the specifics of the certification process including potential application sites, staffing, separation of eligibility and issuance, how application sites will manage large crowds, and plans for ensuring access to persons with disabilities, the elderly and other vulnerable populations. If online pre-registrations are to be used by workers or households, describe that process and back-up systems in place if technical issues are encountered.

(14) *DSED.* Include if the DSED will be used and, if so, specify the income limits.

(15) *Household materials.* Include sample household application and household notices.

(16) *Issuance process.* Describe how benefits will be made available within 72 hours of D-SNAP application and how to ensure continuation of SNAP certification, issuance, and other actions concurrently. Indicate how the State will monitor stock levels and ensure sufficient EBT card stock. Describe EBT card reconciliation and security procedures, including tracking D-SNAP benefits separately from SNAP benefit issuance and adherence to FNS reconciliation guidelines, so that benefits posted to accounts can be compared to benefits issued by the State eligibility system.

(17) *Security and fraud prevention plans.* Describe how States will ensure security and mitigate the risk of fraud, including a specific plan for handling applications submitted by State agency employees, procedures for handling questionable applications, and process for checking all household members for duplicate participation.

(18) *Disaster reporting and post-disaster review report.* Describe procedures to ensure that required federal reporting and post-disaster review reports will be complete and timely.

(19) *Reasonable accommodations for individuals with disabilities.* Describe what special accommodations will be made for individuals with disabilities at application and issuance sites.

(20) Circumstances unique to the State which may affect D-SNAP operations, including: coordination of resources among County-level administrations, how to serve isolated or homebound populations, development of procedural modifications to allow SNAP systems to accommodate D-SNAP operations, and contingency plans for local offices located in flood plains or otherwise subject to closure.

(c) *Training.* The State shall issue instructions and provide training to project area offices on the handling of disaster assistance operations to ensure prior understanding of disaster procedures and prompt action upon issuance of a disaster declaration. At a minimum, States shall provide D-SNAP training to at least one manager (perhaps a D-SNAP coordinator) from each SNAP local office and call center in the State.

(d) *State Systems Requirements for D-SNAP.* State automated systems shall have the ability to:

(1) Check for duplicate participation as required in § 280.4(e).

(2) Meet FNS reconciliation requirements that D-SNAP benefits

posted to accounts be compared to benefits issued by the State eligibility system.

(3) Generate the reports required in § 280.8. States systems shall have the ability to track disaster benefits separately from SNAP benefit issuance. States systems shall have the ability to allow tracking of multiple D-SNAPs simultaneously, if the State is struck by two disasters within a short timeframe.

(e) *EBT Systems and D-SNAP*. Each State shall be prepared to issue D-SNAP benefits through its EBT system during a disaster. The EBT system shall have the ability to coordinate with the State's eligibility system and the State's EBT contractor's system. A State's D-SNAP issuance plan shall incorporate procedures for:

(1) Ensuring that approved households have benefits available, including EBT cards and PINs no more than 72 hours from when the application was filed, unless there is questionable information on the application that requires verification. If there is questionable information, the State may extend the 72-hour time frame for making cards and benefits available to no more than a total of seven days from the date of application.

(2) Accessing sufficient EBT card stock to operate a D-SNAP.

(3) Replacing households EBT cards that are lost in a disaster as soon as possible but within the card replacement timeframes required at 7 CFR 274.6(b). If the normal EBT replacement process is to mail the replacement card to the household's home, and the disaster response requires card delivery to a disaster issuance site or alternative address in a non-disaster area, the State must be able to override the EBT system.

## **§ 280.2 Eligibility and benefits.**

(a) *Eligibility*. To be eligible for D-SNAP during a disaster a household must meet all of the following criteria:

(1) At the time of the disaster, the household must have been residing within the geographical area authorized for disaster procedures at the time of the disaster. Such a household may be certified for disaster issuance even though it presently is occupying temporary accommodations outside of the disaster area (although it would need to come to the certification site to be certified for D-SNAP). States may also choose to extend eligibility to those who worked in the disaster area at the time of the disaster. When States submit their D-SNAP requests, they should specify if they will serve only households that lived in the disaster

area, or either lived or worked in the disaster area.

(2) The household will purchase food and prepare meals during the disaster benefit period. A household residing in a temporary shelter which is providing all its meals shall be ineligible.

(3) The household has experienced at least one of the following adverse effects of the disaster: loss or inaccessibility of income, inaccessibility of liquid resources, or disaster-related expenses. At the State's option, households whose only disaster-related expense is food loss may be considered otherwise eligible for D-SNAP. States electing this option must indicate it in their D-SNAP request.

(i) Loss or inaccessibility of income involves a reduction or termination of income or a significant delay in receipt of income. This could occur, for example, if a disaster has caused a place of employment to close or reduce its work days, if paychecks or other payments are lost or destroyed, if there is a significant delay in the issuance of paychecks, or if the work location is inaccessible due to the disaster.

(ii) Inaccessibility of liquid resources includes situations in which the household is unable to access cash resources for a portion of the disaster benefit period.

(iii) Regarding disaster-related expenses that the household has incurred during the disaster benefit period that result from the effects of the disaster: the FNS Disaster SNAP Guidance provides the specific expenses that shall be considered disaster-related, but States can request FNS approval of other reasonable expenses in their disaster request.

(b) *Determining income*. (1) To be eligible to receive D-SNAP benefits, a household's net income received or expected to be received during the benefit period, in addition to its accessible liquid resources, minus any disaster-related expenses, shall not exceed the disaster gross income limit.

(2) Accessible liquid resources are determined on the first day of the benefit period; any funds received during the remainder of the benefit period will be counted as income. Accessible liquid resources include cash on hand, and funds in accessible checking and saving accounts on the first day of the benefit period. Accessible liquid resources do not include:

- (i) Retirement accounts;
- (ii) Disaster insurance payments;
- (iii) Disaster assistance received or expected to be received during the benefit period; and

(iv) Payments from Federal, state or county/local government agencies or disaster assistance organizations (including disaster-related Unemployment Compensation).

(3) The most recent disaster gross income limit calculated by FNS shall be used to determine the maximum allowable income for each household size. The disaster gross income limit is calculated by adding together the maximum monthly net income limit, the maximum standard income deduction amount, and the maximum capped shelter expense deduction for each household size.

(c) *D-SNAP deductions*. (1) Disaster-related expenses are deductible if they have been incurred during the disaster period. If the household receives or anticipates receiving a reimbursement for these expenses during the disaster period, only remaining expense amounts shall be deductible.

(2) States shall elect one of the following options to determine if households have disaster-related expenses and the amount of the expense to use in determining D-SNAP income. The option selected shall be identified in the State's D-SNAP request:

(i) Use of actual disaster-related expenses identified in the Disaster SNAP Guidance referenced in paragraph (a)(3)(iii) of this section. Households shall be screened to verify their residence in the affected area. Under this option, the State may require that households experience at least one disaster-related expense other than or in addition to food-loss in order to be eligible for the D-SNAP, while still considering food-loss in calculating a household's cumulative disaster-related expenses. Alternatively, the State may choose to consider households that have experienced food loss alone as their disaster-related expense to be otherwise eligible for the D-SNAP.

(ii) Use of a Disaster Standard Expense Deduction (DSED.) For households with \$100 or more in deductible disaster-related expenses, the DSED shall be added to the disaster gross income limit, and households whose take-home pay plus available liquid resources is less than or equal to this amount (DSED + the disaster gross income limit) shall qualify for D-SNAP benefits. The DSED shall not be applied to any household if food loss is their only disaster-related expense.

(3) A State using "food loss alone" in paragraph (c)(2)(i) of this section shall verify using available information such as power outage maps showing affected homes or zip codes. The use of this information should be widely publicized and households shall be

screened upon arrival to verify their residence in the affected area. Households reporting excessively large amounts of food loss, or any other questionable information, shall be referred to fraud investigators or senior staff for further review.

(d) *Benefit period and benefit amount.* (1) Households meeting the eligibility criteria in § 280.2(a) through (c) shall receive the full SNAP allotment for their household size as provided under SNAP. SNAP allotments are updated yearly and available on the FNS Web site. For households already on SNAP and residing in an approved D-SNAP area that incur a disaster-related expense and submit an affidavit to that effect, States shall supplement their SNAP benefits to bring them up to the maximum allotment for their household size.

(2) Household size and composition is established as of the first day of the disaster benefit period. The household includes those people living together, and purchasing and preparing food together at the time of a disaster. D-SNAP household does not include those people with whom applicants are temporarily staying due to the disaster.

(3) The benefit period is the 30-day period approved by FNS for each D-SNAP, except in extraordinary circumstances as determined and approved by FNS. The benefit period is the period during which disaster-related expenses are to be counted; it is also the start date used to determine household composition and resources. Only income received, expenses incurred and resources that are accessible during the benefit period are considered in determining D-SNAP eligibility. The benefit period shall begin on the date of the disaster or the date of any mandatory evacuation preceding the disaster. This date is generally the first day of the "Incident Period" provided by the Presidential Disaster Declaration. State agencies needing to modify dates from those in their approved D-SNAP request must seek FNS approval to do so. States requesting an extension must address the ongoing demand for assistance and program integrity concerns.

### § 280.3 Disaster request.

(a) *Requests for D-SNAP.* (1) The State agency may request authorization from FNS to implement temporary D-SNAP procedures when all or part of a SNAP project area as defined in 7 CFR 271.2 has been struck by a disaster, commercial channels of food distribution are available, there is a Presidentially-declared disaster that includes Individual Assistance (IA), and

SNAP cannot respond to the temporary food needs due to the number of affected households.

(2) The request shall be submitted when the affected community and State agency have recovered to allow for an effective administration of the D-SNAP (as determined by the State agency), including training for D-SNAP operations. The request must be submitted to allow for implementation of D-SNAP within a reasonable time period following the Individual Assistance declaration. The planned implementation date shall also allow sufficient time for the State to publicly notify the affected population in the disaster area of the availability of D-SNAP.

(b) *Content of request.* Requests must be submitted with a signed cover memorandum from the State and include thorough explanations of the following components:

(1) A description the disaster—what happened, the date the disaster began, and the affected area.

(2) The geographic area (list of the project areas affected), and explain any differences between the area included in the presidential declaration (if applicable) and the requested area in which to operate the D-SNAP.

(3) A draft press release, sample application, preliminary damage assessments, and map of disaster area. In addition to these required items, other supporting documentation may be included.

(4) The start and end dates of the application period. If the application period will be staggered, give dates for each county/area. Note if application sites will be open over the weekend or for extended hours.

(5) The start and end dates of the 30-day benefit period. The start of the benefit period should generally match the first day of the "incident period" on the disaster declaration. If not, then the State should explain the reason for the difference.

(6) Identification of any options the State has chosen, including whether or not food loss only will be a qualifying expense, and if households that worked but did not live in the disaster area will be eligible.

(7) Whether only households that lived in the disaster area will be eligible for D-SNAP, or if households that only worked in the disaster area will also be eligible.

(8) Whether a DSED is being used. If so, include the income limits.

(9) Whether "food loss alone" will be included as a criterion for eligibility.

(10) Whether supplements will be automatic or individual (by affidavit) for

currently certified SNAP households. If automatic, describe who is eligible and include supporting data. Also, indicate an estimate of the value of issuances for automatic supplements. Requests for automatic supplements must be accompanied by supporting data which indicate that a majority of the population in a given area has suffered an adverse effect as a result of the disaster. If individual supplements are to be used, include information on the process for requesting supplements—by phone/mail affidavit, electronically, or in person at local office/D-SNAP application site.

(11) The estimated total number of people, homes, businesses, etc. impacted by the disaster; estimates of anticipated D-SNAP applicants; number of currently certified SNAP households to be served; and explanation of how both estimates were derived.

(12) A description of issuance procedures, the number of EBT cards on hand, and plans for requesting, receiving, and distributing additional cards as needed.

(13) A description of application sites, security/crowd control, and procedures to ensure program access and reasonable accommodation for persons with disabilities.

(14) Plans for utilizing staff from other program areas, counties, or States, as appropriate. Indicate number of staff available and how staff/supervisors will be distributed among the application sites.

(15) A description of how program information, including eligibility criteria and application sites, will be disseminated to the public. List partner organizations involved and describe the responsibilities of each, including role of volunteers, if applicable. Examples of partner activities include spreading D-SNAP information on behalf of the State or providing onsite application assistance. Sufficient time shall be allowed to notify the public prior to the start of the program.

(16) A description of the recipient claim procedures and thresholds to be followed if they differ from either SNAP regulations at § 273.18 of this chapter or the State's FNS approved procedures for handling recipient claims in SNAP.

(17) A description of the procedures that will be used for identifying and handling applications by State agency/State employees.

(18) A description of the fraud prevention strategies and security measures in place.

(c) *Changes to an approved D-SNAP.*

(1) When a State believes that a modification to an approved D-SNAP request is necessary, it shall submit a

written request to change its approved D-SNAP.

(2) *Expansion of D-SNAP.* To expand the geographic coverage of an approved D-SNAP, a State shall submit a request to FNS for expansion, detailing the impact of the disaster in the new area, the application period, and the anticipated number of applicants and currently certified SNAP households that will be served. If the benefit period will also change, then the new benefit periods dates and justification for doing so shall also be included.

(3) *Extension to a D-SNAP.* In some cases, States may find that their initial application period is not sufficient to serve all eligible households, and they may wish to request that the application period be extended. Requests to extend the D-SNAP application period shall be submitted to FNS with sufficient time for it to review and approve the request prior to the end of the initial application period; requests shall include justification of the need for additional time.

(3) *Other Modifications to D-SNAP.* Other modifications, including any that would affect applicant eligibility, shall only be made prior to the start of the application period to ensure that the eligibility criteria are applied equitably to all applicants. Occasionally, modifications may be made after D-SNAP operations have begun, such as when a State that was originally approved for individual supplements decides to issue automatic supplements in a certain area. However, once the application period has commenced, the benefit period cannot be modified. Because of the limited window of time in which most modifications can be requested, States should carefully consider their program options prior to submitting the initial request.

#### **§ 280.4 Application processing and certification periods.**

(a) *Period for processing applications.* (1) States shall only accept applications for D-SNAP benefits from new households, and requests for supplements from currently certified SNAP households, during the approved application period.

(2) If the State is accepting requests for supplements from currently certified SNAP households over the phone and mailing the affidavit forms to the household, the request for an affidavit must be received during the D-SNAP application period.

(3) Application periods shall last 7 days, though States retain the option to request more or fewer days as they deem appropriate to the circumstances. The State should provide its rationale for

any deviation from the 7-day application period in its D-SNAP request. The State should also inform FNS, in its D-SNAP request, whether applications will be accepted on Saturday and/or Sunday.

(b) *Interviews.* (1) All D-SNAP applicants or their authorized representatives are required to have a face-to-face interview. Exceptions to the face-to-face interview shall only be made for individuals with disabilities that preclude visiting an application site. States should use screening techniques prior to the interview to identify those households which do not meet required eligibility criteria, such as having been adversely affected by the disaster. The interview shall be conducted as an official discussion of household circumstances; however, it shall be designed to quickly process the application. If an applicant household does not meet the D-SNAP eligibility standards, the household shall be informed of the potential availability of benefits under SNAP.

(2) The D-SNAP interview shall be conducted by State agency merit system personnel.

(3) The individual interviewed must be a member of the household or an authorized representative. The household may be accompanied to the interview by anyone of its choice. The interviewer shall review the information that appears on the application to resolve unclear or incomplete information with the household.

(c) *Certification period.* Households shall be assigned certification periods that coincide with the disaster benefit period. If the benefit period is one month, then income over this full month period shall be counted, disaster-related expenses that are incurred over this full month period shall be deducted, and the monthly SNAP maximum income limit for the appropriate household size shall equal the disaster eligibility limit. If the disaster benefit period is for half of a month, then income over the half-month period shall be counted, disaster-related expenses incurred over this period shall be deducted, and the disaster eligibility limit shall be one half of the monthly SNAP limit for size of the household.

(d) *Benefit availability.* The State agency shall act promptly on all applications and make benefits available, including EBT cards and PINs, to eligible households that complete the D-SNAP application process no later than 72 hours following their filing of the application, unless the information provided by the applicant is deemed questionable. When information is found to be questionable,

the State shall resolve the issue(s) to determine eligibility, and make benefits available within 7 days following the filing of the application or deny the application.

(e) *Screening for duplicate participation during disasters.* States shall develop a system to detect duplicate applications for D-SNAP. States shall either check for duplicate information up front, or may accept applications and inform applicants that eligibility is contingent upon a subsequent check for duplicates. States shall check for duplicate participation using onsite or offsite computer databases, but shall include all individuals included on each application. States shall update computer databases on a daily basis throughout the application period. States shall screen D-SNAP applications for duplicate participation with:

- (1) SNAP.
- (2) Household disaster distribution of USDA Foods.
- (3) Other D-SNAPs with overlapping benefit periods.
- (4) Already approved D-SNAP applications.
- (5) Denied D-SNAP applicants (to identify attempted duplicate participation).

(f) *D-SNAP verification requirements.* To expedite the certification for D-SNAP, the State agency shall use the procedures specified in this paragraph rather than the standard SNAP verification required by § 273.2(f). The applicant's identity shall be verified. Examples of acceptable verification which the household may provide include, but are not limited to: A driver's license, work or school ID, voter registration card, birth certificate, or, a collateral contact. Residency and household composition at the time of the disaster shall be verified where possible, and must be verified if questionable. In some situations (such as in the case of a household that arrived in the area just prior to the disaster), verification of residency may not be possible. When residency that is questionable cannot be verified despite the efforts of the State agency and the household, the household shall not be denied D-SNAP solely for this reason. Loss/inaccessibility of income or liquid resources and food loss shall be verified if questionable.

(g) *Applications from state and county employees.* State and local staff may be entitled to D-SNAP benefits and shall be subject to the same eligibility criteria as any other applicant. States shall incorporate the following internal controls into their disaster operations.

(1) Certification and issuance duties shall be handled by different staff.

(2) A question shall be included on the D-SNAP application asking if anyone in the applicant household (or its authorized representative) is employed by the State or local SNAP agency.

(3) Supervisors or investigators shall conduct employee certification interviews.

(4) States shall audit all employee applications and inform employees of this policy in advance of implementing the D-SNAP.

#### **§ 280.5 Households participating in the SNAP when D-SNAP is operating.**

(a) SNAP shall continue to operate during the disaster benefit period and shall continue to process applications and make eligibility determinations in the normal manner in accordance with parts 273 and 274 of the SNAP regulations in this chapter. Households currently certified for SNAP benefits may be eligible for supplemental benefits.

(b) *Disaster supplements.* (1) When D-SNAP is approved and operating in a given jurisdiction, supplements shall be issued to currently certified SNAP households affected by the disaster in that jurisdiction that bring their benefit level up to the maximum allotment for their household size. States shall issue supplemental benefits on an individual basis, via the filing of an affidavit of disaster loss by the household, or automatically to all currently certified SNAP households in a designated area. By virtue of their participation in SNAP such households need not appear in person at the D-SNAP site.

(2) To obtain an individual supplement, households shall complete an affidavit of disaster loss.

(3) States' requests to issue automatic supplements and the supporting justification shall be included in the State's D-SNAP request. States shall specify their decision to issue automatic supplements and must be able to show that they can effectively target the benefits to geographic areas that were heavily impacted by the disaster. Currently certified SNAP households not receiving automatic issuance but who were living in the disaster area and experienced disaster losses may still request supplemental benefits via an individual affidavit of disaster.

(c) *Replacements.* As provided in § 274.6, replacement benefits are always available to SNAP households that file an affidavit that they have experienced an adverse effect causing them to lose food purchased with their benefits.

#### **§ 280.6 Reconciliation.**

(a) *EBT cards.* Cards shipped from a central location shall be tracked until distributed locally to households. Each issuance site shall maintain a beginning and ending inventory and track new cards received, total cards available, and cards issued. If the State assigns Personal Identification Numbers (PINs), they must also account for PIN mailers or envelopes to ensure adequate security, except when the PIN is formulated from the Primary Account Number. The State shall reconcile the number of cards set-up with EBT accounts and the number of cards issued to identify and resolve any discrepancies.

(b) *D-SNAP issuances.* States shall track D-SNAP benefits separately from SNAP benefit issuance and adhere to FNS reconciliation guidelines so that they can compare benefits posted to accounts to benefits issued by the State eligibility system.

#### **§ 280.7 Post disaster review and corrections.**

(a) States shall conduct a comprehensive review and individual case reviews. Based upon a problem analysis of the findings from these reviews, the State shall modify its disaster plan.

(1) The comprehensive review should begin with an overview of the D-SNAP operation, including where and when it took place, how it was staffed, and the total number of applications approved and amount of benefits issued. The State should then examine the systems or methods employed, document any major problems or challenges encountered, and discuss the interventions used to solve those issues in the following areas:

- (i) Certification systems;
- (ii) Fraud control;
- (iii) Issuance;
- (iv) Public information and outreach;
- (v) Program accessibility;
- (vi) Security.

(2)(i) The State agency shall conduct a post-disaster review of disaster certification activities by selecting and reviewing a sample of individual cases that applied for D-SNAP. The review of certified cases shall include: A case record review; an interview with the participant; verification of each element of eligibility for the State's D-SNAP program including identity, residency, income, household size and disaster related expenses; a determination of eligibility for disaster assistance; and an analysis of errors.

(ii) States with 10,000 or more approved D-SNAP households shall select a sample of 400 approved cases

for review. States with less than 10,000 but more than 300 approved D-SNAP households shall select a sample of between 300 and 400 cases as shown below. States with 300 or fewer would review all cases.

Approved D-SNAP households (N)	Minimum sample size (n)
10,000 and over.	n = 400
300 to 9,999 ...	n = 300 + [0.01031(N - 300)]
Under 300 .....	n = all cases

(iii) A sample of 100 denied D-SNAP applications shall be reviewed to identify errors made in not providing benefits to eligible households. If there are fewer than 100 denied applications, all denied applications would be reviewed.

(iv) If a State uses a random sample, the State shall identify this in the post disaster report described and include the following information:

(A) The number of cases or in the sample universe;

(B) A description of the sample frame and how it was constructed;

(C) The sample size selected;

(D) The number of sample cases completed; and

(E) The findings from the sample cases completed.

(3) States shall review all State agency employee applications—approved and denied.

(4) For all case reviews, no cases shall be dropped for any reason and the State shall report information gathered from all case reviews.

(5) State agencies shall submit the post disaster report containing the results of the reviews, the problem analysis, and proposed improvements within 6 months of the close of each D-SNAP operation.

(b) *Fair hearings requirements in a D-SNAP.* Any household who applied for D-SNAP benefits and was denied may request a fair hearing. A household which has requested a fair hearing shall be offered an immediate onsite supervisory review. Households that are not satisfied with the outcome of the supervisory review retain the right to request a fair hearing in accordance with § 273.15 of this chapter.

(c) *Restored benefits from D-SNAP.* States shall issue restored benefits to households when an incorrect denial of benefits is subsequently corrected. The issuance system shall clearly note that such corrected issuances were restored benefits.

(d) *D-SNAP recipient claims collection requirements.* States shall establish a claim against the household

consistent with the claims collection requirements of SNAP regulations at § 273.18 of this chapter. Claims shall be established as soon as possible after the close of the disaster operation. States may also follow their FNS-approved procedures and thresholds for establishing claims in SNAP for claims arising from D-SNAP, or may include any alternate procedures or thresholds in their D-SNAP request. However, if a claim is established against a household for an overpayment of SNAP benefits, this amount may not be collected from the D-SNAP issuance.

#### § 280.8 D-SNAP reporting.

(a) *D-SNAP daily reports.* States operating a D-SNAP shall report to FNS on a daily basis. States shall begin submitting reports on the day following the first day of D-SNAP operations and continue submitting the reports on a daily basis until all applications are processed. States shall use a daily reporting template provided by FNS. Data should be submitted by county, as indicated in the template. The daily reports must capture the new D-SNAP and SNAP issuance data listed in paragraphs (a)(1) through (13) of this section:

- (1) Number of D-SNAP applications received;
  - (2) Number of new D-SNAP households approved;
  - (3) Number of new D-SNAP persons approved;
  - (4) Number of SNAP households receiving supplements;
  - (5) Number of people previously certified for SNAP approved for supplements;
  - (6) Number of new D-SNAP households denied;
  - (7) Number of SNAP households receiving replacement issuance;
  - (8) Value of new D-SNAP benefits approved;
  - (9) Value of SNAP supplements approved;
  - (10) Value of SNAP replacement issuance;
  - (11) Average benefit per new D-SNAP household;
  - (12) Average benefit per SNAP household; and
  - (13) Any additional information the State believes FNS should be aware of.
- (b) *FNS-292B, Report of Supplemental Nutrition Assistance Program Benefit Issuance for Disaster Relief.* Within 45 days of the termination of a D-SNAP operation, the State agency shall submit the FNS-292B. This report shall be submitted electronically in the Food Programs Reporting System (FPRS). The FNS 292B shall contain the following issuance data for D-SNAP operations:

(1) Number of new households issued D-SNAP benefits.

(2) Total number of new persons issued D-SNAP benefits.

(3) Number of households certified in SNAP that were issued supplements.

(4) Total value of benefits issued to new households and supplements issued to previously certified SNAP households.

(c) *Form FNS-388, Monthly Issuance Report.* The FNS-388 shall include issuance and participation figures for new D-SNAP households and previously certified SNAP households receiving disaster supplements and/or replacements. Replacement benefits shall be reported for the month for which they are intended.

(d) *Form FNS-209, Status of Claims Against Households Report.* In the remarks section of the FNS-209, States shall indicate the number of claims established and collected against D-SNAP benefits. D-SNAP claims must be identified on backup documentation in the accounting systems for the FNS-209.

(e) *Form FNS-46, Issuance Reconciliation Report.* The FNS-46 shall include issuance and participation figures for new D-SNAP households and SNAP households receiving disaster supplements and/or replacements. The FNS-46 and FNS-388 should reconcile with the reported net issuance.

(f) *Post-disaster Report.* The post-disaster review report shall be comprised of four parts: The comprehensive review, individual reviews, problem analysis, and proposed improvements to the disaster plan. States shall submit the post-disaster report containing the reviews, the problem analysis, and proposed improvements within 6 months of the close of each D-SNAP operation.

Dated: May 2, 2016.

**Telora T. Dean,**

*Acting Administrator, Food and Nutrition Service.*

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2014-0092]

RIN 0579-AE17

#### Importation of Lemons From Northwest Argentina

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the fruits and vegetables regulations to allow the importation of lemons from northwest Argentina into the continental United States. As a condition of entry, lemons from northwest Argentina would have to be produced in accordance with a systems approach that would include requirements for importation in commercial consignments; registration and monitoring of places of production and packinghouses; pest-free places of production; grove sanitation, monitoring, and pest control practices; treatment with a surface disinfectant; lot identification; and inspection for quarantine pests by the Argentine national plant protection organization. Additionally, lemons from northwest Argentina would have to be harvested green and within a certain time period, or treated for Medfly in accordance with an approved treatment schedule. Lemons from northwest Argentina would also be required to be accompanied by a phytosanitary certificate with an additional declaration stating that the lemons have been inspected and found to be free of quarantine pests and were produced in accordance with the proposed requirements. This action would allow for the importation of lemons from northwest Argentina into the United States while continuing to provide protection against the introduction of quarantine pests.

**DATES:** We will consider all comments that we receive on or before July 11, 2016.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#/docketDetail;D=APHIS-2014-0092>.
- *Postal Mail/Commercial Delivery:*

Send your comments to Docket No. APHIS-2014-0092, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.