

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 273

[Amendment No. 365]

RIN 0584-AB98

Food Stamp Program: Monthly Reporting on Reservations Provision of the Food Stamp Program Improvements Act of 1994

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This rulemaking proposes to amend Food Stamp Program regulations to establish procedures for implementing the restrictions concerning use of monthly reporting for households residing on reservations contained in the Food Stamp Program Improvements Act of 1994.

DATES: Comments must be received on or before August 7, 1995 to be assured of consideration.

ADDRESSES: Comments on this proposed rulemaking should be addressed to Margaret Thiel, Acting Supervisor, Eligibility and Certification Regulations Section, Certification and Policy Branch, Program Development Division, Food Stamp Program, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. (Datafax number 703-305-2454). All written comments will be open to public inspection at the office of the Food and Consumer Service, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 718.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposed rulemaking should be addressed to Margaret Thiel at the above address or by telephone at (703) 305-2496.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rulemaking and related Notice(s) to 7 CFR 3105, Subpart V (Cite 48 FR 29115, June 24, 1983; or 48 FR 54317, December 1, 1983, as appropriate, and any subsequent notices that apply), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This proposed rulemaking has also been reviewed with respect to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). The Administrator of the Food and Consumer Service (FCS), has certified that this proposal would not have a significant economic impact on substantial number of small entities. The primary impact of the procedures in this rulemaking would be on FCS Regional Offices, State governments, and individuals who might apply for benefits in State agencies that use monthly reporting procedures. To the extent that county or other local governments assist in the administration of the Food Stamp Program, they would also be affected.

Executive Order 12778

This proposed rulemaking has been reviewed under Executive Order 12778, Civil Justice Reform. This 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 rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions all applicable administrative procedures must be exhausted. In the

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Food Stamp Program the administrative procedures are as follows: (1) For Program benefit recipients—state administrative procedures issued pursuant to 7 U.S.C. 2020(e)(10) and 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 (for rules related to nonquality control (QC) liabilities) or Part 283 (for rules related to QC liabilities); (3) for retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), reporting and recordkeeping requirements for monthly reporting and retrospective budgeting have been approved by the Office of Management and Budget (OMB) under current OMB No. 0584-0064. Although the provisions of the proposed rule change the content of certain notices to households, they do not impose additional reporting and recordkeeping burden requirements.

Background

Section 1723 of the Mickey Leland Memorial Domestic Hunger Relief Act (Title XVII of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101-624, 104 Stat. 3359, November 28, 1990) amended Section 6(c)(1)(A)(i) of the Food Stamp Act of 1977, as amended (the Act), 7 U.S.C. 2015(c)(1)(A)(i), to exempt households residing on reservations from monthly reporting and retrospective budgeting (MRRB) effective February 1, 1992. The Department announced the regulatory adoption of the requirements of Section 1723 in a final rule amending 7 CFR 273.21(b)(4) published on December 4, 1991, 56 FR 63605, and scheduled to take effect on February 1, 1992.

Since that time, several pieces of legislation were enacted, each delaying the effective date of Section 1723. Implementation was initially postponed by Section 908 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Pub. L. 102-237, 105 Stat. 1818, December 13, 1991) until April 1, 1993, and then by Pub. L. 103-11 (107 Stat. 41, April 1, 1993) until February 1, 1994. In response, in a November 1, 1993, rulemaking, the Department proposed at 58 FR 58459 a new implementation date of February 1,

1994. Following publication of that proposed rule, Section 1 of Pub. L. 103-205 (107 Stat. 2418) was enacted on December 17, 1993, again postponing implementation of the prohibition concerning MRRB on reservations until March 15, 1994. State agencies were notified of this delay through an implementing memorandum dated January 6, 1994.

On March 25, 1994, the Food Stamp Program Improvements Act of 1994 (Pub. L. 103-225 (108 Stat. 106)) was enacted. Section 101(a) of that law modified the prohibition against monthly reporting for households residing on reservations that had been added to section 6(c)(1)(A) of the Act (7 U.S.C. 2015(c)(1)), by Section 1723 of the Leland Act. Section 6(c)(1)(C)(iii) now prohibits State agencies which were not requiring households residing on reservations to submit monthly reports on March 25, 1994, from establishing monthly reporting requirements for these households. These households may be retrospectively budgeted. State agencies that were using monthly reporting on March 25, 1994, for households residing on reservations may continue to do so if certain enumerated conditions are met. On August 29, 1994, in the Miscellaneous Provisions of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 and Earned Income Tax Credit Amendment final rule (59 FR 44303), the Department addressed the prohibition against establishing new monthly reporting for households residing on reservations if no monthly reporting system was in place on March 25, 1994.

In this rulemaking, the Department is addressing the provisions in Section 101(a) of Pub. L. 103-225 dealing with the one-month grace period afforded reservation households for submitting required reports, 7 U.S.C. 2015(c)(1)(C)(i) and (ii). This subparagraph establishes the following requirements on a State agency if it requires monthly reporting for households residing on reservations:

(1) Reinstate benefits without requiring a new application for any household that submits a report not later than one month after the end of the issuance month; and

(2) do not delay, reduce, suspend, or terminate the allotment of a household that submits a report not later than one month after the end of the month in which the report is due; and

(3) establish two-year certification periods for households on reservations required to submit monthly reports, unless the State agency is granted a waiver for shorter certification periods.

In order to implement these legislative requirements, the Department is proposing a new paragraph § 273.21(t). The specific provisions of this new paragraph are discussed below.

Definition of Residing on a Reservation

Section 3(j) of the Act defines a reservation as "the geographically defined area or areas over which a tribal organization (as that term is defined in subsection (p) of this section) exercises governmental jurisdiction." Section 3(p) of the Act defines a tribal organization as "the recognized governing body of an Indian tribe (including the tribally recognized intertribal organization of such tribes), * * *, as well as any Indian tribe, band, or community holding a treaty with a State government." Section 10(a) of Pub. L. 103-225 did not modify the Act's definition of a reservation or tribal organization. Accordingly, the Department is proposing in § 273.21(t)(1) to adopt these definitions for the purpose of determining whether a household shall be considered to be residing on a reservation.

Certification Periods

In light of the amendments to Section 6(c)(1) of the Act made by Section 101(a) of Pub. L. 103-225, the Act now requires that State agencies establish two (2) year certification periods for households residing on reservations that are required to submit monthly reports (7 U.S.C. 2015(c)(1)(C)(iv)). In order to implement this requirement, the Department is proposing at § 273.21(t)(2) to require that monthly reporting households residing on a reservation be certified for two (2) years.

However, Section 6(c)(1)(C)(iv) allows FCS to permit a State agency to establish certification periods for households residing on reservations shorter than two (2) years if the State agency can show good cause for a shorter certification period. Therefore, the Department is proposing in 7 CFR 273.21(2)(i) that a State agency may request a waiver to allow it to establish shorter certification periods for those households. In considering a request for a waiver to allow shorter certification periods, the Department has been urged by the Congress to consider both the reasons the State desires to implement a shorter certification period and the burden that households on the particular reservation would face in going through the recertification process more often. *Cong. Rec. S2905*, March 11, 1994. Further, Congress has also indicated that the Department should exercise its discretion to waive the two (2) year certification period requirement only after consultation with the

appropriate tribal government and when extraordinary circumstances exist, such as widespread fraud, a substantial change in circumstances on a reservation which results in wide fluctuations in income for large numbers of food stamp recipients, or similar changes which require more frequent certification to protect the financial integrity of the Program and to maintain the lowest practicable error rates. *Cong. Rec. S2906*, March 11, 1994. In considering any approval of a waiver, the Department will be taking into account the administrative burdens of the State agency in administering the two (2) year certification periods, the input of the affected tribal organization, the quality control (QC) error rate for the affected households, and the impact on the households of requiring them to be interviewed more frequently than every two years.

Anecdotal information provided to the Department by State agencies affected by this provision indicates that households frequently move off of and on to reservations. With this in mind, the Department is proposing to allow a State agency to opt either to continue the two-year certification period for any household that moves off a reservation or to shorten the certification period as appropriate to the household's reporting requirements off the reservation. The Department is providing this option to increase flexibility for State agencies and to meet potential concerns about QC error rates. Switching households back and forth between two-year and shorter certification periods is administratively complex. However, the Department recognizes that long certification periods could result in increased payment errors, particularly if a household switches to change reporting when it is off a reservation. Accordingly, in 7 CFR 273.21(2)(ii), the Department is proposing that a State agency may opt to continue the two-year certification period for any household that moves off a reservation. If the State agency adopts this option and the household is still living off a reservation at recertification, the household shall be subject to the certification period requirements in 7 CFR 273.10(f)(4). If the State agency does not adopt this option, any household that moves off a reservation shall have its certification period shortened. A household continuing to be subject to monthly reporting shall not have its certification period shortened to less than six months. A household becoming subject to change reporting shall not have its certification period end any earlier than the month following the month in

which the State agency determines that the certification period shall be shortened.

Missing and Incomplete Monthly Reports

Section 101(a) of Pub. L. 103-225 (Section 6(c)(1)(C)(ii), 7 U.S.C. 2015(c)(1)(C)(ii)) prohibits a State agency from delaying, reducing, suspending, or terminating the benefits of a household residing on a reservation that submits a report not later than one month after the end of the month in which the report is due. Normally, if a complete monthly report is not received within the time frames specified in 7 CFR 273.21, the State agency would terminate the household. Under Section 101(a) of Pub. L. 103-225, a State agency must now issue benefits to a household residing on a reservation on its normal issuance date even if it has failed to submit a monthly report. In order to implement this provision, the Department is proposing in § 273.21(t)(3)(i) to require the State agency to provide a household residing on a reservation which does not submit its monthly report by the issuance date with the same benefit amount that the household received the previous month. This issuance must be provided to the household on the household's normal issuance date. If the household's report is received prior to the issuance date, but too late to be processed without delaying the household's issuance, the household shall be issued its benefits on the normal issuance date.

The Department is also proposing in § 273.21(t)(3)(ii) to require a State agency to provide a household residing on a reservation its benefits on the normal issuance date if the household submits an incomplete monthly report that cannot be completed by the normal issuance date. The State agency would be required to attempt to have the household complete the report prior to the normal issuance date, in accordance with the procedures in 7 CFR 273.21(j). Section 101(a) of Pub. L. 103-225 does not address incomplete reports.

However, the legislative history indicates that the State agency should not take any action against the household for failing to submit an incomplete report. "The purpose of this grace period is to provide ample opportunity to resolve misunderstandings and ensure that households do not suffer * * * when they unintentionally submit incomplete reports. * * *" *Cong. Rec.* S2905, March 11, 1994. Thus, the intent of the legislation is to provide benefits even if an incomplete report has been submitted.

The legislative intent of the grace period is to ensure that households are not penalized for administrative reasons. Therefore, if there is complete and verified information for some of the monthly report, there is no reason for the State agency to not act on that information. Such action would result in more accurate benefits being provided to the household.

In enacting this legislation, Congress did not intend that households residing on reservations participate indefinitely without submitting monthly reports. "Households that do not submit reports by the end of the grace period would have their benefits suspended." *Cong. Rec.* S2905, March 11, 1994. Accordingly, the Department is proposing in § 273.21(t)(3)(iii) that if a household failed to submit a monthly report or submitted an incomplete monthly report that was never completed and then fails to submit the next consecutive monthly report or submits an incomplete report for the next consecutive monthly report that is not completed by the issuance date, the household would be terminated in accordance with the provisions in 7 CFR 273.21(m).

In § 273.21(t)(3)(iii), the Department is also proposing that the household would not be terminated if it fails to ever submit or complete the first missing monthly report so long as it submits the next report by the end of the month in which it is due. The intent of the grace period is to prevent interruptions in benefits for administrative reasons. Receipt of old information as opposed to more current information does not serve the purpose of requiring monthly reports on household circumstances. To require that the missing or incomplete report be submitted/completed at the same time as requiring the next month's monthly report would be confusing to the households. It would also be an unnecessary administrative burden to require the State agency to process the missing report.

Benefit Determination

Despite the one-month grace period provided to households residing on reservations to submit monthly reports by Section 101(a) of Pub. L. 103-225 (7 U.S.C. 2015(c)(1)(C)(ii)), it is the intent of Congress that benefits be issued based on actual household circumstances. *Cong. Rec.* S2905, March 11, 1994. Therefore, to the extent possible, incomplete reports should be completed prior to the issuance of benefits. The Department is proposing that State agencies follow the procedures in 7 CFR 273.21(j)(1) (i)

through (v) to attempt to obtain a complete report prior to the issuance date. The Department is proposing in § 273.21(t)(4) that the State agency repeat the previous month's benefit amount if a report is not received by the issuance date. In addition, the Department is proposing in § 273.21(t)(4) that the State agency issue the household's benefits based on the previously submitted report without regard to any changes in the household's circumstances that were not completed or verified. Finally, the Department is proposing in § 273.21(t)(4) that the State agency adjust the amount of the benefits issued if there is any information on the incomplete report that can be used as submitted. As discussed earlier, the grace period was established to ensure that households were not penalized for administrative reasons. However, there is no reason for the State agency not to adjust benefits to reflect information that is complete and verified.

Reinstatement

Section 101(a) of Pub. L. 103-225 (7 U.S.C. 2015(c)(1)(C)(ii)) provides that, if a household is terminated for failing to submit or to complete a monthly report, the household shall be reinstated without being required to submit a new application if a monthly report is received no later than the last day of the month following the month the household was terminated. Accordingly, the Department is proposing at § 273.21(t)(5) to require that a State agency reinstate a household terminated in accordance with § 273.21(t)(3)(iii) without the household's being required to submit a new application if a monthly report is received no later than the last day of the month following the month the household was terminated.

Notices

The changes proposed above that provide for separate and different treatment of monthly reporting households residing on reservations require the notice requirements contained in 7 CFR 273.21(j)(2) to be modified for these households. The intent of Congress is that State agencies provide all the notices currently required for monthly reporting households in 7 CFR 273.21(j)(2), modified as necessary to reflect the alternative termination and reinstatement impacts for missing and incomplete reports. *Cong. Rec.* S2905, March 11, 1994. Accordingly the Department is proposing in § 273.21(t)(6) modified notice requirements.

In § 273.21(t)(6)(i), the Department is proposing that all notices regarding changes in a household's benefits meet the definition of adequate notice as defined in 7 CFR 271.2. This will ensure that households receive due process in any action that may negatively impact their Food Stamp Program participation.

The Department is proposing in § 273.21(t)(6)(ii) that the State agency provide a notice to the household about missing or incomplete reports that requests that the household take the action necessary to submit the missing report or to complete an incomplete report. The notification requirements are the same as those in 7 CFR 273.21(j)(3) except that the notice shall advise the household that, if a report is not submitted or if information provided on the incomplete report is not completed or verified as required, the household's benefits would be issued based on the previous month's circumstances.

In order to ensure that the household receives adequate notice of any State agency action affecting the household's benefits, the Department is proposing in 7 CFR 273.21(t)(5)(iii) that the State agency notify a household, if its report has not been received or if it is incomplete, simultaneously with the issuance that the benefits being provided are based on the previously submitted report and that this benefit does not reflect any changes in the household's circumstances that have not been reported or verified as required. This notice shall also advise the household that, if the next monthly report is not filed timely and completely, the household will be terminated. This notice requirement conforms notice requirements for these special circumstances with current notice requirements for monthly reporting.

Under current regulations at 7 CFR 273.21(m), if a household does not submit a complete monthly report, that household is required to be terminated. Under Section 6(c)(1)(C)(i) and (ii) of the Act, as amended by Section 101(a) of Pub. L. 103-225, households residing on reservations were granted a grace period of one month for non-submittal of a complete monthly report. However, if a household residing on a reservation does not submit a monthly report in the consequent month as well or submits an incomplete report, that household is required to be terminated. In order to ensure that the household is aware of the termination and its right to reinstatement, the Department is proposing in 7 CFR 273.21(t)(6)(iv) that, if the household is terminated in the consequent month, the State agency

shall send the notice so the household receives it no later than the date benefits would have been received. This notice shall advise the household of its right to reinstatement if a complete monthly report is submitted by the end of the month following termination. This notice requirement is consistent with current notice requirements for monthly reporting.

Supplements and Claims

As noted above, the Department is not proposing to require that households submit the missing report simultaneously with the submittal or after the submittal of the consequent monthly report. Nevertheless, a household's report may be submitted or completed after the household's issuance has been provided. In this circumstance, the intent of Congress is that the State agency would take action based on the eligibility factors contained in the monthly report when it is submitted. *Cong. Rec.* S2905, March 11, 1994. Therefore, the Department is proposing in 7 CFR 273.21(t)(7) that, if the household submits or completes a monthly report after the issuance date but in the issuance month, the State agency provide the household with a supplement if warranted. Also, if the household submits or completes a monthly report or the State agency becomes aware of a change that would have decreased benefits in some other manner at any time after the issuance date, the Department is proposing that the State agency file a claim for any benefits overissued. The Department is not proposing that households which submit reports after the issuance month receive restored benefits. This is consistent with current food stamp policy in 7 CFR 273.17(a) which provides for restored benefits whenever the loss was caused by an error by the State agency or by an administrative disqualification which was subsequently reversed. Under current regulations, restored benefits are not provided for losses caused by a household error. Failure to submit a complete monthly report is a household error.

Quality Control Procedures

The legislative history provides that "a State [agency] will not be adversely affected in regard to its quality control efforts related to those households whose monthly reports are not submitted until a month after the report is due." *Cong. Rec.* S2905, March 11, 1994. To implement this provision, the Department is proposing that those certification errors attributable to missing or incomplete monthly reports

covered under the grace period of this legislation shall be excluded from the error determination process.

Implementation

The Food Stamp Program Improvements Act of 1994 was effective upon enactment, March 25, 1994. On March 31, 1994, the Department issued a memorandum notifying State agencies of the provisions of the legislation and the March 25, 1994, effective date. State agencies were directed to implement the requirements immediately. Recognizing that the statutory amendments regarding the monthly reporting on reservations have already been implemented through the above described memorandum and in order to provide for the orderly implementation of the specific provisions of this proposed rule, the Department is proposing to require that this rule be effective in any given State upon implementation by the State agency but in no event later than the first day of the month 60 days after publication of the final rule. Variances resulting from implementation of this provision would be excluded from the payment error rate for 120 days from the required implementation date, in accordance with section 13951 of Pub. L. 103-66, which amended section 16(c)(3)(A) of the Act, 7 U.S.C. 2025(C)(3)(A).

List of Subjects in 7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food stamps, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR part 273 is proposed to be amended as follows:

1. The authority citation of part 273 continues to read as follows:

Authority: 7 U.S.C. 2011-2032.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.21, a new paragraph (t) is added to read as follows:

§ 273.21 Monthly Reporting and Retrospective Budgeting (MRRB).

* * * * *

(t) *Monthly reporting requirements for households residing on reservations.*

The following procedures shall be used for households which reside on reservations and are required to submit monthly reports:

(1) For purposes of this section, the term "reservation" shall mean the geographically defined area or areas over which a tribal organization exercises governmental jurisdiction. The

term "tribal organization" shall mean the recognized governing body of an Indian tribe (including the tribally recognized intertribal organization of such tribes), as well as any Indian tribe, band, or community holding a treaty with a State government.

(2) *Certification periods.* Any household residing on a reservation that is required to submit a monthly report shall be certified for two (2) years.

(i) A State agency may request a waiver from FCS to allow it to establish certification periods of less than two (2) years if it is able to justify the need for the shorter periods. Any request for a waiver shall include input from the affected Indian tribal organization(s) and quality control error rate information for the affected households.

(ii) The State agency may opt to continue the two-year certification period for any household that moves off the reservation. If the State agency adopts this option and the household is still living off the reservation at the time it is subject to required recertification, the household shall be subject to the certification period requirements in § 273.10(f)(4). If the State agency does not adopt this option, any household that moves off the reservation shall have its certification period shortened. A household continuing to be subject to monthly reporting shall not have its certification period shortened to less than six months. A household becoming subject to change reporting shall not have its certification period end any earlier than the month following the month in which the State agency determines that the certification period shall be shortened.

(3) *Missing and incomplete reports.* The State agency shall take the following actions when a household residing on a reservation fails to submit a monthly report or complete a monthly report the State agency has indicated is incomplete:

(i) *Failure to submit a monthly report by the issuance date.* If a household does not submit its monthly report by the issuance date, the State agency shall provide the household with the same issuance that the household received the previous month. This issuance must be provided to the household on the household's normal issuance date. If the household's monthly report is received prior to the issuance date, but too late to be processed without delaying the household's issuance, the household shall be provided its issuance on the normal issuance date.

(ii) *Failure to submit a complete monthly report by the issuance date.* If a household does submit its monthly report prior to the issuance date, but

that report is incomplete, the State agency shall attempt to have the household complete the report prior to the normal issuance date, in accordance with the procedures in paragraph (j) of this section. If the report cannot be completed by the normal issuance date, the State agency shall provide the household its issuance on the normal issuance date.

(iii) *Failure to submit two consecutive monthly reports or to complete two consecutive monthly reports.* If a household failed to submit a monthly report or submitted an incomplete monthly report that was never completed and then fails to submit the next consecutive monthly report or submits an incomplete report that is not completed by the issuance date, the household shall be terminated in accordance with the provisions in paragraph (m) of this section. The household shall not be terminated if it fails to ever submit or complete the first missing monthly report but does submit a completed report for the following month.

(4) *Benefit determination.* If a household's report is not completed by the issuance date, the State agency shall issue the household's benefits based on the previously submitted report without regard to any changes in the household's circumstances that were not completed or verified. The State agency shall adjust the benefits issued if there is any information on the incomplete report that can be used as submitted.

(5) *Reinstatement.* If a household is terminated for failing to submit or to complete a monthly report, the household shall be reinstated without being required to submit a new application if a monthly report is submitted no later than the last day of the month following the month the household was terminated.

(6) *Notices.*

(i) All notices regarding changes in a household's benefits shall meet the definition of adequate notice as defined in § 271.2 of this chapter.

(ii) If a household fails to file a monthly report, or files an incomplete report, by the specified filing date, the State agency shall notify the household within five days of the filing date:

(A) That the monthly report is either overdue or incomplete;

(B) What the household must do to complete the form;

(C) If any verification is missing;

(D) That the Social Security number of a new member must be reported, if the household has reported a new member but not the new member's Social Security number;

(E) What the extended filing date is;

(F) That the State agency will assist the household in completing the report; and

(G) That the household's benefits will be issued based on the previous month's submitted report without regard to any changes in the household's circumstances if the missing report is not submitted or if incomplete or unverified information on the incomplete report is not completed or verified as required.

(iii) Simultaneously with the issuance, the State agency shall notify a household, if its report has not been received or if it is incomplete, that the benefits being provided are based on the previous month's submitted report and that this benefit does not reflect any changes in the household's circumstances. This notice shall also advise the household that, if a complete report is not filed timely, the household will be terminated.

(iv) If the household is terminated, the State agency shall send the notice so the household receives it no later than the date benefits would have been received. This notice shall advise the household of its right to reinstatement if a complete monthly report is submitted by the end of the month following termination.

(7) *Supplements and claims.* If the household submits or completes a monthly report after the issuance date but in the issuance month, the State agency shall provide the household with a supplement if warranted. If the household submits or completes a monthly report after the issuance date or the State agency becomes aware of a change that would have decreased benefits in some other manner, the State agency shall file a claim for any benefits overissued.

Dated: May 26, 1995.

William E. Ludwig

Administrator, Food and Consumer Service.

[FR Doc. 95-13723 Filed 6-5-95; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 1633-93]

RIN 1115-AD55

Employment-Based Immigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.