

the combined allotment a State agency option for eligible households applying under normal processing standards. Despite the amendment to section 8(c)(3), combined allotments, however, remained mandatory for eligible households that met the requirements for expedited service. This program change was implemented by State agencies retroactively to February 1, 1992, pursuant to an FNS directive dated May 20, 1992.

To implement section 1732 of Pub. L. 101-624 in the Code of Federal Regulations, the Department proposed amendments to several paragraphs of § 274.2(b). Subsequently, it was determined that program regulatory provisions regarding eligibility for combined allotments would more appropriately be located in § 273.2(i) of program regulations, which deals with household application requirements. A rule reflecting this redesignation, including the adoption as final of the changes previously proposed for § 274.2(b), will be published in the near future. Comments received on this program change in response to the May 20, 1991, proposed rule will be discussed in that rulemaking.

The effect of the above-described modification will be to locate in part 273 of the program regulations all provisions regarding eligibility for combined or aggregate allotments. Section 274.2 will contain only program provisions regarding State agency benefit issuance requirements. To reflect this redesignation, the Department adopts as a final rule an amendment to § 274.2, paragraph (c), which simply restates existing program policy with regard to State agency obligations concerning combined allotments. As § 274.2(c) summarizes existing regulations and makes no changes to those regulations, the Department, pursuant to 5 U.S.C. 553, deems prior notice and public comment on this regulatory provision to be unnecessary.

3. Section 1738 of Pub. L. 101-624 amended section 11(e) of the Act, 7 U.S.C. 2020(e), to require State agencies to use mail issuance in rural areas where State agencies determine that recipients face substantial difficulties in obtaining transportation to issuance points. Amended section 11(e) provides an exception to mandatory mail issuance for households which have experienced excessive mail issuance losses. In addition, mail issuance is not required in localities where the mail loss rates exceed standards set by the Secretary. This amendment was prompted by concern that some eligible households in rural areas have difficulty getting to issuance sites because they

lack cars or sufficient funds to hire someone to drive them (House Report No. 101-569, pages 433-34).

Under the proposed rule, a State agency which is not currently using mail issuance throughout the State must engage in an assessment of transportation barriers which rural recipients may experience in getting to issuance offices, and report both the assessment process and its results as an attachment to its State Plan of Operation. Section 272.2 of the regulations is revised to add this requirement to the State Plan of Operation. Section 274.2 is also revised to add a new subsection describing the required content of this new attachment to the State Plan of Operation.

In enacting Section 1738 of Pub. L. 101-624, Congress was concerned with transportation problems that make it difficult for recipients to obtain their benefits at issuance offices (House Report No. 101-569, pages 433-34). These problems, rather than transportation problems in general, should be the focus of the State agency's assessment of the need for mail issuance. For example, mail issuance is not required where electronic benefits transfer (EBT) removes the need for transportation to an issuance office. As an alternative to mail issuance, State agencies finding substantial transportation difficulties could reduce or eliminate them by a variety of methods, such as through the use of authorized representatives as provided for in 7 CFR 274.5.

To implement the exception to mail issuance for individual households that experience excessive mail losses, the Department proposed to use the current standard at 7 CFR 274.6(c)(3)(ii), which provides that households experiencing two losses or thefts of benefits from the mail within a six-month period shall be placed on an alternative delivery system.

To implement the exception to mail issuance in amended Section 11(e)(25) of the Act for localities with excessive mail losses, the Department proposed to utilize the standards set by the mail issuance loss tolerance levels provided at 7 CFR 276.2(b)(4). State agencies would not have to use mail issuance where mail losses exceed, or could reasonably be expected to exceed, the mail loss tolerance levels for the reporting unit within which the particular rural area is located. Section 276.2(b)(4) provides three separate mail issuance tolerance levels. The applicable mail loss tolerance level depends on the size of the reporting unit. In determining whether mail losses in a given rural area would be excessive,

State agencies without mail issuance in that area may use the tolerance level associated with a hypothetical reporting unit. Tolerance levels applied to any hypothetical reporting area would have to be consistent with existing rules and any existing reporting units. For example, States with some mail issuance in place, and currently reporting issuance losses by project areas, could not exempt a rural area without mail issuance from the mail issuance requirements of amended Section 11(e)(25) on the basis of its losses exceeding a State-wide tolerance. Similarly, a State agency that does not have mail issuance would have to use the same tolerance levels in assessing any rural areas subject to this rule; the State could not exempt some areas because they would exceed the State-wide tolerance level and other areas because they would exceed the project area tolerance level. States which choose not to introduce mail issuance based upon findings that losses would exceed tolerance levels will be required to provide evidence to support such findings.

Three comments were received on these proposals. One State agency was concerned that the provision requiring mail issuance would eliminate the State's current practice of offering recipients either mail issuance or direct delivery of benefits. This is not the case. State agencies may accommodate individual household requests; the requirement is to provide or offer mail issuance as a means of overcoming transportation difficulties. Another commenter was concerned that the proposed provisions might overturn established efforts and procedures geared to reduce mail losses. It would subvert the purpose of the legislation, namely to encourage mail issuance, if the implementing rules prevented reductions in mail losses that in turn created pressures to abandon mail issuance altogether. Therefore, the Department will not require mail issuance in situations in which State agencies can demonstrate that losses incurred in attempts to issue benefits by mail in rural areas would be excessive. The third comment came from a State agency which stated that it would not be affected by the provision because the State currently has statewide direct-mail issuance.

The wording in the first sentence of the proposed paragraph has been revised slightly for conformity with the description of other planning documents listed in 7 CFR 272.2(d). This minor change does not alter the intent of the provision.