



DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 278

[Docket ID FNS-2025-0018]

RIN 0584-AF12

Updated Staple Food Stocking Standards for Retailers in the Supplemental Nutrition Assistance Program

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule.

SUMMARY: This rule codifies a new framework for determining distinct staple food varieties for meeting staple food stocking requirements for retailer participation in the Supplemental Nutrition Assistance Program (SNAP). This rule is needed to implement the previously codified provision of the Agricultural Act of 2014 which increased the minimum number of staple food varieties a SNAP retailer must carry from three to seven in each of four staple food categories and the number of food categories for which at least one perishable variety must be provided from two to three. These changes aim to ensure that SNAP retailers can effectively serve SNAP participants by offering a wider variety of staple foods.

DATES: *Effective date:* This rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Implementation date: SNAP retailers must implement the provisions of this rule no later than [INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] See the SUPPLEMENTARY INFORMATION section.

FOR FURTHER INFORMATION CONTACT: Patrick Penn, Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314, patrick.penn@usda.gov.

SUPPLEMENTARY INFORMATION:

Abbreviations:

2014 Farm Bill	The Agricultural Act of 2014
CFR	Code of Federal Regulations
FNS	Food and Nutrition Service
SBREFA	Small Business Regulatory Enforcement Fairness Act
SNAP	Supplemental Nutrition Assistance Program
RFA	Regulatory Flexibility Act
RIA	Regulatory Impact Analysis
UMRA	Unfunded Mandates Reform Act
U.S.C.	United States Code
USDA, the Department	United States Department of Agriculture

Executive Summary**Purpose of the Regulatory Action**

This rule finalizes the provisions of a proposed rule published on September 25, 2025 (90 FR 46081). With this final rule, the Department is amending 7 CFR 278.1 to codify a framework for determining distinct staple food varieties needed to meet retailer stocking requirements for SNAP participation. The updated framework emphasizes simplicity and consistency for retailer implementation as well as the importance of access to whole, real nutrient-dense foods for SNAP participants.

Upon the implementation date of this final rule, all of the provisions of the 2014 Farm Bill that increased the number of varieties, including perishable varieties that retailers must carry to become authorized to accept SNAP benefits, must be implemented and will be enforced. These provisions were first codified by the final rule, Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP) (81 FR 90675), published on December 15, 2016 (herein after referred to as the 2016 Final rule), though certain provisions of this rule have not been enforced due to annual appropriations language blocking implementation.

Additionally, this final rule updates and reorganizes definitions at 7 CFR 271 for greater clarity and to avoid redundancies and possible inconsistencies.

Summary of Changes from Proposed Rule

The final rule incorporates the following substantive changes to the proposed provisions:

- * The descriptions of group 1 and group 2 distinct varieties will be revised for clarification, and some food products will be moved from group 2 to group 1 to align with those descriptions.
- * A new group 3 will be created for distinct shelf-stable varieties and applicable varieties will move to this group from group 2. This new grouping is solely for clearer organizational purposes and does not involve the creation of new distinct varieties.
- * The following distinct varieties will be moved from group 2 to group 1 as single-ingredient staple food varieties that are distinct from multi-ingredient products with the same main ingredient:
 - o Shell eggs;
 - o Perishable meat, poultry, or fish; and
 - o Perishable liquid milk.
- * Liquid milk will not be divided into distinct varieties by mammal;
- * The following new distinct varieties will be added to group 2 as staple food varieties distinct from any other multi-ingredient products with same main ingredient:
 - o Whole grain bread;
 - o Whole grain pasta/noodles;
 - o Shredded cheese; and
 - o Sour cream.
- * Breakfast cereals will be its own distinct variety and other breakfast foods will be classified as multi-ingredient foods based on their main ingredient.
- * Butter and all jerky will be classified as accessory foods.

Background

The 2014 Farm Bill amended the Food and Nutrition Act to increase the number of staple food varieties that certain SNAP authorized retail food stores must have available on a continuous basis in each of four staple food categories. The staple food breadth of stock standards increased from requiring a minimum of three (3) varieties to seven (7) varieties in each of the four (4) staple food categories and raised the number of varieties that must be perishable from one (1) variety in each of two (2) different staple food categories to one (1) variety in each of three (3) different staple food categories. Although these increased standards were codified in the 2016 final rule, section 765 of the Consolidated Appropriations Act of 2017 and provisions in subsequent appropriations acts have prohibited the Department from implementing, administering, or enforcing the retailer “Breadth of Stock” and “Variety” provisions of the 2016 final rule until the Department makes regulatory modifications to the definition of “variety” that would increase the number of food items that count as acceptable staple food varieties for purposes of SNAP retailer eligibility. This final rule will satisfy the conditions of the appropriations language and allow the SNAP retailer staple food breadth of stock standards in the 2014 Farm Bill to go into effect.

Specially Designated Varieties (Groups 1-3)

Many commenters expressed confusion about the differences between the proposed groups 1 and 2 in the regulatory text. Some commenters also incorrectly believed that multi-ingredient foods that were not specifically identified in the proposed regulatory text, such as canned soup, would not count as staple foods at all. To better define the differences between the groups in the regulatory text, the final rule breaks up and reorganizes the proposed subparagraph 7 CFR 278.1(b)(1)(ii)(C) into further subparagraphs and revises descriptive language. As a result, the final regulatory text now separates the default definition for determining distinct varieties from specially designated varieties listed under 7 CFR 278.1(b)(1)(ii)(D). Additionally, the final regulatory text includes a third group specifically for specially designated shelf-stable varieties and addresses plant-based alternatives under a separate subparagraph at 7 CFR 278.1(b)(ii)(E).

Specific policy changes are discussed further below under section IV. Summary of Comments and Explanation of Revisions.

Default Definition of “Variety”

For all foods not specifically identified as specially designated varieties under 7 CFR 278.1(b)(ii)(D), the definition of a distinct variety at 7 CFR 278.1(b)(1)(ii)(C) in the final rule applies, including the definition for determining the variety of multi-ingredient products. For example, because there are no specially designated varieties identified for the fruit and vegetable staple food category, the default definition will apply to all fruits and vegetables. This means, for example, that fresh tomatoes, 100% tomato juice, a can of diced tomatoes, and a jar of pasta sauce with tomatoes as the main ingredient all count as one “tomato” variety.

Group 1 (Single-ingredient varieties)

The purpose of group 1 under 7 CFR 278.1(b)(1)(ii)(D)(1), Single-ingredient varieties, is to identify specific single-ingredient foods that count as separate varieties from multi-ingredient food with the same main ingredient. The Department is defining single-ingredient foods as foods that contain no other ingredients, or in which the only other ingredients are fortifying vitamins. The following items that were proposed as distinct varieties under group 2 have been moved to group 1 in the final rule to more accurately reflect the Department’s intention to count these items as separate varieties from multi-ingredient products when they do not have any other ingredients: eggs; perishable meat, poultry, or fish; and perishable liquid milk. This reorganization effectively means that several new varieties within group 1 have been created. For example, seasoned chicken breast is now a distinct variety from plain chicken breast because seasoned items are multi-ingredient products. Similarly, flavored or sweetened milk is now a distinct variety from non-flavored or non-sweetened milk. The Department has decided to make this change in the final rule for the sake of simplicity and consistency.

Group 2 (Derivative food product varieties)

In contrast to group 1, the purpose of group 2 under 7 CFR 278.1(b)(1)(ii)(D)(2), Derivative food product varieties, is to identify specific multi-ingredient food products that count as separate varieties from not only the single-ingredient items in group 1, but also from any other multi-ingredient products. No products that were identified in the proposed rule were moved into group 2. However, because cream is generally a perishable base ingredient that often contains other ingredients, such as milk, sodium, and/or stabilizers, it does not conform with the purposes of any of the groups. As a result, the Department is removing cream from group 2. Instead, cream will be classified as a separate variety from milk based on its main ingredient according to the default definition of variety. This change is solely for consistent organizational purposes and does not result in a substantive policy change from the proposed rule.

Group 3 (Shelf-stable varieties)

Group 3 was created in the final rule under 7 CFR 278.1(b)(1)(ii)(D)(3), Shelf-stable varieties, to more clearly account for distinct shelf-stable varieties that may or may not be multi-ingredient products and, therefore, did not neatly fit in either group 1 or 2. For example, without this separate group, FNS would either need to look at the ingredients list for individual canned products to ensure they did not have any other ingredients under group 1, which is not operationally feasible, or count items, such as raw ground pork, as the same variety as potted meat with pork as the main ingredient, which was not the intent. The creation of group 3 does not result in any substantive policy changes from the proposed rule.

Summary of Comments and Explanation of Revisions

The Department received 231 comments on the proposed rule, including 65 copies associated with two different form letter campaigns, 112 other substantive comments, 50 other unique comments, one duplicate, and three non-germane submissions.

Overall, commenters expressed support for the proposed rule's stated goals of improving nutrition and expanding healthy choices for SNAP participants while improving regulatory clarity for participating retailers. Commenters specifically noted that the proposed changes have

great potential to improve health by encouraging retailers to offer more whole foods rather than processed foods and to stock a wider range of fruits, vegetables, grains, dairy, and proteins, including plant-based and more culturally relevant foods. They also noted that the changes modernize and clarify staple food definitions, strengthen stocking standards, and align the regulatory expectations with Congressional intent to close loopholes that diminish program integrity by allowing retailers to meet minimum requirements by stocking low-nutrition items. Several comments urged the Department to go even further by stipulating “healthy” standards for staple foods. For example, commenters suggested not counting foods that are high in added sugar, sodium, or saturated fat as staple foods, or requiring that retailers stock a certain percentage of “healthy” staple foods as a condition of SNAP authorization. Several commenters also suggested making accessory foods ineligible for purchase with SNAP benefits. Another commenter recommended the Department prohibit SNAP retailers from advertising certain unhealthy products in their stores, such as alcohol and sugary drinks. While the Department appreciates receiving these comments, such changes are outside of the scope of this rulemaking, which is to satisfy the conditions of the appropriations language to provide retailers with additional distinct varieties to better help them meet the increased breadth of stock retailer standards of the 2014 Farm Bill.

The main areas in which commenters expressed opposition were related to the inability of small-format retailers to meet the increased standards in the dairy and grains staple food categories, which they believed would lead to reduced SNAP household access to authorized stores and the creation of food deserts. Multiple commenters also emphasized the need for technical assistance to help smaller and rural retailers meet the new stocking requirements.

The Department has reviewed and considered all comments received. A discussion of the substantive concerns expressed by commenters and any related changes to the proposed provisions follows.

Role of Small-Format Retailers

The Department received multiple comments about the importance of convenience stores, indicating that they offer convenient locations and hours, providing shoppers with options for fill-in shopping. Moreover, for people with limited mobility, rural communities, or Tribal communities, one nearby convenience store may be the only access point for buying food. The Department appreciates these comments and understands that the Congressionally mandated increase in the number of staple food varieties SNAP retailers must carry may render some currently authorized stores ineligible for continued SNAP participation or prevent other stores from becoming SNAP authorized. While one of the primary goals of the increased stocking standards is to make a greater variety of nutritious foods available to SNAP households, another related goal is to ensure all authorized retailers further the purpose of the program to raise the levels of nutrition among low-income households in order to better protect the overall integrity of the program. In Federal fiscal year 2024, 93 percent of all SNAP retailer sanctions FNS imposed were for violations at small format stores like convenience stores, small grocery stores, and stores whose primary business is not food sales. Convenience stores, specifically, accounted for nearly half (44 percent) of all SNAP retailers and 76 percent of all SNAP sanctions, but only five percent of SNAP redemptions. Such data indicates convenience stores, in general, represent a significant integrity risk and, at the same time, do not provide significant points of access for SNAP households to use their benefits. For small format stores that do provide significant points of access, offering more staple food varieties may help increase their SNAP customer business. Additionally, it was Congress' intent to make the stocking standards more rigorous so that unscrupulous retailers are not able to gain entry into SNAP for the sole purpose of defrauding the program (H.R. Rep No. 113-333, 2014). In a December 2018 report, *SNAP: Actions Needed to Better Measure and Address Retailer Trafficking*, the General Accountability Office (GAO) reiterated its 2006 finding that the minimal requirements for the amount of food that retailers must stock could allow retailers more likely to traffic SNAP benefits (*i.e.*, illegally exchanging SNAP benefits for cash or consideration other than eligible food) into the program.

With all these factors in mind, the Department believes that the final rule balances expanding nutritional choices for SNAP households and making compliance with the increased standards achievable for small retailers that are reputable and effective representatives of the program. The Department also notes that the ability to make SNAP purchases online for food delivery provides many SNAP households in areas without convenient access to brick-and-mortar grocery stores alternative options for meeting their grocery needs. Further, given the limited retail food store options in low food access areas, the Department believes it is even more important that SNAP-authorized retailers in such areas carry a wide variety of staple foods rather than expecting SNAP households to rely on stores whose primary food sales business is accessory foods.

New dairy varieties

Approximately 100 commenters expressed concern that the Department did not provide sufficient flexibility in the dairy staple food category and recommended that the dairy products in group 2 be sub-divided into additional distinct varieties. Multiple advocacy groups, SNAP retailers, and trade associations expressed concern that small retailers, in particular, would not be able to comply with the proposed dairy stocking requirements, noting that refrigerated space is limited for perishable products. They stated that stocking additional products, which are mostly perishable, would lead to waste and higher operating costs. One commenter also indicated that they cannot reliably source milk from non-cow mammals, which have limited demand in convenience retail. Several commenters recommended the Department count full fat and reduced fat milk products as distinct varieties for milk, yogurt, and cheese. Some also asked for different types of cheese to count as distinct varieties, including counting spreadable cheese, soft cheese, and hard cheese as separate varieties. One industry group expressed the importance of providing SNAP households the ability to obtain dairy products in a form that meets their preference for taste, nutritional value, and convenience, indicating that cheese comes in variety of forms, including blocks, shreds, and shapes. Several industry groups and a food manufacturer also

recommended that the Department count flavored milk or flavored dairy products as separate varieties. These commenters cited studies demonstrating that consuming flavored milk has similar health benefits to consuming unflavored milk.

While the proposed rule added several other dairy varieties that are not counted under current agency policy, the Department acknowledges that stocking a sufficient number of varieties in the dairy category represents the biggest challenge for small retailers. Therefore, the Department is adding shredded cheese, including grated, shaved, and crumbled cheese, as a separate variety from non-shredded cheese, and sour cream as a separate variety from any other product with cream as the main ingredient under group 2. While the Department understands that under this construct, shredded cheese may be the same kind of cheese as a separate non-shredded variety, the Department has chosen shredded cheese as a separate variety, as well as sour cream, to address small format retailer concerns with meeting the dairy stocking requirement in a way that aligns with common consumer purchasing habits while still ensuring that the varieties are easy to assess when determining retailer eligibility. The Department has chosen not to distinguish any dairy products by fat content because doing so would not further the objective of requiring SNAP retailers to stock not only a sufficient number of staples foods, but also a sufficient variety of staple foods. For example, allowing stores to meet the dairy staple food requirement by only stocking milk and yogurt or milk and cheese because each comes in a variety of fat contents would mean that SNAP households would have very limited choices. Individual households will generally want various types of dairy products, not multiple fat contents of milk, yogurt, or cheese. Also, by moving perishable liquid milk to group 1, multi-ingredient products with milk as the main ingredients become a separate variety. For example, flavored milk, such as chocolate milk, is now a separate dairy variety from plain milk. Given these new dairy varieties, and for the purpose of greater operational simplicity, the Department will no longer distinguish liquid milk by the mammal it comes from in the final rule. This change is in recognition of the very limited

impact such a distinction has on the ability for small-format retailers to meet the dairy staple food requirement, adding no meaningful value.

Moving liquid perishable milk to group 1 and adding shredded cheese and sour cream as new varieties under group 2 create another three (3) possible dairy varieties in this final rule. Cream, while not separately listed in group 2, continues to be a separate main ingredient from milk.

These changes, plus up to three distinct plant-based dairy alternative varieties that are each a substitute for a traditional dairy variety in either group 1 or 2, ensure that retailers have multiple pathways to compliance in the dairy staple food category. The corresponding changes have been made at 7 CFR 278.1(b)(1)(ii)(C)(1) for cream, 7 CFR 278.1(b)(1)(ii)(C)(2)(i) for clarification on flavoring, 7 CFR 278.1(b)(1)(ii)(D)(1) for perishable liquid milk, and 7 CFR 278.1(b)(1)(ii)(D)(2) for shredded cheese and sour cream.

New grain varieties

The Department received many comments regarding the burden to small retailers of meeting the increased stocking requirements in the grain staple food category with the proposed varieties. SNAP retailers, trade associations, and an advocacy group wrote that stocking seven distinct grain varieties as defined in the proposed rule is not feasible for small convenience stores. Other commenters, including several trade associations and SNAP retailers, stated that small retailers do not stock items like raw grains and grain-based flour due to limited shelving capacity and lack of customer demand. One trade association highlighted that smaller retailers often stock items to meet the needs of their local, multicultural communities, and would not receive credit for this under the proposed rule's variety requirements.

Commenters recommended that the Department allow retailers to count more than one variety of bread in the grain category, arguing that the proposed rule grouped together breads with different forms, cultural significance, and customer preparation. They also argued that grouping together very different foods into a single "Breakfast Cereals/Foods" variety based on the assumption that these foods are eaten in the morning as part of the first meal of the day, contravenes common

sense and Congressional intent since the foods have a wide variety of different main ingredients. Commenters also recommended counting all multi-ingredient grain-based food products as separate varieties based on their main ingredient. For example, commenters suggested rice cereal, oat cereal, and wheat cereal should count as three separate varieties. Finally, commenters recommended counting 100% whole grain and less than 100% whole grain products as distinct varieties.

The Department is convinced by the commenters' concerns about the need for more grain varieties and is creating additional grain varieties under group 2 in the final rule. Specifically, the Department is (1) counting whole grain bread as a separate variety from non-whole grain bread; (2) counting whole grain pasta/noodles as a separate variety from the non-whole grain pasta/noodles; and (3) counting breakfast cereals as a separate variety so that other breakfast products will count as separate multi-ingredient varieties based on their main ingredient. These changes provide additional varieties for some commonly stocked whole grain foods, giving retailers multiple pathways to compliance within the grain staple food category requirements without undue operational burden. The Department would also like to clarify that the designated grain products in group 2 count under the grain staple food category regardless of the main ingredient unless the main ingredient is an accessory food. For example, chickpea pasta counts as a "pasta/noodles" variety under the grain category even though chickpeas are not a grain and would otherwise count under the protein staple food category. Whole grain products do not need to be 100 percent whole grain; they may contain any amount of whole grain. The corresponding changes have been made at 7 CFR 278.1(b)(1)(ii)(D)(2).

Plant-based dairy alternatives

In general, the Department received comments in support of limiting the number of plant-based alternatives that may count towards the dairy category to three. Several commenters, including advocacy groups and a local government, expressed support for the limitation because it would encourage retailers to count both traditional dairy and plant-based dairy alternatives.

Commenters also expressed support for including plant-based dairy alternatives to meet the needs of customers who cannot consume dairy. Other commenters expressed support for limiting plant-based alternatives to ensure that traditional dairy products are available to meet the nutritional needs of all customers, especially children. This provision is being finalized as proposed at 7 CFR 278.1(b)(1)(ii)(E).

Accessory foods

The Department received multiple comments supporting the addition of snack bars, cheese and fruit spreads, and jerky to the accessory foods list, because these items are unlikely to contribute to a healthy diet and the change will help prevent retailers from meeting stocking requirements with less healthy snack foods. Two commenters also recommended categorizing butter as an accessory food alongside other cooking oils and fats that are classified as accessory foods under current policy.

Several advocacy groups expressed concern that excluding accessory foods from counting toward staple food stocking requirements would result in smaller retailers struggling to meet requirements and fewer SNAP-authorized retailers. Commenters recommended the Department work with retailers, States, and local partners to educate families about the need to eat a balanced diet instead of categorizing item as accessory foods. They also expressed concerns that the proposed changes do not acknowledge cultural diversity in purchasing, that the definition would limit the ability of retailers on college campuses to meet stocking rules, and disagreed with the Department's rationale for the requirements that stricter provisions would deter fraud.

Comments on excluding accessory foods from counting towards staple food stocking requirements reflect a fundamental misunderstanding of how the program currently operates. The Food and Nutrition Act already prohibits accessory foods from counting towards the retailer staple food stocking requirements. Other than the foods the Department proposed to add to the current accessory foods list established in guidance, retailers have long been required to meet the stocking requirements under current policy without counting those accessory foods. Also,

commenters overwhelmingly agreed that the foods the Department proposed to categorize as accessory foods are not considered part of a balanced diet and the rule makes the accessory foods list clearer by being more comprehensive and consistent across all types of snack foods.

Therefore, the Department is moving forward with codifying the existing accessory foods list and adding the additional food categories proposed.

Further, two commenters, including one health-related organization and one State office, specifically cited jerky as being an ultra-processed protein that is high in sodium and sometimes added sugar, whereas other staple foods in the protein category are high in protein without unhealthy additives. However, a trade association requested clarification on why whole-muscle meat jerky is being treated differently from other jerky. Upon further examination, the Department has determined that there is not a meaningful distinction between whole-muscle meat jerky and other jerky. Jerky, regardless of type and protein content, is not a nutrient-dense whole food product due to the high content of sodium, preservatives like nitrates and nitrites, and added sugars. Instead, jerky is considered a snack food because it is a relatively expensive on-the-go option, which is not suitable for daily consumption. Therefore, the final rule now classifies all types of jerky as accessory foods.

Finally, the Department agrees that counting butter as a staple food is not consistent with the definition of accessory foods or the inclusion of other cooking oils and fats in the accessory foods list, such as lard and vegetable oil. Even with the elimination of butter as a staple dairy variety, the other changes in this final rule still result in a net increase of two (2) distinct dairy varieties. This change will improve the clarity of the regulation and also eliminate a discrepancy in how plant-based dairy alternatives are treated since most non-dairy butters have an accessory food as their main ingredient. Therefore, the final rule now classifies butter as an accessory food. The corresponding changes have been made at 7 CFR 278.1(b)(7).

The Department reminds all stakeholders that while accessory foods are not factored into SNAP retailer eligibility determinations, SNAP households may still purchase accessory foods with SNAP benefits.

Prepared food

The Department proposed to codify the longstanding agency policy on the definition of prepared food. Commenters expressed support for clarifying that pre-cut fruits and vegetables intended for at-home consumption can count as staple foods in the fruits and vegetables category. This provision is being finalized with a slight change to the wording for clarification purposes only. By removing the second reference to “for immediate consumption” in the proposed language, the Department is making it clearer that the definition of prepared food is irrespective of whether the food is eaten on the premises of the store or carried out. The revision has been made at 7 CFR 271.2.

The Department reminds all interested parties that while cold and hot prepared foods are not factored into SNAP retailer eligibility determinations, SNAP households may still purchase cold prepared foods with SNAP benefits. Hot prepared foods remain ineligible for purchase with SNAP benefits.

Tribal matters and consultations

The Department received four written responses on this rule from Tribal governments. One Tribal government expressed support for the intent of the rule to ensure that SNAP retailers stock a variety of healthy staple foods. All Tribal governments raised concerns about the unique procurement challenges that Tribal retailers face due to limited access to distribution networks, high transportation costs, and inconsistent supply chains. According to one Tribal government, “retailers in Tribal and rural communities face higher costs, higher spoilage rates, and limited customer bases for perishable items.” Three of the Tribal governments expressed concerns that the proposed rule would reduce the number of SNAP-authorized retailers in Tribal communities and limit access for food-insecure Tribal members.

Three respondents urged the Department to consider traditional foods and locally produced food as staple foods, such as bison, blue corn, wild rice, salmon, and chokecherries. The Department appreciates these comments and agrees that traditional foods should count as staple foods. The Department has long treated such foods as staple foods and the final rule continues to treat them as such, with the exception of jerky, as discussed under Accessory foods.

Tribal governments recommended that the Department develop Tribal-specific guidance and/or consider Tribal retailers for special authorization without meeting all the requirements of this rule. The Department appreciates these recommendations and will take them into consideration.

Technical assistance

The Department received several comments from individuals, advocacy groups, a trade association, and a local government recommending that FNS provide technical assistance or clarify what technical assistance it will provide to help smaller and rural retailers meet the new stocking requirements. Multiple commenters offered specific suggestions on what the technical assistance should address or how it should be developed and presented.

As is standard practice with all regulatory changes impacting SNAP retailers, the Department will notify all currently authorized retailers about the new requirements and will review various resources for how best to present the information, including the resources suggested by commenters.

Implementation Date

Several advocacy groups and an anonymous commenter recommended FNS establish a clear implementation timeline and allow adequate time for retailers to transition operations to comply with new requirements. Other commenters, including an individual, advocacy groups, and anonymous commenters, recommended FNS allow for a gradual, phased-in rollout of the proposed rule and compliance period for small retailers.

The Department understands that providing retailers with guidance and sufficient time to understand the new requirements, adjust their stocking plans, and make any required

arrangements with distributors are important factors for ensuring smooth implementation of the new retailer staple food stocking standards without needlessly creating hardships for either retailers or SNAP households. At the same time, timely implementation is also important for providing SNAP households with access to a greater variety of staple foods and removing unscrupulous retailers.

After taking all of the above under consideration, the Department is providing retailers with six (6) months (180 days) to conform with these new stocking standards. Therefore, 180 days after this rule is published, new retailers or current SNAP retailers applying for authorization of a new store location will be assessed for compliance with the new stocking standards at authorization. Current SNAP retailer locations authorized under criterion A will be assessed for compliance with the new stocking standards at reauthorization, which generally occurs within five years from the date of authorization and every five years thereafter. However, since the Department may assess a retailer's eligibility for continued authorization at any time, as provided under current SNAP regulations at 7 CFR 278.1(j), all retailers are encouraged to make the necessary arrangements to come into compliance with the provisions of this final rule by the implementation date. Food items a retailer ordered or received up to 21 calendar days before the store visit will count towards meeting the stocking requirements as long as there is adequate documentation in accordance with SNAP regulations at 7 CFR 278.1(b)(1)(ii)(A).

Retailers who are denied authorization or reauthorization because they did not meet the staple foods stocking requirements will be required to wait six (6) months before applying for authorization again in accordance with SNAP regulations at 7 CFR 278.1(k)(2).

Procedural Matters

Executive Orders 12866 and 13563

Under Executive Order 12866, as amended, agencies must assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, select regulatory approaches that maximize net benefits. The Office of Management and Budget's (OMB) Office of Information

and Regulatory Affairs (OIRA) determines whether a regulatory action is significant as defined by Executive Order 12866 and, therefore, subject to OMB review.

This rule has been determined to be significant under section 3(f)(1) of Executive Order 12866 and was reviewed by OMB. The Regulatory Impact Analysis (RIA) for this rulemaking was published as part of the docket in Supporting Documents on www.regulations.gov. A summary of the RIA follows. This rule is considered an E.O. 14192 regulatory action.

Regulatory Impact Analysis

Need for Action: In response to section 765 of the Consolidated Appropriation Act of 2017 and corresponding sections in subsequent enacted appropriations, the United States Department of Agriculture (the Department) Food and Nutrition Service (FNS) is revising the Supplemental Nutrition Assistance Program (SNAP) regulations at sections 271 and 278 to codify a new framework for determining distinct varieties of staple foods for purposes of assessing retail food store eligibility to participate in SNAP. The rulemaking is necessary to implement the enhanced stocking requirements of the Agricultural Act of 2014 (2014 Farm Bill), which increased the minimum number of varieties SNAP retail food stores must carry in each staple food category from three (3) to seven (7) as well as the minimum number of varieties that must be perishable from one variety in each of two (2) different staple food categories to one variety in each of three (3) different staple food categories. This rule will also update and codify the existing criteria for accessory foods (snacks, desserts, and foods meant to complement or supplement meals), which are not counted as staple foods for purposes of meeting the staple food stocking or sales requirements for SNAP retailer eligibility. This rule will primarily affect small SNAP-authorized retailers (convenience stores, small grocery stores, and combination stores) who are currently authorized under Criterion A.

Benefits: The rule will increase the variety of staple food products offered for sale at SNAP-authorized firms, which will help to ensure that SNAP households have access to healthier foods on a continuous basis.

Costs: The Department has estimated the rule's total cost to the Federal Government as approximately \$4 million in fiscal year (FY) 2027, and to incur no further costs after implementation. The cost to currently authorized retailers is estimated to be approximately \$77 million in the first year and about \$1 to \$2 million per year over the following four years.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 et seq.), agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). FNS believes the rule will not present a significant economic impact to a substantial number of small businesses. Although the number of stores impacted is large, we estimate that the cost to those small businesses of the changes in this rule would be nominal, on average about \$407 in the first year and \$482 over five years for those stores that need additional varieties to comply with this rule.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this rule as a 'major rule', as defined by 5 U.S.C. § 804(2).

Unfunded Mandates Reform Act

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 \$100 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 13175

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.

The proposed rule potentially had issues that required consultation, and FNS held a Tribal Consultation on the provisions of this rule on October 22, 2025. Tribal consulting officials expressed concerns that the proposed rule would reduce the number of SNAP-authorized retailers in Tribal communities and limit access for food-insecure Tribal members. The Department has considered these comments in the changes to provisions described above in the final rule that increase the number of varieties possible to meet staple stocking standards. The changes in the final rule do not rise to the level of requiring further consultation. If a Tribe requests further consultation, FNS will work with the Office of Tribal Relations to ensure meaningful consultation is provided.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency 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.

In accordance with the Paperwork Reduction Act of 1995, this rule contains information collections that are subject to review and approval by the Office of Management and Budget. The Department solicited public comments on the Notice of Proposed Rulemaking regarding changes in the information collection burden that would result from the finalization of changes in the rule as part of docket FNS-2025-0018, posted September 25, 2025 (90 FR 46081).

Title: SNAP—Store Applications.

OMB Control Number: 0584-0008.

Expiration Date: 4/30/2027.

Type of Request: Revision of a currently approved collection.

Abstract: This rule revises SNAP regulations to codify a new framework for determining distinct varieties of staple foods for purposes of assessing retail food store eligibility to participate in SNAP. To assist authorized retailers with the implementation of this rule, the Department intends to provide written notice to all authorized retailers outlining the changes to staple food stocking requirements. Additionally, the Department may consider new guidance for authorized retailers that further outlines these changes. Finally, the Department anticipates that currently authorized retailers may need to order additional stock to come into compliance with the regulations. These activities are considered one-time burden. There is no additional ongoing burden associated with this information collection. The Department intends to revise the currently approved information collection for SNAP—Store Applications (OMB Control Number 0584-0008, expiration 4/30/2027) to include the burden associated with these activities while seeking a three-year renewal for the OMB control number.

Commenters on the proposed rule noted that small retailers disproportionately face administrative burdens when navigating new rules, which are manageable for large stores but impose significant time costs on small operators. The Department has addressed these concerns by estimating separate burdens for large and small stores. The final rule adjusts the total burden estimate from 1,126,167.85 hours to 1,548,448.50 hours. The adjusted total burden hours reflects an increase from four (4) hours to eight (8) hours for small SNAP authorized stores and a decrease to half an hour for large SNAP authorized stores to review the notice and guidance and to update stock.

One Time Reporting Burden Estimates for Final Rule

Respondents: Businesses, For Profit.

Estimated Number of Respondents: 269,217. As of April 30, 2025, there were 269,217 SNAP-authorized retailers. Under this final rule, each authorized retailer would review the written notice of changes to SNAP staple food stocking requirements, review written guidance aligning with the rule, and make any changes to current stock, as necessary.

Estimated Number of Responses: 269,217. Each authorized retailer would be expected to review the written notice and guidance and update store stock, if necessary, one time.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: The estimated total one-time burden for authorized retailers reviewing the notice and guidance and updating stock is 1,548,448.50 hours.

Revised Reporting Burden for 0584-0008, Including Rule Estimates

Respondents: Business.

Estimated Number of Respondents: 269,217.

Estimated Number of Responses per Respondent: 1.46388229.

Estimated Number of Responses: 394,102.

Estimated Time per Response: 4.054149307.

Estimated Total Annual Burden on Respondents: 1,597,748.35.

Respondent category (affected public)	Type of respondents (optional)	Burden activity	Estimated number of respondents	Responses per respondent	Total annual responses	Estimated hours per response	Estimated total burden hours	Wage Rate	Total annualized cost of respondent burden	Previously approved burden hours for 0584-0008	Difference due to adjustments	Differences due to program changes
				(Col. H/F)	(Col. F × G)	(Col. J/H)	(Col. H × I)		(J * L)			
Businesses , For Profit	Large SNAP Authorized Retailers	Reviewing notice, reviewing guidance, and updating stock	80,705.00	1.00	80,705.00	0.50	40,352.50	\$49.89	\$2,013,186.23	0	0	40,352.50
Businesses , For Profit	Small SNAP Authorized Retailers	Reviewing notice, reviewing guidance, and updating stock	188,512.00	1.00	188,512.00	8.00	1,508,096.00	\$49.89	\$75,238,909.44	0	0	1,508,096.00
Total Start-up Reporting Burden			269,217.00	1.00	269,217.00	5.75	1,548,448.50	49.89	\$77,252,095.67	0.00	0.00	1,548,448.50

Currently Approved Reporting Burden in 0584-0008	55,708.00 ¹	2.2	124,885.00	0.395	49,299.85		\$2,427,716.84	49,299.90	0.00	0.00
Grand Total Reporting Burden in 0584-0008	269,217.00	1.46388230	394,102.00	4.0541493307	1,597,748.35		\$79,679,812.51	49,299.9	0.00	1,548,448.50

¹ These respondents are already included in the overall respondent group of 269,217 retailers.

E-Government Act Compliance

The Department is committed to complying with the E-Government Act, 2002 to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 13132; Federalism Summary Impact Statement

The rule does not impact States or local governments, so FNS anticipates that this rule will not have implications for federalism. Therefore, under Section 6(b) of the Executive Order, a federalism summary is not required.

Executive Order 12372

Executive Order 12372 requires Federal agencies to engage in intergovernmental consultation with State and local officials when involved in Federal financial assistance programs and direct Federal development. SNAP is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in this proposed rule, Department of Agriculture Programs and Activities Excluded from Executive Order 12372 (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effects with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effects. Prior to any judicial challenge to the provisions of the final rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

USDA has reviewed the Final Rule, in accordance with the Agriculture Improvement Act of 2018, “2018 Farm Bill”, Section 12403, Civil Rights Analyses, to identify and address any major civil rights impacts the rule might have on specific groups. FNS does not collect demographic

data from retail food stores, and FNS specifically prohibits retailers that participate in SNAP from engaging in discriminatory actions. Due to the unavailability of demographic data, FNS is unable to determine whether this Final Rule will have a civil rights impact on specific groups. However, the current mitigation and outreach strategies outlined within the Civil Rights Impact Analysis provide consideration to SNAP retailers and participants.

After careful review, USDA has determined that the Final Rule only concerns those retail food stores participating in SNAP that would not meet the increased staple food stocking requirements necessary for SNAP authorization that were mandated by the 2014 Farm Bill and codified in the 2016 Final Rule, “Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP)”. The final regulatory changes are intended to make the staple food stocking standards more intuitive so that those retail stores, which are primarily small format retailers, are better able to understand and meet the enhanced stocking requirements of the 2016 final rule. USDA will conduct site visits for the normal procedures involved in retailer authorization, re-authorization, or store investigations to monitor retailer compliance with the new stocking standards. USDA will ensure that all retailers with limited English proficiency are made aware of FNS telephonic translation services and that information is accessible for individuals with disabilities, in accordance with applicable laws, regulations, and directives.

List of Subjects

7 CFR Part 271

Food stamps, Grant programs—Social programs, Reporting and recordkeeping requirements.

7 CFR Part 278

Banks, banking, Food stamps, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, 7 CFR parts 271 and 278 are amended as follows:

1. The authority citation for parts 271 and 278 continues to read as follows:

Authority: 7 U.S.C. 2011-2036.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2:

- a. Add definitions for “Accessory food” and “Prepared food” in alphabetical order;
- b. Revise paragraph (1) of the definition of “Retail food store”; and
- c. Revise the definition of “Staple food”.

The additions and revisions read as follows:

§ 271.2 Definitions.

* * * * *

Accessory food means food that is generally considered a snack food or dessert, food that is meant to complement or supplement meals, or food used primarily in the meal preparation process as listed at § 278.1(b)(7) of this chapter. Accessory foods are not defined by package size and shall not be considered staple foods for purposes of meeting retail food store staple food stocking or sales requirements for SNAP participation.

* * * * *

Prepared food means hot or cold food or beverages ready for immediate consumption that are assembled, cooked, mixed, or otherwise made ready by the retailer on the premises of the retail food store, except for bread that otherwise counts as staple food. This definition also includes hot or cold food or beverages intended for onsite consumption regardless of whether it is assembled, cooked, mixed, or otherwise made by the retailer. Prepared food does not include food that is only cut or sliced on the premises of the firm, but which is not otherwise made ready for immediate consumption by the retailer or intended for onsite consumption. Prepared foods shall not be considered staple foods for purposes of § 278.1(b) of this chapter.

* * * * *

Retail food store means:

- (1) An establishment or house-to-house trade route that sells food for home preparation and consumption and meets the criteria as set forth in § 278.1(b) of this chapter.

* * * * *

Staple food means food intended for home preparation and consumption, excluding accessory foods, in each of the following four categories:

- (1) Protein, including plant-based sources;
- (2) Grains;
- (3) Vegetables or fruits; and
- (4) Dairy, including plant-based alternatives.

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

3. In § 278.1:

- a. Revise paragraphs (b)(1)(i)(A) and (b)(1)(ii); and
- b. Redesignate paragraph (b)(7) as paragraph (b)(9) and add new paragraphs (b)(7) and (8).

The revisions and additions read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) An establishment or house-to-house trade route shall normally be considered to have food business of a nature and extent that will effectuate the purposes of the program if it sells food for home preparation and consumption and meets either paragraph (b)(1)(ii) or (iii) of this section.

* * * * *

(ii) *Application of Criterion A. (A) Stocking standards.* To qualify under Criterion A, retail food stores shall offer for sale no fewer than:

(1) Seven (7) distinct varieties of staple food items in each of the four staple food categories, as defined under § 271.2 of this chapter, for a minimum of 28 distinct staple food varieties;

(2) Three (3) stocking units of each qualifying staple food variety, for a minimum of 84 stocking units; and

(3) One (1) variety of perishable foods in three different staple food categories so that a minimum of three (3) of the 28 varieties and nine (9) of the 84 stocking units are perishable.

(B) *Offer on a continuous basis.* Retail food stores must offer the qualifying staple food items for sale on a continuous basis, as evidenced by displaying the items for sale in a public area on any given day of operation.

(1) If a retail food store does not meet the stocking requirements at the time of an FNS store visit, the store may provide documentation that it ordered and/or received the required stock no more than 21 calendar days prior to the date of the store visit. Documentation may include, but is not limited to, invoices and receipts.

(2) Failure to provide documentation related to stock or to cooperate with FNS store visits may result in denial or withdrawal of authorization.

(C) *Distinguishing staple food varieties.* Foods that differ by kind of plant (e.g., apple vs. orange), the kind of animal (e.g., cow vs. chicken), or by main ingredient within the same staple food category count as distinct staple food varieties.

(1) A multi-ingredient food's staple food category and variety is based on the food's main ingredient. The main ingredient of a multi-ingredient food is the first ingredient other than water, broth, or stock listed on the ingredient list. Cream is a separate main ingredient from milk.

(2) Unless specified under paragraph (b)(1)(ii)(D) of this section:

(i) Different brands, flavorings, packaging, or preparations do not count as distinct staple food varieties, such as, but not limited to different cuts of meat, whole fruit and cut fruit, vanilla yogurt and plain yogurt, and a gallon of milk and a half gallon of milk.

(ii) Different types of the same food do not count as distinct staple food varieties, such as, but not limited to, brown and white rice, pinto and kidney beans, and Granny Smith and Gala apples.

(3) No food product can count as a variety in more than one staple food category.

(D) *Specially designated varieties*. Notwithstanding paragraph (b)(1)(ii)(C) of this section, specific food items or groups of foods count as a distinct variety as specified below.

(1) *Single-ingredient varieties*. The following foods, with no other ingredients added other than fortifying vitamins, count as distinct staple food varieties from multi-ingredient foods with the same main ingredient. For example, wheat flour is a distinct variety from frozen burritos, frozen lasagna, and canned chicken noodle soup with wheat flour as the main ingredient. Also, seasoned perishable chicken is a distinct variety from plain perishable chicken and flavored perishable milk is a distinct variety from plain perishable milk.

(i) Shell eggs;

(ii) Perishable meat, poultry, or fish (for each different kind of animal);

(iii) Dry beans;

(iv) Dry peas;

(v) Dry lentils;

(vi) Raw grains (for each different kind of grain, e.g., rice and barley);

(vii) Flour (for each different kind of grain, e.g., wheat flour and rice flour); and

(viii) Perishable liquid milk.

(2) *Derivative food product varieties*. Regardless of type, kind, flavoring, or main ingredient, the following foods count as only one distinct staple food variety (e.g., whole grain rice noodles are the same variety as whole grain wheat noodles). Any other food item with the same main ingredient is a separate variety (e.g., a loaf of bread is a distinct variety from a frozen burrito even if they both have wheat as the main ingredient).

(i) Tofu/tempeh;

(ii) Bread (whole grain);

- (iii) Bread (non-whole grain);
- (iv) Pasta/noodles (whole grain);
- (v) Pasta/noodles (non-whole grain);
- (vi) Breakfast cereals;
- (vii) Shredded cheese (including, grated, shaved, and crumbled);
- (viii) Cheese (non-shredded);
- (ix) Fermented/cultured dairy beverages;
- (x) Yogurt (non-liquid);
- (xi) Sour Cream;
- (xii) Infant formula; and
- (xiii) Infant cereal.

(3) *Shelf-stable varieties*. The following foods sold in a shelf-stable form with or without other ingredients count as distinct varieties from the single-ingredients in paragraph (b)(1)(ii)(D)(I) of this section as well as from perishable multi-ingredient foods with the same main ingredient. For example, raw ground beef, frozen beef ravioli with beef as the main ingredient, and canned (shelf-stable) beef stew with beef as the main ingredient count as three distinct beef varieties.

- (i) Meat, poultry, or fish (for each different kind of animal);
- (ii) Liquid milk; and
- (iii) Dried/powdered milk.

(E) Plant-based alternatives.

(I) Plant-based dairy alternatives shall be considered distinct dairy staple food varieties from the traditional varieties for which they are a substitute and may count for up to three (3) varieties as long as the main ingredient is not an accessory food.

(2) Nuts/seeds, beans, peas, and lentils shall count in the protein category.

* * * * *

(7) *Accessory foods*. Accessory foods as defined at § 271.2 of this chapter do not count as staple foods for purposes of retail food store eligibility and include:

(i) *Snack and dessert food items*. (A) Chips and other finger snacks, including but not limited to, potato, corn, wheat, tortilla, pita, vegetable, and fruit chips, crisps, sticks, and straws; onion ring snacks; corn nuts; snack and trail mixes (other than those containing only nuts); crackers; pork rinds; pretzels; pre-popped or un-popped popcorn; and cheese puffs or curls.

(B) Baked, gelatin, and pudding desserts, including but not limited to, doughnuts, brownies, cupcakes, cookies, snack cakes, muffins, pastries, sweet rolls, pies, cakes, churros, scones, pudding, and any packaged mixes intended to create any of the aforementioned products;

(C) Frozen snacks and desserts, including but not limited to, ice cream, ice milk, frozen yogurt, custard, whipped cream, sherbet, sorbet, gelato, granita, Italian ices, frozen carbonated beverages, snow cones, and ice pops;

(D) Candy and chocolate, including but not limited to, mints, chocolate chips, marshmallow, gum, toffee, brittle, fudge, marzipan, nougat, and candy bars;

(E) Snack bars, including but not limited to, protein, granola bars, and baked bars; and

(F) Jerky, including but not limited to, dehydrated meat sticks and slices made from any type of animal, and plant-based substitutes.

(ii) *Food items that complement or supplement meals*. (A) Carbonated and uncarbonated beverages (except milk, cream, plant-based milk and cream alternatives in which the main ingredient is not another accessory food, and 100% fruit or vegetable juice), including but not limited to, soda pop, sports or energy drinks, iced tea, tea bags, fruit punch, mixers for alcoholic beverages, shake powders/mixes, and water;

(B) Condiments, including but not limited to, ketchup, mayonnaise, mustard, salad dressing, hot sauce, vinegar, relish, horseradish, chutney, salsa, and soy sauce;

(C) Cheese or fruit dips and spreads, including but not limited to, cheese sprays, jams, jelly, marmalade, preserves, and compote;

(D) Sweeteners, including but not limited to, sugar, honey, maple syrup, aspartame, molasses, high fructose corn syrup, and any other natural or artificial sweeteners;

(iii) *Edible items primarily used as part of the food preparation process.* (A) Extracts, including vanilla and other flavor extracts;

(B) Powdered, dried, and extracted spices or seasonings;

(C) Baking soda, baking powder, yeast, and starch;

(D) Cooking oils and fats, including but not limited to vegetable oil, olive oil, butter, shortening, and lard;

(E) Broth, stock, gelatin, and bouillon;

(F) Edible but non-caloric and non-digestible food products, including but not limited to, monosodium glutamate, sodium nitrate, olestra, and any other food additives.

(iv) *Other food items.* Any food product with a main ingredient that appears on this list as an accessory food item except infant formula.

(8) *Co-location.* Separate businesses that operate under one roof are considered a single firm for purposes of determining eligibility to participate as a SNAP retail food store if both businesses:

(i) Share the same ownership in whole or in part;

(ii) Sell similar foods; and

(iii) Share inventory.

* * * * *

Stephen Vaden

Deputy Secretary, U.S. Department of Agriculture
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