



601 E Street, NW | Washington, DC 20049
202-434-2277 | 1-888-OUR-AARP | 1-888-687-2277 | TTY: 1-877-434-7598
www.aarp.org | twitter: @aarp | facebook.com/aarp | youtube.com/aarp

May 18, 2016

Vicky Robinson
Chief
Retailer Management and Issuance Branch
Retailer Policy and Management Division
Food and Nutrition Service
U.S. Department of Agriculture
3101 Park Center Drive, Room 418
Alexandria, VA 22302

Re: FNS-2016-0018 Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP) (RIN 0584-AE27)

Dear Ms. Robinson:

AARP is pleased to have the opportunity to comment on the U.S. Department of Agriculture, Food and Nutrition Service (FNS) proposed rule enhancing requirements for Supplemental Nutrition Assistance Program (SNAP) retail food stores (retailers). AARP is a nonprofit, nonpartisan organization, with a membership of nearly 38 million, that helps people turn their goals and dreams into real possibilities, strengthens communities and fights for the issues that matter most to families such as healthcare, employment and income security, retirement planning, affordable utilities and protection from financial abuse.

AARP supports FNS's goals of improving the nutritional quality of foods being purchased through SNAP, especially given the impact food security and proper nutrition has on the well-being of older adults.

AARP is deeply concerned about the issue of food insecurity, particularly the impact it has on the health of older adults. According to a 2015 research study from the AARP Foundation—the charitable arm of AARP serving the low-income 50+ community — approximately 10 million adults over the age of 50 struggle with food insecurity.¹ For older adults, the negative consequences of food insecurity are dire; seniors struggling

¹ AARP Foundation, *Food Insecurity Among Older Adults 2015 Update*, http://www.aarp.org/content/dam/aarp/aarp_foundation/2015-PDFs/AF-Food-Insecurity-2015Update- Final-Report.pdf

with food insecurity are over twice as likely to report being in poor health.² Compared to food-secure seniors, those facing food insecurity are 53 percent more likely to die of a heart attack, 40 percent more likely to have congestive heart failure, 22 percent more likely to face limitations of Activities of Daily Living (ADLs), and are 60 percent more likely to suffer from depression.³ Food insecurity among older adults represents significant costs to the American public, particularly through increased expenditures on health. According to the Centers for Disease Control and Prevention (CDC), nearly 95 percent of health care costs for the 65+ population go towards treating and managing chronic illnesses, many of which are caused or exacerbated by food insecurity and poor nutrition.⁴

SNAP is the nation's largest federal domestic nutrition assistance program, and provides 44.7 million Americans with critical support to purchase food for themselves and their families.⁵ In Fiscal Year 2014, households with an individual over the age of 60 (which USDA classifies as "elderly") represented 19 percent of all SNAP households, with an average monthly benefit of \$129 per month and 82 percent of these elderly SNAP households are elderly individuals living alone.⁶

Once finalized, this proposed rule could improve the food environment for all older consumers, regardless of SNAP participation or food security status, and enable them to make healthier decisions at the retail outlets at which they already shop.

Access to healthy foods increases food security and supports healthier behaviors that result in better health outcomes. The type of foods provided in retail stores located in or near neighborhoods impacts access and availability of healthier items. A review of the literature suggests that regardless of SNAP participation status, neighborhood residents who have better access to supermarkets and limited access to convenience stores tend to have healthier diets and lower levels of obesity.⁷

Research shows that access to retail food stores varies dramatically by socioeconomic status, race/ethnicity, and rural/urban status.⁸ Communities with predominantly white residents have two to four times more large-chain grocery stores and supermarkets

² Lee, JS., Frongillo Jr., Edward A. Nutritional and Health Consequences Are Associated with Food Insecurity among U.S. Elderly Persons. *J. Nutr.* May 1, 2001 vol. 131 no. 5 1503-1509. <http://jn.nutrition.org/content/131/5/1503.long>

³ Feeding America. *Spotlight on Senior Health: Adverse Health Outcomes of Food Insecure Older Americans*. <http://www.feedingamerica.org/hunger-in-america/our-research/senior-hunger-research/or-spotlight-on-senior-health-executive-summary.pdf>

⁴ U.S. Department of Health and Human Services, Centers for Disease Control. *The State of Aging & Health in America 2013*. http://www.cdc.gov/features/agingandhealth/state_of_aging_and_health_in_america_2013.pdf

⁵ U.S. Department of Agriculture Food and Nutrition Service. Supplemental Nutrition Assistance Program: Number of Persons Participating. <http://www.fns.usda.gov/sites/default/files/pd/29SNAPcurrPP.pdf>

⁶ U.S. Department of Agriculture Food and Nutrition Service. *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2014*. <http://www.fns.usda.gov/sites/default/files/ops/Characteristics2014.pdf>

⁷ Larson NI, Story MT, Nelson MC. Neighborhood environments: disparities in access to healthy foods in the U.S. *Am J Prev Med.* 2009;36(1):74-81.

⁸ Powell, L., Slater, S. Mirtcheva, D., et al. Food store availability and neighborhood characteristics in the United States. *Prev Med.* 2009;36(1):74-81.

than do communities of color.^{9,10} Low-income communities and communities of color tend to have more small food retail outlets, such as corner stores, convenience stores, and bodegas.^{11,12} AARP Foundation research indicates that many older low income adults shop for food in smaller retail outlets; 42 percent of low income adults age 50 and over report shopping for food at small food stores and 40 percent report shopping for food at drug stores. Among those surveyed in different geographic areas, 48 percent of older adults in urban areas reported shopping for some of their food at drug stores, as did 38 percent of older adults living in small towns, 37 percent in suburban areas, and 32 percent in rural areas. In this same study, 56 percent of older adults reported that learning about ways to find affordable fruits and vegetables where they live would make it easier to eat healthier.¹³

For many of these Americans – including SNAP participants – these small food retail stores are the most convenient and accessible options for purchasing food for themselves and their families. While many of these small food retailers accept SNAP, they tend to carry primarily pre-packaged convenience foods and beverages that are high in calories, sugar, salt, and unhealthy fats. They are also less likely to sell more healthful staple foods including fruits and vegetables, whole grain-rich foods, and low-fat dairy products.^{14,15,16,17,18}

AARP supports the effort to uphold the original intent of SNAP to purchase food items intended for home preparation and consumption.

The proposed rule clarifies and strengthens requirements that, in order to be a SNAP eligible retailer, sales of hot and/or cold prepared foods not intended for home preparation and consumption must be 50 percent or less of total food sales. The proposed rule adds an additional requirement that at least 85 percent of an entity's total food sales must be for items that are not cooked or heated onsite before or after

⁹ Morland K, Wing S, Diez Roux A, Poole C. Neighborhood characteristics associated with the location of food stores and food service places. *Am J Prev Med.* 2002;22(1):23-29.

¹⁰ Cannuscio CC, Tappe K, Hillier A, Buttenheim A, Karpyn A, Glanz K. Urban food environments and residents' shopping behaviors. *Am J Prev Med.* 2013;45(5):606-614.

¹¹ Morland K, Wing S, Diez Roux A, Poole C. Neighborhood characteristics associated with the location of food stores and food service places. *Am J Prev Med.* 2002;22(1):23-29.

¹² Cannuscio CC, Tappe K, Hillier A, Buttenheim A, Karpyn A, Glanz K. Urban food environments and residents' shopping behaviors. *Am J Prev Med.* 2013;45(5):606-614.

¹³ AARP Foundation. *Securing the Essentials: Findings on Nutrition Knowledge and Food Insecurity Among Older Adults.* <http://pdf.aarpfoundation.org/i/455086-aarp-foundation-findings-on-nutrition-knowledge-and-food-insecurity-among-older-adults>

¹⁴ Cavanaugh E, Mallya G, Brensigner C, Tierney A, Glanz K. Nutrition environments in corner stores in Philadelphia. *Prev Med.* 2013;56(2):149-151.

¹⁵ Lucan SC, Karpyn A, Sherman S. Storing empty calories and chronic disease risk: Snack-food products, nutritive content, and manufacturers in Philadelphia corner stores. *J Urban Health.* 2010;87(3):394-409.

¹⁶ Laska MN, Borradaile KE, Tester J, Foster GD, Gittelsohn J. Healthy food availability in small urban food stores: A comparison of four US cities. *Public Health Nutr.* 2010;13(7):1031-1035.

¹⁷ Laska MN, Caspi CE, Pelletier JE, Friebur R, Harnack LJ. *Lack of healthy food in small-size to mid-size retailers participating in the Supplemental Nutrition Assistance Program, Minneapolis-St. Paul, Minnesota, 2014.* *Prev Chronic Dis.* 2015;12:E135.

¹⁸ Caspi CE, Pelletier JE, Harnack L, Erickson DJ, Laska MN. Differences in healthy food supply and stocking practices between small grocery stores, gas-marts, pharmacies and dollar stores. *Public Health Nutr.* In Press. DOI: dx.doi.org/10.1017/S1368980015002724.

purchase. These enhancements will help ensure that SNAP retailers offer and sell a variety of foods consistent with the language defining a “retail food store” from Sec. 3(o)1 of the Food and Nutrition Act of 2008.¹⁹ FNS has indicated that this provision would impact less than 1% of currently authorized retailers.²⁰

AARP does not believe retailers should be exempt or waived from this rule indefinitely, but that FNS should instead consider a phased implementation plan that takes into consideration the role retailers play in ensuring access to food for SNAP recipients. Some retailers may face significant difficulty in implementing the proposed rule and might also serve particularly vulnerable populations. FNS can and should issue only *temporary* extensions or waivers from compliance for retailers showing adequate and demonstrable effort, in addition to financial and logistical hindrances, to full compliance.

The rule proposes a set of criteria FNS would use to make a determination as to whether to grant a waiver, including: distance from the nearest SNAP authorized retailer; transportation options to other SNAP authorized retailer locations; the gap between a store’s stock and SNAP required stock for authorized eligibility; and whether the store furthers the purpose of SNAP.

When assessing a potential waiver based on this criteria, we encourage FNS to use a food security-focused interpretation of “whether a store furthers the purpose of SNAP,” by which FNS could use metrics such as the USDA Economic Research Service’s definition of a “low income and low access area” for guidance.²¹ Because this metric takes into account an area having a high concentration of lower income individuals, who are more likely to qualify for SNAP, as well as geographic access concerns, this offers a starting point to assess whether a retailer advances the purposes of SNAP by virtue of their location.

SNAP recipients, especially those who are older, may struggle to access food for lack of reliable transportation or because of disability. In addition to public transit options, FNS should take into account the transportation services available specifically to older adults (such as those provided under Title III B of the Older Americans Act) when considering transportation options to SNAP retailers.

When considering “the gap between a store’s stock and SNAP required stock for eligibility,” we believe that a retailer should show adequate and demonstrable effort towards full compliance through stock improvements if being considered for a temporary extension or waiver from full compliance. *If* a retailer can exhibit that they have added items in additional staple food categories, increased the number of perishable items,

¹⁹ The Food and Nutrition Act of 2008, P.L. 113-128. <http://www.fns.usda.gov/sites/default/files/snap/Food-And-Nutrition-Act-2008.pdf>.

²⁰ FNS. *Regulatory Impact Analysis: 7 CFR Parts 271 and 278: Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program*. 2016. Available at <https://www.regulations.gov/#!docketDetail;D=FNS-2016-0018>. Accessed 4-8-2016.

²¹ United States Department of Agriculture Economic Research Service. Food Access Research Atlas. <http://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas.aspx>

and have attempted to carry greater stock in these categories, *only then* should they be considered for a temporary extension or waiver from full compliance. Ideally, those retailers being given temporary extensions or waivers in low access areas should be able to demonstrate financial or logistical hardship. Retailers who cannot demonstrate any attempt at compliance should not be granted waivers or a temporary extension. It is our opinion that the duration of these temporary extensions or waivers should be no longer than 365 days.

Based on FNS's estimates, the average small retailer would need to add 54 staple goods to become compliant under the proposed rule.²² Therefore, one such metric by which a determination could be made is the percentage of additional items carried towards compliance with the enhanced standard. For instance, if a retailer is able to regularly carry 41 additional staple goods (75% compliance to the enhanced standard above the original standard), but experiences difficulties sourcing or regularly keeping the additional 13 items in stock, then the retailer should be considered for a temporary extension or waiver. A lower threshold could be established for areas of low food access or areas with high SNAP participation.

Furthermore, we would define "financial or logistical hardship" as any costs or financial losses resulting in attempts at compliance that are above the estimates in the Interim Regulatory Flexibility Analysis for the proposed rule or any difficulties securing consistent and ample supply of staple goods so as to fulfill the requirements. Examples of a logistical hardship might be rural retailers who only receive deliveries once a week, or retailers in remote areas that may not be able to receive stock for weeks at a time during the winter.

AARP believes that FNS should establish a plan for technical assistance for retailers who are struggling with compliance with the enhanced standard, particularly for small, independent stores, those who serve low food access areas, and especially to those who have shown effort towards compliance with the enhanced standard but demonstrated significant financial or logistical hardship.

Technical assistance may include a combination of resources directly administered by USDA, as well as technical assistance contracted through organizations and individuals who have experience working with small food retailers to increase healthy food availability. We strongly encourage FNS to also coordinate and partner with initiatives that are already supporting small retailers in this way and work to improve the quality of foods at small retailers throughout the country. We would encourage FNS to use the *Healthy Eating Research report: Minimum Stocking Levels and Marketing Strategies of Healthful Foods for Small Retail Stores* as a reference point to begin understanding

²² <https://www.gpo.gov/fdsys/pkg/FR-2016-04-05/pdf/2016-07793.pdf>

such work.²³ FNS should focus technical assistance efforts on SNAP retailers that meet the above parameters for temporary extensions or waivers from full compliance.

AARP encourages FNS to align and coordinate technical assistance and training efforts with other initiatives across USDA programs that promote healthy retail, nutrition education, and other related initiatives.

FNS could provide state agencies that administer SNAP with information on how SNAP nutrition education funds can be used to promote healthy retail efforts and the updated SNAP retailer requirements. In addition, FNS should encourage coordination with other USDA programs including “Know Your Farmer, Know Your Food” initiatives, the Healthy Food Financing Initiative, and SNAP incentive programs, such as those funded through the Food Insecurity Nutrition Incentive program.

It is our belief that this enhanced rule will aid SNAP in achieving the program’s goals of reducing food insecurity and improving nutrition among low-income Americans of all ages. AARP appreciates the opportunity to comment on this proposed rule. If you have any questions, please feel free to contact me or KJ Hertz on our Government Affairs staff at khertz@aarp.org or 202-434-3770.

Sincerely,



David M. Certner
Legislative Counsel & Legislative Policy Director
Government Affairs

²³ Laska MN and Pelletier JE. *Minimum Stocking Levels and Marketing Strategies of Healthful Foods for Small Retail Stores*. Durham, NC: Healthy Eating Research. February 2016. Available at <http://healthyeatingresearch.org/research/minimum-stocking-levels/>. Accessed 4-8-2016.