



4/22/94

FOOD STAMP PROGRAM - REGIONAL LETTER 94-25

Subject: Final Rule: Administrative Improvement and Simplification Provisions From the Hunger Prevention Act of 1988

This rule finalizes the provisions contained in the interim Food Stamp Program rule implementing the provisions of the Hunger Prevention Act of 1988. The interim rule was published on June 7, 1989. The provisions of this rule are addressed below.

- 1) Expands the definition of disabled. This provision, at 7 CFR 271.2, is effective May 6, 1994 and must be implemented no later than September 5, 1994.
- 2) Requires that training for case workers convey the goals of, and methods for, certifying eligible households. In addition, allows optional training for volunteer and non-profit organizations. This provision, at 7 CFR 272.4(d), is effective July 1, 1989.
- 3) Allows State agencies to provide program information for low-income households. This provision, at 7 CFR 272.5(c), is effective July 1, 1989.
- 4) Expands hardship criteria for waiving of in-office interview. This provision, at 7 CFR 273.2(e), is effective July 1, 1989.
- 5) Includes brevity as a condition for approving deviations from the FNS-designed Food Stamp application. This provision, at 7 CFR 273.2(b), is effective May 6, 1994 and must be implemented no later than September 5, 1994.
- 6) Reinstated previously required joint application practices. This provision at 7 CFR 273.2(j), is effective July 1, 1989.
- 7) Implements provisions pertaining to verification of application information supplied by a household. The provision at 7 CFR 273.2(f) is effective May 6, 1994 and must be implemented no later than September 5, 1994 and the provision at 7 CFR 273.21(j) is effective July 1, 1989.
- 8) Specifies that in-kind or vendor payments converted to a direct cash payment under the approval of a federally authorized demonstration project shall continue to be excluded from income. This provision at 7 CFR 273.9(c)(1) is effective July 1, 1989.



- 9) An expense covered by an excluded vendor payment which has been converted to a direct cash payment under the approval of a federally authorized demonstration project remains non-deductible as a household expense. This provision at 7 CFR 273.10(d)(1) is effective July 1, 1989.
- 10) Requires State agencies to provide clients with telephone access to certification offices in order to receive Program information or to report changes. This provision at 7 CFR 273.12 and 273.21 is effective July 1, 1989.
- 11) Specifies that self-employment income and expenses from farming can be annualized. This provision at 7 CFR 273.11 and 273.21(f)(2) is effective July 1, 1989.
- 12) Property essential to self-employment farming is excluded as a resource for one year from the date the household member terminates self-employment from farming. This provision at 7 CFR 273.8 is effective July 1, 1989.

If you have any questions, please contact Patti McGrath at (617) 565-6401.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Canavan", with a long horizontal flourish extending to the right.

Robert L. Canavan, Chief
Regional Policy Section
Food Stamp Program
Northeast Region

Enclosure

Rules and Regulations

Federal Register

Vol. 59, No. 66

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273 and 277

(Amdt. No. 316)

RIN 0584-AB45

Food Stamp Program; Administrative Improvement and Simplification Provisions From the Hunger Prevention Act of 1988

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action places into final form an interim Food Stamp Program rule published on June 7, 1989. The interim rulemaking implemented Food Stamp Program provisions contained in the Hunger Prevention Act of 1988. The provisions of that Act addressed in this rule are: (1) Expanding the definition of disabled; (2) optional training for volunteer and non-profit organizations; (3) program information for low-income households; (4) expanding hardship criteria for waiving of in-office interview; (5) simplified applications; (6) joint applications; (7) verification; (8) federally authorized demonstration projects which cash out benefits in other assistance programs; (9) telephone access to certification offices in order to receive program information or to report changes; (10) annualizing self-employment income and expenses from farming; and (11) resource exclusions for farm households in transition from farming.

DATES: The provisions of this final action are effective and shall be implemented as follows: (i) Those provisions in § 271.2(11), § 272.1(g), § 273.2(b)(3), § 273.2(c)(5), § 273.2(f)(8)(i)(A), and § 273.2(f)(8)(ii), which adopt the interim provisions of

the June 7, 1989 interim rule as final with some changes, are effective May 6, 1994 and must be implemented no later than September 5, 1994; (ii) all other provisions, which adopt the interim provisions as final with no changes, are effective as of July 1, 1989.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour, Eligibility and Certification Rulemaking Section, Certification Policy Branch, Program Development Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305-2496.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12866

The Food and Nutrition Service is issuing this proposed rule in conformance with Executive Order 12866, and has determined that it is a "significant regulatory action." Based on information compiled by the Department, it has been determined that this action: (1) Would have an effect on the economy of less than \$100 million; (2) would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (3) would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) would not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and (5) would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

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 rule and related notice(s) to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5

U.S.C. 601 *et seq.*). William E. Ludwig, the Administrator of the Food and Nutrition Service (FNS), has certified that this final rule does not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they may be required to modify application forms, add telephone access information to their forms, and modify their verification procedures, however the effect on these entities will be minimal. Participants and applicants will be affected by changes to the application and to procedures in reporting medical expenses.

Paperwork Reduction Act

The reporting and recordkeeping burden associated with the certification and continued eligibility of food stamp households is approved by the Office of Management and Budget (OMB) under OMB control number 0584-0064.

The food stamp application, as approved under this OMB number, already contains several important verification statements to the household. The requirement in 7 CFR 273.2(c)(5) that State agencies develop a separate written general "Notice of Verification" versus including such information on the food stamp application or verbally conveying such information to households does not alter or change the methodologies used to determine the burden estimates approved under OMB control No. 0584-0064.

The requirements in 7 CFR 272.2(a), 272.4(d), and 272.5 relative to the submission and updating of an optional "Program information activities planning document" as part of a State agency's Plan of Operation have been submitted to OMB and have been approved under OMB approval number 0584-0083. This rule amends the table at 7 CFR 271.8 "Information collection/recordkeeping—OMB assigned control numbers" to reflect the OMB control number for the approval of burden associated with 7 CFR 272.5 of this rule.

The remaining provisions of this rule do not contain any reporting and/or recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Executive Order 12778

This final rule 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 law, 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" paragraph 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 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 non-quality control (QC) liabilities); (3) for program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Background

On June 7, 1989 the Department published an interim rulemaking at 54 FR 24518, which implemented several of the food stamp provisions contained in the Hunger Prevention Act of 1988 (Pub. L. 100-435). Comments were solicited on the provisions of the interim rulemaking through August 7, 1989. The Department received 13 comment letters from State and local welfare agencies and public interest groups. All comments received were reviewed and considered but comments which were unclear or not pertinent to this rulemaking are not addressed in this preamble. For a full understanding of the provisions of this final rule, the reader should refer to the preamble of the interim rule. The provisions of the interim rule addressing specified procedures for claiming the medical deduction are not being finalized in this rule. Those provisions will be addressed in a forthcoming proposed rule entitled Simplification of Program Rules. Also, the provision of the interim rule addressing the delivery of benefits to households which apply after the fifteenth of the month is not finalized in this rule but will be placed in final form in the forthcoming Benefit Delivery final rule.

Definition of Elderly or Disabled—7 CFR 271.2

Section 350 of Public Law 100-435 added three categories to the definition of elderly or disabled persons. These categories are: (1) Recipients of interim assistance benefits pending the receipt

of supplemental security income (SSI); (2) recipients of disability-related medical assistance benefits under title XIX of the Social Security Act (SSA); and (3) recipients of disability-based State general assistance benefits. Recipients of any of these benefits must be treated as disabled persons for food stamp purposes provided the eligibility to receive these benefits is based upon disability or blindness criteria which are at least as stringent as those under title XVI of the SSA. The Department amended paragraph (11) of the definition of "Elderly or disabled member" in 7 CFR 271.2 in the interim rulemaking to implement these provisions.

The Department received several comments suggesting changes to the interim rule language. One commenter stated that it was unclear in the rule language that receipt of interim assistance is involved in only the first of the three new categories of disabled member. The Department shares the commenter's concern and is amending paragraph (11) of the definition of "Elderly or disabled member" in 7 CFR 271.2 in this rulemaking to more clearly indicate that receipt of interim assistance as a condition of being defined as disabled for food stamp purposes is only required for those persons who are interim recipients of SSI.

Another commenter stated that it is unclear in the regulatory language if it is only disability-based State general assistance (GA) that must be based upon disability or blindness criteria at least as stringent as title XVI of the SSA, or whether the "at least as stringent" requirement applies to all three types of benefits. The Department interprets the law to require that the "at least as stringent" criteria apply to all three types of benefits. The regulatory language at 7 CFR 271.2 is being amended to clarify this point.

Another commenter pointed out that the definition of elderly or disabled persons in 7 CFR 271.2 needs to be revised to clearly state that it is State programs, not individual cases, which are to be measured by the "at least as stringent criteria as those under title XVI of the Social Security Act" requirement. The commenter argued that the regulation, as it is written in the interim rule, appears to state that the decision as to whether a GA program is based on criteria as stringent as those under title XVI of the Social Security Act can be made on a case-by-case basis. The commenter argued, however, that the intent of Public Law 100-435 was for this decision to be made on a State-by-State basis, not case-by-case. The

Department agrees with the commenter and is amending paragraph (11) of the definition to clarify this point.

In order to further emphasize that State disability programs will be measured by criteria at least as stringent as those under title XVI, the Department has decided to further amend the definition of "Elderly or disabled member" in this final rule to include in paragraph (11) of the definition the specific citation to the SSA regulations interpreting title XVI of the SSA. Including this citation will provide State and local agencies with the information necessary to determine if an individual applying for food stamps meets the definition of elderly/disabled person as set forth in the Food Stamp Act.

Training—7 CFR 272.4(d)

Section 322(a) of Public Law 100-435 amended section 11(e)(6)(C) of the Act (7 U.S.C. 2020(e)(6)(C)) to specifically require that training for case workers provided by the State agency convey the goals of and methods for promptly and accurately certifying eligible households. The interim rule amended 7 CFR 272.4(d)(1)(i) to reflect this statutory language. A commenter did not think it was necessary for the Department to instruct State agencies to include this "function" of the Program in their training programs. As the Department explained in the preamble of the interim rule, this language was added to the regulations to emphasize Congressional concern in this area as reflected by Public Law 100-435. The Department is adopting the interim provisions at 7 CFR 272.4(d)(1)(i) as final without change.

In addition, pursuant to section 322(b) of Public Law 100-435, the interim rule added a new paragraph (d)(2) to 7 CFR 272.4 to allow State agencies, at their option, to offer training and assistance to persons working with certain volunteer or nonprofit organizations. In conjunction with this new option, the interim rule added a new paragraph (f) to 7 CFR 277.4 to provide that expenses (e.g., travel costs, lodging, or meals) of the persons working with the volunteer or nonprofit organization who receive this training and assistance would not be reimbursed. A commenter was concerned that the interim rule language appearing in 7 CFR 277.4(f) could be misinterpreted to mean that travel expenses of State employees who work with organizations that receive this training would not be allowable. The Department agrees that the language could create this misinterpretation. Accordingly, this final rule amends the interim provisions at 7 CFR 277.4(f) to

clarify this distinction. The interim provision at 7 CFR 272.4(d)(2) is adopted as final without change.

Information for Low-Income Households—7 CFR 272.5(c)

Section 204(a) and (b) of Public Law 100-435 and 7 CFR 272.5(c) of the interim rule allow State agencies, at their option, to inform low-income households about the availability, eligibility requirements, application procedures and benefits of the Food Stamp Program. Pursuant to section 204(b) of Public Law 100-435, the interim rule also amended 7 CFR 272.5(c) to specify that State agencies, at their option, may request reimbursement under 7 CFR part 277 for these outreach activities. The interim rule contained a number of conforming amendments necessitated by the addition of these outreach activity provisions. 7 CFR 272.5(c) was amended to specify that if a State agency elects to request reimbursement for Program informational materials directed at low-income households, those materials must meet any applicable bilingual requirements. 7 CFR 272.5(c) was further amended to require that prior to claiming such outreach costs, State agencies must receive approval from the Food and Nutrition Service (FNS) of an appropriate amendment to their State Plan of Operations. In addition, 7 CFR 272.2(a)(2) was amended to add a reference to the optional "Program informational activities plan" as a component of the State Plan of Operation, and 7 CFR 272.2(d)(1) was amended to add the requirement that State agencies submit the optional "Program informational activity" planning document to FNS for inclusion in their State Plan of Operation. Lastly, the interim rule added a conforming amendment to 7 CFR part 277, appendix A, to remove paragraph C(14) which was made obsolete.

One commenter felt the requirement of 7 CFR 272.2(a)(2) which mandates that State agencies submit a Program informational activities plan is burdensome. The commenter suggested that the budget justification contained on the form FNS-366A should be sufficient to obtain the prediction of expenditures. The Department disagrees. As State agencies begin to implement outreach under Public Law 100-435, the Department wishes to make sure that controls are in place that ensure cost-effective spending. The plans provide important information on the kinds of activities and services being planned as well as the sub-populations at which State agencies are targeting their efforts. Having this information

and the budget projection data will enable the Department to assist State agencies in developing the most cost-effective outreach programs possible. Therefore, this final rule adopts the interim provisions pertaining to information for low income households as final without change.

Waiver of the In-Office Interview—7 CFR 273.2(e)

In accordance with section 330 of Public Law 100-435, the interim rule amended 7 CFR 273.2(e) to explicitly specify the circumstances under which the in-office interview for an applicant household must be waived. Consequently, current rules at 7 CFR 273.2(e) require that in-office interviews be waived if requested by households which are unable to send a household member to the food stamp office because they: (1) Are elderly or disabled as defined in 7 CFR 271.2; (2) live in a location which is not served by a certification office; (3) are experiencing transportation difficulties as determined by the State agency on a case-by-case basis; or (4) are experiencing other hardships that the State agency determines warrants a waiver of the in-office interview such as illness, care of a household member, hardships due to residing in a rural area, prolonged severe weather or work hours. If the in-office interview is waived, the State agency has the option to conduct a telephone interview or a home visit.

The Department received one comment criticizing the interim rule provision, stating that the provision made "the obvious and thoroughly unnecessary statement that granting waivers to in-office interviews applied in rural areas". The commenter felt that adding emphasis to the regulations is not a decisive way to act when the Program has operational problems. Furthermore, the commenter felt that problems State agencies may have in applying the requirement to grant waivers of in-office interviews should be dealt with by FNS regional office staff. The Department understands the commenter's concerns, but the language in the interim rule was not added to address operational concerns, but rather was required by law. Public Law 100-435 clearly states that waiving in-office interviews for households in rural areas is sometimes necessary, and State agencies must do so when a household meets specific criteria. The interim rule amended 7 CFR 273.2(e) specifically to address Congressional concern that residency in a rural area not be a barrier to participation in the Food Stamp Program. Therefore this action adopts

the interim provisions at 7 CFR 273.2(e) as final without change.

The Food Stamp Application Form—7 CFR 273.2(b)

Pursuant to section 310 of Public Law 100-435, the June 7, 1989 interim rule amended several provisions of the regulations pertaining to the food stamp application form. Prior to publication of the interim rule, the regulations at 7 CFR 273.2(b) permitted State agencies to deviate from the FNS-designed food stamp application in order to process joint applications with other assistance programs, meet the requirements of a State agency computer system or accommodate State agency needs that are determined to be justifiable. The first provision of section 310 of Public Law 100-435 amended section 11(e)(2) of the Food Stamp Act to mandate that, in addition to its current criteria for approving State agency application forms, FNS must also ensure that the application is brief. Accordingly, the June 7, 1989 interim rule amended 7 CFR 273.2(b) to include brevity as a condition for approving deviations from the FNS food stamp application form.

The majority of comments received about the food stamp application form concerned this provision. Commenters, while supporting the interim rule's intent to shorten the food stamp application, wondered how the Department intends to judge whether an application form is "brief" enough to meet the requirements of Public Law 100-435.

Senate Report No. 100-397 (p. 24) expressed Congressional dismay over the length of multi-program application forms, i.e. application forms for food stamps and Aid to Families with Dependent Children (AFDC) benefits. The Department concurs with Congress on this issue. The purpose of an application form is to obtain basic eligibility information from the client (such as name, address, income, expenses, etc.). Such information requires only a few pages of questions for applicant households to complete. The Department also understands, however, that limiting the length of applications can be a problem for State agencies trying to administer a variety of programs. In December 1990, the Department completed a review of all State-designed application forms. The review had been initiated because of the passage of Public Law 100-435 and the ongoing concern that the food stamp application not be a barrier to participation in the Program. The reviewers found length to be the most disturbing problem with State-designed multi-program application forms. The

length of the forms ranged from 3 to 44 pages, and the number of programs covered by the forms ranged from 3 to 9. Of the multi-program applications reviewed, 8 forms were 1-10 pages long, 21 were 11-20 pages, 7 were 21-30 pages, and 12 forms were over 30 pages long.

The Department realizes that the length of application forms is due to a great extent to such demands as automation and the need to administer a variety of programs. The Food Stamp Act, however, requires the Department to ensure that application forms are easy to use, readable, brief and written in simple terms. Therefore, the Department, in reviewing State agency applications, attempts to balance the need to reduce the burden on applicants and each State agency's need to administer the many programs under its jurisdiction. The Department is making no changes to the interim provision and is adopting that provision as final.

The second provision of section 310 of Public Law 100-435 requires that the Department, in consultation with the Department of Health and Human Services (HHS), provide guidance to those State agencies requesting assistance in the development of brief, simply-written application forms, including forms that allow for simultaneous application to participate in the Food Stamp, AFDC, and Medicaid Programs. Accordingly, the June 7, 1989 interim rule amended 7 CFR 273.2(b) to advise State agencies of their option to request assistance from FNS when developing their applications.

A commenter suggested that the Department reevaluate the FNS application form and work with the Department of Health and Human Services (HHS) to design a simpler, shorter form to be used for all assistance programs. The Department has completed drafting a revised version of the FNS Food Stamp Application Form (FNS Form 385), which is available to State agencies. The Department believes, however, that since many public assistance programs are administered by State agencies and funded by a combination of Federal and State monies, State agencies are better able to design a short, multi-program application form that will enhance the administration of their public assistance programs while lessening barriers to participation for food stamp applicants.

Another commenter objected that there is no clear procedure to request assistance from FNS in developing a new application form. The Department disagrees. In the preamble to the June 7, 1989 interim rule (54 FR 24521), the

Department describes the procedure necessary to request assistance. The procedure, which has not changed, is for State agencies to request assistance through the Deputy Administrator for the Food Stamp Program. The Deputy administrator, or the Deputy Administrator's designee, would be responsible for overseeing the review of an application form by FNS officials at the Regional level and would coordinate the review of the application with HHS. Regional officials will be responsible for coordinating between the State agency and the National office.

Section 310 of Public Law 100-435 also requires that all applications for food stamp benefits contain certain statements on the front cover which advise the household of important information about the application process. These required statements include: (1) A place on the front cover where applicants can write their names, addresses, and signatures; (2) instructions that advise the households of their right to file the application without finishing all parts; (3) a statement describing the expedited service procedures; and (4) a statement that informs the household that benefits are provided only from the date of application. Accordingly, the interim rule amended 7 CFR 273.2(b) to require that the food stamp application form contain the above information.

Subsequent to publication of the interim rule, section 1736 of the Mickey Leland Memorial Domestic Hunger Relief Act, Title XVII, Public Law 101-624, 104 Stat. 3359, enacted November 28, 1990 (hereafter referred to as the Leland Act) amended section 11(e) of the Food Stamp Act to require that certain information previously mandated to be displayed on the front cover of the application form must now be placed "on or near" the front page of the application form. There must continue to appear on the front page of the application a place where applicants can write their names, addresses, and signatures. However, the instructions that advise the households of their right to file the application without finishing all parts, the statement describing the expedited service procedures, and the statement that informs the household that benefits are provided only from the date of application must now appear "on or near" the front page. The Department implemented this provision in a final regulation implementing categorical eligibility and application provisions of the Leland Act, published at 56 FR 63611 on December 4, 1991, which amended 7 CFR 273.2(b)(1)(v), (b)(1)(vi), and (b)(1)(vii).

The changes mandated by the Leland Act and implemented in the final rule published on December 4, 1991 have superseded the provisions of Public Law 100-435 pertaining to mandatory information appearing on the front page of the application form. For this reason, the Department is not addressing any comments which discuss this provision of Public Law 100-435. Individuals with any questions about this provision should refer to the December 4, 1991 final rule.

Section 310 of Public Law 100-435 and the interim rule mandate that households be informed on the application of their right to file for food stamp benefits with only their name, address and signature. This is reflected in 7 CFR 273.2(b)(1)(iv) of the interim rule. A commenter felt this requirement did not consider the impact on on-line application systems which satisfy the intent of this provision in a more sophisticated manner. Usually, an on-line application system does not require applicants to complete any handwritten information on an application form. The eligibility worker completes the on-line application at the certification interview. When an applicant is unable to complete the on-line application process, usually some sort of "Intent to Apply" application form is submitted to protect the filing date. The applicant then returns to complete the on-line application process at a later date.

The Department does not believe the interim rule conflicts with any on-line system presently in operation. In the final rulemaking implementing categorical eligibility and application provisions of the Leland Act, published at 56 FR 63611 on December 4, 1991, the Department amended 7 CFR 273.2(b)(3) to give FNS authority to review and approve deviations from the FNS-designed application form, including the use of on-line application forms. The Department believes this oversight authority will ensure that on-line application forms contain the mandatory information required by law. The Department is therefore adopting the interim provision in 7 CFR 273.2(b)(1)(iv) as final without change.

The Department also received a general comment which recommended the final rule specifically indicate when the term "applications" refers to the applicant's initial request for certification only, and when it refers to recertification. For food stamp purposes, the Department does not differentiate between certification and recertification. In both situations, a household must complete and submit a food stamp application form, provide verification of information and participate in an

interview with an eligibility worker. Therefore, the term "applications" in the interim rule and in this final rule refers to both initial certification and subsequent recertifications. The Department is, however, considering differentiating between initial certification and subsequent recertification. The Department is currently developing a proposed rule to consider means to simplify program requirements, including simplifying recertification procedures. In that rule, the Department may propose introducing differences in processing initial applications for certification and applications for recertification.

Joint Processing of Applications—7 CFR 273.2(j)

Section 352 of Public Law 100-435 reinstated joint application practices that were previously required under the Food Stamp Act of 1977, as originally enacted, but subsequently were made optional by the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97-253, 96 Stat. 763, Sept. 8, 1982). Accordingly, the interim rule, published June 7, 1989, amended 7 CFR 273.2 (j) and (j)(1)(i) to require State agencies to join the application for food stamps with the application for public assistance (PA) and general assistance (GA) and to notify AFDC applicants of their right to file a joint application. The interim rule also amended 7 CFR 273.2(j)(1) to add a new paragraph (j)(1)(v) which specified that households whose PA/GA eligibility was terminated shall not be required to file a new application, but shall have their food stamp eligibility and benefits determined by available information from the PA/GA casefile provided the information is sufficient for food stamp purposes.

Comments on the mandate for joint processing of applications were nearly evenly split between opponents and proponents. One commenter recommended the final rule mandate development of a single, universal application for all needs-based assistance programs. Another commenter focused on the issue of whether the interim rule exceeded the legislative intent of section 352 by requiring a single "application" for both food stamps and AFDC when only a single "interview" is necessary. The commenter felt the interim rule should be amended to mandate only a joint interview for food stamp/AFDC applicants, not a joint application. Another commenter disagreed with the requirement to include the application for food stamps in the application for

GA benefits because GA is a State-run program.

In regard to the first comment recommending the development of a single, universal application, the Department has found that many State agencies have already developed "multi-program" forms, i.e., one form is used for food stamps, PA and GA, and medical assistance. The Department feels State agencies are in a better position to design application forms that enhance the administration of their benefit assistance programs. For this reason, the Department believes mandating a single, universal application form is unnecessary.

The Department disagrees with the premise of the second comment, which stated that the interim rule exceeded legislative intent by mandating a joint application for both food stamps and AFDC rather than just a joint interview. Section 11(i) of the Food Stamp Act (7 U.S.C. 2020(i)), as amended by section 352 of Public Law 100-435, requires that households in which all members are included in a federally aided public assistance grant (such as AFDC) have their application for food stamps contained in the public assistance application form. The Department believes the law is clear in requiring a joint application for food stamps and PA (as used here, PA is defined at 7 CFR 271.2).

In regard to the third comment, legislation passed subsequent to Public Law 100-435 further defined the requirements regarding joint applications for GA and food stamps. Section 1740 of the Leland Act modified the combined application form requirement in section 11(i)(3) of the Food Stamp Act to require a combined GA and food stamp application form only in States that have a single statewide GA application form. The Department implemented this provision in the December 4, 1991, final rule (56 FR 63597) which implemented the categorical eligibility and application provisions of the Leland Act.

A fourth commenter recommended that the Department withhold approval of joint applications which require clients to answer questions irrelevant to the Food Stamp Program if they are applying for food stamps only. The commenter felt that clients must be informed that answers to those questions are optional. The Department agrees that any joint application must be clear enough to afford applicants the option of answering only those questions relevant to the program or programs for which they are applying. The Department is amending the

regulatory language at 7 CFR 273.2(b)(3) to add this requirement.

Application Process—Verification—7 CFR 273.2(f) and 273.21(j)

Section 311 of Public Law 100-435 and the interim rule published June 7, 1989, implemented five provisions pertaining to verification of application information supplied by the household. The interim provisions required that State agencies: (1) Provide all applicant households with a clear written statement explaining what the household must do to cooperate in obtaining verification and completing the application; (2) assist each applicant household in obtaining verification and completing the application process; (3) not require households to provide multiple sources of verification when the household has already provided verification which adequately supports statements on the application (although a State agency may require households to provide additional verification when the State agency determines that existing verification is incomplete, inaccurate or inconsistent); (4) not deny an application solely because a person outside of the household (who is not a person outside of the household because of a specific disqualification action or ineligible status) fails to cooperate with the State agency's processing of the application; and (5) process applications, if a household cooperates by providing information, by taking appropriate steps to verify information otherwise required to be verified under the Food Stamp Act.

One commenter felt that clarification is needed regarding whether a State agency must provide applicants with a general verification statement or a specific verification statement tailored to each applicant household (7 CFR 273.2(c)(5)). The Department believes the preamble to the interim rule was quite clear in encouraging State agencies to develop a general statement that could be given to all applicant households, rather than a written statement which would need to be tailored to each applicant household.

While the interim rule provided guidelines that must be used in developing the general verification notice, the Department wishes to promote greater conformity among State agency-designed notices to ensure that applicant households are consistently informed of the necessary documents needed for verification of information. Therefore, this final action amends 7 CFR 273.2(c)(5) to add a requirement that the State agency, at a minimum, include in the general verification notice examples of the types of

documents the household should provide and an explanation of the period of time the documents should cover.

Another commenter correctly pointed out that the preamble of the interim rule was incorrect in stating that current regulations require that social security numbers must be verified prior to certifying any applicant household for benefits. Current rules at § 273.2(f)(1)(v) state that the State agency shall not delay the certification for or issuance of benefits to an otherwise eligible household solely to verify the social security number (SSN) of a household member.

The same commenter correctly identified an inconsistency in the interim regulation language at 7 CFR 273.2(f)(8)(i)(A) with respect to the requirement for verification where the source of a household's income has changed. The first sentence of that section correctly states that "the State agency shall verify a change in income or actual expenses if the source has changed or the amount has changed by more than \$25." The final sentence inadvertently omits the requirement for verification anytime the source of income changes, even if the amount has changed by \$25 or less. The same inconsistency exists at 7 CFR 273.2(f)(8)(ii). This final action amends 7 CFR 273.2(f)(8)(i)(A) and (ii) to correct the inconsistencies.

Another commenter criticized the interim rule's interpretation of section 311(D) of Public Law 100-435. Section 311(D) provides that a State agency may not deny any application for participation solely because of the failure of a person outside of the household to cooperate with a request for providing verification. This provision would not apply when the person refusing to cooperate would otherwise be a household member but for the operation of any of the individual disqualification provisions of subsections (b), (d), (e), (f), and (g) of section 6 of the Food Stamp Act. These subsections require disqualification for any person intentionally making a false or misleading statement or committing any act which violates the Food Stamp Act (section 6(b)); any non-exempt person who is physically and mentally fit and is between the ages of 16 and 60 who refuses to register to work (section 6(d)); any person who is a student enrolled at least half-time in an institution of higher education (section 6(e)); any person who is not a resident of the United States, and is not either a citizen or a lawful alien (section 6(f)); and any individual who receives SSI

benefits in a "cash-out" State (section 6(g)).

When amending 7 CFR 273.2(d)(1) to incorporate the mandate of section 311(D) of Public Law 100-435, the Department added two more categories to the list of persons outside the household who cause the denial of an application for participation if they fail to cooperate with a request for providing verification. These two new categories were: Individuals disqualified for failure to provide an SSN, and persons who fail to attest to their citizenship or alien status.

The commenter who criticized this provision felt that the Department had exceeded its authority in excluding two new categories of non-household members from the third-party verification rule.

The commenters correctly point out that the Department has broadened the third party verification rule to include two additional categories of persons who will cause the denial of an application to participate if they failed to cooperate with a request to provide verification. This was done to make this provision consistent with other provisions in the regulations where ineligible or disqualified persons are, in effect, deemed by program regulations to be a household member for purposes of determining eligibility and benefit levels. FNS believes this is appropriate as it is consistent with the desire to simplify program requirements that was expressed by Congress in adopting the Hunger Prevention Act (See, e.g., Senate Report No. 100-397, p.25).

The interim rule also amended verification standards for households subject to monthly reporting and retrospective budgeting (MRRB) at 7 CFR 273.21(i) (1) and (3). Those provisions are not being finalized in this final rule, however, because they have been superseded by amendments made in the final rule on Monthly Reporting and Retrospective Budgeting Amendments and Mass Changes, published on December 4, 1991, at 56 FR 63597. Individuals with questions about verification standards for MRRB households should refer to this December 4, 1991 final rule.

Demonstration Projects/Cash-Outs in Other Benefit Programs—7 CFR 273.9(c)(1) and 273.10(d)(1)

In accordance with section 340 of Public Law 100-435, the interim rule amended 7 CFR 273.9(c)(1) to specify that in-kind or vendor payments which would normally be excluded as income but are converted in whole, or in part, to a direct cash payment under the approval of a federally authorized

demonstration project shall continue to be excluded from income. These federally authorized demonstration projects include demonstration projects created by waiver of the provisions of Federal law.

However, conversion to direct cash payment does not change the non-deductibility of the expenses paid with these funds. Accordingly, in order to ensure that an excluded vendor payment which has been converted to a direct cash payment is not excluded twice (once as income and once as expenses) the interim rule amended 7 CFR 273.10(d)(1)(i) to specify that an expense covered by an excluded vendor payment which has been converted to a direct cash payment under the approval of a federally authorized demonstration project remains non-deductible as a household expense.

The Department received no comments regarding these provisions of the interim rule. Therefore, this action adopts the interim provisions as final with no changes.

Reporting Responsibilities—7 CFR 273.12 and 273.21

Under section 323 of Public Law 100-435 and the interim rule, State agencies are required to provide a household, at the time of certification and recertification, with a statement describing the household's reporting responsibilities. Moreover, State agencies must provide all households with a toll-free telephone number or a number where collect calls will be accepted in order for the household to reach an appropriate representative of the State agency. The interim rule amended 7 CFR 273.12(b)(1) to specifically require that the "change report" form include a statement describing the household's reporting responsibilities. In addition, 7 CFR 273.12(b)(1) was amended to specify that the "change report" form must contain the number of the food stamp office and a toll-free number or a number where collect calls will be accepted. (Reporting requirements remained unchanged for households subject to MRRB provisions of 7 CFR 273.21.)

The interim rule also amended the provisions relative to the Notice of Eligibility, the Notice of Denial, the Notice of Adverse Action, and the requirements for bilingual notices. The regulations at 7 CFR 272.4(b)(3)(ii)(B), 7 CFR 273.10(g)(1)(i)(A), 7 CFR 273.10(g)(1)(ii) and 7 CFR 273.13(a)(2), respectively, were amended to specify that these notices must also include either a toll-free number or a number where collect calls will be accepted for

households living outside the local calling area.

The Department received one comment on these provisions of the interim rule. The commenter pointed out that the legislative intent of the toll-free or collect telephone number was to increase households' access to the State agency in order to obtain information or report changes. The commenter felt this statement of purpose should be incorporated into the rule itself to help guide State agencies' implementation efforts.

The Department believes including a statement of purpose in 7 CFR 273.12(b) is unnecessary. Congress was clear that its intent in passing the Hunger Prevention Act was to make it easier for eligible households to apply and obtain benefits (Senate Report No. 100-397, p.25). On its face, the implementation of this provision demonstrates its purpose without additional explanation. The interim provisions are adopted as final without change.

Special Provisions for Farm Households—7 CFR 273.8, 273.11, and 273.21

Pursuant to two provisions of Public Law 100-435, the interim rule amended Program regulations to extend eligibility to farm households which are in need of program assistance. Section 341 of Public Law 100-435 specified that self-employed farm households which are subject to MRRB have the option to annualize their self-employment income and expenses over a 12-month period. This provision was implemented in the interim rule by amending 7 CFR 273.21(f)(2)(i) and 273.11.

Section 342 of Public Law 100-435 affected farm households which quit farming. Accordingly, 7 CFR 273.8(e)(5) was amended by the interim rule to specify that property essential to self-employment of a household member engaged in farming is excluded as a resource for one year from the date the household member terminates self-employment from farming. A conforming amendment to 7 CFR 273.8(h)(1)(i) specified that any licensed vehicle which had been used over 50 percent of the time in the self-employment of a household member engaged in farming continues to be excluded as a resource for one year from the date the household member terminates his/her self-employment from farming.

The Department received only one comment on the interim rule which supported the one-year extension of the above exclusion. Therefore, this action adopts the interim provisions as final without change.

Implementation—7 CFR 272.1(g)

Under the interim rule, the provisions addressed in this final rule were retroactively implemented effective July 1, 1989. The Department received several comments complaining about the short implementation time for the interim rule. While we sympathize about the short lead time given to State agencies to implement the interim rule, the Department had no discretion in this matter and had to implement the time frames mandated by Public Law 100-435.

The provisions of this final action which adopt as final without change provisions of the interim rule or modify a provision of the interim rule for clarity only are retroactively effective to July 1, 1989. The clarifications do not represent any change in policy and, thus, do not require any special implementation efforts by State agencies.

The provisions of this final action which require the alteration of State procedures, are to be effective May 6, 1994. State agencies must complete implementation efforts of new provisions no later than September 5, 1994.

Any variance resulting from the implementation of the provisions of this amendment shall be excluded from quality control error analysis for 120 days from the required implementation date in accordance with 7 CFR 275.12(d)(2)(vii).

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grants programs-social programs.

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs-social programs, Penalties, Records, Reporting and recordkeeping requirements, Social security, Students.

7 CFR Part 277

Food stamps, Government procedures, Grant programs-social programs, Investigations, Records, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 271, 272, 273, and 277 are amended as follows:

1. The authority citation of parts 271, 272, 273, and 277 continues to read as follows:

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

PART 271—GENERAL INFORMATION AND DEFINITIONS

§ 271.2 [Amended]

2. The amendment to 7 CFR 271.2, as published at 54 FR 24527, June 7, 1989, which amended the definition of *Elderly or Disabled Member* by adding a new paragraph (11) is adopted final with the following changes:

a. Paragraph (11) is amended by adding the words "a recipient of" before the words "disability related medical assistance", and before the words "disability-based State general assistance". Paragraph (11) is also amended by removing the word "those" after the words "eligibility to receive", and replacing it with the words "any of these". Paragraph (11) is further amended by adding the words "established by the State agency" before the words "which are at least as stringent as those" Paragraph (11) is also amended by adding the words "(as set forth at 20 CFR part 416, subpart I, Determining Disability and Blindness as defined in Title XVI)" to the end of the paragraph.

§ 271.8 [Amended]

3. The amendment to 7 CFR 271.8, as published at 54 FR 24527, June 7, 1989, to add an OMB Control Number for § 272.5, paragraph (c), is adopted final.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

4. The amendment to 7 CFR 272.1, as published at 54 FR 24527, June 7, 1989, to add paragraph (g)(110) is adopted final.

5. In § 272.1, a new paragraph (g)(132) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *
(g) *Implementation.* * * * * *
(132) *Amendment No. 316.* The provisions of this final rule that amend 7 CFR 273.2(b)(3), 273.2(c)(5), 273.2(f)(8) (i)(A) and (ii), and paragraph (11) of the "Elderly or disabled member" definition in 7 CFR 271.2 are effective as of May 6, 1994. The State agency shall implement the provisions not later than September 5, 1994 for all households newly applying for Program benefits on or after such implementation date. The current caseload shall be converted to these provisions at household request, at the time of recertification, or when the case is reviewed, whichever occurs first.

the State agency must provide restored benefits back to the required implementation date. If for any reason a State agency fails to implement on the required implementation date, restored benefits shall be provided, if appropriate, back to the required implementation date or the date of application whichever is later. Any variances resulting from implementation of the provisions of this amendment shall be excluded from error analysis for 90 days from this required implementation date in accordance with 7 CFR 275.12(d)(2)(vii).

§ 272.2 [Amended]

6. The amendment to 7 CFR 272.2, as published at 54 FR 24527, June 7, 1989, which added text to the seventh sentence of paragraph (a)(2), and a new paragraph (d)(1)(ix) is adopted final.

§ 272.4 [Amended]

7. The amendment to 7 CFR 272.4, as published at 54 FR 24527, June 7, 1989, which amended paragraph (b)(3)(ii)(B), added a sentence to paragraph (d)(1)(i), redesignated paragraph (d)(2) as paragraph (d)(3), and added a new paragraph (d)(2) is adopted final.

§ 272.5 [Amended]

8. The amendment to 7 CFR 272.5, published at 54 FR 24527, to revise paragraph (c) in its entirety is adopted final.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

9. The amendment to 7 CFR 273.2, published at 54 FR 24528, June 7, 1989, which revised paragraph (b) in its entirety, redesignated paragraph (c)(5) as paragraph (c)(6) and added a new paragraph (c)(5), added two new sentences to the end of paragraph (d)(1), revised the fourth sentence of paragraph (e)(2), added a new paragraph (f)(1)(viii)(A)(6), revised paragraphs (f)(5)(i), (f)(8)(i)(A) and (f)(8)(ii) in their entirety, revised the first two sentences of paragraph (f)(8)(i)(C), amended the last sentence of paragraph (g)(2), revised the first sentence of paragraph (h)(1)(i)(C), revised the first and last sentences of paragraph (j) introductory text, removed the first two sentences of paragraph (j)(1)(i) and added three new sentences in their place, and added a new paragraph (j)(1)(v) is adopted final with the following changes:

a. The second sentence of paragraph (b)(3) is amended by removing the word "and" after the words "understandable applicants" and replacing it with a comma, and adding after the phrase "easy to use" the words ", and, for multi-program applications, clear

enough to afford applicants the option of answering only those questions relevant to the program or programs for which they are applying".

b. The last sentence in paragraph (f)(8)(i)(A) is amended by removing the comma after the words "The State agency shall not verify income" and adding after that the words "if the source has not changed and if the amount is unchanged or has changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. The State agency shall also not verify". Paragraph (f)(8)(ii) is amended by removing the comma after the words "the State agency shall not verify changes in income" and adding after that the words "if the source has not changed and if the amount has changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. The State agency shall also not verify".

c. Paragraph (c)(5) is amended by adding one sentence to the end of the paragraph to read as follows:

§ 273.2 Application processing.

* * * * *
 (c) *Filing an Application* * * *
 (5) * * * At a minimum, the notice shall contain examples of the types of documents the household should provide and explain the period of time the documents should cover.
 * * * * *

§ 273.8 [Amended]

10. The amendment to 7 CFR 273.8, published at 54 FR 24529, June 7, 1989, which amended paragraphs (e)(5) and (h)(1)(i) is adopted final.

§ 273.9 [Amended]

11. The amendment to 7 CFR 273.9, published at 54 FR 24529, June 7, 1989, which added a new sentence to paragraph (c)(1) is adopted final.

§ 273.10 [Amended]

12. The amendment to 7 CFR 273.10, published at 54 FR 24529, June 7, 1989, which added a new sentence to paragraph (d)(1)(i), amended the fourth sentence of paragraph (g)(1)(i)(A), and amended the first sentence of paragraph (g)(1)(ii) is adopted final.

§ 273.11 [Amended]

13. The amendment to 7 CFR 273.11, published at 54 FR 24530, June 7, 1989, which added a new paragraph (a)(1)(v) is adopted final.

§ 273.12 [Amended]

14. The amendment to 7 CFR 273.12, published at 54 FR 24530, June 7, 1989, which amended paragraphs (b)(1)(ii) and (b)(1)(iii), and added new

paragraphs (b)(1)(iv) and (b)(1)(v) is adopted final.

§ 273.13 [Amended]

15. The amendment to 7 CFR 273.13(a)(2), published at 54 FR 24530, June 7, 1989, is adopted final.

§ 273.21 [Amended]

16. The amendment to 7 CFR 273.21 published at 54 FR 24530, June 7, 1989 which revised the introductory text of paragraph (c) and paragraph (c)(5), added a new sentence to the end of paragraph (f)(2)(i), redesignated paragraph (h)(3)(iii) as paragraph (h)(4), amended newly redesignated paragraph (h)(4), amended paragraph (j)(3)(iii)(B) is adopted final.

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

§ 277.4 [Amended]

17. The amendment to 7 CFR 277.4, published at 54 FR 24531, June 7, 1989, which added a new paragraph (f) is adopted final with the following changes:

a. Paragraph (f) is amended by removing the word "the" after the words "persons working with" and replacing it with the words "volunteer or nonprofit."

Appendix A to Part 277—[Amended]

18. The amendment to Appendix A, published at 54 FR 24531, June 7, 1989, which removed paragraph C.(14) is adopted final.

Dated: March 24, 1994.

William E. Ludwig,
 Administrator.

[FR Doc. 94-8063 Filed 4-5-94; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 268

[Docket No. R-0797]

Rules Regarding Equal Opportunity

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (the Board) has revised and reissued its Rules Regarding Equal Opportunity (Rules) to conform those Rules as closely as possible to the Equal Employment Opportunity Commission's (the Commission's) complaint processing regulation for federal employers, "Federal Sector Equal Employment Opportunity", which became effective October 1, 1992.

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