# **Rules and Regulations**

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# DEPARTMENT OF AGRICULTURE

#### **Food and Consumer Service**

7 CFR Parts 272 and 273

[Amendment No. 351]

Food Stamp Program—Distribution of **Employment and Training** Performance-Based Funds

**AGENCY:** Food and Consumer Service,

USDA.

**ACTION:** Final rule.

**SUMMARY:** State welfare agencies are responsible for administering the Food Stamp Program and are required to operate the Food Stamp Employment and Training (E&T) program. To assist in the operation of their E&T programs, the State agencies receive a Federal E&T grant, a portion of which is distributed on the basis of each State agency's performance in serving the targeted mandatory population. This final rule amends Food Stamp Program regulations as a result of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, enacted December 13, 1991 (FACT Act). The FACT Act reduces the annual performance standard for State agencies from 50 percent to no more than 10 percent in FYs 1992 and 1993 and no more than 15 percent in FYs 1994 and 1995. This final rule freezes the performance-based E&T grants at the level the State agencies received in Federal Fiscal Year 1993, for two years from the fiscal year in which this final rule is promulgated. The Department is taking this action in order to enable State agencies to exercise their option to serve fewer people, as provided by the FACT Act without reduction of performance-based E&T funds. This final rule supports efforts to target the E&T program toward more intensive components for a smaller segment of the targeted mandatory population.

However, State agencies are not required to implement a more intensive E&T program and may continue to operate broad-based programs.

**EFFECTIVE DATE:** October 1, 1993.

# FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be directed to Ellen Henigan, Supervisor, Work Program Section, Food Stamp Program, Food and Consumer Service, USDA, 3101 Park Center Drive, Room 716, Alexandria,

Virginia 22302. The telephone number is (703) 305-2762.

# SUPPLEMENTARY INFORMATION:

#### Classification

Executive Order 12866

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

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.551. For reasons set forth in the final rule related Notice(s) of 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.

## 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 laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" 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; and (3) For

program retailers and wholesalers -administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

## Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of the Food and Consumer Service (FCS), has certified that this action does not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected because they administer the Program and the rule will affect the performance-based funding levels for each State agency.

## Paperwork Reduction Act

The provisions of this final rule do not contain new or additional reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

## **Background**

On January 19, 1994, the Department published a proposed rule at 59 FR 2779 designed to amend 7 CFR 273.7(d)(1)(i)(B) to specify that the \$15 million Food Stamp E&T performancebased funds be frozen at the levels the State agencies respectively received in FY 1993. On April 11, 1994, the Department published the final rule implementing revised performance standards which supports efforts to allow State agencies to target the E&T program toward fewer participants. This final rule amends the regulations at 273.7(d), to allow State agencies the option of placing fewer participants through E&T programs and/or operate more intensive components of the E&T program, in keeping with Section 907(b) of the FACT Act. Comments were solicited on the provisions of the performance-based funding proposed rulemaking through March 21, 1994. This final action addresses the commenters' concerns. Readers are referred to the proposed rule for a more complete understanding of this final action.

The Department received two comment letters from State agencies on the proposed rule; both concurred with the proposed provisions. The first commenter noted that the freeze of