performance-based funds at the levels the State agencies received in Fiscal Year 1993 for two years from promulgation of the final rule will allow State agencies to anticipate the available grant and plan for future needs.

The second commenter favored the proposed provision because the freeze minimizes changes in funding until the implementation of outcome-based performance standards for the E&T program, and distributes funds based upon data reflecting State agency performance prior to the point in time when most states would have begun targeting their E&T programs to fewer participants. No other comments were received on the proposed rule. The Department is adopting the provisions of the proposed rule as final without change.

# Federal Funding for E&T Programs

Section 16(h), 7 U.S.C. 2025(h), of the Food Stamp Act of 1977 (Act) authorizes the Secretary to distribute \$75 million each year in unmatched Federal funds to State agencies to operate their E&T programs. As specified under Section 16(h)(1)(C) of the Food Stamp Act, \$60 million of the Federal E&T grant—the nonperformance based portion—is distributed on the basis of each State agency's work registrant population as a percent of the total work registrant population nationwide. Pursuant to Section 16(h)(1)(B), the remaining \$15 million of List of Subjects the Federal E&T grant must be distributed on the basis of State agency performance.

Accordingly, the Department is amending 7 CFR 273.7(d)(1)(i)(B) in this rulemaking to specify that the \$15 million performance-based funds will be frozen at the levels the State agencies received in FY 1993. In accordance with current rules, performance-based funds will be allocated by the ratio of the number of E&T mandatory participants placed in an E&T program by an eligible State agency to the number of E&T mandatory participants placed in all eligible State agencies in Calendar Year 1991.

Each State agency must continue to meet established performance standards (e.g., 10 percent in FY 1994) in order to be eligible for its share of these funds as is required under 7 CFR 273.7(d)(1)(i)(B). Should a State agency fail to meet the performance standard in a given fiscal year, the Department will determine if good cause exists to excuse the shortfall. Should the Department determine that no good cause exists, the State agency would be ineligible to receive its share of performance-based funding in the second following fiscal

year. The Department will recalculate the performance-based funds payable to the State agencies on the basis of Calendar Year 1991 data, but excluding the State agencies which did not meet their standard.

The Department will not take into account corrected E&T report forms (FNS-583) received later than March 1 when determining whether a State agency is eligible for performance-based funding. If the data on the reports show that a State agency did not meet its performance standard or a good cause determination was not made by the Department by March 1, the State agency shall not be eligible for performance-based funding.

## Implementation

The Department is amending 7 CFR 272.1 to add a new paragraph (g)(139) to reflect that the provisions of this final rule are effective October 1, 1993. State agencies are not required to take any action to implement these provisions.

Federal fiscal year 1993 levels will be used for the two Federal fiscal years following the Federal fiscal year in which this rule is published. The Department is anxious to receive suggestions for ways the performancebased funds could be distributed beyond that, until outcome-based performance standards are implemented.

## 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, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Parts 272 and 273 are amended as follows:

1. The authority citation for 7 CFR Parts 272 and 273 continues to read as follows:

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

## PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (g)(139) is added to read as follows:

## § 272.1 General terms and conditions.

(139) Amendment No. 351. The provisions of Amendment No. 351 to amend 7 CFR 273.7(d) are effective October 1, 1993. State agencies are not required to take any action to implement these provisions.

# PART 273—CERTIFICATION OF **ELIGIBLE HOUSEHOLDS**

3. In § 273.7, paragraph (d)(1)(i)(B) is revised to read as follows:

## § 273.7 Work requirements.

- (d) Federal financial participation.
- (1) Employment and training grants.

(B) In Federal fiscal year 1993, the Secretary shall allocate \$15 million of the Federal funds available for unmatched employment and training grants based on the ratio of the number of E&T mandatory participants placed (as defined under paragraph (o) of this section) in a food stamp E&T program in an eligible State to the number of E&T mandatory participants placed in all eligible States in Calendar Year 1991. Beginning in Federal fiscal year 1994, and each subsequent Federal fiscal year until FY 1998, the Secretary shall allocate \$15 million of Federal funds on the basis of the amount of performancebased funding each State agency received in Federal fiscal year 1993, provided the State agency has met the performance standard (as defined under paragraph (o) of this section) for the second preceding Federal fiscal year. For example, to receive performancebased funding in Federal fiscal year 1996, the State agency must have met its performance standard in Federal fiscal year 1994. Corrections to reports required to be submitted in accordance with paragraph (c) of this section must be received by FCS, and State agency good cause appeals must be resolved no later than March 1, to be used in determining whether a State agency is eligible for performance-based funding for the Federal fiscal year beginning the following October. If the data on the reports show that a State agency did not meet its performance standard or a good cause determination was not made by FCS by March 1, the State agency shall not be eligible for performance-based funding. In this instance, the Secretary shall redistribute the \$15 million Federal funds to eligible State agencies on the basis of Calendar Year 1991 data as prescribed under this paragraph, excluding the noncompliant States.