when work sanctions are imposed on recipients of other benefits for failure to comply with work requirements. Also, any other sanctions for an intentional failure to comply with welfare program requirements could not be used to allow food stamp benefits to rise.

When a recipient of the Aid to Families with Dependent Children (AFDC) Program, for example, fails to comply with a Jobs Opportunity and Basic Skills (JOBS) program requirement, the assistance unit is sanctioned by excluding the individual's needs in determining the unit's need for AFDC benefits and the amount of the payment. Unless the JOBS requirement is "comparable" to a Food Stamp Employment and Training (E&T) requirement, the household's food stamp allotment will increase as a result of the decrease in income it sustains because of the JOBS sanction. Raising the food stamp benefit level lessens the impact of the penalty imposed by AFDC. If a comparable E&T requirement exists, failure to comply with JOBS is treated the same as if the individual failed to comply with an E&T requirement, and the individual (or household) is ineligible for food stamp benefits for 60 days.

Because the Department does not have the authority to waive the current restrictive provision at 7 CFR 273.11(k), the Department has had to deny State requests to hold food stamp benefits constant when sanctioning a person for noncompliance with another program's requirements. The Department believes the current policy should be broadened to more fully reflect Congressional intent which indicates that the Food Stamp Program should reinforce, not mitigate, another program's penalties (Sen. Rpt. No. 97–504, July 26, 1982, p.

Accordingly, the Department proposes to amend 7 CFR 273.11(k) to provide that when a recipient's benefit under a Federal, State, or local meanstested welfare assistance program (such as but not limited to Supplemental Security Income, Aid to Families with Dependent Children, General Assistance) is decreased due to a penalty for intentional noncompliance with a requirement under such program, food stamp allotments will not increase as a result. This proposal more fully reflects the Food Stamp Amendments of 1982. A penalty for purposes of this provision is the amount by which a welfare assistance payment has been decreased. The Department intends that the term decrease for the purposes of this rule means a reduction, suspension or termination. The language of the Food Stamp Act specifically addresses a penalty which results in a decrease in income (termination or reduction of benefits) as a result of a penalty.

It is important to note that some State welfare reform projects have policies that cause the benefits of other programs to be held constant even though changes in household circumstances occur that would otherwise cause a rise in benefits. The Department is clarifying in this proposed rulemaking that situations which result in a freeze on the other program's current benefit level do not constitute a penalty subject to the provisions of this proposal. Also, changes in household circumstances which are not related to the penalty and result in an increase in food stamp benefits shall likewise not be affected by the provisions of this paragraph. For example, a household may be receiving a reduced level of general assistance benefits for a 6-month period as the result of a penalty imposed because one of its members refused to comply with a work requirement of that program. The household's food stamp benefits would not go up as a result of the decreased benefits. However, if during the 6month period another member of the household suffered a reduction in nonassistance income, the food stamp benefits could go up even though the penalty was still in effect. This is because the factors resulting in the increase in food stamp benefits were unrelated to the penalty.

This proposal does not imply that Food Stamp Program administrators take a role in determining whether an individual's failure to comply with another programs' requirements was intentional or not. That determination is left to those responsible for administering those other programs. Under this proposal, Food Stamp Program administrators would only determine if a decrease in public assistance benefits is the result of a penalty being levied for intentional noncompliance. If so, Food Stamp Program eligibility workers would calculate food stamp benefits in such situations by using the assistance payment which would have been issued by the other assistance program if no penalty had been imposed for the violation.

## **Implementation**

The provisions of this rulemaking are proposed to be effective and to be implemented by State welfare agencies on the first day of the month following 120 days from the publication date of the final rule.

## List of Subjects in 7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food stamps, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR part 273 is proposed to be amended as follows:

## PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

1. The authority citation of part 273 continues to read as follows:

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

2. In § 273.11, paragraph (k) is revised to read as follows:

## § 273.11 Action on households with special circumstances.

\* \* \* \* \*

(k) Failure to comply with another assistance program's requirements. The State agency shall ensure that there is no increase in food stamp benefits to a household as the result of a penalty imposed for intentional failure to comply with a Federal, State, or local means-tested welfare program which distributes publicly funded benefits. When a recipient's current benefit level under a Federal, State, or local meanstested welfare assistance program (such as but not limited to SSI, AFDC, GA) is decreased (by reduction, suspension or termination) due to a penalty for intentional noncompliance with a requirement under such program, the State agency shall identify that portion of the decrease which is the penalty. The penalty for purposes of this provision shall be that portion of the decrease attributed to the repayment of benefits overissued as a result of the household's intentional noncompliance or the amount by which the other program's benefits have been otherwise decreased as the result of the intentional noncompliance. The State agency shall calculate the food stamp benefits using the benefit amount which would be issued by that program if no penalty had been applied against the benefit amount. A situation which results in the benefits of the other program being frozen at the current level shall not constitute a penalty subject to the provisions of this paragraph. Changes in household circumstances which are not related to the penalty and result in an increase in food stamp benefits shall likewise not be affected by the provisions of this paragraph.