

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 273

RIN 0584-AD32

#### Food Stamp Program: Employment and Training Program Provisions of the Farm Security and Rural Investment Act of 2002

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This rulemaking proposes to amend Food Stamp Program (FSP) regulations to implement Food Stamp Employment and Training (E&T) Program provisions of section 4121 of the Farm Security and Rural Investment Act of 2002 (the Farm Bill). The Department proposes to establish a reasonable formula to allocate 100 percent Federal funds authorized under the Farm Bill to carry out the E&T Program each fiscal year (FY). The Department further proposes to implement the Farm Bill provisions that make available up to \$20 million a year in additional unmatched Federal E&T funds for State agencies that commit to offer an education/training or workfare opportunity to every applicant and recipient who is an able-bodied adult without dependents (ABAWD) limited to 3 months of food stamp eligibility in a 36-month period (3-month time limit) and who would otherwise be terminated; and to eliminate the current Federal cost-sharing cap of \$25 per month on the amount State agencies may reimburse E&T participants for work expenses other than dependent care. This rulemaking also proposes to implement Farm Bill provisions that expand State flexibility in E&T Program spending by repealing the requirements that State agencies earmark 80 percent of their annual 100 percent Federal E&T grants to serve ABAWDs; they meet or exceed their FY 1996 State

administrative spending levels to access funds made available by the Balanced Budget Act of 1997 (the Balanced Budget Act); and the Secretary be given the authority to establish maximum reimbursement costs of E&T Program components.

**DATES:** Comments must be received on or before May 18, 2004.

**ADDRESSES:** The Food and Nutrition Service invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

- Mail: Send comments to Michael Atwell, Senior Program Analyst, Program Design Branch, Program Development Division, FSP, FNS, 3101 Park Center Drive, Room 810, Alexandria, Virginia, (703) 305-2449.
- E-Mail: Send comments to [fsphq-web@fns.usda.gov](mailto:fsphq-web@fns.usda.gov).
- FAX: Submit comments by facsimile transmission to (703) 305-2486.
- Disk or CD-Rom: Submit comments on disk or CD-Rom to Mr. Atwell at the above address.
- Hand Delivery or Courier: Deliver comments to Mr. Atwell at the above address.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:**

Michael Atwell, Senior Program Analyst, Program Design Branch, Program Development Division, FSP, FNS, 3101 Park Center Drive, Room 810, Alexandria, Virginia, (703) 305-2449, or via the Internet at [michael\\_atwell@fns.usda.gov](mailto:michael_atwell@fns.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Additional Information on Comment Filing**

*Electronic Access and Filing Address*

You may view and download an electronic version of this proposed rule at <http://www.fns.usda.gov/fsp/>. You may also comment via the Internet at the same address. Please include "Attention: RIN 0584-AD32" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your message, contact us directly at (703) 305-2449.

*Written Comments*

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any change you recommend. Where possible, you should reference the specific section of paragraph of the proposed rule you are addressing. We may not consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period or comments delivered to an address other than those listed above.

We will make all comments, including names, street addresses, and other contact information of respondents, available for public inspection on the 8th floor, 3101 Park Center Drive, Alexandria, Virginia 22302 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday, excluding Federal holidays. Individual respondents may request confidentiality. If you wish to request that we consider withholding your name, street address, or other contact information from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. We will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. We will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

**Executive Order 12866**

This proposed rule was determined to be economically significant and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

**Executive Order 12372**

The FSP is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR part 3105, subpart V and related Notice (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 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" paragraph of the final rule. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

**Regulatory Flexibility Act**

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Eric M. Bost, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this rule will not have a significant economic impact on a substantial number of small entities. The changes will affect food stamp applicants and recipients who are subject to FSP work requirements. The rulemaking also affects State and local welfare agencies that administer the FSP, to the extent that they must implement the provisions described in this action.

**Unfunded Mandate Analysis**

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of \$100 million or more in any one year. Thus, this rule is not subject to the

requirements of section 202 and 205 of UMRA.

**Regulatory Impact Analysis***Need for Action*

This action is needed to implement the E&T Program provisions of section 4121 of the Farm Bill. These provisions would: (1) Establish a reasonable formula for allocating 100 percent Federal funds authorized under the Farm Bill to carry out the E&T Program each fiscal year; (2) make available up to \$20 million a year in additional unmatched Federal E&T funds for State agencies that commit to offer an education/training or workfare opportunity to every ABAWD applicant and recipient who would otherwise be terminated under the 3-month time limit; (3) rescind the balance of unobligated funds carried over from FY 2001; (4) eliminate the current Federal cost-sharing cap of \$25 per month on the amount State agencies may reimburse E&T participants for work expenses other than dependent care; (5) repeal the requirement that State agencies earmark 80 percent of their annual 100 percent Federal E&T grants to serve ABAWDs; and (6) repeal the requirement that State agencies meet or exceed their FY 1996 State administrative spending levels to access funds made available by the Balanced Budget Act.

*Benefits*

State agencies will benefit from the provisions of this rule because they streamline the annual E&T Program grant allocation process, expand State agency flexibility in serving at-risk ABAWDs and other work registrants, and they eliminate unnecessary and complex rules on how State agencies can spend E&T Program funds.

*Costs and Participation Impacts*

The E&T provisions of the Farm Bill reduce the overall level of 100 percent Federal E&T funding, relieve States from obligations to spend matched E&T funding, and allow States to decrease the portion of E&T funding targeted to serve ABAWDs. To the extent that some States do not replace lost Federal grants with additional State spending, or decrease State spending, E&T services will be reduced. Some ABAWDs who are subject to the 3-month time limit will be made ineligible when they do not receive qualifying services.

These provisions are expected to save \$40 million in FY 2003, the first year they are fully implemented. Over the five-year period FY 2003 through FY 2007, the provisions are expected to

produce a savings of \$227 million. They are expected to result in 12,000 persons becoming ineligible for food stamp benefits in FY 2003.

**Executive Order 13132***Federalism Summary Impact Statement*

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have "federalism implications," agencies are directed to provide a statement for inclusion in the preamble to the regulation describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132.

*Prior Consultation With State Officials*

Prior to drafting the rule, we received input from State and local agencies. Since the FSP is a State administered, Federally funded program, our national headquarters staff and regional offices have formal and informal discussions with State and local officials on an ongoing basis regarding program implementation and policy issues. This arrangement allows State and local agencies to provide feedback that forms the basis for any discretionary decisions made in this and other FSP rules. In addition, we presented our ideas and received feedback on program policy at various State, regional, national, and professional conferences.

*Nature of Concerns and the Need to Issue This Rule*

State agencies generally want greater flexibility in their operation of the E&T Program. State agencies have indicated that providing them this flexibility would greatly enhance their ability to more efficiently administer the FSP.

*Extent to Which We Meet Those Concerns*

FNS has considered the impact on State and local agencies. This rule deals with changes required by law, which were effective on May 13, 2002. The overall effect is to lessen the administrative burden by providing increased State agency flexibility in E&T Program spending. FNS is not aware of any case where any discretionary provisions of the rule would preempt State law.

**Civil Rights Impact Analysis**

FNS has reviewed this proposed rule in accordance with the Department Regulation 4300–4, "Civil Rights Impact Analysis," to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review

of the rule's intent and provisions, and the characteristics of food stamp households and individual participants, FNS has determined that there is no way to soften the effect on any of the protected classes. Other than how to allocate E&T funds among State agencies, FNS had no discretion in implementing any of these changes, which were effective upon enactment of the Farm Bill on May 13, 2002. All data available to FNS indicate that protected individuals have the same opportunity to participate in the FSP as non-protected individuals. FNS specifically prohibits the State and local government agencies that administer the Program from engaging in actions that discriminate based on race, color, national origin, gender, age, disability, marital or family status. Regulations at 7 CFR 272.6 specifically state that:

State agencies shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, handicap, religious creed, national origin, or political beliefs. Discrimination in any aspect of program administration is prohibited by these regulations, the Food Stamp Act of 1977 (the Act), the Age Discrimination Act of 1975 (Pub. L. 94-135), the Rehabilitation Act of 1973 (Pub. L. 93-112, section 504), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal law. Title VI complaints shall be processed in accord with 7 CFR part 15.

Where State agencies have options, and they choose to implement a certain provision, they must implement it in such a way that it complies with the regulations at 7 CFR 272.6.

#### **Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. chap. 35; see 5 CFR part 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. Information collections in this proposed rule have been previously approved under OMB #0584-0339.

#### **Background**

The Food Stamp Employment and Training (E&T) Program was established by Congress in 1985 to provide able-bodied adult food stamp recipients with education and training opportunities designed to lead to employment and

reduced reliance on food stamps. All 50 States, as well as the District of Columbia, Guam, and the Virgin Islands, are required to operate an E&T program. The E&T Program, administered nationally by the Food and Nutrition Service (FNS), is funded by an annual 100 percent Federal E&T allocation. Each State agency receives an E&T grant to pay for the administration of its program. In addition, Federal funds are available to reimburse State agencies 50 percent of State funds they use to administer the E&T Program and to reimburse 50 percent of participant expenses, such as transportation and dependent care.

Welfare reform legislation enacted in August 1996 established a 3-month time limit for food stamp participation by ABAWDs. Under the 3-month time limit, ABAWDs may receive food stamp benefits for no more than 3 months in a 36-month period unless they meet the ABAWD work requirement—work at least 20 hours a week, participate in a qualifying education or training activity for at least 20 hours a week, or participate in workfare (working in a public service capacity for the number of hours equal to their monthly food stamp benefit divided by the higher of the Federal or State minimum wage). The legislation also authorized the Secretary to waive the ABAWD work requirement—at the request of a State agency—for ABAWDs residing in areas of the State that have an unemployment rate of over 10 percent or in areas that do not have a sufficient number of jobs to provide employment for the ABAWDs.

The Balanced Budget Act authorized \$599 million in 100 percent Federal funds—in addition to the regular 100 percent grant—over 5 years for the E&T Program. All 100 percent Federal funds were to remain available until obligated or expended. However, in order to access the additional money, the law required States to spend at least as much of their own funds as they did in FY 1996 to administer the E&T Program and the optional workfare program (if one was available). In addition, the law required States to earmark at least 80 percent of all 100 percent Federal E&T funds to be used to create education, training, and workfare opportunities that qualify ABAWDs to maintain their eligibility for food stamps. The method for allocating the 100 percent Federal E&T grants was formulated to reflect the numbers of at-risk ABAWDs in each State, based on estimated ABAWD populations reported in FY 1996 Quality Control (QC) survey data, adjusted annually for caseload changes. The Balanced Budget Act required the

Secretary to monitor State agency E&T expenditures, including the cost of individual program components. The Secretary was afforded the option of establishing maximum component reimbursement rates that reflect the reasonable cost of providing qualifying opportunities to ABAWDs subject to the 3-month time limit. Lastly the Balanced Budget Act provided State agencies the option to exempt up to 15 percent of their ABAWDs subject to the ABAWD work requirement.

State agencies, already dealing with the difficult task of administering ABAWD time limit provisions, were faced with a complex new set of rules for operating their E&T programs. In addition to the use of funds and maintenance of effort requirements, the Department, under authority granted by the Balanced Budget Act, established maximum component rates for reimbursing State agencies for their expenses in creating and maintaining qualifying activities for ABAWDs to remain eligible. The Department initiated the rates to ensure that Federal E&T funds would be adequate to efficiently and economically serve as many at-risk ABAWDs as possible. However, over a period of time it became clear that, as more and more ABAWDs left the FSP after exhausting their 3 months of eligibility, the infusion of Federal funds did not have the intended effect. State agencies maintained that ABAWDs are the most difficult food stamp population to serve. While many are attached to the job market and stay on the program a short time, many others face significant barriers, such as homelessness, mental health issues and substance abuse. Consequently, according to many State agency administrators, ABAWDs are among the most non-compliant food stamp recipients in terms of cooperating with State agency efforts to help them maintain eligibility. Several State agencies decided not to serve ABAWDs beyond the non-qualifying activities already offered. Other State agencies reported that they limited service to only the most capable and motivated ABAWDs. As a result, the ABAWD caseload steadily declined, and the amount of unspent Federal E&T funds grew.

Many State agencies protested the requirement that they meet a maintenance of effort requirement by spending as much State administrative funds as they did in FY 1996 before they could access the additional 100 percent Federal funding provided under the Balanced Budget Act. They pointed out that 18 of 53 State agencies operating the E&T Program did not spend State

administrative funds in FY 1996 and could access their additional Federal funding with no maintenance of effort restrictions.

State agencies also believed that the restrictions on the use of Federal E&T funds prevented them from adequately serving members of low-income families who do not face the time limit. They maintained that 20 percent of their 100 percent Federal funds was not sufficient to create meaningful activities for those recipients.

On May 13, 2002, the President signed into law the Farm Bill, which reauthorized the FSP, including the E&T Program, through FY 2007. Section 4121 of the Farm Bill made several immediate, significant changes to the E&T Program. These changes, along with the Department's proposals for amending FSP regulations, are discussed below.

### **Funding for Food Stamp Employment and Training Programs**

#### *Allocation of E&T Grants*

Current regulations at 7 CFR 273.7(d)(1)(i) describe the procedures for allocating 100 percent Federal E&T funding. Each State agency receives a Federal E&T grant consisting of a base amount and an additional amount available only to those State agencies that elect to meet a maintenance of effort requirement. Both grant amounts are allocated to State agencies based on each State's portion of ABAWDs subject to the time limit—as a percentage of such ABAWDs nationwide—who do not reside in an area for which the State has been granted a waiver of the ABAWD work requirement, or who do reside in an area of the State granted a waiver of the ABAWD work requirement if the State agency provides E&T services in the area to ABAWDs. To determine each State agency's share of 100 percent Federal E&T funds allocated in a fiscal year, FNS estimates the portion of ABAWDs subject to the work requirement in each State using 1996 QC survey data, adjusted annually to reflect changes in each State's food stamp caseload.

Additionally, current regulations at 7 CFR 273.7(d)(1)(i) provide that no State agency receive less than \$50,000 in 100 percent Federal E&T funds. To ensure this, FNS is authorized to reduce, if necessary, the grant of each State agency allocated more than \$50,000 proportionate to the number of non-waived, non-exempted ABAWDs in the State subject to the work requirement, or non-exempted ABAWDs living in waived areas in which the State agency provides E&T services, compared to the

total number of such ABAWDs in all the State agencies receiving more than \$50,000. FNS distributes the funds from the reduction to State agencies initially allocated less than \$50,000 so they receive the \$50,000 minimum.

Section 4121 of the Farm Bill amended section 16(h)(1)(B) of the Act to provide that 100 percent Federal E&T funds be allocated and reallocated among State agencies under a reasonable formula that is determined and adjusted by the Secretary and takes into account the numbers of ABAWDs not exempt from the work requirement.

The Department proposes to amend 7 CFR 273.7(d)(1)(i) to provide that FNS will allocate 100 percent Federal E&T grants from funding available each fiscal year using a two-part formula designed to take into account non-waived, non-exempted ABAWDs subject to the work requirement, and to ensure that each State agency receives an appropriate, equitable share of funds.

To do so, the Department proposes to allocate one-half of the annual 100 percent Federal E&T grant based on its estimate of the numbers of ABAWDs in each State who do not reside in an area subject to a waiver granted in accordance with 7 CFR 273.24(f) or who are not included in each State agency's 15 percent ABAWD exemption allowance under 7 CFR 273.24(g), as a percentage of such ABAWDs nationwide. FNS proposes to determine each State agency's percentage of non-waived, non-exempted ABAWDs using ABAWD data collected by Mathematica Policy Research, Incorporated (MPR), from its September 2001 report, "Imposing a Time Limit on Food Stamp Receipt: Implementation of the Provisions and Effects on FSP Participation." FNS believes this data is the most accurate and reliable available and will continue to be so for the foreseeable future. FNS proposes to use the study data to derive percentages for the numbers of waived/exempted ABAWDs in each State. FNS will apply those percentages to the most recent fiscal year for which QC survey ABAWD data is complete to arrive at its estimate of each State agency's ABAWD population minus ABAWDs in waived areas and exempted ABAWDs. Since FNS had to allocate FY 2003 funds before regulations could be issued, we used FY 2001 QC survey figures for FY 2003; for FY 2004, FY 2002 figures will be used, and so forth.

The Department proposes to allocate the balance of the annual 100 percent Federal E&T grant based on the number of work registrants in each State as a percentage of work registrants nationwide. FNS will use work

registrant data reported by each State agency on the FNS-583, Employment and Training Program Activity Report from the most recent complete Federal fiscal year.

The Department chose this proposed allocation methodology because it takes into account at-risk ABAWDs—as required by law—while utilizing valuable work registrant information reported on the FNS-583 to prevent overemphasis of ABAWD populations to the detriment of other, non-ABAWD work registrants who benefit from the E&T Program. FNS continues to work with State agencies that have difficulty with the consistency and reliability of their FNS-583 information. Additionally, FNS revised and simplified the information reporting requirements for the FNS-583; this will improve reliability.

Lastly, the Department proposes to amend 7 CFR 273.7(d)(1)(i) by revising the method by which the \$50,000 minimum allocations are to be calculated. For each State agency scheduled to be allocated more than \$50,000, FNS proposes to calculate how much it will have its grant reduced, if necessary, as follows. First, disregarding all those State agencies scheduled to receive less than \$50,000, FNS will calculate each remaining State agency's percentage share of the fiscal year's E&T grant. Next, FNS will multiply the grant—less \$50,000 for every State agency under the minimum—by the same percentage share for each remaining State agency to arrive at the revised amount. The difference between the original and the revised amounts will represent each State agency's contribution to the \$50,000 minimum allocation(s).

The Department welcomes comments on its proposed method for allocating 100 percent Federal E&T funds and encourages alternative proposals.

#### *Use of Funds*

Current regulations at 7 CFR 273.7(d)(1)(ii)(A), (d)(1)(ii)(B), (d)(1)(ii)(C), and (d)(1)(ii)(D) provide that not less than 80 percent of a State agency's 100 percent Federal E&T grant each fiscal year—both the base and additional Balanced Budget Act allocations—be used to serve ABAWDs who are meeting the work requirement. The remaining 20 percent of a State agency's 100 percent Federal E&T grant may be used to provide E&T components for non-ABAWDs or to provide activities that do not meet the ABAWD work requirement, such as job search or job search training programs for any food stamp recipient. If a State agency spends more than 20 percent of

its E&T grant on non-ABAWDs and/or non-ABAWD activities, FNS will, at the normal 50/50 match rate, reimburse the State agency for allowable costs in excess of 20 percent.

Section 4121 of the Farm Bill amended section 16(h)(1)(E) of the Act by removing the requirement that State agencies use not less than 80 percent of their Federal E&T grants to serve ABAWDs.

The Department proposes to amend 7 CFR 273.7(d)(1)(ii) by removing this requirement.

#### *Maintenance of Effort*

Current regulations at 7 CFR 273.7(d)(1)(iii) provide that, in order to be eligible for funds allocated under the Balanced Budget Act, a State agency must expend at least as much State funds for administration of E&T and optional workfare programs (if applicable) as it did in FY 1996.

Section 4121 of the Farm Bill amended section 16(h)(1)(F) of the Act by removing the requirement that State agencies maintain the expenditures of the State agency for E&T and workfare programs for each fiscal year at a level not less than its level of expenditures for E&T and workfare programs in FY 1996.

The Department proposes to amend 7 CFR 273.7(d)(1) by removing the maintenance of effort requirement.

#### *Component Costs*

Prior to enactment of the Farm Bill, section 16(h)(1)(G) of the Act required the Secretary to monitor State agencies' expenditures of Federal E&T funds, including the costs of individual components of State agencies' programs. It authorized the Secretary to determine the reimbursable costs of E&T components to ensure they reflect the reasonable cost of efficiently and economically providing components appropriate to recipient E&T needs.

On September 3, 1999, the Department published an interim rule (64 FR 48246) that amended food stamp regulations to add new requirements regarding E&T components costs at 7 CFR 273.7(d)(1)(iv). The Department determined that setting reimbursement rates for E&T activities was necessary to promote the intent of the increased E&T funding, which was to create a sufficient number of work opportunities so that as many ABAWDs who wished to work could be given the opportunity to do so before losing eligibility for the program. The Department believed the reimbursement rates would help ensure that the maximum number of opportunities was created with the available funds, thus potentially

keeping as many ABAWDs as possible eligible for the program.

However, after observing the reimbursement rates in effect and having the opportunity for further consideration of the issue, the Department determined that the reimbursement rate structure constrained State agencies' ability to serve ABAWDs effectively in State E&T programs. Further, the Department determined that its elimination would allow State agencies to fully utilize the funds available to them to create opportunities for ABAWDs that not only maintain their food stamp eligibility but also help them become and stay employed.

In a final rule (67 FR 41589) published on June 19, 2002, the Department eliminated the reimbursement rate structure, while maintaining its authority, under 7 CFR 273.7(d)(1)(iv), to monitor State agency E&T expenditures to ensure that planned and actual spending reflects the reasonable cost of providing E&T services.

Section 4121 of the Farm Bill amended section 16(h)(1)(G) of the Act by removing the requirement to monitor State agency E&T expenditures. However, the Secretary retains the authority to ensure that State agencies efficiently and effectively administer the FSP, including the E&T Program, by complying with the provisions of the Act, the regulations issued pursuant to the Act, and the FNS-approved State E&T Plan of Operation.

Therefore, the Department proposes to remove the component cost provision at 7 CFR 273.7(d)(1)(iv).

#### **Additional Funding for States that Serve ABAWDs**

Prior to elimination of component reimbursement rates, the Department offered State agencies greater flexibility to meet the intent of the increased funding provided under the Balanced Budget Act. State agencies that committed, or "pledged" to offer a qualifying education, training, or workfare position to all non-waived, non-exempted ABAWDs subject to the time limit were exempted from adhering to the maximum reimbursement rates in effect. The Farm Bill continues to provide some of that same flexibility for State agencies committed to serving their ABAWD population. Section 4121(a)(3)(E) of the Farm Bill amended the Act by authorizing an additional \$20 million in 100 percent Federal E&T funds each fiscal year to be allocated among those State agencies that offer a qualifying education, training, or

workfare position to all ABAWDs subject to the time limit.

To be eligible for a share of the additional \$20 million, a State agency must make and comply with a commitment to offer a qualifying education, training, or workfare position to each ABAWD applicant or recipient who is in the last month of the 3-month time limit; who does not live in an area subject to a waiver of the time limit; and who is not exempt from the time limit as part of the State agency's 15 percent ABAWD exemption allowance. Eligible State agencies must use their share of the \$20 million allocation—along with their regular Federal E&T grants, if necessary—to defray costs incurred in serving these "at-risk" ABAWDs. While a participating pledge State agency may use a portion of the additional funding to provide E&T services to ABAWDs who are not at risk, its first priority is to guarantee that its at-risk ABAWDs are provided the opportunity to remain eligible.

Unlike regular Federal E&T grants, this \$20 million allocation does not remain available until obligated or expended. At the end of each fiscal year, unobligated, unspent portions of the \$20 million must be returned to the U.S. Treasury.

Therefore, the Department proposes to add a new paragraph at 7 CFR 273.7(d)(3), titled "Additional allocations," that provides for an additional allocation of \$20 million in 100 percent Federal funds each fiscal year to State agencies that commit to ensuring the availability of education, training and workfare opportunities that permit ABAWDs to remain eligible for food stamps beyond the 3-month time limit. To be eligible, a State agency must make and comply with a commitment, or "pledge," to offer a qualifying education/training activity or workfare position to each ABAWD applicant or recipient who is "at risk," *i.e.*, one who: (1) Is in the last month of the 3-month time limit; (2) does not live in an area covered by a waiver of the time limit; and (3) is not part of a State agency's 15 percent ABAWD exemption allowance.

The Department proposes that interested State agencies will have one opportunity to make the pledge for the upcoming fiscal year, and no pledges will be accepted after the beginning of the new fiscal year on October 1. An interested State agency should include in its annual State E&T Plan or State Plan update—due no later than August 15 each year—its request to be considered as a pledge State. The Department proposes to require an interested State agency to include in its request estimated costs of fulfilling its

pledge; a description of management controls in place to meet pledge requirements; a discussion of its capacity and ability to serve at-risk ABAWDs; information about the size and special needs of its ABAWD population; and information about the education, training, and workfare components it will offer to meet the ABAWD work requirement. The Department proposes that FNS will review each request based on the information provided. If the information clearly indicates that the State agency will be unable to fulfill its commitment, FNS may require the State agency to address its deficiencies before it is allowed to participate as a pledge State. If the State agency does not address its deficiencies by October 1 it will not be allowed to participate as a pledge State.

The Department also proposes that, once it determines how many State agencies will participate each fiscal year, it will, as early as possible in the fiscal year, allocate among them the \$20 million based on its estimate of the numbers of ABAWDs in each participating pledge State who do not reside in an area subject to a waiver granted in accordance with 7 CFR 273.24(f) or who are not included in each State agency's 15 percent ABAWD exemption allowance under 7 CFR 273.24(g), as a percentage of such ABAWDs in all the participating pledge States. FNS proposes to use the same percentages of non-waived, non-exempted ABAWDs as it uses to allocate the annual 100 percent Federal E&T grant to arrive at its estimate of each pledge State's at-risk ABAWD population. This method ensures that each pledge State will receive a share of the \$20 million based entirely on those ABAWDs facing the time limit, as Congress intended. It also guarantees that those States in which all ABAWDs reside in waived areas and/or are exempted do not share in the funding. If a pledge State will not expend its entire share of the additional \$20 million during the fiscal year, FNS proposes to reallocate the unobligated, unexpended funds to other pledge States on a first come-first served basis. FNS will notify other pledge States of the availability of additional funding. To qualify, a pledge State must have already obligated its entire annual 100 percent Federal E&T grant, excluding an amount that is proportionate to the number of months remaining in the fiscal year, and it must guarantee in writing that it intends to obligate its entire grant by the end of the fiscal year. A State's annual 100 percent Federal E&T grant is its share of the regular 100

percent Federal E&T allocation plus its share of the additional \$20 million (if applicable).

**For example:** State A is allocated a regular E&T grant of \$1,000,000, plus a \$200,000 share of the \$20 million additional allocation for pledge States—a total annual 100 percent Federal E&T grant of \$1,200,000. In March, State A is informed of the availability of unobligated, unexpended pledge State funding. To qualify for a part of the funds, it must have already obligated one-half (\$600,000) of its total annual grant (\$1,200,000 divided by 2 equals \$600,000). \$600,000 times 6 months—October through March—equals \$600,000. Additionally, it must guarantee in writing that it intends to obligate the remaining \$600,000 by September 30.

Interested pledge States must submit their requests for additional funding to FNS. FNS will review the requests and, if they are determined reasonable and necessary, will reallocate some or all of the unobligated, unspent ABAWD funds, as it considers appropriate and equitable. Although a pledge State may use a portion of the additional funding to serve ABAWDs not at risk, it must honor its commitment to serve at-risk ABAWDs before doing so.

Further, the Department proposes to specify that, unlike regular 100 percent Federal E&T funds, unobligated funds from this additional allocation are not permitted under the Act to be carried over into the subsequent fiscal year. Rather, they must be returned to the U.S. Treasury at the end of each fiscal year.

Lastly, The Department proposes to specify that a pledge State that fails to meet its commitment may be disqualified from participating in subsequent fiscal years.

#### **Rescission of Carryover Funds**

The Farm Bill maintains the provisions established by the Balanced Budget Act that regular 100 percent Federal E&T funds remain available until expended. It also continues to authorize the Secretary to reallocate unexpended funds to other States during the fiscal year for which they were appropriated or the subsequent fiscal year appropriately and equitably. However, section 4121(b) of the Farm Bill provided that all carryover funds from any fiscal year before FY 2002 were rescinded on the date of enactment, unless obligated by a State agency before that date. Thus, as of May 13, 2002 all unobligated 100 percent Federal E&T funds appropriated for any fiscal year prior to FY 2002 were no longer available.

E&T 100 percent funding appropriated for FY 2002 and subsequent fiscal years are likewise unaffected by the rescission, and,

excluding the additional funding authorized for States that serve ABAWDs, will be available for carryover and reallocation on a first come—first served basis. Each year FNS will notify State agencies of the availability of carryover funding. Interested State agencies must submit their requests for carryover funding to FNS. If the requests are determined reasonable and necessary, FNS will allocate carryover funding to meet some or all of the State agencies' requests, as it considers appropriate and equitable. The factors FNS will consider when reviewing a State agency's request will include the size of the request relative to the level of the State agency's E&T spending in prior years, the specificity of the State agency's plan for spending carryover funds, and the quality of program and scope of impact for the State agency's E&T program and proposed use of carryover funds.

#### **Participant Reimbursement**

Current regulations at 7 CFR 273.7(d)(3)(ii) require a State agency to reimburse the actual costs of transportation and other costs, except dependent care costs, it determines to be necessary and directly related to participation in E&T. Only costs up to \$25 per participant per month are subject to Federal cost share assistance.

In 1982 Congress passed legislation establishing the optional workfare program under which eligible recipients work in public service jobs in exchange for their food stamps. The workfare legislation established \$25 a month per participant as the maximum reimbursable amount, at the 50 percent match rate, for costs, such as transportation, reasonably necessary and directly related to participation in the program.

When Congress established the E&T Program in 1985, it continued the requirement that State agencies reimburse participant expenses up to \$25 per month per participant. State agencies were allowed to reimburse expenses in excess of \$25 using their own funds, but the maximum Federal contribution remained \$12.50.

While subsequent E&T-related legislation retained the \$25 maximum, State agencies argued that they should be allowed to set the participant reimbursement maximum at a level that reflects the true costs of transportation. They contended that transportation is a major barrier to E&T participation, especially in rural areas, that \$25 was not enough to cover the expense of getting to and from E&T activities, and that it certainly was insufficient to cover

other acceptable participation related expenses as well.

Section 4121(d) of the Farm Bill amended the Act by eliminating the \$25 maximum participant reimbursement for the costs of transportation and other actual costs other than dependent care. This provides State agencies the opportunity to establish reimbursement levels that reflect the actual transportation situations in their jurisdictions. In addition, elimination of the \$25 maximum allows State agencies to expand the types of participant expenses they are able to reimburse. In the past, transportation expenses usually accounted for the entire \$25 reimbursement. Now, State agencies may be able to reimburse E&T participants for such acceptable work, training, or education related expenses as uniforms, personal safety items or other necessary equipment, and books or training manuals, with the Federal government defraying half the costs.

In addition, it is possible that State agencies will earmark more State funds—matched by Federal funds—to reimburse expenses related to E&T participation but aimed at enhancing a participant's chances of finding employment. For example, a State agency may choose to provide a clothing allowance to permit participants to purchase appropriate clothing for job search and for job interviews. Such an allowance would help E&T participants successfully compete for jobs. Other expenses, such as license and bonding fees required for employment, for which an E&T participant is liable, could also be considered for reimbursement by State agencies.

We believe that this expanded use of participant reimbursements is allowable under the Act and would be beneficial in achieving self-sufficiency for many E&T participants.

Therefore, the Department proposes to redesignate 7 CFR 273.7(d)(3) as 7 CFR 273.7(d)(4) and to amend the newly redesignated 7 CFR 273.7(d)(4)(ii) by removing the \$25 per month per participant limitation on Federal cost sharing for participant expenses.

We also propose to include language requiring State agencies to provide, in their annual State E&T Plans, information about which expenses they plan to reimburse. FNS will review this information as part of the overall plan approval process.

#### **Non-Financial Program Reporting Requirements**

Each State agency is responsible for maintaining information about its E&T program and for reporting it quarterly to FNS. Form FNS-583, E&T Program

Activity Report, was designed to capture the information and to provide a standard, consistent means of accumulating and analyzing national E&T Program data. The form has undergone several permutations, the latest coming as a result of Balanced Budget Act, which modified the E&T Program to focus State agency efforts on a particular segment of the food stamp population—ABAWDs—and contained provisions governing the use of Federal E&T funds. Form FNS-583 was extensively revised to capture information that permitted FNS to monitor State agency ABAWD spending to ensure compliance with the maximum reimbursement rates that were in effect and to ensure that State agencies met the use of funds requirement. In addition, form FNS-583 was used to capture the numbers of ABAWDs exempted under each State agency's 15 percent ABAWD exemption allowance.

With the elimination of Balanced Budget Act funding provisions, it became necessary to once again revise form FNS-583, to streamline and simplify the data required of each State agency to provide national oversight of E&T Program operations. Current regulations at 7 CFR 273.7(c)(8), (c)(9), and (c)(10) contain the requirements for completing the FNS-583.

The Department proposes to amend regulations to describe the new requirements for completing the FNS-583, based on its recent revision to reflect Farm Bill provisions.

#### **Reduction in Work Effort**

One statutory exemption from FSP work requirements is employment of 30 or more hours weekly or weekly earnings at least equivalent to the Federal minimum wage multiplied by 30 hours. The 1996 welfare reform legislation added a new work requirement that made ineligible those individuals who reduce work effort to less than 30 hours per week. The reduction in work effort provision was included in the June 19, 2002, final rule (67 FR 41589). The current regulation at 7 CFR 273.7(j)(3)(iii) provides that the minimum wage equivalency does not apply when determining a reduction in work effort. However, subsequent policy clarifications made clear that the minimum wage equivalency must apply when making these determinations. Section 6(d)(2)(E) of the Act establishes one criterion for exemption from FSP work requirements as working a minimum of 30 hours a week or earning the minimum wage equivalent of at least 30 hours a week. Thus, in accordance with the Act, an individual exempt from

FSP work requirements because he or she is working a minimum of 30 hours a week who reduces his or her work hours to less than 30, but who continues to earn more in weekly wages than the Federal minimum wage multiplied by 30 hours, remains exempt from FSP work requirements, and is not subject to disqualification.

The Department is taking this opportunity to clarify its policy concerning reduction in work effort.

#### **List of Subjects in 7 CFR Part 273**

Administrative practice and procedures, Food stamps, Grant programs—social programs, Penalties, Reporting and recordkeeping.

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

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

**Authority:** 7 U.S.C. 2011–2036.

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

2. In § 273.7:

a. Paragraph (c)(6)(ii) is amended by removing the period at the end of sentence three and adding in its place a semi-colon, and by removing the last sentence;

b. paragraph (c)(6)(vii) is revised;

c. new paragraphs (c)(6)(xv) and (c)(6)(xvi) are added;

d. paragraphs (c)(7), (c)(8), (c)(9), (c)(10), (c)(11), (c)(12), (c)(13), and (c)(14) are redesignated as paragraphs (c)(8), (c)(9), (c)(10), (c)(11), (c)(12), (c)(13), (c)(14), and (c)(15), respectively, and new paragraph (c)(7) is added;

e. newly redesignated paragraph (c)(8) is amended by removing the word “biennially” in the first sentence and adding in its place the word “annually”;

f. newly redesignated paragraphs (c)(9), (c)(10), and (c)(11) are revised;

g. paragraph (d)(1)(i) is revised;

h. paragraph (d)(1)(ii) is amended by removing paragraphs (d)(1)(ii)(A), (d)(1)(ii)(B), (d)(1)(ii)(C), and (d)(1)(ii)(D), and redesignating paragraphs (d)(1)(ii)(E), (d)(1)(ii)(F), (d)(1)(ii)(G), and (d)(1)(ii)(H) as paragraphs (d)(1)(ii)(A), (d)(1)(ii)(B), (d)(1)(ii)(C), and (d)(1)(ii)(D), respectively;

i. paragraphs (d)(1)(iii) and (d)(1)(iv) are removed;

j. paragraphs (d)(3), (d)(4), (d)(5), and (d)(6) are redesignated as (d)(4), (d)(5), (d)(6), and (d)(7), respectively, and new paragraph (d)(3) is added;

k. newly redesignated paragraph (d)(4) is amended by adding a new sentence after the first sentence of the introductory text, removing the regulatory references “paragraphs

(d)(3)(i) and (d)(3)(ii)” in sentences four and seven and adding in their place the regulatory references “paragraphs (d)(4)(i) and (d)(4)(ii)”, and by removing the regulatory references “paragraph (d)(3)(i) and (d)(3)(ii)” in sentence eight and adding in its place the regulatory reference “paragraph (d)(4)(i)”;

l. newly redesignated paragraph (d)(4)(i) is amended by removing the last sentence;

m. newly redesignated paragraph (d)(4)(ii) is amended by removing the last sentence;

n. newly redesignated paragraph (d)(4)(v) is amended by removing the regulatory reference “paragraphs (d)(3)(i) and (d)(3)(ii)” in the second sentence and adding in its place the regulatory reference “paragraphs (d)(4)(i) and (d)(4)(ii)”, and removing the regulatory reference “paragraph (d)(3)(i)” in the last sentence and adding in its place the regulatory reference “paragraph (d)(4)(i)”;

o. paragraph (f)(7)(ii) is amended by removing the regulatory reference “paragraphs (b)(1)(iii) and (b)(1)(v)” in the second sentence and adding in its place the regulatory reference “paragraphs (b)(1)(iii) or (b)(1)(v)”;

p. paragraph (f)(7)(iv) is amended by removing words “exemptions provided in paragraphs (b)(1)(iii) and (b)(1)(v)” in the first sentence and adding in their place the words “exemption in paragraph (b)(1)(iii)”;

q. paragraph (j)(3)(iii) is amended by revising the last sentence.

The revisions and additions read as follows:

**§ 273.7 Work provisions.**

\* \* \* \* \*

(c) \* \* \*

(6) \* \* \*

(vii) The method the State agency uses to count all work registrants as of the first day of the new fiscal year;

\* \* \* \* \*

(xv) The combined (Federal/State) State agency reimbursement rate for transportation costs and other expenses reasonably necessary and directly related to participation incurred by E&T participants.

(xvi) Information about expenses the State agency proposes to reimburse. FNS must be afforded the opportunity to review and comment on the proposed reimbursements before they are implemented.

(7) A State agency interested in receiving additional funding for serving able-bodied adults without dependents (ABAWDs) subject to the 3-month time limit, in accordance with paragraph (d)(3) of this section, must include in its annual E&T plan:

(i) Its pledge to offer a qualifying activity to all at-risk ABAWD applicants and recipients;

(ii) Estimated costs of fulfilling its pledge;

(iii) A description of management controls in place to meet pledge requirements;

(iv) A discussion of its capacity and ability to serve at-risk ABAWDs;

(v) Information about the size and special needs of its ABAWD population; and

(vi) Information about the education, training, and workfare components it will offer to meet the ABAWD work requirement.

\* \* \* \* \*

(9) The State agency will submit an E&T Program Activity Report to FNS no later than 45 days after the end of each Federal fiscal quarter. The report will contain monthly figures for:

(i) Participants newly work registered;

(ii) Number of ABAWD applicants and recipients participating in qualifying components;

(iii) Number of all other applicants and recipients (including ABAWDs involved in non-qualifying activities) participating in components; and

(iv) ABAWDs subject to the 3-month time limit imposed in accordance with § 273.24(b) who are exempt under the State agency’s 15 percent exemption allowance under § 273.24(g).

(10) The State agency will submit annually, on its first quarterly report, the number of work registrants in the State on October 1 of the new fiscal year.

(11) The State agency will submit annually, on its final quarterly report, a list of E&T components it offered during the fiscal year and the number of ABAWDs and non-ABAWDs who participated in each.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) *Allocation of grants.* Each State agency will receive a Federal E&T program grant each fiscal year to operate an E&T program in accordance with paragraph (e) of this section. The grant requires no State matching.

(A) In determining each State agency’s 100 percent Federal E&T grant, FNS will apply the percentage determined in accordance with paragraph (d)(1)(i)(B) of this section to the total amount of 100 percent Federal funds authorized under section 16(h)(1)(A) of the Act for each fiscal year.

(B) FNS will allocate the funding available each fiscal year for E&T grants using a formula designed to ensure that each State agency receives its appropriate share.

(1) One-half of the annual 100 percent Federal E&T grant will be calculated based on the number of ABAWDs in each State who do not reside in an area subject to a waiver granted in accordance with § 273.24(f) or who are not included in each State agency’s 15 percent ABAWD exemption allowance under § 273.24(g), as a percentage of such ABAWDs nationwide. FNS will consider all waivers granted in accordance with § 273.24(f) within a reasonable time before the E&T allocations are determined. FNS will utilize the best data available for the waiver and exemption adjustments. FNS will determine each State agency’s percentage of ABAWDs using the most recent Quality Control (QC) survey data adjusted for changes in its caseload.

(2) One-half of the grant will be allocated based on the number of work registrants in each State as a percentage of work registrants nationwide. FNS will use work registrant data reported by each State agency on the FNS-583, Employment and Training Program Activity Report, from the most recent Federal fiscal year.

(C) No State agency will receive less than \$50,000 in Federal E&T funds. To ensure this, FNS will, if necessary, reduce the grant of each State agency allocated more than \$50,000. In order to guarantee an equitable reduction, FNS will calculate grants as follows. First, disregarding those State agencies scheduled to receive less than \$50,000, FNS will calculate each remaining State agency’s percentage share of the fiscal year’s E&T grant. Next, FNS will multiply the grant—less \$50,000 for every State agency under the minimum—by each remaining State agency’s same percentage share to arrive at the revised amount. The difference between the original and the revised amounts will represent each State agency’s contribution. FNS will distribute the funds from the reduction to State agencies initially allocated less than \$50,000.

(D) If a State agency will not obligate or expend all of the funds allocated to it for a fiscal year under paragraph (d)(1)(i)(B) of this section, FNS will reallocate the unobligated, unexpended funds to other State agencies during the fiscal year or the subsequent fiscal year on a first come-first served basis. Each year FNS will notify State agencies of the availability of carryover funding. Interested State agencies must submit their requests for carryover funding to FNS. If the requests are determined reasonable and necessary, FNS will allocate carryover funding to meet some or all of the State agencies’ requests, as it considers appropriate and equitable.



The factors that FNS will consider when reviewing a State agency's request will include the size of the request relative to the level of the State agency's E&T spending in prior years, the specificity of the State agency's plan for spending carryover funds, and the quality of program and scope of impact for the State's E&T program and proposed use of carryover funds.

\* \* \* \* \*

(3) *Additional allocations.* In addition to the E&T program grants discussed in paragraph (d)(1) of this section, FNS will allocate \$20 million in Federal funds each fiscal year to State agencies that ensure availability of education, training, or workfare opportunities that permit ABAWDs to remain eligible beyond the 3-month time limit.

(i) To be eligible, a State agency must make and comply with a commitment, or "pledge," to use these additional funds to defray the cost of offering a position in an education, training, or workfare component that fulfills the ABAWD work requirement, as defined in § 273.24(a), to each applicant and recipient who is:

(A) In the last month of the 3-month time limit described in § 273.24(b);

(B) Not eligible for an exception to the 3-month time limit under § 273.24(c);

(C) Not a resident of an area of the State granted a waiver of the 3-month time limit under § 273.24(f); and

(D) Not included in each State agency's 15 percent ABAWD exemption allotment under § 273.24(g).

(ii) While a participating pledge State may use a portion of the additional funding to provide E&T services to ABAWDs who do not meet the criteria discussed in paragraph (d)(3)(i) of this section, it must guarantee that the ABAWDs who do meet the criteria are provided the opportunity to remain eligible.

(iii) State agencies will have one opportunity each fiscal year to take the pledge described in paragraph (d)(3)(i) of this section. An interested State agency, in its E&T Plan for the upcoming fiscal year, must include the following:

(A) A request to be considered as a pledge State, along with its commitment to comply with the requirements of paragraph (d)(3)(i) of this section;

(B) The estimated costs of complying with its pledge;

(C) A description of management controls it has established to meet the requirements of the pledge;

(D) A discussion of its capacity and ability to serve vulnerable ABAWDs;

(E) Information about the size and special needs of the State's ABAWD population; and

(F) Information about the education, training, and workfare components that it will offer to allow ABAWDs to remain eligible.

(iv) If the information provided in accordance with paragraph (d)(3)(iii) of this section clearly indicates that the State agency will be unable to fulfill its commitment, FNS may require the State agency to address its deficiencies before it is allowed to participate as a pledge State.

(v) If the State agency does not address its deficiencies by October 1 it will not be allowed to participate as a pledge State.

(vi) No pledges will be accepted after the beginning of the new fiscal year on October 1.

(vii) (A) Once FNS determines how many State agencies will participate as pledge States in the upcoming fiscal year, it will, as early in the fiscal year as possible, allocate among them the \$20 million based on the number of ABAWDs in each participating State who do not reside in an area subject to a waiver granted in accordance with § 273.24(f) or who are not included in each State agency's 15 percent ABAWD exemption allowance under § 273.24(g), as a percentage of such ABAWDs in the participating States. FNS will determine each participating State agency's percentage of ABAWDs using the most recent Quality Control (QC) survey data adjusted for changes in its caseload.

(B) Each participating State agency's share of the \$20 million will be disbursed in accordance with paragraph (d)(6) of this section.

(C) Each participating State agency must meet the fiscal recordkeeping and reporting requirements of paragraph (d)(7) of this section.

(viii) If a participating State agency notifies FNS that it will not obligate or expend its entire share of the additional funding allocated to it for a fiscal year, FNS will reallocate the unobligated, unexpended funds to other participating State agencies during the fiscal year, as it considers appropriate and equitable, on a first come-first served basis. FNS will notify other pledge States of the availability of additional funding. To qualify, a pledge State must have already obligated its entire annual 100 percent Federal E&T grant, excluding an amount that is proportionate to the number of months remaining in the fiscal year, and it must guarantee in writing that it intends to obligate its entire grant by the end of the fiscal year. A State's annual 100 percent Federal E&T grant is its share of the regular 100 percent Federal E&T allocation plus its share of the additional \$20 million (if applicable). Interested pledge States

must submit their requests for additional funding to FNS. FNS will review the requests and, if they are determined reasonable and necessary, will reallocate some or all of the unobligated, unspent ABAWD funds.

(ix) Unlike the funds allocated in accordance with paragraph (d)(1) of this section, the additional pledge funding will not remain available until obligated or expended. Unobligated funds from this grant must be returned to the U.S. Treasury at the end of each fiscal year.

(x) If a participating State agency fails, without good cause, to meet its commitment to make available education, training, and workfare opportunities that permit all its at-risk ABAWDs to remain eligible beyond the 3-month time limit it may be disqualified from participating in the subsequent fiscal year or years.

(4) \* \* \* The Federal government will fund 50 percent of State agency payments for allowable expenses, except that Federal matching for dependent care expenses is limited to the maximum amount specified in paragraph (d)(4)(i) of this section. \* \* \*

\* \* \* \* \*

(j) \* \* \*

(3) \* \* \*

(iii) \* \* \* If the individual reduces his or her work hours to less than 30 a week, but continues to earn weekly wages that exceed the Federal minimum wage multiplied by 30 hours, the individual remains exempt from Program work requirements, in accordance with paragraph (b)(1)(vii) of this section, and the reduction in work effort provision does not apply.

\* \* \* \* \*

Dated: March 12, 2004.

**Eric M. Bost,**

*Under Secretary, Food, Nutrition and Consumer Services.*

[FR Doc. 04-6184 Filed 3-18-04; 8:45 am]

BILLING CODE 3410-30-P

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### 7 CFR Part 1730

RIN 0572-AB92

#### Electric System Emergency Restoration Plan

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Utilities Service (RUS) is proposing to amend its regulations on Electric System Operations and Maintenance to