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a household's eligibility to receive assistance and the amount of assistance, or to verify information related to the benefit of these households. State agencies shall use the State Data Exchange (SDX) to the maximum extent possible. The State agency should also use the SSNs to prevent duplicate participation, to facilitate mass changes in Federal benefits as described in § 273.12(e)(3) and to determine the accuracy and/or reliability of information given by households. In particular, SSNs shall be used by the State agency to request and exchange information on individuals through the IEVS as specified in § 272.8.

(g) *Entry of SSNs into automated data bases.* State agencies with automated food stamp data bases containing household information shall enter all SSNs obtained in accordance with § 273.6(a) into these files.

[Amdt. 264, 51 FR 7206, Feb. 28, 1986; Amdt. 364, 61 FR 54317, Oct. 17, 1996]≤

§ 273.7 Work requirements.

(a) *Persons required to register.* Each household member who is not exempt by paragraph (b)(1) of this section shall be registered for employment by the State agency at the time of application, and once every twelve months after initial registration, as a condition of eligibility. The registration form need not be completed by the member required to register.

(b) *Exemptions from work registration.* (1) The following persons are exempt from the work registration requirement:

(i) A person younger than 16 years of age or a person 60 years of age or older. If a child has its 16th birthday within a certification period, the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption. A person age sixteen or seventeen who is not a head of a household or who is attending school, or enrolled in an employment training program on at least a half-time-basis is exempt.

(ii) A person physically or mentally unfit for employment. If mental or physical unfitness is claimed and the unfitness is not evident to the State

agency, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

(iii) A household member subject to and complying with any work requirement under title IV of the Social Security Act, including WIN registration. If the exemption claimed is questionable, the State agency shall be responsible for verifying the exemption.

(iv) A parent or other household member who is responsible for the care of a dependent child under 6 or an incapacitated person. If the child has its 6th birthday within a certification period, the individual responsible for the care of the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the individual qualifies for another exemption.

(v) A person is in receipt of unemployment compensation. A person who has applied for, but has not yet begun to receive, unemployment compensation shall also be exempt if that person was required to register for work with the SESA as part of the unemployment compensation application process. If the exemption claimed is questionable, the State agency shall be responsible for verifying the exemption with the appropriate office of the SESA.

(vi) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program.

(vii) A person who is employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the Federal minimum wage multiplied by 30 hours. This shall include migrant and seasonal farmworkers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days (although this shall not prevent individuals from seeking additional services from SESA). For work registration purposes, a person residing in certain designated areas of Alaska, as specified in § 274.10(a)(4)(iii), who subsistence hunts and/or fishes a minimum of 30 hours weekly as determined by averaging

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such activity over the certification period shall be considered exempt as self-employed.

(viii) A student enrolled at least half time in any recognized school, training program, or institution of higher education; provided that students enrolled at least half time in an institution of higher education have met the eligibility conditions in § 273.5 of this part. A student enrolled in a school, training program or institution of higher education shall remain exempt during normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer). Persons who are not enrolled at least half time or who experience a break in enrollment status due to graduation, expulsion, or suspension, or who drop out or otherwise do not intend to return to school, shall not be considered students for the purpose of qualifying for this exemption.

(2)(i) Persons losing exemption status due to any changes in circumstances that are subject to the reporting requirements of § 273.12 (such as loss of employment that also results in a loss of income of more than \$25 a month, or departure from the household of the sole dependent child for whom an otherwise nonexempt household member was caring) shall register for employment when the change is reported. If the State agency does not use a work registration form, it shall annotate the change to the member's exemption status. If a work registration form is used, the State agency shall be responsible for providing the participant with a work registration form when the change is reported. Participants shall be responsible for returning the form to the State agency within 10 calendar days from the date the form was handed to the household member reporting the change in person, or the date the State agency mailed the form. If the participant fails to return the form, the State agency shall issue a notice of adverse action stating that the participant or, if the individual is the head of household, the household is being terminated and why, but that the termi-

nation can be avoided by returning the form.

(ii) Those persons who lose their exemption due to a change in circumstances that is not subject to the reporting requirements of § 273.12 shall register for employment at their household's next recertification.

(c) *State agency responsibilities.* (1) The State shall register for work each household member not exempted by the provisions of § 273.7(b). Upon reaching a determination that an applicant or a member of the applicant's household is required to register, the State agency shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work registered household members, and the consequences of failure to comply. The State agency shall provide a written statement of the above to each work registrant in the household. A notice shall also be provided when a previously exempt member or new household member becomes subject to a work requirement, and at recertification. The State agency shall permit the applicant to complete a record or form for each household member required to register for employment in accordance with paragraph (a) of this section. Household members are considered to have registered when an identifiable work registration form is submitted to the State agency or when the registration is otherwise annotated or recorded by the State.

(2) The State agency shall be responsible for screening each work registrant to determine whether or not it is appropriate, based on the State's criteria, to refer the individual to an employment and training program, and if appropriate, referring the individual to an employment and training program component. Upon entry into each component the registrant applicant or volunteer, should be told, either orally or in writing, the requirements of the component, what will constitute non-compliance and the sanctions for non-compliance. The State agency shall initiate conciliation procedures, pursuant to paragraph (g)(1)(ii) of this section, upon determining that an individual has not complied with E&T requirements. The State agency shall issue a notice of adverse action (Form

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FNS-441 or equivalent State-designed form) to the individual or household, as appropriate, no later than the last day of the conciliation period. If the notice of adverse action was issued prior to the end of the conciliation period and the State agency verifies that compliance was achieved by the end of the conciliation period, the notice of adverse action may be cancelled. If States wish to use different intake and sanction systems which are compatible with title IV-A work programs such systems shall be proposed in the State agency's plan, and subject to the Secretary's approval.

(3) The State agency shall design and operate an employment and training program which may consist of one or more or a combination of employment and/or training components as described in §273.7(f). The State agency must ensure that it is notified by the agency or agencies operating its E&T components within ten days if an E&T mandatory participant fails to comply with E&T requirements.

(4) In accordance with 7 CFR 272.2(e)(9), each State agency must prepare and submit an Employment and Training plan to its appropriate FNS Regional Office and to the FNS National Office. The plan shall be available for public inspection at the State agency headquarters. In its plan, the State shall detail the following:

(i) The nature of the employment and training components the State plans to offer and the reasons for such components, including cost information. The methodology for State reimbursement for education components shall be specifically addressed;

(ii) An operating budget for the Federal fiscal year with an estimate of the cost of operation for one full year. Any State which will request 50 percent federal reimbursement for State E & T administrative costs, other than for participant reimbursements, shall include in its plan, or amendments to its plan, an itemized list of all activities and costs for which those Federal funds will be claimed. Costs in excess of the federal grant shall be allowed only with the prior approval of the Department and must be adequately documented to assure that they are necessary, reasonable and properly allo-

cated. A State agency which intends to spend the supplemental E&T grant allocation for which it is eligible in a fiscal year in accordance with paragraph (d)(1)(i)(B) of this section must declare its intention to maintain its level of expenditures for E&T and workfare at a level not less than the level of such expenditures in FY 1996.

(iii) The categories and types of individuals the State seeks to exempt from E&T participation, the basis used to determine these exemptions, including any cost information and the estimated percentage of work registrants the State plans to exempt;

(iv) The characteristics of the population the State does intend to place;

(v) The estimated number of volunteers the State expects to place in its employment and training program;

(vi) The geographic areas covered and not covered by the plan and why, and the type and location of services to be offered;

(vii) The method the State will use to count all work registrants the first month of each fiscal year;

(viii) The method the State agency uses to report work registrant information and prevent work registrants from being reported twice within a Federal fiscal year on the quarterly FNS Form 583. This method must specify how work registrants are excluded if the State agency work register all food stamp applicants (i.e., universal work registration) when the applicants are exempt from work registration as specified under paragraph (b) of this section *or* if the State agency work registers nonexempt participants whenever a new application is submitted and the participants may have already been registered within the past twelve months as specified under paragraph (a) of this section. If the method the State agency uses is questionable or unacceptable, FNS reserves the right to adjust a State agency's work registrant count. FNS shall advise a State agency of how the adjusted figure was determined and shall allow the State agency 30 days to submit another method for consideration by FNS.

(ix) If a State plans to offer components which are significantly more intensive than the minimum level of effort specified in §273.7(f), or plans to

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concentrate its efforts on persons who may be difficult to place, due to employment obstacles, it shall be made clear in the State's employment and training plan. If, because of the nature of its components, or the population served, a State believes that an adjustment to the performance standard established in §273.7(o) is appropriate, and wishes to request a revision in the standard, it shall specify the percentage of its work registered population it intends to serve, and provide the Department with detailed information about why it has chosen to operate such a component or components, or chosen to focus on certain persons, the intended benefits to be gained by the recipient and Federal and State governments, and the number of persons it plans to serve in the component. The information provided to the Department will be used in determining whether the State's performance standard will be affected;

(x) The organizational relationship between the units responsible for certification and the units operating the employment and training components. FNS is specifically concerned that the lines of communication be efficient and that noncompliance be reported to the certification unit within ten working days after such noncompliance is determined;

(xi) The relationship between the State agency and other organizations it plans to coordinate with for the provision of services. Copies of contracts shall be available for inspection;

(xii) The availability, if appropriate, of employment and training programs to Indians living on reservations.

(xiii) Beginning with the Fiscal Year 1992 State E&T plan, the procedures developed by the State agency under paragraph (g)(1)(ii) of this section for conciliation. To the extent possible, State agencies should design conciliation procedures for the E&T program that will be compatible with the conciliation process that State agencies that administer the Aid to Families with Dependent Children (AFDC) Program will establish for the Job Opportunities and Basic Skills Training (JOBS) Program as mandated by the Family Support Act of 1988.

(xiv) The Statewide limit(s) for dependent care reimbursements as established by the State agency. The limit(s) shall not be less than the dependent care deduction amounts specified under §273.9(d)(4).

(xv) The local market rates of dependent care providers in the State. State agencies shall adopt the local market rates already established by programs under section 402(g) of the Social Security Act. State agencies shall establish separate local market rates for categories of care relevant to food stamp E&T which are not addressed under section 402(g) of the Social Security Act and include such rates in the E&T State Plan.

(5) Plans shall be submitted biennially, 45 days before the start of the fiscal year, beginning in FY 1990. States must submit plan revisions to the appropriate FNS regional office for approval if they plan to alter the nature or location of their components or the number or characteristics of persons served. The proposed changes shall be submitted for approval at least 30 days prior to planned implementation.

(6) The State shall submit quarterly reports to FNS no later than 45 days after the end of each Federal fiscal quarter containing monthly figures for the number of:

(i) Participants newly work registered;

(ii) Work registrants exempted by the State from participation in an employment and training program;

(iii) Participants who volunteer for and commence participation in an approved E&T component;

(iv) E&T mandatory participants who commence an approved E&T component including Food Stamp Program applicants in States which operate a component for applicants;

(v) Work registrants sent a Notice of Adverse Action for failure to comply with E&T requirements, and the number of applicants who were denied food stamp certification or recertification for failure to comply with an E&T component.

(vi) The number of filled and offered slots created under a workfare program as described in §273.22 or a comparable

program that are intended to serve recipients subject to the work requirement at section 6(o) of the Food Stamp Act. This information must be broken out to show the number of slots that were created in areas of the State that have received a waiver in accordance with section 6(o)(4) of the Food Stamp Act and in non-waived areas;

(vii) The number of filled and offered slots created under a 20-hour-a-week work program as described in paragraph (d)(1)(ii)(A) of this section that are intended to serve recipients subject to the work requirement at section 6(o) of the Food Stamp Act. This information must be broken out to show the number of slots that were created in areas of the State that have received a waiver in accordance with section 6(o)(4) of the Food Stamp Act and in non-waived areas;

(7) States shall submit annually, on their first quarterly report the number of work registered persons in that State as in October of the new fiscal year.

(8) States shall submit annually, on their final quarterly report the following information:

(i) The number of Food Stamp Program work registrants who were exempted as part of a category of persons during the course of the year separated by the specific reasons for the exemptions.

(ii) The number of food stamp participants (E&T mandatory and volunteers) placed in each E&T component offered by the State agency.

(9) Additional information may be required of individual State agencies on an as needed basis depending on the contents of the State's plan regarding the type of components offered and the characteristics of persons served.

(10) States must ensure, to the maximum extent practicable, that employment and training programs are provided for Indians living on reservations.

(11) If a benefit overissuance is discovered for a month or months in which a mandatory E & T participant has already fulfilled a work component requirement, the State agency shall follow the procedure specified in § 273.22(f)(9) for a workfare overissuance.

(d) *Federal financial participation—(1) Employment and training grants.*(i) *Allocation of grants.* Each State agency will receive an E&T program grant for each fiscal year to operate an E&T program. The grant will consist of a base amount that requires no State matching and a supplemental amount which will be available only to those State agencies that elect to meet their maintenance of effort requirements as described in paragraph (d)(1)(iii) of this section.

(A) In determining each State agency's base 100 percent Federal E&T grant amount for FYs 1998 through 2002, FNS will apply the percentage determined in accordance with paragraph (d)(1)(i)(C) of this section to the total amount of 100 percent Federal E&T grant provided under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for each fiscal year.

(B) In determining each State agency's supplemental 100 percent Federal E&T grant amount for FYs 1998 through 2002, FNS will apply the percentage determined in accordance with paragraph (d)(1)(i)(C) of this section to the total amount of 100 percent Federal E&T grant provided under the Balanced Budget Act of 1997 for each fiscal year.

(C) Except as otherwise provided in paragraph (d)(1)(i)(F) of this section, effective in FY 1998, Federal funding for E&T grants, including both the base and supplemental amounts, shall be allocated on the basis of food stamp recipients in each State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act as a percentage of such recipients nationwide. Effective in FY 1999, Federal funding for E&T grants shall be allocated on the basis of food stamp recipients in each State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act and who either do not reside in an area subject to a waiver granted in accordance with section 6(o)(4) of the Food Stamp Act or do reside in an area subject to a waiver in which the State agency provides employment and training services to food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act as a percentage of such recipients nationwide.

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(D) FNS shall determine each State's percentage of food stamp recipients not eligible for an exception under section 6(o)(3) of the Food Stamp Act using FY 1996 Quality Control survey data adjusted for changes in each State's caseload.

(E) Effective in FY 1998, no State agency shall receive less than \$50,000 in Federal E&T funds. To insure that no State agency receives less than \$50,000 in FY 1998, each State agency that is allocated to receive more than \$50,000 shall have its grant reduced, if necessary, proportionate to the number of food stamp recipients in the State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act as compared to the total number of such recipients in all the State agencies receiving more than \$50,000. The funds from the reduction shall be distributed to State agencies initially allocated to receive less than \$50,000. To insure that no State agency receives less than \$50,000 in FY 1999 and subsequent years, each State agency that is allocated to receive more than \$50,000 shall have its grant reduced, if necessary, proportionate to the number of food stamp recipients in the State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act, and who do not reside in an area subject to a waiver granted in accordance with section 6(o)(4) of the Food Stamp Act or who do reside in an area subject to a waiver in which the State agency provides employment and training services to food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act as compared to the total number of such recipients in all the State agencies receiving more than \$50,000. The funds from the reduction shall be distributed to State agencies initially allocated to receive less than \$50,000 so that they receive the \$50,000 minimum.

(F) If a State agency will not expend all of the funds allocated to it for a fiscal year under paragraph (d)(1)(i)(C) of this section, FNS shall reallocate the unexpended funds to other States during the fiscal year or the subsequent fiscal year as it considers appropriate and equitable.

(ii) *Use of funds.* (A) Not less than 80 percent of the funds a State agency re-

ceives in a fiscal year under paragraph (d)(1)(i) of this section shall be used to serve food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act and who are placed in and comply with either a workfare program as described in § 273.22 or a comparable program, or a work program for 20 hours or more per week. A qualifying work program is a program operated under the JTPA or, after July 1, 2000, a program that was previously operated under the JTPA that is now operated under the Workforce Investment Act, a program under section 236 of the Trade Act of 1974, or an E&T program operated or supervised by the State or a political subdivision that meets standards approved by the Governor of the State, including programs described in paragraphs (f)(1)(iv), (f)(1)(v), (f)(1)(vi) and (f)(1)(vii) of this section. Job search and job search training programs as described in paragraphs (f)(1)(i) and (f)(1)(ii) of this section do not meet the definition of qualifying work program.

(B) Funds which a State agency receives in a fiscal year under paragraph (d)(1)(i) of this section which are used to serve food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act but who either reside in an area of a State granted a waiver under section 6(o)(4) of the Food Stamp Act or have been granted an exemption under section 6(o)(6) of that Act and which are expended on qualifying work activities as described in paragraph (d)(1)(ii)(A) of this section shall count toward a State's 80 percent expenditure.

(C) Not more than 20 percent of the funds a State agency receives in a fiscal year under paragraph (d)(1)(i) of this section may be used to serve households eligible for an exception under section 6(o)(3) of the Food Stamp Act or on work activities that do not meet the definition of qualifying work activities as described in paragraph (d)(1)(ii)(A) of this section. E&T funds expended in accordance with this paragraph (d)(1)(ii)(C) may be spent independent of whether or not the State agency expends any Federal funds that meet the requirements of paragraph (d)(1)(ii)(A) of this section. E&T funds

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expended in accordance with this paragraph (d)(1)(ii)(C) are not subject to the component cost reimbursement rates described in paragraph (d)(1)(iv) of this section.

(D) If at the end of a fiscal year, FNS determines that a State agency has spent more than 20 percent of the Federal E&T funds it receives for that fiscal year under paragraph (d)(1)(i) of this section to serve food stamp recipients who are eligible for an exception under section 6(o)(3) of the Food Stamp Act or on work activities that do not meet the definition of qualifying work activities as described in paragraph (d)(1)(ii)(A) of this section, it shall reimburse States for allowable costs incurred in excess of the 20 percent threshold at the normal administrative 50-50 match rate.

(E) State agencies must use E&T program grants to fund the administrative costs of planning, implementing and operating food stamp E&T programs in accordance with approved State agency E&T plans. E&T grants must not be used for the process of determining whether an individual must be work registered, the work registration process, or any further screening performed during the certification process, nor for sanction activity that takes place after the operator of an E&T component reports noncompliance without good cause. For purposes of this paragraph (d)(1)(ii)(E), the certification process is considered ended when an individual is referred to an E&T component for assessment or participation. E&T grants must also not be used to reimburse participants under paragraph (d)(1)(ii) of this section, since these reimbursements which include dependent care and job-related transportation costs are provided for in a separate 50:50 Federal/State matching grant. Lastly, E&T grants must not be used to subsidize the wages of participants, as reflected in current regulations, and in view of section 16(b) of the Food Stamp Act, added by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which provides authority for food stamp recipients who also participate in TANF and other public assistance programs to have their food stamp benefits paid directly to employers.

(F) A State agency's receipt of the E&T program grant as allocated under paragraph (d)(1)(i) of this section is contingent on FNS' approval of the State agency's E&T plan. If an adequate plan is not submitted, FNS may reallocate a State agency's grant among other State agencies with approved plans. Non-receipt of an E&T program grant does not release a State agency from its responsibility under paragraph (c)(3) of this section to operate an E&T program or from sanctions for insufficient performance.

(G) Federal funds made available to a State agency to operate a component under paragraph (f)(1)(vi) of this section must not be used to supplant non-federal funds for existing educational services and activities that promote the purposes of this component. Education expenses are approvable to the extent that E&T component costs exceed the normal cost of services provided to persons not participating in an E&T program.

(iii) *Maintenance of Effort.* (A) To be eligible for a grant derived from the supplemental level of E&T funding described in paragraph (d)(1)(i)(B) of this section, a State agency must maintain State expenditures on E&T programs and workfare at a level not less than the level of such expenditures in FY 1996. A State agency need not expend all of its required maintenance of effort funds before it begins spending its supplemental E&T grant. A State agency which intends to spend the supplemental allocation for which it is eligible in a fiscal year must, in accordance with paragraph (c)(4)(ii) of this section, declare in its State E&T plan for that fiscal year its intention to maintain its level of expenditures for E&T and workfare at a level not less than the level of such expenditures in FY 1996.

(B) State funds which a State agency expends in order to meet its maintenance of effort requirement are not subject to the requirements of paragraph (d)(1)(ii) of this section.

(C) Participant reimbursements paid through State funds shall not count toward a State agency's maintenance of effort requirement, except in the case of optional workfare programs in which reimbursements to participants for work-related expenses are counted as

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part of the State agency's administrative expenses in accordance with section 20(g)(1) of the Food Stamp Act.

(iv) *Component costs.* FNS shall monitor State agencies' expenditures of 100 percent Federal E&T funds, including the costs of individual components of State agencies' programs.

(A) Federal 100 percent E&T funds that State agencies expend in accordance with paragraph (d)(1)(ii)(A) of this section are subject to component cost reimbursement rates. The rates represent the maximum amount of 100 percent Federal funds that FNS will reimburse States on average each month for their expenditures in providing work opportunities or "slots" that meet the requirements of section (6)(o)(2)(B) and (C) of the Food Stamp Act.

(B) Separate reimbursement rates will apply for filled slots and for offered slots. A slot is "filled" when a participant reports to a work or training site to begin his or her work activities. A slot is "offered" when a bona fide workfare or training opportunity is made available to a participant (i.e., the participant is told to report to a work site at a given date and time) but the participant either refuses the assignment or does not report.

(C) A State agency may claim reimbursement for only one filled slot per participant per month. A State agency that assigns one participant to two slots in the same month, for example a workfare slot and a 20-hour-a-week training slot, may only claim reimbursement for one filled slot in that month.

(D) Reconciliation will be conducted on a yearly basis. When applying the rate, FNS will sum the number of filled and offered slots a State agency reports for a fiscal year and multiply each by the appropriate rate. FNS will add the two resulting sums and compare that against the State agency's actual expenditure of Federal 100 percent E&T money for that fiscal year. If the amount spent is less than the amount allowed under the rates, the actual amount would be paid out of the State agency's 100 percent Federal E&T grant for that fiscal year. If the amount spent by the State agency exceeds the amounts allowed under the rates, the State agency will be required

to pay that excess amount. State funds used to cover any shortfalls will be eligible for the standard 50 percent Federal match in accordance with paragraph (d)(1)(vi) of this section and §273.22(g).

(v) *Participant reimbursements.* The State agency shall provide payments to participants in its E&T program, including applicants required to perform job search and volunteers, for expenses that are reasonably necessary and directly related to participation in the E&T program. These payments may be provided as a reimbursement for expenses incurred or in advance as payment for anticipated expenses in the coming month. The State agency shall inform each E&T participant that allowable expenses up to the amounts specified in paragraphs (d)(1)(v)(A) and (d)(1)(v)(B) of this section will be reimbursed by the State agency upon presentation of appropriate documentation. Reimbursable costs may include, but are not limited to, dependent care costs, transportation, and other work, training or education related expenses such as uniforms, personal safety items or other necessary equipment, and books or training manuals. These costs shall not include the cost of meals away from home. Any allowable costs incurred by a noncompliant E&T participant that are reasonably necessary and directly related to participation in the conciliation process shall be reimbursable under paragraphs (d)(1)(v)(A) and (d)(1)(v)(B) of this section. The State agency may reimburse participants for expenses beyond the amounts specified in paragraphs (d)(1)(v)(A) and (d)(1)(v)(B) of this section, however, only costs which are up to but not in excess of those amounts shall be subject to Federal cost sharing. Reimbursement shall not be provided from E&T grants provided under paragraph (d)(1)(i) of this section. Any expense covered by a reimbursement under this section shall not be deductible under §273.10(d)(1)(i). Reimbursements shall be provided as follows:

(A) The costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of a household member in the E&T program up to the actual cost of dependent care, the local market

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rate, or the Statewide limit, whichever is lowest. A dependent care reimbursement shall be provided to an E&T participant for all dependents requiring dependent care unless otherwise prohibited by this section. A reimbursement shall not be provided for a dependent age 13 or older unless the dependent is physically and/or mentally incapable of caring for himself or herself or under court supervision. A reimbursement shall be provided for all dependents who are physically and/or mentally incapable of caring for themselves or who are under court supervision, regardless of age, if dependent care is necessary for the participation of a household member in the E&T program. Verification of the physical and/or mental incapacity is questionable. Also, verification of a court imposed requirement for the supervision of a dependent age 13 or older is necessary if the need for dependent care is questionable. If more than one household member is required to participate in the E&T program, the State agency shall provide reimbursement for the actual cost of dependent care, the local market rate, or the Statewide limit, whichever is lowest, for each dependent in the household, regardless of the number of household members participating in the E&T program. An individual who is the caretaker relative of a dependent in a family receiving benefits under the AFDC program in a local area where an employment, training, or education program under the AFDC program is in operation, or was in operation on September 19, 1988, is not eligible for such reimbursement. An E&T participant is not entitled to the dependent care reimbursement if a member of the E&T participant's food stamp household provides the dependent care services. The State agency must verify the participant's need for dependent care and the cost of the dependent care prior to the issuance of the reimbursement. The verification must include the name and address of the dependent care provider, the cost and the hours of service, e.g., five hours per day, five days per week for two weeks. A participant may not be reimbursed for dependent care services beyond that which is required for participation in the E&T program. In lieu

of providing reimbursements for dependent care expenses, a State agency may arrange for dependent care through providers by the use of purchase of service contracts, by providing vouchers to the household or by other means. A State agency may require that dependent care provided or arranged by the State agency meet all applicable standards of State and local law, including requirements designed to ensure basic health and safety protections, e.g., fire safety. An E&T participant may refuse available appropriate dependent care as provided or arranged by the State agency, if the participant can arrange other dependent care or can show that such refusal will not prevent or interfere with participation in the E&T program as required by the State agency. A State agency may claim 50 percent of costs for dependent care services provided or arranged by the State agency up to the actual cost of dependent care, the local market rate, or the Statewide limit, whichever is lowest.

(B) The actual costs of transportation and other costs (excluding dependent care costs) that are determined by the State agency to be necessary and directly related to participation in the E&T program up to \$25 per participant per month. Such costs shall be the actual costs of participation unless the State agency has a method approved in its State E&T plan for providing allowances to participants to reflect approximate costs of participation. If a State agency has an approved method to provide allowances rather than reimbursements, it must provide participants an opportunity to claim actual expenses which exceed the standard, up to \$25 or such other maximum level of reimbursements which is established by the State agency.

(C) No participant cost which has been reimbursed under a workfare program under § 273.22, title IV of the Social Security Act or other work program shall be reimbursed under this section.

(D) Any portion of dependent care costs which are reimbursed under this section may not be claimed as an expense and used in calculating the dependent care deduction under § 273.9(d)(4) for determining benefits.

(E) The State agency shall inform all mandatory E&T participants that they may be exempted from E&T participation if their monthly expenses that are reasonably necessary and directly related to participation in the E&T program exceed the allowable reimbursement amount. Persons for whom allowable monthly expenses in an E&T component exceed the amounts specified under paragraphs (d)(1)(v)(A) and (d)(1)(v)(B) of this section shall not be required to participate in that component. These individuals shall be placed, if possible, in another suitable component in which the individual's monthly E&T expenses would not exceed the allowable reimbursable amount paid by the State agency. If a suitable component is not available, these individuals shall be exempted from E&T participation until a suitable component is available or the individual's circumstances change and his/her monthly expenses do not exceed the allowable reimbursable amount paid by the State agency. Individuals exempted because their monthly expenses exceed the allowable reimbursable amounts specified under paragraphs (d)(1)(v)(A) and (d)(1)(v)(B) of this section may volunteer to participate in the E&T program. Volunteers must be informed that their allowable expenses in excess of the reimbursable amounts will not be reimbursed. Dependent care expenses incurred that are otherwise allowable but not reimbursed because they exceed the reimbursable amount specified under paragraph (d)(1)(v)(B) shall be considered in determining a dependent care deduction under 7 CFR 273.9(d)(4).

(vi) Fifty percent of all other administrative costs incurred by State agencies in operating employment and training programs, above the costs referenced in paragraphs (d)(1)(i) of this section, shall be funded by the Federal government.

(vii) Enhanced cost-sharing due to placement of workfare participants in paid employment is available only for workfare programs funded under § 273.22(g) at the 50 percent reimbursement level and reported as such.

(2) *Funding mechanism.* Employment and training program funding will be disbursed through States' Letters of

Credit in accordance with § 277.5 of the regulations. The State agency shall ensure that records are maintained which support the financial claims being made to FNS.

(3) *Fiscal recordkeeping and reporting requirements.* Total employment and training expenditures shall be reported on the Financial Status Report (SF-269) in the column containing "other" expenses. Employment and training expenditures shall also be separately identified in an attachment to the SF-269 to show, as provided in instructions, total State and Federal employment and training expenditures; expenditures funded with the unmatched Federal grants; State and Federal expenditures for participant reimbursements; State and Federal expenditures for employment and training costs at the 50 percent reimbursement level; and State and Federal expenditures for optional workfare program costs, operated under section 20 of the Food Stamp Act and § 273.22 of the regulations. Claims for enhanced funding for placements of participants in employment after their initial participation in the optional workfare program shall be submitted in accordance with § 273.22. States shall include as footnotes to the FNS-269 the amount of Federal 100 percent E&T funding spent on slots created under a workfare program as described in § 273.22 or a comparable program, and the amount of Federal 100 percent E&T funding spent on slots created under a 20-hour-a-week work program as described in paragraph (d)(1)(ii)(A) of this section.

(e) *Work registrant requirements.* Work registrants shall:

(1) Participate in an employment and training program if assigned by the State agency;

(2) Respond to a request from the State agency or its designee for supplemental information regarding employment status or availability for work;

(3) Report to an employer to whom referred by the State agency or its designee if the potential employment meets the suitability requirements described in paragraph (i) of this section;

(4) Accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable State or Federal minimum wage;

(f) *Employment and training programs.* Persons required to register for work and not exempted by the State agency from placement in an employment and training program shall be subject to the requirements imposed by the State agency for that individual. Such individuals are referred to in this section as E&T mandatory participants. Requirements may vary among participants. Failure to comply without good cause with the requirements imposed by the State agency shall result in disqualification as specified in § 273.7(g).

(1) *Components.* To be considered acceptable by FNS, any component offered by a State agency shall entail certain levels of effort by the participants. The level of effort should be comparable to spending approximately 12 hours a month for two months (or less in workfare or work experience components if the household's benefit divided by the minimum wage is less than this amount) making job contacts; however, FNS may approve components which do not meet this guideline which it determines will advance program goals. An initial screening by an eligibility worker to determine whom to place in an employment and training program does not constitute a component. An employment and training program offered by a State agency must offer one or more of the following components:

(i) A job search program comparable to that required for the AFDC program under Part A of title IV of the Social Security Act. The State may require that an individual participate in a job search program from the time an application is filed for an initial period of up to eight consecutive weeks. Following this initial period (which may extend beyond the date when eligibility is determined) the State may require an additional job search period, not to exceed eight weeks (or its equivalent) in any period of 12 consecutive months. The first such period of 12 consecutive months shall begin at any time following the close of the initial period. States must not impose requirements which would delay the determination of an individual's eligibility for aid or in issuing benefits to any household which is otherwise eligible.

(ii) A job search training program that includes reasonable job search training and support activities. Such a program may consist of job skills assessments, job finding clubs, training in techniques for employability, job placement services, or other direct training or support activities, including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program. Job search training activities are approvable if they directly enhance the employability of the participants. A direct link between the job search training activities and job-readiness must be established for a component to be approved.

(iii) A workfare program as described in § 273.22;

(iv) A program designed to improve the employability of household members through actual work experience or training, or both, and to enable individuals employed or trained under such programs to move promptly into regular public or private employment. Such an employment or training experience shall:

(A) Limit employment experience assignments to projects that serve a useful public purpose in fields such as health, social services, environmental protection, urban and rural development, welfare, recreation, public facilities, public safety, and day care;

(B) To the extent possible, use the prior training, experience, and skills of the participating member in making appropriate employment or training experience assignments;

(C) Not provide any work that has the effect of replacing the employment of an individual not participating in the employment or training experience program; and

(D) Provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours.

(v) A project, program or experiment such as a supported work program, or a JTPA or State or local program aimed at accomplishing the purpose of the employment and training program.

(vi) Educational programs or activities to improve basic skills or otherwise improve employability including

educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program as specified under paragraph (f) of this section. Allowable educational activities may include, but are not limited to, high school or equivalent educational programs, remedial education programs to achieve a basic literacy level, and instructional programs in English as a second language. Only educational components that directly enhance the employability of the participants are allowable. A direct link between the education and job-readiness must be established for a component to be approved.

(vii) A program designed to improve the self-sufficiency of recipients through self-employment including programs that provide instruction for self-employment ventures.

(2) *Exemptions.* Subject to the requirements for overall plan approval by the Secretary, State agencies may exempt certain work registered individuals and categories of individuals from employment and training participation. Individual exemptions shall be evaluated at each recertification and exemptions granted to categories of persons should be reviewed no less frequently than annually to determine whether they remain valid. If a State recognizes that because of changes in its caseload the exemption limit set forth in its approved plan is insufficient, the State may seek to amend its State plan during the year. FNS will consider changes in a State's caseload in determining whether a State has complied with its exemption limit.

(i) Persons who have participated in the Food Stamp Program for 30 days or less may be exempted from participation.

(ii) Categories of persons for whom an employment and training requirement would be impracticable may be exempted. Factors such as the availability of work opportunities and the cost-effectiveness of the requirements may be considered. In making the determination of exemption, the State agency may designate a category of all households residing in a specific area of the State.

(iii) State agencies may exempt from participation individual household members for whom participation is impracticable because of personal circumstances such as lack of job readiness, the remote location of work opportunities, physical condition, the unavailability of dependent care, and monthly E&T expenses that exceed the allowable reimbursable amounts specified in paragraphs (d)(1)(ii)(A) and (d)(1)(ii)(B) of this section.

(iv) Persons who are assigned to a job or training component, do not commence the component and are determined to have good cause shall be considered exempted if the reason for good cause will last for 60 days or longer. When the reason for the exemption is no longer applicable, the person may be placed in a component.

(3) *Time spent in an employment and training program.* (i) The number of months a participant spends in an employment and training component shall be determined by the State agency with the exception of the limitations placed on job search in paragraph (f)(1)(i). The State agency may also determine the number of successive components in which a participant may be placed.

(ii) The time spent by the members of a household collectively each month in an employment and training work program including, but not limited to those carried out under § 273.7(f)(1) (iii) and (iv), combined with any hours worked that month in a workfare program under § 273.22 shall not exceed the number of hours equal to the household's allotment for that month divided by the higher of the applicable State or Federal minimum wage. The total hours of participation in an E&T component for any household member individually in any month, together with any hours worked in a workfare program under § 273.22 and any hours worked for compensation (in cash or in kind), shall not exceed 120.

(4) *Voluntary participation.* (i) A State agency may operate program components in which individuals elect to participate.

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(ii) A State agency shall permit, to the extent it deems practicable, persons exempt from the work registration or employment and training requirements, or those not exempt who have complied or are complying with the requirements, to participate in any employment and training program it offers.

(iii) Voluntary participants in an employment and training component shall not be disqualified for failure to comply with employment and training requirements.

(iv) The hours of participation or work of a volunteer may not exceed the hours required of E&T mandatory participants, as specified in paragraph (f)(3) of this section.

(5) *Priority Service to Volunteers.* With prior approval from FNS, two State agencies may provide priority service to volunteers through September 30, 1995. State agencies that submit an application to provide priority service to volunteers have the flexibility to establish procedures that deviate from regulations specified under paragraph (f)(4) of this section.

(i) To be eligible for FNS approval, a State agency shall submit an application that:

(A) Describes the volunteer population it intends to serve (e.g., number served, volunteer definition, characteristics of the target group, percent of volunteer population that are mandatory work registrants under normal E&T requirements and percent that are exempt from work registration);

(B) Describes the component activities that will be offered to volunteer participants;

(C) Identifies where the volunteer program will operate (i.e., Statewide or selected counties);

(D) Specifies the duration of the volunteer program;

(E) Identifies the criteria and research design the State agency recommends to evaluate the effectiveness of the program;

(F) Provides assurances that applicants who are subject to work registration as specified under § 273.7 (a) and (b) are required to work register as a condition of eligibility;

(G) Provides assurances that the State agency will meet the established

performance standards under § 273.7(o); and

(H) Provides assurances that the evaluation will be conducted by an organization separate from the administration of the State agency and that ongoing and final result of the evaluation will be provided to FNS.

(ii) State agencies which receive approval to provide priority volunteer service shall:

(A) Submit a revised E&T plan that incorporates the voluntary service provisions;

(B) Continue to report quarterly (i.e., Form FNS 583) as specified under paragraph (c)(6) of this section;

(C) Meet the performance standards as specified under § 273.7(o); and

(D) Submit data annually which show the number of volunteers who fail to complete an assigned E&T activity.

(g) *Failure to comply—(1) Noncompliance with Food Stamp Program work regulations.* (i) If the State agency determines that an individual other than the head of household as defined in § 273.1(d) has refused or failed without good cause to comply with the requirements imposed by this section and by the State agency, that individual shall be ineligible to participate in the Food Stamp Program for two months, as provided in this paragraph, and shall be considered an ineligible household member, pursuant to § 273.1(b)(2). If the head of household fails to comply, the entire household is ineligible to participate as provided in this paragraph. Ineligibility in both cases shall continue either until the member who caused the violation complies with the requirement as specified in paragraph (h) of this section, leaves the household, becomes exempt from work registration through paragraph (b) of this section, other than through the exemptions of paragraphs (b)(1)(iii) or (b)(1)(v), or for two months, whichever occurs earlier. A household determined to be ineligible due to failure to comply with the provisions of this section may reestablish eligibility if a new and eligible person joins the household as its head of household, as defined in § 273.1(d)(2). If any household member who failed to comply joins another household as head of the household as specified under § 273.1(d)(1) or (d)(2),

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that entire new household is ineligible for the remainder of the disqualification period. If the member who failed to comply joins another household where he/she is not head of household, the individual shall be ineligible for two months and shall be considered an ineligible household member pursuant to § 273.1(b)(2).

(ii) The State agency shall develop conciliation procedures to be used upon determining that an individual has refused or failed to comply with an E&T requirement. The purpose of the conciliation effort is to determine the reason(s) the work registrant did not comply with the E&T requirement and provide the noncomplying individual with an opportunity to comply prior to the issuance of the notice of adverse action. The conciliation period shall begin the day following the date the State agency learns of the noncompliance and shall continue for a period not to exceed 30 calendar days. Within this conciliation period, the State agency shall, at a minimum, contact the noncomplying household member to ascertain the reason(s) for the noncompliance and determine whether good cause for the noncompliance exists, as discussed in paragraph (m) of this section. If good cause does not exist, the State agency shall inform the household member of the pertinent E&T requirements and the consequences of failing to comply. The household member shall be informed of the action(s) necessary for compliance and the date by which compliance must be achieved to avoid the notice of adverse action. This date may not exceed the end of the conciliation period. To avoid the notice of adverse action, the noncomplying household member must perform a verifiable act of compliance, such as attending a job search training session or submitting a report of job contacts. Verbal commitment by the household member is not sufficient, unless the household member is prevented from complying by circumstances beyond the household member's control, such as the unavailability of a suitable component. If it is apparent that the individual will not comply (i.e., the individual refuses to comply and does not have good cause), the State agency may end the conciliation period early

and proceed with the issuance of the notice of adverse action under paragraph (g)(1)(iii) of this section. The individual's refusal to comply shall be documented in the casefile.

(iii) If the work registrant does not comply during the conciliation period the State agency shall issue a notice of adverse action to the individual or household, as specified in § 273.13, no later than the last day of the conciliation period. If the notice of adverse action is issued prior to the end of the conciliation period, the notice may be cancelled if the State agency is able to verify that compliance was achieved by the end of the conciliation period.

(iv) If an individual refuses or fails to comply with any of the work requirements imposed by this section, other than the E&T requirements, the State agency shall determine whether good cause for the noncompliance exists, as discussed in paragraph (m) of this section. Within ten days of the State agency determining the noncompliance was without good cause, the State agency shall provide the individual or household with a notice of adverse action, as specified in § 273.13.

(v) The notice of adverse action shall contain the particular act of noncompliance committed, the proposed period of disqualification and shall specify that the individual or household may reapply at the end of the disqualification period. Information shall also be included on or with the notice describing the action which can be taken to end or avoid the sanction, and procedures contained in paragraph (h) of this section. The disqualification period shall begin with the first month following the expiration of the ten-day adverse notice period, unless a fair hearing is requested.

(vi) Each individual or household has a right to request a fair hearing, in accordance with § 273.15, to appeal a denial, reduction, or termination of benefits due to a determination of non-exempt status, or a State agency determination of failure to comply with the work registration or employment and training requirements of this section. Individuals or households may appeal State agency actions such as exemption status, the type of requirement imposed, or State agency refusal to

make a finding of good cause if the individual or household believes that a finding of failure to comply has resulted from improper decisions on these matters. The State agency or its designee operating the relevant component shall receive sufficient advance notice to either permit the attendance of a representative or ensure that a representative will be available for questioning over the phone during the hearing. A representative of the appropriate agency shall be available through one of these means. A household shall be allowed to examine its E&T component casefile at a reasonable time before the date of the fair hearing, except for confidential information (which may include test results) that the agency determines should be protected from release. Confidential information not released to a household may not be used by either party at the hearing. The results of the fair hearing shall be binding on the State agency.

(2) *Failure to comply with a work requirement under title IV of the Social Security Act, or unemployment compensation work requirement.* A household containing a member who was exempt from work registration in accordance with paragraph (b)(1)(iii) or (b)(1)(v) of this section because he or she was registered for work under title IV or unemployment compensation and who fails to comply with a title IV or unemployment compensation requirement comparable to a food stamp work registration or employment and training program requirement shall be treated as though the member had failed to comply with the corresponding food stamp requirements.

(i) If the State agency learns that a household member has refused or failed without good cause to comply with a title IV or unemployment compensation requirement, the State agency shall determine whether the requirement was comparable. Similarly, if the household reports the loss or denial of AFDC or unemployment compensation or if the State agency otherwise learns of such loss or denial, the State agency will determine whether the loss or denial was caused by a determination by the administering agency that a household member refused or failed without

good cause to comply with the work requirement and, if so, whether the requirement was comparable to the work registration or employment and training program requirement. The title IV or unemployment compensation requirement shall not be considered comparable if it places responsibilities on the household which exceed those imposed by the food stamp work registration or FNS approved employment and training program requirements.

(ii) If the State determines that the title IV or unemployment compensation requirement is comparable, the individual or household (if the individual who committed the violation is the head of household) shall be disqualified in accordance with the following provisions. The State agency shall provide a notice of adverse action as specified in § 273.13 within 10 days after learning of the household member's noncompliance with the unemployment compensation or title IV requirement. The notice shall comply with the requirements of § 273.7(g)(1). An individual or household shall not be disqualified from participation if the noncomplying member meets one of the work registration exemptions provided in § 273.7(b) other than the exemptions provided in paragraphs (b)(1)(iii) and (b)(1)(v) of that section. Household members who fail to comply with a noncomparable title IV or unemployment compensation requirement shall lose their exemption under § 273.7(b)(1)(iii) and (v), and must register for work if required to do so in § 273.7(a).

(iii) If the State agency determination of noncompliance with a comparable title IV or unemployment compensation work requirement leads to a denial or termination of the individual or household's food stamp benefits, the individual or household has a right to appeal the decision in accordance with the provisions of § 273.7(g)(1).

(iv) A disqualified individual or household may resume participation in the Program in accordance with paragraph (h) of this section.

(h) *Ending disqualification.* Following the end of the 2 month disqualification period for noncompliance with the work registration or employment and training requirements, participation may resume if a disqualified individual

or household applies again and is determined eligible. Eligibility may be reestablished by a household during a disqualification period and the household shall (if otherwise eligible) be permitted to resume participation if the head of the household becomes exempt from the work registration requirement, is no longer a member of the household, or complies with the appropriate requirement listed in paragraph (h)(1) through (h)(5) of this section. An individual who has been disqualified for noncompliance may be permitted to resume participation during the disqualification period (if otherwise eligible) by becoming exempt from work registration or by complying with the following appropriate requirements:

(1) Refusal to register—registration by the household member.

(2) Refusal to respond to a request from the State agency or its designee requiring supplemental information regarding employment status or availability for work—compliance with the request.

(3) Refusal to report to an employer to whom referred—reporting to this employer if work is still available or to another employer to whom referred.

(4) Refusal to accept a bona fide offer of suitable employment to which referred—acceptance of the employment if still available to the participant, or securing other employment which yields earnings per week equivalent to the refused job, or securing any other employment of at least 30 hours per week or securing employment of less than 30 hours per week but with weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

(5) Refusal to comply with a State agency (or its designee) assignment as part of an FNS approved employment and training program—compliance with the assignment or an alternative assignment by the State agency.

(i) *Suitable employment.* (1) In addition to any criteria established by State agencies, employment shall be considered unsuitable if:

(i) The wage offered is less than the highest of:

(A) The applicable Federal minimum wage; (B) the applicable State minimum wage; or (C) eighty percent (80%) of the Federal minimum wage if nei-

ther the Federal nor State minimum wage is applicable.

(ii) The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wages specified under paragraph (i)(1)(i) of this section.

(iii) The household member, as a condition of employment or continuing employment, is required to join, resign from, or refrain from joining any legitimate labor organization.

(iv) The work offered is at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under section 208 of the Labor-Management Relations Act (29 U.S.C. 78) (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under section 10 of the Railway Labor Act (45 U.S.C. 160).

(2) In addition, employment shall be considered suitable unless the household member involved can demonstrate or the State agency otherwise becomes aware that:

(i) The degree of risk to health and safety is unreasonable.

(ii) The member is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.

(iii) The employment offered within the first 30 days of registration is not in the member's major field of experience.

(iv) The distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting. Employment shall not be considered suitable if daily commuting time exceeds 2 hours per day, not including the transporting of a child to and from a child care facility. Nor shall employment be considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the jobsite.

(v) The working hours or nature of the employment interferes with the member's religious observances, convictions, or beliefs. For example, a Sabbatarian could refuse to work on the Sabbath.

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(j) *Participation of strikers.* Strikers whose households are eligible under the criteria in §273.1(g) shall be subject to the work registration requirements unless exempt under paragraph (b) of this section at the time of application.

(k) *Registration of certain PA, GA, and refugee households.* (1) State agencies may request approval from FNS to substitute State or local procedures for work registration for PA households not subject to the work requirements under title IV of the Social Security Act or for GA households. Work requirements imposed on refugees participating in refugee resettlement programs including but not limited to the Indochinese Refugee Assistance Program may also be substituted, with FNS approval. To receive approval, it must be demonstrated that:

(i) The work registration procedures are at least equivalent to food stamp work registration requirements;

(ii) Registrants' activities are monitored so that appropriate sanctions as required by these regulations will be applied. However, if additional work requirements (beyond those required under this section) are placed on household members, a household's food stamp benefits shall not be denied for the failure of a household member to comply with a requirement that exceeds the requirements of this section. For example, if a State rule requires individuals to register for work through age 65, any individual 60 years of age or older who fails to comply shall not be denied food stamp benefits as a result of that failure;

(iii) All household members which are not exempt under paragraph (b)(1) of this section are either registered for work under such Federal, State or local programs as described in this paragraph, or are registered for work as provided in paragraph (a) of this section.

(2) Household members who are program participants under title IV of the Social Security Act or registered for work under unemployment compensation and fail to comply with comparable work requirements of those programs shall be handled in accordance with the provisions in §273.7(g)(2).

(l) Household members who are applying for SSI and for food stamps

under §273.2(k)(1)(i) shall have the requirement for work registration waived until:

(1) They are determined eligible for SSI and thereby become exempt from work registration, or

(2) They are determined ineligible for SSI and where applicable, a determination of their work registration status is then made through recertification procedures in accordance with §273.2(k)(1)(iii)(B)(2), or through other means.

(m) *Determining good cause.* The State agency shall be responsible for determining good cause in those instances where the work registrant has failed to comply with the work registration, employment and training, and voluntary quit requirements of this section. In determining whether or not good cause exists, the State agency shall consider the facts and circumstances, including information submitted by the household member involved and the employer. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age six but are under age 12.

(n) *Voluntary quit.* No household whose head of household, as defined in §273.1(d)(2), voluntarily quits a job of 20 hours a week or more without good cause 60 days or less prior to the date of application or at any time thereafter shall be eligible for participation in the program as specified below. At the time of application, the State agency shall explain to the applicant the consequences of the head of household quitting a job without good cause, and of the consequence of a person joining the household as its head if that individual has voluntarily quit employment.

(1) *Determining whether a voluntary quit occurred and application processing.*

(i) When a household files an application for participation, or when a participating household reports the loss of a source of income, the State agency shall determine whether any household member voluntarily quit his or her job.

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Benefits shall not be delayed beyond the normal processing times specified in §273.2 pending the outcome of this determination. This provision applies only if the employment involved 20 hours or more per week or provided weekly earnings at least equivalent to the Federal minimum wage multiplied by 20 hours; the quit occurred within 60 days prior to the date of application or anytime thereafter; and the quit was without good cause. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a voluntary quit for purposes of this section. An employee of the Federal Government, or of a State or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have voluntarily quit his or her job without good cause. If an individual quits a job, secures new employment at comparable wages or hours and is then laid off or, through no fault of his own loses the new job, the earlier quit will not form the basis of a disqualification.

(ii) In the case of an applicant household, the State agency shall determine whether any currently unemployed (i.e. employed less than 20 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) household member who is required to register for work or who is exempt through §273.7(b)(1)(vii) has voluntarily quit his or her job within the last 60 days. If the State agency learns that a household has lost a source of income after the date of application but before the household is certified, the State agency shall determine whether a voluntarily quit occurred.

(iii) The State agency shall determine whether any household member voluntarily quit his or her job while participating in the Program, within 60 days prior to applying for participation, or in the time between application and certification. If a household is already participating when a quit which occurred prior to certification is

discovered, the household shall be regarded as a participating household and the 90 day sanction shall be imposed in accordance with §273.7(n)(1)(vi).

(iv) If a determination of voluntary quit is established, the State agency shall then determine if the member who quit is the head of household as defined in §273.1(d)(2).

(v) Upon the determination that the head of household voluntarily quit employment, the State agency shall determine if the voluntary quit was with good cause as defined in §273.7(n)(3). In the case of an applicant household, if the voluntary quit was without good cause, the household's application for participation shall be denied and sanction imposed for 90 days, starting from the date of quit. The State agency shall provide the applicant household with a notice of denial in accordance with §273.2(g)(3). The notice shall inform the household of the proposed period of disqualification; its right to re-apply at the end of the 90 day period; and of its right to a fair hearing. In the case of participating households, benefits shall be terminated for a period of 90 days, in accordance with paragraph (n)(1)(vi) of this section.

(vi) If the State agency determines that the head of a participating household voluntarily quit his or her job while participating in the program or discovers a quit which occurred within 60 days prior to application for benefits or between application and certification, the State agency shall provide the household with a notice of adverse action as specified in §273.13 within 10 days after the determination of a quit. Such notification shall contain the particular act of noncompliance committed, the proposed period of ineligibility, the actions which may be taken to end or avoid the disqualification, and shall specify that the household may reapply at the end of the disqualification period. Except as otherwise specified in this paragraph, the period of ineligibility shall run continuously for three months or 90 days, beginning with the first of the month after all normal procedures for taking adverse action have been followed. The 90 day

disqualification period may be converted to a three calendar month period only for participating households. If a voluntary quit occurs in the last month of a certification period or is determined in the last 30 days of the certification period the household shall be denied recertification for a period of 90 days beginning with the day after the last certification period ends. If such household does not apply for food stamp benefits by the end of the certification period, a claim shall be established for the benefits received by the household for up to 90 days beginning the first of the month after the month in which the quit occurred. If there are fewer than 90 days from the first of the month after the month in which the quit occurred to the end of the certification period, a claim shall be imposed, and the household shall remain ineligible for benefits for a prorated number of days, with the end result that a claim was established or the household was ineligible for a full 90 day period. Each household has a right to a fair hearing to appeal a denial or termination of benefits due to a determination that the head of household voluntarily quit his or her job without good cause. If the participating household's benefits are continued pending a fair hearing and the State agency determination is upheld, the disqualification period shall begin the first of the month after the hearing decision is rendered.

(vii) Persons who have been disqualified for quitting a job as head of one household will carry their sanction with them if they join a new household as its head. The new household will remain ineligible for the remainder of the sanction period unless the person who caused the disqualification ends it in a manner prescribed in § 273.7(n)(5). If an individual who voluntarily quit joins a new household and is not the household head the sanction shall be terminated as specified under § 273.1(d)(1) or (d)(2).

(viii) If an application for participation in the Program is filed in the third month of disqualification, the State agency shall in accord with § 273.10(a)(3) use the same application for the denial of benefits in the remaining month of disqualification and certification for

any subsequent month(s) if all other eligibility criteria are met.

(2) *Exemptions from voluntary quit provisions.* Persons who are exempt from the work registration provisions in § 273.7(b) at the time of the quit, with the exception of those exempted by § 273.7(b)(1)(vii) shall be exempt from the voluntary quit provisions.

(3) *Good cause.* Good cause for leaving employment includes the good cause provisions found in § 273.7(m), and resigning from a job that does not meet the suitability criteria specified in § 273.7(i). Good cause for leaving employment shall also include:

(i) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs;

(ii) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(iii) Acceptance by the head of household of employment, or enrollment of at least half-time in any recognized school, training program or institution of higher education, that requires the head of household to leave employment;

(iv) Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program or institution of higher education in another county or similar political subdivision which requires the household to move and thereby requires the head of household to leave employment;

(v) Resignations by persons under the age of 60 which are recognized by the employer as retirement;

(vi) Employment which becomes unsuitable by not meeting the criteria specified in § 273.7(i) after the acceptance of such employment;

(vii) Acceptance of a bona fide offer of employment of more than 20 hours a week or in which the weekly earnings are equivalent to the Federal minimum wage multiplied by 20 hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than 20 hours a week or weekly earnings of less than the Federal minimum wage multiplied by 20 hours; and

(viii) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered as with good cause if part of the pattern of that type of employment.

(4) *Verification.* (i) To the extent that the information given by the household is questionable, as defined in § 273.2(f)(2), State agencies shall request verification of the household's statements. The primary responsibility for providing verification as provided in § 273.2(f)(5) rests with the household. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the State agency shall offer assistance to the household to obtain the needed verification. Acceptable sources of verification include but are not limited to the previous employer, employee associations, union representatives and grievance committees or organizations. Whenever documentary evidence cannot be obtained, the State agency shall substitute a collateral contact. The State agency is responsible for obtaining verification from acceptable collateral contacts provided by the household.

(ii) If the household and State agency are unable to obtain requested verification from these or other sources because the cause for the quit resulted from circumstances that for good reason cannot be verified, such as a resignation from employment due to discrimination practices or unreasonable demands by an employer or because the employer cannot be located, the household will not be denied access to the Program.

(5) *Ending a voluntary quit disqualification.* (i) Following the end of the disqualification period a household may begin participation in the program if it applies again and is determined eligible.

(ii) Eligibility may be reestablished during a disqualification period and the household shall, if otherwise eligible, be permitted to resume participation if the member who caused the disqualification secures new employment which is comparable in salary or hours to the job which was quit, or leaves the household. Comparable employment may entail fewer hours or a lower net salary than the job which was quit. Eligibility may also be reestablished if the violator becomes exempt from the work registration requirements through § 273.7(b) other than paragraphs (b)(1)(iii) or (b)(1)(v) of that section. Should a household which has been determined to be noncompliant without good cause split into more than one household, the sanction shall follow the member who caused the disqualification. If a head of household who committed the violation joins another food stamp household as head of the household, that household shall be ineligible for the balance of the period of ineligibility.

(iii) A household determined ineligible due to a voluntary quit without good cause may reestablish eligibility if a new and otherwise eligible member joins as its head of household as defined by § 273.1(d)(2).

(o) *Performance standards.* The Secretary shall establish an annual performance standard for the minimum number of eligible persons that States must place in employment and training programs.

(1) *Performance formula.* To ascertain a State's level of performance at the end of each fiscal year, FNS will divide the number of E&T mandatory participants plus volunteers the State has "placed" in its E&T program over the course of the year (the numerator) by the number of E&T mandatory participants who were eligible to have been placed in the program over the course of the year plus volunteers (the denominator). The denominator is herein referred to as the "base of eligibles."

(2) *Counting placements in an employment and training program.* State agencies may consider a person placed in an E&T program, for purposes of performance standards, if the person commences an employment and training component, or fails to comply with

E&T requirements and is denied certification or is sent a Notice of Adverse Action for the noncompliance. NOAAs sent for noncompliance with work registration optional workfare or voluntary quit shall not count as placements. Assigned persons who have good cause for noncompliance shall not be counted as placed. If the good cause for the noncompliance is temporary (less than 60 days), the person shall be referred again to a component as soon as practicable. If the good cause represents a situation or condition which will continue for 60 days or more, the person shall be considered exempt by the State agency. If a participant reports to a component which involves several months, that individual would be counted as placed in the initial month only. Each time a participant is placed in a different component after having completed a prior component, he/she may be counted as placed. If participation in one type of E&T component is not continuous, the participant may be counted as having been placed more than once in the same component. If an E&T mandatory participant does not comply with E&T requirements, and a Notice of Adverse Action is sent, the person is counted as placed in the month the NOAA is mailed.

(3) *Counting the "base of eligibles"*. The base of persons eligible to participate in an E&T program (the denominator) consists of all nonexempt work registrants in the month of October plus newly work registered food stamp recipients who have not been exempted by the State under § 273.7(f)(2) of these regulations from participation in an E&T program, and food stamp program applicants who are assigned by the State to enter an E&T component at the time of application and are subsequently certified for food stamp participation. These groups are considered E&T mandatory participants. In addition, volunteers who are placed in an E&T component shall be counted in the base of eligibles. State agencies need not count any individual in the base of eligibles more than once in a fiscal year. For purposes of computing the base of eligibles for the two performance standard reporting periods of Fiscal Year 1989 (first quarter and the remaining three quarters) the first quar-

ter base of eligibles is the cumulative total of 25 percent of the number of E&T mandatory participants in the State in October 1988 (including persons in work registrant status carried over from the previous fiscal year), plus new E&T mandatory participants registered during November and December 1988, plus volunteers placed in E&T components during the quarter. The second performance period base of eligibles is the total of 75 percent of the October 1988 count of E&T mandatory participants plus new E&T mandatory participants registered during the months of January through September 1989, plus volunteers placed in E&T components during these same nine months.

(4) *Applicant participation*. Some States may wish to operate a job search or other component which begins at the time of Food Stamp Program application. The applicants who are placed in this component (who either perform the job search or who do not and are denied eligibility for failure to comply with the E&T requirement) should be counted as "placed". These persons need be counted in the base of eligibles, or the denominator, only if their application is approved, they are certified for food stamp benefits and they are work registered. At that time, they should be counted as "newly work registered" if they have not been counted in this category in the previous 12 months. If an applicant performs a job search and is either denied eligibility, for causes other than non-compliance with the E&T requirements, or certified but exempted from work registration, the individual need not be counted in the base of eligibles.

(5) *Accounting for short-term participants*. There are a number of work registrants considered E&T mandatory who are counted in the base of eligibles but who remain on the Food Stamp Program for such a short period of time States are unable to place them in an E&T component. These short term recipients inflate the State's base of eligibles and make it more difficult for States to meet their performance standard. States may choose one of two methods to counteract the effects of short term participants.

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(i) States may exempt from E&T participation persons who will leave the Food Stamp Program within 30 days of application. This may mean that States will not attempt to serve such persons unless they volunteer for E&T participation. States must count each individual as having been exempted under the reporting requirements of § 273.7(c)(6)(ii).

(ii) States may, at the close of the fiscal year, subtract 10 percent from their base of eligibles (denominator) to account for E&T mandatory participants who have left the program within 30 days of application. This 10 percent adjustment may be made without supporting documentation. Since the short term mandatory participants are not exempted from participation, States may attempt to place them in a component and may count them as placed (in their numerator) if they meet the placement criteria of paragraph (o)(2) of this section. For Fiscal Year 1989, this 10 percent adjustment may be applied to the base of eligible totals for each reporting period resulting from the computations specified in paragraph (o)(3) of this section.

(6) *Performance data collection.* To determine the annual total in the base of eligibles (denominator), State agencies shall count the number of E&T mandatory participants (non-exempt work registrants) in the State during the month of October, including persons in that status who were work registered the prior year. The number of newly work registered E&T mandatory participants for each subsequent month should be added to the October count. Volunteers placed in components shall be added for each month of the fiscal year. Separate counts shall be maintained for E&T mandatory participants and volunteers. To determine the number of persons "placed" in an E&T program (numerator), the State agency shall count and add cumulatively every month non-exempt work registrants and volunteers who were "placed" in a component, as defined in paragraph (o)(2) of this section.

(7) *Percentage of persons to be placed.* Beginning in Fiscal Year 1992, 10 percent of the number of mandatory E&T participants, plus volunteers who participated, shall be placed in an E&T

Program. This performance standard shall remain in effect through Fiscal Year 1995.

(8) *Variations in performance standards.* (i) The Department will adjust the performance standard for an individual State agency if the State agency can show, prospectively, that the components it plans to offer or the type of participant it plans to serve will require significantly higher levels of service. If a State proposes that its performance standard be adjusted, it should propose the amount of the requested adjustment and provide a justification. The additional documentation called for in § 273.7(c) must be submitted to FNS in the State's employment and training plan. In determining whether an adjustment of the performance standard is warranted and the level of the adjustment, FNS will consider the number of persons who will be placed, the percentage of planned placements compared to the State's E&T mandatory population, the intensity and effectiveness of the components, and the cost.

(ii) Only in extraordinary circumstances should a State expect to have a performance standard approved which is lower than 40 percent of the nationwide standard.

(p) *State noncompliance with Employment and Training requirements.* (1) If a State agency fails to efficiently and effectively administer its employment and training program, the provisions of § 276.1(a)(3) shall apply.

(2) If a State has failed to meet its established performance standard, FNS shall determine whether there was good cause for the noncompliance. Good cause for State noncompliance is specified in § 276.6. In determining whether a State agency has met a performance standard, the Secretary will also consider factors such as the extent to which volunteers have participated in the employment and training program, placements in unsubsidized employment, increases in earnings and the reduction in the number of persons participating in the Food Stamp Program, and changes in the States caseload, if the State supplies the Agency with appropriate documentation. Lack of E & T funding at the 100 percent

Federal level shall not constitute good cause.

(3) If the Agency finds that there was not sufficient good cause for the State's failure to meet its performance standards the Agency may disallow administrative funds. The dollar amount of the funds disallowed shall be calculated by reducing the amount of the State's 100 percent Federal employment and training allocation for the pertinent year proportionately to the percentage below its standard the State's performance fell. This amount shall then be disallowed from the State's administrative funds as specified in §276.4(c) except that no formal warning is required. The Secretary may withhold a larger percentage of the allocation depending on the severity of the noncompliance. Appeal and administrative review provisions of §276.1(b), shall apply.

(4) In addition to the disallowance described in paragraph (p)(2) of this section, a State agency shall not receive performance-based funding for a given fiscal year in accordance with paragraph (d)(1)(i)(B) of this section, if the State agency does not meet its performance standard (as established prospectively) for the second preceding fiscal year.

[Amdt. 132, 43 FR 47889, Oct. 17, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 273.7, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 273.8 Resource eligibility standards.

(a) *Uniform standards.* The State agency shall apply the uniform national resource standards of eligibility to all applicant households, including those households in which members are recipients of federally aided public assistance, general assistance, or supplemental security income. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet the resource limits or definitions in this section.

(b) *Maximum allowable resources.* The maximum allowable resources, including both liquid and nonliquid assets, of all members of the household shall not exceed \$2,000 for the household, except that, for households including a mem-

ber or members age 60 or over, such resources shall not exceed \$3,000.

(c) *Definition of resources.* In determining the resources of a household, the following shall be included and documented by the State agency in sufficient detail to permit verification:

(1) Liquid resources, such as cash on hand, money in checking or savings accounts, savings certificates, stocks or bonds, lump sum payments as specified in §273.9(c)(8), funds held in individual retirement accounts (IRA's), and funds held in Keogh plans which do not involve the household member in a contractual relationship with individuals who are not household members. In counting resources of households with IRA's or includable Keogh plans, the State agency shall include the total cash value of the account or plan minus the amount of the penalty (if any) that would be exacted for the early withdrawal of the entire amount in the account or plan; and

(2) Nonliquid resources, personal property, licensed and unlicensed vehicles, buildings, land, recreational properties, and any other property, provided that these resources are not specifically excluded under paragraph (e) of this section. The value of nonexempt resources, except for licensed vehicles as specified in paragraph (h) of this section, shall be its equity value. The equity value is the fair market value less encumbrances.

(3) For households containing sponsored aliens (as defined in §273.11(j)(1)), resources shall also include that portion of the resources of an alien's sponsor and the sponsor's spouse (if living with the sponsor) which have been deemed to be those of the alien in accordance with the procedures established in §273.11(j), unless the sponsored alien is otherwise exempt from this provision in accordance with §273.11(j).

(d) *Jointly owned resources.* Resources owned jointly by separate households shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the