

total number of hours for which that individual was paid.

(c) The State must document all hours of participation in an activity; however, if a State is reporting projected hours of actual employment in accordance with §261.60(c), it need only document the hours on which it bases the projection.

(d) For an individual who is self-employed, the documentation must comport with standards set forth in the State's approved Work Verification Plan. Self-reporting by a participant without additional verification is not sufficient documentation.

(e) For an individual who is not employed, the documentation for substantiating hours of participation may consist of, but is not limited to, time sheets, service provider attendance records, or school attendance records. For homework time, the State must also document the homework or study expectations of the educational program.

**§ 261.62 What must a State do to verify the accuracy of its work participation information?**

(a) To ensure accuracy in the reporting of work activities by work-eligible individuals on the TANF Data Report and, if applicable, the SSP-MOE Data Report, each State must:

(1) Establish and employ procedures for determining whether its work activities may count for participation rate purposes;

(2) Establish and employ procedures for determining how to count and verify reported hours of work;

(3) Establish and employ procedures for identifying who is a work-eligible individual;

(4) Establish and employ internal controls to ensure compliance with the procedures; and

(5) Submit to the Secretary for approval the State's Work Verification Plan in accordance with paragraph (b) of this section.

(b) A State's Work Verification Plan must include the following:

(1) For each countable work activity:

(i) A description demonstrating how the activity meets the relevant definition at §261.2;

(ii) A description of how the State determines the number of countable hours of participation; and

(iii) A description of the documentation it uses to monitor participation and ensure that the actual hours of participation are reported;

(2) A description of the State's procedures for identifying all work-eligible individuals, as defined at §261.2;

(3) A description of how the State ensures that, for each work-eligible individual, it:

(i) Accurately inputs data into the State's automated data processing system;

(ii) Properly tracks the hours through the automated data processing system; and

(iii) Accurately reports the hours to the Department;

(4) A description of the procedures for ensuring it does not transmit to the Department a work-eligible individual's hours of participation in an activity that does not meet a Federal definition of a countable work activity; and

(5) A description of the internal controls that the State has implemented to ensure a consistent measurement of the work participation rates, including the quality assurance processes and sampling specifications it uses to monitor adherence to the established work verification procedures by State staff, local staff, and contractors.

(c) We will review a State's Work Verification Plan for completeness and approve it if we believe that it will result in accurate reporting of work participation information.

**§ 261.63 When is a State's Work Verification Plan due?**

(a) Each State must submit its interim Work Verification Plan for validating work activities reported in the TANF Data Report and, if applicable, the SSP-MOE Data Report no later than September 30, 2006.

(b) If HHS requires changes, a State must submit them within 60 days of receipt of our notice and include all necessary changes as part of a final approved Work Verification Plan no later than September 30, 2007.

(c) If a State modifies its verification procedures for TANF or SSP-MOE work activities or its internal controls

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for ensuring a consistent measurement of the work participation rate, the State must submit for approval an amended Work Verification Plan by the end of the quarter in which the State modifies the procedures or internal controls.

### **§ 261.64 How will we determine whether a State's work verification procedures ensure an accurate work participation measurement?**

(a) We will determine that a State has met the requirement to establish work verification procedures if it submitted an interim Work Verification Plan by September 30, 2006 and a complete Work Verification Plan that we approved by September 30, 2007.

(b) A "complete" Work Verification Plan means that:

(1) The plan includes all the information required by § 261.62(b); and

(2) The State certifies that the plan includes all the information required by § 261.62(b) and that it accurately reflects the procedures under which the State is operating.

(c) For conduct occurring after October 1, 2007, we will use the single audit under OMB Circular A-133 in conjunction with other reviews, audits, and data sources, as appropriate, to assess the accuracy of the data filed by States for use in calculating the work participation rates.

### **§ 261.65 Under what circumstances will we impose a work verification penalty?**

(a) We will take action to impose a penalty under § 262.1(a)(15) of this chapter if:

(1) The requirements under §§ 261.64(a) and (b) have not been met; or

(2) We determine that the State has not maintained adequate documentation, verification, or internal control procedures to ensure the accuracy of the data used in calculating the work participation rates.

(b) If a State fails to submit an interim or complete Work Verification Plan by the due dates in § 261.64(a), we will reduce the SFAG payable for the immediately succeeding fiscal year by five percent of the adjusted SFAG.

(c) If a State fails to maintain adequate internal controls to ensure a consistent measurement of work par-

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ticipation, we will reduce the adjusted SFAG by the following percentages for a fiscal year:

(1) One percent for the first year;

(2) Two percent for second year;

(3) Three percent for the third year;

(4) Four percent for the fourth year; and,

(5) Five percent for the fifth and subsequent years.

(d) If a State complies with the requirements in this subpart for two consecutive years, then any penalty imposed for subsequent failures will begin anew, as described in paragraph (c) of this section.

(e) If we take action to impose a penalty under §§ 261.64(b) or (c), we will reduce the SFAG payable for the immediately succeeding fiscal year.

## **Subpart G—What Nondisplacement Rules Apply in TANF?**

### **§ 261.70 What safeguards are there to ensure that participants in work activities do not displace other workers?**

(a) An adult taking part in a work activity outlined in § 261.30 may not fill a vacant employment position if:

(1) Another individual is on layoff from the same or any substantially equivalent job; or

(2) The employer has terminated the employment of any regular employee or caused an involuntary reduction in its work force in order to fill the vacancy with an adult taking part in a work activity.

(b) A State must establish and maintain a grievance procedure to resolve complaints of alleged violations of the displacement rule in this section.

(c) This section does not preempt or supersede State or local laws providing greater protection for employees from displacement.

## **Subpart H—How Do Welfare Reform Waivers Affect State Penalties?**

### **§ 261.80 How do existing welfare reform waivers affect a State's penalty liability under this part?**

A welfare reform waiver could affect a State's penalty liability under this