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DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Parts 272 and 273

[Amendment No. 351]

Food Stamp Program—Distribution of Employment and Training Performance-Based Funds

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule.

SUMMARY: State welfare agencies are responsible for administering the Food Stamp Program and are required to operate the Food Stamp Employment and Training (E&T) program. To assist in the operation of their E&T programs, the State agencies receive a Federal E&T grant, a portion of which is distributed on the basis of each State agency's performance in serving the targeted mandatory population. This final rule amends Food Stamp Program regulations as a result of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, enacted December 13, 1991 (FACT Act). The FACT Act reduces the annual performance standard for State agencies from 50 percent to no more than 10 percent in FYs 1992 and 1993 and no more than 15 percent in FYs 1994 and 1995. This final rule freezes the performance-based E&T grants at the level the State agencies received in Federal Fiscal Year 1993, for two years from the fiscal year in which this final rule is promulgated. The Department is taking this action in order to enable State agencies to exercise their option to serve fewer people, as provided by the FACT Act without reduction of performance-based E&T funds. This final rule supports efforts to target the E&T program toward more intensive components for a smaller segment of the targeted mandatory population. However, State agencies are not required to implement a more intensive E&T program and may continue to operate broad-based programs.

EFFECTIVE DATE: October 1, 1993.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be directed to Ellen Henigan, Supervisor, Work Program Section, Food Stamp Program, Food and Consumer Service, USDA, 3101 Park Center Drive, Room 716, Alexandria, Virginia 22302. The telephone number is (703) 305–2762.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.551. For reasons set forth in the final rule related Notice(s) of 7 CFR Part 3015, subpart V (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the ''Effective Date'' paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Food Stamp Program the administrative procedures are as follows: (1) For program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(10) and 7 CFR 273.15; (2) For State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7; and (3) For program retailers and wholesalers —administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of the Food and Consumer Service (FCS), has certified that this action does not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected because they administer the Program and the rule will affect the performance-based funding levels for each State agency.

Paperwork Reduction Act

The provisions of this final rule do not contain new or additional reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

On January 19, 1994, the Department published a proposed rule at 59 FR 2779 designed to amend 7 CFR 273.7(d)(1)(i)(B) to specify that the $15 million Food Stamp E&T performance-based funds be frozen at the levels the State agencies respectively received in FY 1993. On April 11, 1994, the Department published the final rule implementing revised performance standards which supports efforts to allow State agencies to target the E&T program toward fewer participants. This final rule amends the regulations at 273.7(d), to allow State agencies the option of placing fewer participants through E&T programs and/or operate more intensive components of the E&T program, in keeping with Section 907(b) of the FACT Act. Comments were solicited on the provisions of the performance-based funding proposed rulemaking through March 21, 1994. This final action addresses the commenters' concerns. Readers are referred to the proposed rule for a more complete understanding of this final action.

The Department received two comment letters from State agencies on the proposed rule; both concurred with the proposed provisions. The first commenter noted that the freeze of

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

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

Federal Funding for E&T Programs

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

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

Each State agency must continue to meet established performance standards (e.g., 10 percent in FY 1994) in order to be eligible for its share of these funds as is required under 7 CFR 273.7(d)(1)(i)(B). Should a State agency fail to meet the performance standard in a given fiscal year, the Department will determine if good cause exists to excuse the shortfall. Should the Department determine that no good cause exists, the State agency would be ineligible to receive its share of performance-based funding in the second following fiscal year. The Department will recalculate the performance-based funds payable to the State agencies on the basis of Calendar Year 1991 data, but excluding the State agencies which did not meet their standard.

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

Implementation

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

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

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

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

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

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

Authority: 7 U.S.C. 2011–2032.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

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

§ 272.1 General terms and conditions.

* * * * *

(g) * * *

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

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

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

§ 273.7 Work requirements.

* * * * *

(d) *Federal financial participation.*

(1) *Employment and training grants.*

(i) * * *

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

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Dated: December 28, 1994.

Yvette S. Jackson,

Acting Administrator, Food and Consumer Service.

[FR Doc. 95–239 Filed 1–4–95; 8:45 am]

BILLING CODE 3410–30–U

Commodity Credit Corporation

7 CFR Part 1421

RIN 0560–AD74

General Price Support Regulations for Grain, Rice, and Oilseeds for 1993 and Subsequent Crop Years

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, the interim rule published in the **Federal Register** at 59 FR 34345 on July 5, 1994, with respect to the price support loan programs for grains and similarly handled commodities, including oilseeds (canola, mustard seed, rapeseed, safflower seed, soybeans, and sunflower seed).

EFFECTIVE DATE: January 5, 1995.

FOR FURTHER INFORMATION CONTACT: Margaret Wright, Program Specialist, Consolidated Farm Service Agency (CFSA), USDA, P.O. Box 2415, Washington, DC 20013–2415; telephone 202–720–8481.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not- significant for purposes of Executive Order 12866 and therefore has not been reviewed by Office of Management and Budget (OMB).

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of human environment.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This final rule has been reviewed pursuant to Executive Order 12778. To the extent State and local laws are in conflict with these regulatory provisions, it is the intent of CCC that the terms of the regulations prevail. The provisions of this final rule are not retroactive. Prior to any judicial action in a court of competent jurisdiction, administrative review under 7 CFR part 780 must be exhausted.

Paperwork Reduction Act

Public reporting burden for the information collections contained in this regulation with respect to price support programs is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. The information collections have previously been cleared under the current regulations by OMB, and assigned OMB Nos. 0560–0087 and 0560–0129. In accordance with the provisions of 44 U.S.C. 35, the information collection requirements that are revised as a result of this rule will be resubmitted to OMB for review.

Interim Rule

The interim rule published in the **Federal Register** on July 5, 1994, amended the regulations governing the price support loan programs for grains and similarly handled commodities to: Provide greater clarity, enhance the administration of CCC programs by providing uniformity between CCC price support programs, eliminate obsolete provisions, provide more authority to State and county committees in administering the programs, lessen the administrative actions CCC imposes on producers who violate the loan and loan deficiency payment agreements, and correct errors.

Discussion of Comments

Comments were received by one respondent supporting CCC's proposed price support regulations. They believe the changes make the programs more farmer friendly and at the same time achieve program objectives.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses.

Accordingly, the interim rule which amended 7 CFR part 1421 published at 59 FR 34345 on July 5, 1994, is adopted as a final rule without change.

Signed in Washington, DC on December 23, 1994.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–243 Filed 1–4–95; 8:45 am]

BILLING CODE 3410–05–P

7 CFR Part 1427

RIN 0560–AD82

1994 Cotton Loan and LDP Provisions

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On August 2, 1994, the Commodity Credit Corporation (CCC) issued an interim rule with respect to the cotton price support program which is conducted by the CCC in accordance with The Agricultural Act of 1949, as amended (the 1949 Act). This interim rule provided greater clarity, enhanced the administration of CCC programs by providing uniformity between CCC price support programs, provided more authority to State and county committees in administering the programs, lessened administrative actions CCC imposes on producers who violate the loan and loan deficiency payment agreements, eliminated obsolete provisions, and more appropriately reflected loan eligibility requirement for the 1994 and subsequent year crops. This rule adopts as final the interim rule published on August 2, 1994 at 59 FR 39251. In addition, this rule amends 7 CFR Chapter XIV to reflect the abolishment of ASCS and the establishment of the Consolidated Farm Service Agency in the recent Department of Agriculture reorganization.

EFFECTIVE DATE: January 5, 1995.

FOR FURTHER INFORMATION CONTACT: Philip Sharp, Program Specialist, Consolidated Farm Service Agency (CFSA), USDA, P.O. Box 2415, Washington, DC 20013–2415; telephone 202–720–7988.