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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 273 and 276

[Amendment No. 381]

RIN 0584-AC41

Food Stamp Program: Non-Discretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule finalizes a proposed rule published July 12, 1999, by amending the Food Stamp Program Regulations to implement certain non-discretionary provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) that affect the Food Stamp Program. The regulatory changes include changes in the minimum and maximum allotments, the standard and shelter deductions, household composition, the fair market value of vehicles, the definition of homeless, and expedited service. In accordance with the proposal, this rule also incorporates, where possible, the principles of the President's Regulatory Reform Initiative and removes overly prescriptive, outdated, and redundant provisions, and increases State agency flexibility.

DATES:

Effective Date: This final rule is effective December 29, 2000.

Implementation Dates:

1. The following amendments were to be implemented August 22, 1996: The definition of "Homeless individual" in § 271.2, § 273.1(b)(1)(ii), § 273.2(i)(3)(i) and (i)(3)(ii).

2. The amendments to § 273.8(f)(1) and § 273.10(e)(4)(ii) were to be implemented October 1, 1996.

3. The amendment to § 273.9(d)(8) was to be implemented January 1, 1997.

4. The amendments to § 273.1(b)(1)(iii) and § 273.8(e)(3)(i)(A), are to be implemented no later than March 1, 2001.

5. All remaining amendments are to be implemented no later than January 1, 2001.

FOR FURTHER INFORMATION CONTACT:

Margaret Werts Batko, Certification Policy Branch, Program Development Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302, (703) 305-2520, or e-mail at Margaret.Batko@fns.usda.gov. A regulatory impact analysis has been prepared for this rule. You may request a copy of the analysis by contacting us at the above address.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be economically significant under Executive Order 12866, and major under Pub. L. 104-121, and has, therefore, been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. FNS has considered the impact on State agencies. This rule deals almost entirely with changes required by law, and implemented by law in 1996. The changes primarily affect food stamp recipients. The effects on State agencies are minimal and, to the extent that they affect them, relieve them of administrative burdens. This rule is intended to have preemptive effect on any State law that conflicts with its provisions or that would otherwise impede its full implementation. PRWORA required all but one of the changes made in this rule, and made most of them effective on enactment and all of them effective by the beginning of FY 1997. FNS is not aware of any case where the one discretionary provision of the rule would preempt State law.

Prior Consultation With State Officials

Before drafting this rule, we received input from State agencies at various times. Because the FSP is a State

administered, federally funded program, our regional offices have formal and informal discussions with State and local officials on an ongoing basis. These discussions involve implementation and policy issues. This arrangement allows State agencies to provide feedback that forms the basis for many discretionary decisions in this and other FSP rules. In addition, FNS officials attend regional, national, and professional conferences to discuss issues and receive feedback from State officials at all levels. Lastly, the comments on the proposed rule from State officials were carefully considered in drafting this final rule.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612). Shirley R. Watkins, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this rule will not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they administer the Program. Participants will be affected to the extent that their benefits will not increase at the rate they would have under the old law.

Paperwork Reduction Act

This proposed rule does not contain reporting or record keeping requirements subject to approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies that conflict with its provisions or that would otherwise impede its full implementation. This final rule is not intended to have retroactive effect unless so specified in the "Dates" paragraph of this rule. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. 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)(1) 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 (for rules related to non-quality control (QC) liabilities) or Part 283 (for rules related to QC liabilities); (3) for retailers and wholesalers—administrative procedures issued under 7 U.S.C. 2023 set out at 7 CFR 278.8 and Part 279.

Unfunded Mandate Analysis

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal Mandates” that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year.

When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of \$100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Regulatory Impact Analysis

Need for Action

This action is needed to implement several provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193. This rule removes the exception in current rules that allows persons age 21 and under who are themselves parents or married, and who live with a parent, to participate in the Food Stamp Program as a separate household; changes the way the maximum allotments are calculated by using 100% of the Thrifty Food Plan instead of 103%; alters the definition of homeless by setting a time limit (where there was none before) on people whose primary nighttime residence is a temporary accommodation in the home of another; freezes the standard deduction in food stamps for fiscal year 1997 and beyond at \$134; retains a cap on the excess

shelter expense deduction; freezes the fair market value of vehicle exemption at \$4,650; freezes the minimum allotment at \$10 a month; increases the number of days which States have to provide expedited service from 5 to 7 calendar days; eliminates households consisting entirely of homeless people from those categories of households entitled to receive expedited service; and removes the State agency option to exclude from unearned income up to \$50 monthly of title IV-D child support payments.

Effects on Administering Agencies

State food stamp offices are affected to the extent that they must implement the provisions described in this action. However, State agencies are not expected to change their personnel due to these changes, so State agencies are expected to incur minimal costs.

Costs

The final rule does not make any economically significant changes to the proposed rule. However, food stamp participation has decreased more than expected since we published the proposed rule. Current estimates of participation are about 20 percent less than previous estimates. Accordingly, total savings in food stamps issued from this rule for the 5 years from fiscal year 1998 to 2002 are \$9,039 million—down from the previous estimate of \$11,195 million.

Plain Language

We have written this final rule under the plain language guidelines to make it easier to read and clearer. We have edited wording that we preserved from the proposed rule to conform to those guidelines, using simpler words and phrases where appropriate, and changing sentences from passive to active voice. We did not change the meaning of any of the language brought from the proposed rule.

Background

The President signed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193 (PRWORA) on August 22, 1996. PRWORA contained several provisions that amended the Food Stamp Act of 1977 (the Act), 7 U.S.C. 2011, *et seq.*, but allowed us (the Food and Nutrition Service of the Department of Agriculture) no discretion in implementing them. We published proposed rules on July 12, 1999, in the **Federal Register** at 64 FR 37454 to implement those provisions. The provisions:

- Require that a person 21 years old or younger who lives with a parent be considered part of the parent's household, even if married and living with a spouse, living with a child, or both;

- Set the maximum allotment at 100% of the Thrifty Food Plan, rather than at 103%;

- Allow a person living in another person's house to be considered homeless for only 90 days;

- Freeze the standard deduction at \$134;

- Retain the cap on the excess shelter expense deduction;

- Freeze the exemption of the fair market value of a vehicle as a household asset at \$4,650;

- Freeze the minimum allotment for 1- and 2-person households at \$10;

- Increase from 5 to 7 the number of days State agencies have to provide expedited service;

- Eliminate households consisting entirely of homeless persons from the kinds of households automatically allowed to receive expedited service; and

- Remove the State agency option to exclude up to \$50 a month of the title IV-D child support payments from unearned income.

The period for comment on the proposed rules ended September 10, 1999. We received comments on the proposed rules from ten State agencies and an advocacy group. (In addition, the Acting General Counsel of a State agency commented on our failure to treat a number of discretionary provisions of PRWORA in this rulemaking. Those provisions will be covered in other rules that are currently in clearance or which have recently been published. We will not deal with them here.) In analyzing the comments received, we will not address comments on provisions that are required by the law and on which we have no discretion. A number of comments supported our proposals. We will not discuss those in detail here, either. Finally, a number of the comments concerned technical corrections for inadvertent omissions. We have made the corrections where appropriate, but will not discuss the comments. For a full understanding of the background of the provisions in this rule see the proposed rulemaking. In response to those comments that need discussion, and for ease of reading, we will discuss each provision touched on by those comments, and the comments, in the order in which they appear in the Code of Federal Regulations.

Definition of Parental Control:
Although not contemplated by

PRWORA, to provide the same treatment for a child living with a non-parent adult that is provided for a child living with a natural or adoptive parent or stepparent, we proposed to change the definition of parental control, amending 7 CFR 273.1 by removing the exception that a child who is living with his or her own child(ren) or spouse is not considered to be under parental control. A State agency commented that under its State law a married person under 18 has attained majority and no other person is responsible for that person. We have amended the language of the final rule to accommodate such a situation. Another State agency noted our removal of the exception, and stated its understanding that it could choose to retain the old policy if it applied it consistently across the State. This is incorrect. Our view is that a child who is under parental control must be a member of the household that exercises parental control, even if the child has children of his or her own. However, State agencies will have substantial authority to determine parental control.

Reorganization of 7 CFR 273.1—Household Concept: In the spirit of the President's Regulatory Reform Initiative, we proposed to reorganize § 273.1 (which deals with the important programmatic concept of "household"), with the exception of 7 CFR 273.1(d) and (f), which we left unchanged. We did not propose significant changes to § 273.1, as nearly every provision is set forth in the Act and can be changed only through legislative action. However, we condensed several sections into a single section, removing unnecessary language and provisions covered elsewhere in the regulations, and providing State agency flexibility where possible. The proposed rule set out the entire suggested revised text for the convenience of the reader.

Boarders: To ensure uniformity among all States, we proposed to retain in new paragraph (b)(3) the language appearing in 7 CFR 273.1(c)(1), which defines a boarder. Whether a person is considered to be a boarder, and whether, if deemed a boarder, a person may participate in the Food Stamp Program, is in part determined by whether the person pays reasonable compensation for lodging and meals. A State agency, in its comments, asked why not, in the interest of State flexibility, allow States to define what constitutes "reasonable" compensation. However, the State agency did not give any further reason to change the existing regulation, and another State agency noted that it had no objection to the purely cosmetic change to the provision. This provision as written is easy to

administer, equitable to clients, and adaptable to each State's automated certification system. Moreover, it has not been a problem for State agencies or clients in the past. For these reasons, and because the Thrifty Food Plan base is a practicable way to determine whether a person is paying reasonable compensation in order to decide boarder status, and was previously subject to public comments, we do not think the definition should be changed based on a single comment in this rule.

An advocate organization commented that we should make it clear that the definition of a commercial boarding house does not include group homes for disabled, homeless shelters, or other such entities that may be licensed under the same State laws as commercial boarding houses. Group homes for disabled (group living arrangements), for example, are defined in 7 CFR 271.2 as public or private nonprofit entities, and proposed 7 CFR 273.1(b)(7)(vii)(E) specified public or private nonprofit homeless shelters. We have modified the language of the rule to make it clear that the entities excepted from the rule barring residents of institutions must not be confused with commercial boarding houses.

When we combined 7 CFR 273.1(a)(2), (b), (c)(1), (c)(3), and (e) in new paragraph (b), we eliminated 7 CFR 273.1(c) of current regulations. We added a new paragraph (c). There has been some confusion among State agencies as to when the policy on "purchasing food and preparing meals" overrides policy prohibiting the separation of spouses and children, or prohibiting the participation of boarders. The new paragraph (c) specifically allows State agencies to apply discretion when the rule does not lend itself to a simple and direct answer to certain living situations. We cannot cover all living situations by regulation. We intend that State agencies use prudent judgment in determining when to allow individuals to be certified as separate households from others with whom they reside and to protect Program integrity by not allowing great numbers of households to fragment into smaller households. The language also states that any State policy adopted under this provision must be applied consistently throughout the State.

A State agency commented that the "Administrative Procedures Act" requires it to develop rules for any options allowed by Food Stamp Program regulations (we presume the State agency was referring to its own State Administrative Procedures Act, since States are not subject to the Federal Administrative Procedure Act, 5

U.S.C. 500, *et seq.*). It added that if USDA cannot cover all living situations by regulations, a State agency cannot be expected to do so and ensure that they are handled consistently throughout the State. We recognize that it may be difficult for States to spell out clear policies in this area and ensure that they are applied across the State, but we are reluctant to impose such exacting rules that States cannot adapt the rules to local situations. We have, however, added the words "fairly" and "equitably" to the rule to ensure that a State agency's policy must be not only consistent, but also fair. Moreover, we stand ready to work with State agencies on a case-by-case basis to determine whether individual cases fit a pattern that should be applied across the State, or are unique cases.

Strikers. We did not propose any changes in 7 CFR 273.1(d), Head of Household, and (f), Authorized Representative, because we believe the current regulations are appropriate. We have redesignated the requirements in current regulations at 7 CFR 273.1(g) for determining the eligibility and benefits of households containing members on strike as paragraph (e), with minor editorial changes for clarity. We received no comments on our decisions with regard to these provisions.

Application Processing—7 CFR 273.2

Expedited Service: Current regulations at 7 CFR 273.2(i) provide for expedited service to certain categories of households with very low income and resources, including households in which all members are homeless. Prior to PRWORA, section 11(e)(9) of the Act (7 U.S.C. 2020(e)(9)) required that benefits be provided not later than five calendar days following a household's date of application for all eligible households that were also eligible for expedited service. Section 838 of PRWORA amended section 11(e)(9) of the Act by increasing the time that States may take to provide expedited service from five to seven calendar days, and eliminating households consisting entirely of homeless people from those categories of households entitled to receive expedited service. We received no comments on the proposal to implement these changes, as outlined in the proposed rule.

Accordingly, consistent with our proposals, this rule amends 7 CFR 273.2(i)(3)(i) by striking "fifth" calendar day and inserting "seventh". This rule also amends 7 CFR 273.2(i)(3)(ii) by striking "5 calendar days" and inserting "7 calendar days". In addition, the rule removes 7 CFR 273.2(i)(1)(iii) which provides that households in which all

members are homeless individuals are entitled to expedited service and redesignates (i)(1)(iv) as (i)(1)(iii). Homeless individuals may continue to qualify for expedited service under the financial criteria set forth in 7 CFR 273.2(i).

Resource Eligibility Standards—7 CFR 273.8

Fair Market Value: Section 810 of PRWORA amended section 5(g) of the Act (7 U.S.C. 2014(g)) to provide that any licensed vehicle that is not subject to other exclusions and is used for household transportation or to obtain or continue employment, to the extent that the fair market value of the vehicle exceeds \$4,600 through September 30, 1996, and \$4,650 beginning October 1, 1996, must be included in financial resources. Section 810 also freezes the fair market value exclusion limit used in determining the countable value of the included vehicle at \$4,650. Accordingly, this rule amends 7 CFR 273.8 to include the new resource exclusion level, which was implemented October 1, 1996.

We proposed to modify the definition of a vehicle that can be excluded from a household's assets because it is used for income-producing purposes in the current rules at 7 CFR 273.8(h)(1)(i) (redesignated 273.8(e)(3)(i)(A)). Examples of such vehicles would be a car used for a job as a delivery person, a motor vehicle used by a courier, a car used by a household member to call on clients or customers, even though the vehicle is not used for long-distance travel, or any vehicle used to perform a job that was advertised as requiring a personally-owned motor vehicle. The current rule requires that the vehicle be used *primarily* for producing income. We proposed to remove the word "primarily" to ensure that State agencies would not have to verify the relative amount of mileage traveled for income-producing purposes. Two State agencies commented that our proposal did not go far enough. They proposed that we exclude any vehicle used to go to work. Section 5(g)(1)(C) of the Act does not allow us to change the rules to that extent. Specifically, it excludes from a household's financial resources a vehicle "used to produce earned income." This language allows us to make the change we proposed, since a vehicle used for deliveries is clearly being used to produce earned income. We do not believe that a reasonable view of the clear language of the Act allows us to exclude all vehicles used to commute to work. Accordingly, this rule amends 7 CFR 273.8 to remove the requirement that a vehicle used for income-producing purposes be used

primarily for those purposes in order to be excluded from a household's assets.

A State agency commented that the language on vehicles necessary to transport a physically disabled household member at § 273.8(e)(3)(i)(E) seems somewhat contradictory because it talks about special vehicles and specially equipped vehicles being considered necessary, but then goes on to state that the vehicle need not have special equipment. We agree. We have removed the examples and have simplified the provision, relying on the basic statement that a vehicle necessary to transport a physically disabled household member is excluded.

Reorganization of 7 CFR 273.8

In the proposed rule, we took the opportunity to reorganize 7 CFR 273.8 and to remove redundant or unnecessary language. Section 5(g)(2) of the Act requires that the Secretary prescribe inclusions in, and exclusions from, financial resources following the regulations in force as of June 1, 1982. The law provides an exception for the regulations governing vehicles and inaccessible resources. All other resource inclusion and exclusion provisions described in the regulations as of June 1, 1982, became law by reference and can only be changed through legislative action. Nonetheless, there were some provisions we were able to change and some areas where we could remove redundant or unnecessary language. This rule revises 7 CFR 273.8(e), (g), (h), and (i), and removes (j).

We proposed to remove all the provisions from paragraph (h) and transfer some of them to (e) and the others to (g). We have taken the list of vehicles excluded from resource consideration currently contained in paragraphs (h)(1)(i)–(v) and (h)(2) and incorporated it into 7 CFR 273.8(e)(3). We rewrote the remaining provisions of paragraphs (h)(3), (h)(4) and (h)(5) concerning the treatment of non-excluded vehicles and combined them with the provisions in paragraph (g) to improve readability. As a result of transferring the text of paragraph (h), that paragraph no longer exists, and we have redesignated paragraph (i) as paragraph (h). We have made a conforming amendment to paragraphs (e)(16) and (e)(18) to note the relocation of the vehicle exclusion provisions. We also, in the proposed rule, removed the current 7 CFR 273.8(j), which provides that the resources of certain non-household members must be treated in accordance with 7 CFR 273.11. We believed the reference was unnecessary. After reviewing comments, and reconsidering the rule, we have decided

to retain the reference as a useful guide to policy.

In keeping with the principles of the President's Regulatory Reform Initiative of increasing State flexibility, this rule removes the proscriptive regulations in paragraph (g) for determining the fair market value of a vehicle and allows State agencies to establish their own methodologies. However, to ensure client protection, we have decided to retain the prohibition against increasing the basic value of a vehicle because of low mileage, optional equipment, or special apparatus for the handicapped, as State variations may affect eligibility and costs.

We proposed also to revise paragraph (e)(11), which excludes from countable resources any resource that is specifically excluded by any other Federal statute and lists such excluded resources. We proposed to remove the specific list of resources excluded by other Federal laws. We periodically provide State agencies with a list of such excluded resources through agency memoranda because the list changes frequently and quickly becomes outdated. Doing this through the regulatory amendment process often results in incomplete or obsolete regulations, thereby causing confusion. We believe it is sufficient to have the regulation simply provide an exclusion for any resource specifically excluded by another Federal statute and to continue to notify State agencies through agency memoranda when such laws are enacted. We received no comments on this provision (other than one urging us to inform State agencies promptly in writing of all exclusions, which we currently do). Therefore, we are amending the rule accordingly.

Income and Deductions—7 CFR 273.9

Annual adjustments of gross and net income standards, and maximum allotments. FNS currently publishes Notices in the **Federal Register** every year to announce the amounts of the monthly gross and net income eligibility standards, and of the maximum allotments, for the contiguous 48 States and the District of Columbia, Alaska, Hawaii, Guam and the U.S. Virgin Islands. This process is cumbersome. The regulatory clearance process precludes publishing the numbers in time for State agencies to use them. Therefore, we send the numbers to the State agencies by memorandum—customarily in August, so the State agencies can program their computers in time for the new numbers to take effect on the October 1 deadline each year. We have started posting the new numbers on the FNS web site shortly after we

officially notify State agencies of them. This accomplishes the same thing as publishing Notices in the **Federal Register**. And it does it on time, and more economically. Therefore, we will no longer publish these numbers in **Federal Register** Notices. You can find them on our web site at www.fns.usda.gov/fsp. We are making a technical change to delete references to publication of these numbers in **Federal Register** Notices from our rules.

Income exclusions: Current regulations at 7 CFR 273.9(c)(1)(i) prescribe whether to exclude from income a number of kinds of public assistance (PA) vendor payments (payments made by a third party on behalf of a household). A commenter pointed out that a number of State agencies are now using Temporary Assistance for Needy Families (TANF) funds to supplement housing assistance from the Department of Housing and Urban Development (HUD), and are channeling those payments through State or local housing authorities. Section 5(k)(2)(D) of the Act, 7 U.S.C. 2014(k)(2)(D), requires us to exclude such payments from income. The commenter inferred that we had overlooked this requirement of the Act in a previous revision of the rules. Since the Act requires us to exclude this new category of TANF-funded vendor payments from income, we are making a technical correction to the rules at 7 CFR 273.9(c)(1)(i) to make this requirement clear. (We received the comment after the end of the comment period, but we believe it is important to correct the rule in any case.)

Standard Deduction: Current regulations at 7 CFR 273.9(d)(8) provide that, effective October 1, 1987, and each October 1 thereafter, the standard deduction from gross income must be adjusted to reflect changes in the CPI-U for items other than food for the twelve months ending the preceding June 30. Section 809 of PRWORA amended section 5(e) of the Act to provide that the Secretary must allow and maintain the standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of \$134, \$229, \$189, \$269, and \$118, respectively. In effect, PRWORA eliminated the annual adjustment to the various standard deductions. This rule amends the regulations at 7 CFR 273.9(d)(1) accordingly.

Excess Shelter Expense Deduction: Section 809 of PRWORA amended section 5(e) of the Act to change the excess shelter limit. Section 5(e), 7 U.S.C. 2014(e), now provides that a

household is entitled to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed. In the case of a household that does not contain an elderly or disabled individual, in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam and the Virgin Islands of the United States, the excess shelter expense deduction must not exceed:

(i) For the period beginning on the date of enactment of the law and ending on December 31, 1996, \$247, \$429, \$353, \$300, and \$182 per month, respectively;

(ii) For the period beginning on January 1, 1997, and ending on September 30, 1998, \$250, \$434, \$357, \$304, and \$184 per month, respectively;

(iii) For fiscal years 1999 and 2000, \$275, \$478, \$393, \$334, and \$203 per month, respectively; and

(iv) For fiscal year 2001 and each subsequent fiscal year, \$300, \$521, \$429, \$364, and \$221 per month, respectively.

This final rule makes corresponding changes to the regulations at 7 CFR 273.9(d)(8).

Determining Household Eligibility and Benefit Levels—7 CFR 273.10

Maximum Allotments: Section 804 of PRWORA amended section 3(o) of the Act (7 U.S.C. 2012(o)) by providing that on October 1, 1996, and each October 1 thereafter, the Department must adjust the cost of the maximum allotment to reflect the cost of the Thrifty Food Plan in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary was not allowed to reduce the cost of the maximum allotment in effect on September 30, 1996.

Accordingly, this final rule amends 7 CFR 273.10(e)(4)(ii) to provide that effective October 1, 1996, the maximum food stamp allotments must be based on 100% of the cost of the TFP, as defined in section 271.2, for the preceding June, rounded to the nearest lower dollar increment, except that on October 1, 1996, the allotments may not fall below those in effect on September 30, 1996.

In addition, we are removing 7 CFR 273.10(e)(4)(ii)(A) through (F), as these paragraphs, which provide for the adjustment of the TFP for the years 1983 through 1995, are outdated.

Conforming Amendments

Aid to Families with Dependent Children: Section 101 of PRWORA block

granted this program to the States and renamed it the Temporary Assistance for Needy Families (TANF) program. Therefore, the terms “Aid to Families With Dependent Children” and its acronym, “AFDC”, are obsolete. Section 109 of PRWORA made conforming amendments to the Act by replacing the obsolete terms with a reference to assistance under a State program funded under part A of title IV of the Social Security Act, the provision that authorizes TANF.

Accordingly, this rule amends Subchapter C by replacing the words “Aid to Families with Dependent Children” with “Temporary Assistance for Needy Families”, by replacing “AFDC” with “TANF”, and by replacing the words “Aid to Families with Dependent Children (AFDC)” with “Temporary Assistance for Needy Families (TANF)”.

Child support payments: As required by section 5 of the Act prior to PRWORA, the current regulations at 7 CFR 273.9(c)(12) provide that the State agency has the option to exclude from unearned income up to \$50 monthly of title IV-D child support payments in cases where such payments are received by the households from the title IV-D support agency responsible for collecting such child support payments on behalf of AFDC recipients. Section 109 of PRWORA amended section 5 of the Act by removing this exclusion. This rule removes 7 CFR 273.9(c)(12) and renumbers (c)(13) through (c)(17) accordingly.

As required by section 5 of the Act prior to PRWORA, current regulations at 7 CFR 276.2(e)(1) provide that the State agency must pay FNS for the increased dollar value of coupon allotments resulting from providing households with an income exclusion for child support payments as described in § 273.9(c)(12). Section 109 of PRWORA amended section 5 of the Act by removing the payback. Accordingly, this rule removes 7 CFR 276.2(e) in its entirety and removes the last two sentences of paragraph (2).

Implementation

As stated in the preamble to the proposed rules, we instructed State agencies through agency directive to implement the provisions of PRWORA without waiting for formal regulations. The amendments to the definition of “Homeless individual” in § 271.2, and the amendments to § 273.1(b)(1)(ii) and § 273.2(i)(3)(i) and (i)(3)(ii) were to be implemented August 22, 1996. The amendments to § 273.8(f)(1) and § 273.10(e)(4)(ii) were to be implemented October 1, 1996. The

amendment to § 273.9(d)(8) was to be implemented January 1, 1997. The remaining amendments in this rule, with two exceptions, must be implemented no later than January 1, 2001. The amendments to § 273.1(b)(1)(iii), and § 273.8(e)(3)(i)(A), must be implemented no later than March 1, 2001. After implementation, State agencies must adjust the cases of ongoing households at the next recertification, at household request, or when the case is next reviewed, whichever comes first. If implementation of the above Act or this rule is delayed, benefits must be restored, as appropriate, in accordance with the Food Stamp Act.

Quality Control. Variances resulting from implementation of the provisions of this final rule will be excluded from error analysis for 120 days from the required implementation date. State agencies that implement the provisions before the required implementation date must notify the appropriate FNS regional office before implementing that they wish the variance exclusion period to begin with the actual implementation, as provided in 7 CFR 275.12(d)(2)(vii)(A). The exclusionary period will begin with the required implementation date, if the State agency does not notify the appropriate regional office.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs—social programs.

7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and record keeping requirements, Social Security, Students.

7 CFR Part 276

Administrative practice and procedure, Food stamps, Reporting and record keeping requirements.

Accordingly, 7 CFR chapter II, subchapter C, and parts 271, 273, and 276 are amended as follows:

SUBCHAPTER C—FOOD STAMP AND FOOD DISTRIBUTION PROGRAM

1. In Subchapter C:

a. Remove the words “Aid to Families with Dependent Children” wherever they appear and add the words “Temporary Assistance for Needy Families” in their place.

b. Remove the word “AFDC” wherever it appears and add “TANF” in its place.

c. Remove the words “Aid to Families with Dependent Children (AFDC)” wherever they appear, and add the words “Temporary Assistance for Needy Families (TANF)” in their place.

2. The authority citation for parts 271, 273, and 276 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 271—GENERAL INFORMATION AND DEFINITIONS

§ 271.2 [Amended]

3. In § 271.2:

a. Amend paragraph (3) of the definition of “Homeless individual” by adding the words “for not more than 90 days” after the word “accommodation”.

b. Amend the definition of “Minimum benefit” by removing all text after the word “benefit” in the second sentence and adding in its place “shall be \$10.”

c. Remove the definition of “Spouse”.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

4. In § 272.1, add paragraph (g)(157) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *
(157) *Amendment No. 381.* The provisions of Amendment 381 are implemented as follows:

(i) The definition of “Homeless individual” in § 271.2, and the amendments to § 273.1(b)(1)(ii), § 273.2(i)(3)(i) and (i)(3)(ii) were to be implemented August 22, 1996;

(ii) The amendments to § 273.8(f)(1) and § 273.10(e)(4)(ii) were to be implemented October 1, 1996;

(iii) The amendment to § 273.9(d)(8) was to be implemented January 1, 1997;

(iv) The amendments to § 273.1(b)(1)(iii) and § 273.8(e)(3)(i)(A) must be implemented no later than March 1, 2001; and

(v) All remaining amendments must be implemented no later than January 1, 2001.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

5. In § 273.1, remove paragraph (g), and revise paragraphs (a), (b), (c) and (e) to read as follows:

§ 273.1 Household concept.

(a) *General household definition.* A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:

(1) An individual living alone;
(2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or

(3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(b) *Special household requirements.*—
(1) *Required household combinations.*

The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

(i) Spouses;

(ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and

(iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

(2) *Elderly and disabled persons.*

Notwithstanding the provisions of paragraph (a) of this section, an otherwise eligible member of a household who is 60 years of age or older and is unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act or a non disease-related, severe, permanent disability may be considered, together with his or her spouse (if living there), a separate household from the others with whom the individual lives. Separate household status under this provision must not be granted when the income of the others with whom the elderly disabled individual resides (excluding the income of the elderly and disabled individual and his or her spouse) exceeds 165 percent of the poverty line.

(3) *Boarders.* (i) Residents of a commercial boarding house, regardless of the number of residents, are not eligible to participate in the Program. A commercial boarding house is an establishment licensed to offer meals and lodging for compensation. It does not include any of the entities listed in paragraph (b)(7)(vii) of this section. In project areas without licensing requirements, a commercial boarding house is a commercial establishment that offers meals and lodging for compensation with the intent of making a profit.

(ii) All other individuals or groups of individuals paying a reasonable amount for meals or meals and lodging must be considered boarders and are not eligible to participate in the Program independently of the household providing the board. Such individuals or groups of individuals may participate, along with a spouse or children living with them, as members of the household providing the boarder services, only at the request of the household providing the boarder services. An individual paying less than a reasonable amount for board must not be considered a boarder but must be considered, along with a spouse or children living with him or her, as a member of the household providing the board.

(A) For individuals whose board arrangement is for more than two meals per day, "reasonable compensation" must be an amount that equals or exceeds the maximum food stamp allotment for the appropriate size of the boarder household.

(B) For individuals whose board arrangement is for two meals or less per day, "reasonable compensation" must be an amount that equals or exceeds two-thirds of the maximum food stamp allotment for the appropriate size of the boarder household.

(iii) Boarders must not be considered to be residents of an institution as outlined in paragraph (b)(7)(vii) of this section.

(4) *Foster care individuals.*

Individuals placed in the home of relatives or other individuals or families by a Federal, State, or local governmental foster care program must be considered to be boarders. They cannot participate in the Program independently of the household providing the foster care services. Such foster care individuals may participate, along with a spouse or children living with them, as members of the household providing the foster care services, only at the request of the household providing the foster care.

(5) *Roomers.* Individuals to whom a household furnishes lodging for compensation, but not meals, may participate as separate households. Persons described in paragraph (b)(1) of this section must not be considered roomers.

(6) *Live-in attendants.* A live-in attendant may participate as a separate household. Persons described in paragraph (b)(1) of this section must not be considered live-in attendants.

(7) *Ineligible household members.* The following persons are not eligible to participate as separate households or as a member of any household:

(i) Ineligible aliens and students as specified in § 273.4 and § 273.5, respectively;

(ii) SSI recipients in "cash-out" States as specified in § 273.20;

(iii) Individuals disqualified for noncompliance with the work requirements of § 273.7;

(iv) Individuals against whom a sanction was imposed for failure to comply with a workfare requirement as specified in § 273.22;

(v) Individuals disqualified for failure to provide an SSN as specified in § 273.6;

(vi) Individuals disqualified for an intentional Program violation as specified in § 273.16; and

(vii) Residents of an institution, with some exceptions. Individuals must be considered residents of an institution when the institution provides them with the majority of their meals (over 50 percent of three meals daily) as part of the institution's normal services. Exceptions to this requirement include only the individuals listed in paragraphs (b)(7)(vii)(A) through (b)(7)(vii)(E) of this section. The individuals listed in paragraphs (b)(7)(vii)(A) through (b)(7)(vii)(E) can participate in the Program and must be treated as separate households from the others with whom they reside, subject to the mandatory household combination requirements of paragraph (b)(1) of this section, unless otherwise stated:

(A) Individuals who are residents of federally subsidized housing for the elderly;

(B) Individuals who are narcotic addicts or alcoholics and reside at a facility or treatment center for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program. This includes the children but not the spouses of such persons who live with them at the treatment center or facility;

(C) Individuals who are disabled or blind and are residents of group living arrangements;

(D) Individual women or women with their children who are temporarily residing in a shelter for battered women and children; and

(E) Individuals who are residents of public or private nonprofit shelters for homeless persons.

(c) *Unregulated situations.* For situations that are not clearly addressed by the provisions of paragraphs (a) and (b) of this section, the State agency may apply its own policy for determining when an individual is a separate household or a member of another household if the policy is applied fairly,

equitably and consistently throughout the State.

* * * * *

(e) *Strikers.* Households with a striking member are not eligible to participate in the Program, unless the household was eligible for benefits the day before the strike and is otherwise eligible at the time of application. A striker must be anyone involved in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Any employee affected by a lockout, however, must not be deemed to be a striker. Further, an individual who goes on strike but is exempt from work registration under § 273.7(b) the day before the strike, other than those exempt solely on the grounds that they are employed, must not be deemed to be a striker. Also, persons such as truck drivers who cannot do their jobs because the strike has left them with nothing to deliver, and employees who are not part of the bargaining unit and do not want to cross the picket line for fear of personal injury or death, must not be deemed to be strikers.

(1) Pre-strike eligibility must be determined by considering the day prior to the strike as the day of application and assuming the strike did not occur.

(2) Eligibility at the time of application must be determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of non-striking members during the month of application. If the household is eligible, the higher income figure must also be used in determining the household's benefits.

* * * * *

§ 273.2 [Amended]

6. In § 273.2:

a. Remove paragraph (i)(1)(iii).

b. Redesignate paragraph (i)(1) (iv) as paragraph (i)(1)(iii).

c. Amend paragraph (i)(3)(i) by removing the word "fifth" wherever it appears and adding the word "seventh" in its place.

d. Amend paragraph (i)(3)(ii) by removing the words "5 calendar days" and adding the words "7 calendar days" in its place.

§ 273.8 [Amended]

7. In § 273.8:

a. Amend paragraph (c)(2) by removing the regulatory reference to "paragraph (h)" and adding in its place a regulatory reference to "paragraph (f)".

b. Revise paragraph (e)(3).

c. Amend paragraph (e)(11) by removing the second sentence of the introductory text and by removing paragraphs (e)(11)(i) through (e)(11)(ix).

d. Amend paragraph (e)(16) by removing the regulatory reference to "paragraphs (h)(1)(i), (h)(1)(ii) or (h)(1)(v)" and adding in its place the regulatory reference to "paragraphs (e)(3)(i)(A), (e)(3)(i)(B) or (e)(3)(i)(C)", respectively.

e. Amend paragraph (e)(18) by removing the regulatory reference to "paragraph (h)" and adding in its place a regulatory reference to "paragraph (f)".

f. Redesignate paragraphs (g) and (f) as paragraphs (f) and (g), respectively, and revise newly redesignated paragraph (f).

g. Remove paragraph (h) and redesignate paragraphs (i) and (j) as paragraphs (h) and (i) and revise newly redesignated paragraph (i).

The revisions read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(e) Exclusions from resources. * * *

(3)(i) Licensed vehicles that meet the following conditions:

(A) Used for income-producing purposes such as, but not limited to, a taxi, truck, or fishing boat, or a vehicle used for deliveries, to call on clients or customers, or required by the terms of employment. Licensed vehicles that have previously been used by a self-employed household member engaged in farming but are no longer used in farming because the household member has terminated his/her self-employment from farming must continue to be excluded as a resource for one year from the date the household member terminated his/her self-employment farming;

(B) Annually producing income consistent with its fair market value, even if used only on a seasonal basis;

(C) Necessary for long-distance travel, other than daily commuting, that is essential to the employment of a household member (or ineligible alien or disqualified person whose resources are being considered available to the household)—for example, the vehicle of a traveling sales person or a migrant farm worker following the work stream;

(D) Used as the household's home and, therefore, excluded under paragraph (e)(1) of this section;

(E) Necessary to transport a physically disabled household member (or physically disabled ineligible alien or physically disabled disqualified person whose resources are being considered available to the household) regardless of the purpose of such transportation (limited to one vehicle per physically

disabled household member). The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member; or

(F) Necessary to carry fuel for heating or water for home use when the transported fuel or water is anticipated to be the primary source of fuel or water for the household during the certification period. Households must receive this resource exclusion without having to meet any additional tests concerning the nature, capabilities, or other uses of the vehicle. Households must not be required to furnish documentation, as mandated by § 273.2(f)(4), unless the exclusion of the vehicle is questionable. If the basis for exclusion of the vehicle is questionable, the State agency may require documentation from the household, in accordance with § 273.2(f)(4).

(ii) On those Indian reservations that do not require vehicles driven by tribal members to be licensed, such vehicles must be treated as licensed vehicles for the purpose of this exclusion.

(iii) The exclusions in paragraphs (e)(3)(i)(A) through (e)(3)(i)(C) of this section will apply when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.

* * * * *

(f) Determining the value of non-excluded vehicles. (1) The State agency must:

(i) Individually evaluate the fair market value of each licensed vehicle that is not excluded under paragraph (e)(3) of this section;

(ii) Count in full toward the household's resource level, regardless of any encumbrances on the vehicle, that portion of the fair market value that exceeds \$4,650 beginning October 1, 1996;

(iii) Evaluate such licensed vehicles as well as all unlicensed vehicles for their equity value (fair market value less encumbrances), unless specifically exempt from the equity value test; and

(iv) Count as a resource only the greater of the two amounts if the vehicle has a countable fair market value of more than \$4,650 after October 1, 1996, and also has a countable equity value.

(2) Only the following vehicles are exempt from the equity value test outlined in paragraph (f)(1)(iii) of this section:

(i) Vehicles excluded under paragraph (e)(3)(i) of this section;

(ii) One licensed vehicle per household; and

(iii) Any other vehicle used to transport household members (or an ineligible alien or disqualified household member whose resources are considered available to the household) to and from employment (including times during temporary periods of unemployment), or to and from training or education that is preparatory to employment, or to seek employment in compliance with the employment and training criteria specified in § 273.7.

(3) State agencies will be responsible for establishing methodologies for determining the fair market value of vehicles. In establishing such methodologies, the State agency must not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment or special apparatus for the handicapped. Any household that claims that the State agency's determination of the value of its vehicle(s) is not accurate must be given the opportunity to acquire verification of the true value of the vehicle from a reliable source.

* * * * *

(i) Resources of non-household members.

(1) The resources of non-household members, as defined in § 273.1(b)(7)(i) and (ii), must be handled as outlined in § 273.11(d).

(2) The resources of non-household members, as defined in § 273.1(b)(7)(iii) through (vi), must be handled as outlined in § 273.11(c) and (d), as appropriate.

8. In § 273.9:

a. Revise paragraph (a)(4).

b. Redesignate paragraph (c)(1)(i)(F) as paragraph (c)(1)(i)(G), and add a new paragraph (c)(1)(i)(F).

c. Remove paragraph (c)(12) and redesignate paragraphs (c)(13), (c)(14), (c)(15), (c)(16) and (c)(17) as paragraphs (c)(12), (c)(13), (c)(14), (c)(15) and (c)(16) respectively.

d. Revise paragraph (d)(1), remove paragraph (d)(8), and redesignate paragraph (d)(9) as paragraph (d)(8).

e. Revise newly redesignated paragraph (d)(8).

The revisions and addition read as follows:

§ 273.9 Income and deductions.

(a) * * *

(4) The monthly gross and net income eligibility standards for all areas will be prescribed in tables posted on the FNS web site, at www.fns.usda.gov/fsp.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(F) Housing assistance payments made through a State or local housing authority;

* * * * *

(d) * * *

(1) *Standard deduction.* Effective October 1, 1996, for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam and the Virgin Islands of the United States, the standard deduction must be \$134, \$229, \$189, \$269, and \$118, respectively.

* * * * *

(8) *Adjustment of shelter deduction.* In the case of a household that does not contain an elderly or disabled individual, in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam and the Virgin Islands of the United States, the excess shelter expense deduction must not exceed:

(i) For the period beginning August 22, 1996, and ending on December 31, 1996, \$247, \$429, \$353, \$300, and \$182 per month, respectively;

(ii) For the period beginning on January 1, 1997, and ending on September 30, 1998, \$250, \$434, \$357, \$304, and \$184 per month, respectively;

(iii) For the period beginning on October 1, 1998, and ending on September 30, 2000, \$275, \$478, \$393, \$334, and \$203 per month, respectively; and

(iv) For the period beginning on October 1, 2000, and thereafter, \$300, \$521, \$429, \$364, and \$221 per month, respectively.

* * * * *

9. In § 273.10:

a. Amend the last sentence of paragraph (e)(4)(i) by removing the words "a General Notice published in the **Federal Register**" and adding in their place the words "a table posted on the FNS web site, at www.fns.usda.gov/fsp."

b. Revise paragraph (e)(4)(ii) to read as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(e) * * *

(4) * * *

(ii) *Adjustment.* Effective October 1, 1996, the maximum food stamp allotments must be based on 100% of the cost of the TFP as defined in § 271.2 of this chapter for the preceding June, rounded to the nearest lower dollar increment, except that on October 1, 1996, the allotments may not fall below those in effect on September 30, 1996.

* * * * *

§ 276.2 [Amended]

10. Remove the last two sentences of paragraph (a) and paragraph (e) in its entirety in § 276.2.

Dated: October 13, 2000.

Shirley R. Watkins,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 00-27483 Filed 10-27-00; 8:45 am]

BILLING CODE 3410-30-U

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560-AF86

2000 Marketing Quotas and Price Support Levels for Fire-Cured (Type 21), Fire-Cured (Types 22-23), Dark Air-Cured (Types 35-36), Virginia Sun-Cured (Type 37), and Cigar-Filler and Binder (Types 42-44 and 53-55) Tobacco

AGENCIES: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to codify the national marketing quotas and price support levels for the 2000 crops for several kinds of tobacco announced by press release on March 1, 2000.

Quotas are necessary to adjust the production levels of certain tobaccos to more fully reflect supply and demand conditions, as provided in the 1938 Act.

EFFECTIVE DATE: March 1, 2000.

FOR FURTHER INFORMATION CONTACT:

Robert L. Tarczy, Tobacco and Peanuts Division, FSA, USDA, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250-0514, telephone 202-720-5346, e-mail address Robert.Tarczy@wdc.fsa.usda. Copies of the cost-benefit assessment prepared for this rule can be obtained from Mr. Tarczy.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

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.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Farm Service Agency (FSA) nor the Commodity Credit Corporation (CCC) is 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 of these determinations.

Paperwork Reduction Act

The amendments to 7 CFR parts 723 and 1464 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Statutory Background

This final rule is issued pursuant to the provisions of the 1938 Act and the 1949 Act.

In accordance with section 312 of the 1938 Act, for tobaccos other than flue-cured tobacco and burley tobacco, the Secretary of Agriculture is required to proclaim not later than March 1 of any marketing year (MY) a national marketing quota for those tobaccos for which marketing quotas have been approved in the prior 3 years. A referendum on quotas for each kind is held every 3 years.

On March 1, 2000, the Secretary determined and announced the national marketing quotas and price support levels for the 2000 crops of fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured (type 37), and cigar-filler and binder (types 42-44 and 53-55) tobaccos. A number of related determinations were made at the same time which this final rule affirms. And, because the 1999 MY was the last of 3 consecutive years of quota for fire-cured (types 22-23) and dark air-cured (types