

Proposed Rules

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

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Parts 271, 272, 282, 284, and 285

[Amendment No. 371-2HT]

RIN 0584-AC14

Food Stamp Program, Regulatory Review: Alaska, the Commonwealth of the Northern Mariana Islands, PR, and Demonstration Projects

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend Food Stamp Program rules affecting Alaska, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and demonstration projects. This action is a result of a comprehensive, page-by-page review, of all existing Food Stamp Program regulations which was conducted in response to the President's efforts to reform the Federal regulatory system. The changes will eliminate prescriptive detailed processes and empower States to set their own procedures for case management and customer service; eliminate outdated and redundant regulatory requirements; and emphasize recipient responsibility for applying and reporting their circumstances properly.

DATES: Comments must be received on or before March 25, 1996 to be assured of consideration.

ADDRESSES: Comments should be submitted to Judith M. Seymour, Chief, Certification Policy Branch, Program Development Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. Comments may also be datafaxed to the attention of Ms. Seymour at (703) 305-2454. All written comments will be open for public inspection at the office of the Food and Consumer Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 720.

FOR FURTHER INFORMATION CONTACT:

Questions regarding this rulemaking should be addressed to Ms. Seymour at the above address or by telephone at (703) 305-2496.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12372

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

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). Ellen Haas, the Under Secretary for Food, Nutrition, and Consumer Services, has certified that this proposed 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.

Paperwork Reduction Act

This rule does not contain 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).

Executive Order 12778

This 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)(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 Program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Background

As part of his Regulatory Reform Initiative, the President instructed the heads of Executive departments and agencies in a March 4, 1995 memorandum to, among other things, complete a page by page review of all agency regulations now in force and eliminate or revise those that are outdated or otherwise in need of reform. The review carefully considered the following issues:

Is this regulation obsolete?

Could its intended goal be achieved in more efficient, less intrusive ways?

Are there better private sector alternatives, such as market mechanisms, that can better achieve the public good envisioned by the regulation?

Could private business, setting its own standards and being subject to public accountability, do the job as well?

Could the States or local governments do the job, making Federal regulation unnecessary?

The Food and Consumer Service (FCS) has completed its review of all regulations governing the administration of the Food Stamp Program. Based on the findings of the review, FCS will be issuing several proposed rules designed to eliminate or substantially revise the regulations contained in 7 CFR Parts 271 through 285.

In this rule, FCS is proposing to revise food stamp regulations affecting Alaska, Puerto Rico, the Commonwealth of the Northern Mariana Islands, and demonstration projects. The revisions will streamline administration of the program, offer greater flexibility to State

agencies in enacting policy, and improve customer service.

Alaska—7 CFR 272.7

On November 4, 1980, the Department issued a final rule (45 FR 73003) establishing regulations for operation of the Food Stamp Program in rural Alaska. Those regulations provided for exceptions to normal program regulations designed to accommodate the unique demographic and climatic characteristics found in rural Alaska and, at the same time, to ensure the efficiency and effectiveness of program operations. Those regulations, though amended in parts during the past 15 years, have remained essentially the same since their original implementation.

As part of the President's Regulatory Review Initiative, the Department has reviewed the regulations for rural Alaska at 7 CFR 272.7 and has determined that consistent with the requirements of the Food Stamp Act of 1977, 7 U.S.C. 2011, *et seq.*, they can be revised to grant the State of Alaska greater flexibility in administering the program. The Department is proposing to combine and reorganize some paragraphs in 7 CFR 272.7, and delete others. The major revisions are discussed below.

Current regulations at 7 CFR 272.7(a) explain the need for a separate section of regulations designed to accommodate the unique characteristics in rural Alaska. Current regulations at 7 CFR 272.7(b) explain that the regulations contained in 7 CFR 272.7, with the exception of the section dealing with treatment of resources, apply only to areas of Alaska designated as rural. Section 272.7(b) also lists the procedures the State agency must follow when designating areas in Alaska as rural.

Current regulations at 7 CFR 272.7(c) define some of the terms that appear in the regulations for rural Alaska. The regulations define "fee agent", "Rural I Alaska", "Rural II Alaska", "Urban Alaska", and "State agency."

Current regulations at 7 CFR 272.7(d) provide an exception to the merit personnel requirement at 7 CFR 272.4(a)(2) to permit fee agents to conduct the certification interviews required by 7 CFR 273.2(e).

In order to simplify the regulations, the Department is proposing to revise 7 CFR 272.7 (a), (b), (c) and (d) as follows. The requirements currently contained in 7 CFR 272.7 (a) and (b) will be combined into one section, designated 7 CFR 272.7(a). Revised 7 CFR 272.2(b) will be retitled "Area Designations", and will contain the definitions of

"Rural I Alaska", "Rural II Alaska", and "Urban Alaska." It will also include the procedures for designating areas as rural that were formerly contained in 7 CFR 272.7(b). Those procedures, however, will be greatly modified. The current provisions at 7 CFR 272.7(b) require the State agency to establish criteria for designating areas of the State as "rural", determine the areas that meet the rural criteria, and include both the criteria for designating rural areas and the designated areas in the Alaska State Plan of Operation as an addendum to the Program and Budget Summary Statement. As the regulations, however, already designate all areas in Alaska as either urban, rural I or rural II, the revised procedures will provide that the State agency, in consultation with FCS, may change the designation of any Alaska subdivision. In lieu of specific detailed criteria, the Department is proposing to allow the Alaska State agency to change the designation of subdivisions to reflect changes in demographics and the cost of food. Changes would be reflected in the State Plan of Operation and would also be published in the Federal Register, pursuant to the Administrative Procedure Act, 5 U.S.C. 553.

The proposed regulations at 7 CFR 272.7(c) will address fee agents. The revised section would contain the definition of fee agent currently contained in 7 CFR 272.7(c).

The Department is proposing to delete from the regulations the special definition of "State agency" currently provided at 7 CFR 272.7(c). That definition was included in the regulations to highlight a distinction between the State agency and fee agents. However, the Department believes that the definition of fee agent as provided in 7 CFR 272.7(c) already clearly implies that fee agents, although employed by the State agency, are not representatives of the State agency for application processing purposes.

The Department is also proposing to delete the merit personnel requirement currently contained at 7 CFR 272.7(d). As provided in 7 CFR 272.7(c), the definition of fee agent clearly provides that fee agents may conduct required certification interviews, and the Department does not believe that the statement needs to be restated. The Department is proposing, however, to amend the merit personnel requirements at 7 CFR 272.4(a)(2) to provide for an exception to the use of State merit system personnel in the interview and certification process for households residing in rural Alaska.

The Department is also proposing to delete the current provisions of 7 CFR

272.7(e), which require the State agency to institute a continuing training program for fee agents. It is in the State agency's own interest, for program accountability reasons, to ensure that all fee agents are adequately trained in program requirements and procedures. Therefore, the Department believes it is unnecessary to include a training requirement in the regulations.

The Department is proposing a major revision to the regulations currently at 7 CFR 272.7(f), which address application processing requirements. The current regulations go into minute detail as to how applications are to be processed, depending on whether they are submitted to a fee agent, in person to the State agency, or by mail to the State agency. It also addresses expedited service processing requirements and Supplemental Security Income (SSI) joint processing requirements. The Department is proposing to remove all prescriptive requirements from the section and allow the State agency to modify the regular application processing requirements contained at 7 CFR 273.2 as needed to ensure prompt delivery of services to applicant households. The proposed regulations will retain, however, those requirements which the State agency cannot modify when processing an application because of Food Stamp Act requirements. Those requirements are: (1) that if the application is submitted to a fee agent, the fee agent shall mail the application to the State agency within 5 days of receipt of the application; (2) that an application is considered filed when it is received by an office of the State agency; (3) that eligible households shall be provided an opportunity to participate as soon as possible but no later than 30 days after the application is received by an office of the State agency; (4) that households eligible for expedited service who submit their application to a fee agent shall be issued benefits within two working days following the date the application is received by an office of the State agency, and that households eligible for expedited service who submit their completed applications to the State agency in person or by mail will be processed in accordance with standard expedited service timeframes contained in 7 CFR 273.2(i); and (5) that Social Security Administration (SSA) workers shall mail all jointly processed applications to the appropriate State agency office within 5 days of receipt of the application, and that the household, if determined eligible, shall receive benefits retroactive to the first day of the month in which the jointly processed

application was received by the SSA worker. The proposed revised regulations would be contained at 7 CFR 272.7(d).

The Department is also proposing a major revision to the regulations currently contained at 7 CFR 272.7(g), which address interview requirements. Current regulations require that the State agency or fee agent conduct a face-to-face interview with applicant households. If a face-to-face interview cannot be conducted for hardship reasons, then the State agency may interview the household by telephone or radiophone. If the household rejects, on privacy grounds, being interviewed by telephone or radiophone, the State agency may conduct the interview through private means of correspondence, such as written correspondence. The State agency also has the option of postponing the interview until after the household is certified in certain exceptional circumstances.

In order to maximize State agency flexibility in administering the program, the Department is proposing to delete current interview requirements at 7 CFR 272.7(g) and instead simply require the State agency to interview applicant households in the most efficient manner possible, either by face-to-face contact, telephone, radiophone, or other means of correspondence including written correspondence. In instances in which an interview cannot be conducted before certification, the regulations will continue to grant the State agency the option to postpone the interview until after the household is certified. Since completing the interview is an integral part of application processing, the interview requirement will be included as paragraph (6) in the new application processing section at 7 CFR 272.7(d) and not in its own section.

In light of the proposals discussed above, current regulations at 7 CFR 272.7(h), which address the determination of household eligibility and benefit levels, would be redesignated as 7 CFR 272.7(e), but would otherwise remain unchanged.

Current regulations at 7 CFR 272.7(i), which address resource requirements, will be redesignated as 7 CFR 272.2(f), but will otherwise remain unchanged.

Current regulations at 7 CFR 272.7(j) address the household's responsibility for reporting changes. The regulations provide the household the option of reporting changes either directly to the State agency or to the fee agent, and then go on to describe in detail how fee agents are to process changes reported to them. The Department believes that it is unnecessary for Program regulations

to delineate fee agent actions relating to handling reported changes and is therefore proposing to eliminate those provisions from the regulations. The revised regulations will retain, however, all the timeframes for processing changes currently contained in 7 CFR 272.7(j). The revised section will be redesignated as 7 CFR 272.7(g).

The Department is proposing to delete the current regulations at 7 CFR 272.7(k), which address timeframes for recertification. The regulations at 7 CFR 272.7(k) repeat the normal recertification timeframes contained at 7 CFR 273.14, and do not provide for any special exceptions for households residing in rural Alaska.

Current regulations at 7 CFR 272.7(l) provide that if the State agency cannot conduct a personal conference with a household which wishes to contest its denial of expedited service within the two day timeframe specified in 7 CFR 273.15(d), it may conduct the conference by telephone or through other means of communication. Current regulations at 7 CFR 272.7(m) provide that the State agency may conduct fair hearings and administrative fraud hearings by telephone or other means of communication if the time standards contained at 7 CFR 273.15 and 273.16 cannot be met through normal administrative procedures due to impediments such as weather conditions or distance.

In order to maximize State agency flexibility in conducting required hearings and conferences, the Department is proposing to delete the current requirements at 7 CFR 272.7 (l) and (m). The Department will replace both sections with a single section that will apply to fair hearings, administrative fraud hearings, and agency conferences with households that wish to contest denial of expedited service. The new section, which will be designated 7 CFR 272.7(h), will require the State agency to conduct fair hearings, administrative fraud hearings, and agency conferences in the manner it deems most efficient, either by face-to-face contact, telephone, radiophone, or other means of correspondence including written correspondence, in order to meet the respective time standards contained in 7 CFR 273.15 and 273.16.

Finally, the Department is proposing to revise current regulations at 7 CFR 272.7(n), which address issuance requirements. The Department is proposing to redesignate paragraph (n)(1) as 7 CFR 272.7(i), but otherwise leave the paragraph unchanged. The Department is also proposing to delete the current requirements contained at 7

CFR 272.7(n) (2) and (3). Section 272.7(n)(2) allows the State agency to choose from a wide variety of issuance methods to fulfill the issuance service needs of the low income people in the State. Section 272.7(n)(3) requires that the State agency assist households comprised of elderly or disabled members which have difficulty reaching an issuance office to obtain their monthly allotments. Neither provision represents a change from normal program operations as described in 7 CFR 274.1 and 274.2. Therefore, the Department is proposing to delete both provisions.

Demonstration, Research, and Evaluation Projects—Part 282

Current regulations at 7 CFR Part 282 cite the legislative authority for conducting demonstration, research, and evaluation projects, establish Federal financial participation requirements, and set forth various conditions under which the projects operate. Part 282 also contains regulations published to establish the procedures for the operation of some previous demonstration projects.

It is the Department's belief that, aside from 7 CFR 282.1 and 282.6, which deal with statutory authority and financial participation and 282.5(a) which provides for public notice procedures for demonstration projects, the regulations contained in this section are duplicative, superfluous, or obsolete.

Sections 282.2, 3, 4, and 5(c) contain general information and procedures which are repeated in much greater detail in the Notices of Intent published by the Department when it undertakes demonstration, research or evaluation projects.

Sections 282.10 through 14 and sections 282.16 through 19 comprise the regulations published concerning past demonstrations (sections 282.7, 8, 9, and 15 were reserved). Each of the demonstrations have been terminated or are permanent operational programs.

The Department, therefore, is proposing to revise Part 282 by (1) combining the requirements currently contained at 7 CFR 282.1, 282.5 (a) and (b) and 282.6 into one new section 7 CFR 282.1, which will address the Secretary's legislative authority to conduct demonstration, research, and evaluation projects and Federal financial participation in such projects, and (2) deleting the remainder of Part 282.

The Commonwealth of the Northern Mariana Islands—Part 284

This rule proposes to remove and reserve Part 284 of the Food Stamp

Program regulations—Provision of a Nutrition Assistance Program for the Commonwealth of the Northern Mariana Islands (CNMI)—and to remove the Northern Mariana Islands from the definition of “State” in 7 CFR 271.2 of the regulations. The Nutrition Assistance Program which has been operating in the CNMI since 1982 is governed by a Memorandum of Understanding (MOU), the terms of which are renegotiated annually by the Department and the CNMI. The regulations in Part 284 are unnecessary for the continued operation of CNMI Nutrition Assistance Program. For example, a similar program operates in American Samoa without regulations; it is simply governed by an MOU. The Department’s proposal to eliminate Part 284 should not be construed as an intent to modify the current CNMI Nutrition Assistance Program.

Puerto Rico—Part 285

On July 27, 1982, the Department published a final rule at 47 FR 32409 to implement Title I, Section 116(a) of the 1981 Omnibus Budget Reconciliation Act (Pub. L. 97–35, 95 Stat. 357), 7 U.S.C. § 2028. This section converted the Federal Food Stamp Program in the Commonwealth of Puerto Rico to a capped nutrition assistance block grant effective July 1, 1982. The original implementing regulations set forth in Part 285 at that time have been amended four times during their existence. On April 19, 1983 a rule was published at 48 FR 16831 pertaining to the termination of the Food Stamp Program in Puerto Rico. On May 27, 1983 a rule was published at 48 FR 23804 which prohibited the Commonwealth from using a cash benefit delivery system and restricted the amount of cash change which could be returned to a nutrition assistance recipient in the Commonwealth to 99 cents under any non-cash benefit delivery system Puerto Rico would implement. On December 21, 1984 a rule was published at 49 FR 49581 which permitted the Commonwealth to operate a cash rather than a coupon benefit delivery system for use in its block grant program. Finally, on May 21, 1986 a rule was published at 51 FR 18744 which permitted Puerto Rico to designate more than one agency to administer or supervise the administration of the food assistance program in the Commonwealth. Some of these amendments, together with portions of the original implementing regulations, are no longer applicable to the program as it currently operates in the Commonwealth. Other portions of Part 285, as currently written, are

superfluous and no longer required for the efficient administration and operation of the block grant program in Puerto Rico. As a result, the Department proposes to amend Part 285 to effect the following changes.

Plan of Operation—7 CFR 285.3

The second sentence of paragraph (a) specifies that the submittal date for the initial plan of operation for fiscal years 1982 and 1983 is to be no later than April 1, 1982. Additionally, subparagraph (b)(3)(iii) permits Puerto Rico to provide recipients with cash change in amounts of 99 cents or less if change in an amount of less than \$1 is required. Since the 1982 and 1983 plans of operation were submitted many years ago, and Puerto Rico no longer operates a coupon delivery system to distribute its block grant benefits, both of these provisions are no longer applicable to the Commonwealth’s nutrition assistance program and the Department proposes to delete them from this section.

The Department also proposes to incorporate the provisions of section 285.4 into this section. Both sections deal with Puerto Rico’s state plan of operation and the Department believes that both sections should be consolidated into one for ease of reference.

Approval—7 CFR 285.4

The first sentence of paragraph (a) states that FCS shall approve or disapprove the initial plan of operation for fiscal year 1982 and 1983 no later than 30 days from the date the Commonwealth of Puerto Rico submits such plan. This approval process was completed many years ago and the sentence is no longer applicable to program operations. The Department, therefore, proposes to delete this provision and combine the remainder of the section with section 285.3 as both of these sections deal in various ways with the submission and approval of the Commonwealth’s plan of operation for its nutrition assistance program.

Records and Reports—7 CFR 285.5

This section provides that the Commonwealth of Puerto Rico shall follow procedures, and maintain and submit to FCS such records and reports, as agreed upon by the Commonwealth of Puerto Rico and FCS for the nutrition assistance program as outlined in the plan of operation. Procedures for the submission of required reports and their content as well as for the retention of program records have been in place since inception of the block grant and are generally outlined in annual state

plans of operation submitted by the Commonwealth. The Department, therefore, believes that this section is no longer necessary for efficient program operations and proposes to delete it in its entirety.

Review—7 CFR 285.8

This section provides that FCS shall provide for the review of the programs for provision of nutrition assistance under the block grant. FCS has been reviewing Puerto Rico’s nutrition assistance program on an agreed upon and periodic basis since its inception in 1982. Since this procedure is a well established one to which both parties agree, the Department believes this section is no longer required and should be deleted in its entirety.

Technical Assistance—7 CFR 285.9

This section provides that FCS may provide technical assistance to the Commonwealth of Puerto Rico to assist in various aspects of the implementation and operation of its nutrition assistance program. This assistance has been an integral part of FCS’s efforts to cooperate with the Commonwealth in ensuring the success of its block grant program since its inception in 1982. Since this assistance is an ongoing and well recognized facet of the relationship between Puerto Rico and FCS, the Department believes that this section is no longer required and should be deleted in its entirety.

Termination of the Food Stamp Program in the Commonwealth of Puerto Rico—7 CFR 285.10

This section contains a number of provisions pertaining to the cessation of Food Stamp Program operations in the Commonwealth. Since the Food Stamp Program ceased operation in Puerto Rico as of July 1, 1982 and the block grant nutrition assistance program was implemented in its place at that time, this section is no longer applicable to current program operations. The Department is, therefore, proposing that the section be deleted in its entirety.

Implementation

The Department is proposing that the provisions of this rulemaking be effective no later than 30 days after publication of the final rule. State agencies may implement the provisions any time after that date.

List of Subjects

7 CFR Part 271

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

7 CFR Part 272

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

7 CFR Part 282

Food stamps, Governmental contracts, Grant programs—social programs, Research.

7 CFR Part 284

Administrative practice and procedure, Food assistance programs, Grant programs—social programs, Health, Nutrition.

7 CFR Part 285

Accounting, Food assistance programs, Grant programs—agricultural, Grant programs—social programs, Intergovernmental relations, Puerto Rico, Technical assistance, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 271, 272, 282, 284, and 285 are proposed to be amended as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. The authority citations for 7 CFR parts 271, 272, 282, 284, and 285 continue to read as follows:

Authority: 7 U.S.C. 2011–2032.

§ 271.2 [Amended]

2. In § 271.2, the definition of “State” is amended by removing the words “the Northern Mariana Islands,”.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES**§ 272.4 [Amended]**

3. In § 272.4, the third sentence of paragraph (a)(2) is amended by adding the words, “, § 272.7(d) for households residing in rural Alaska,” before the words “and Part 280 for disaster victims.”

4. § 272.7 is revised to read as follows:

§ 272.7 Procedures for program administration in Alaska.

(a) *Purpose.* To achieve the efficient and effective administration of the Food Stamp Program in rural areas of Alaska, FCS has determined that it is necessary to develop additional regulations which are specifically designed to accommodate the unique demographic and climatic characteristics which exist in these rural areas. The regulations established in this section, except for paragraph (f) of this section, shall apply only in those areas of Alaska designated as “rural” in paragraph (b) of this section. All regulations not specifically

modified by this section shall remain in effect.

(b) *Area designations.* (1) Rural I Alaska TFP refers to a Thrifty Food Plan (TFP) that is the higher of the TFP that was in effect in each area on October 1, 1985, or 28.52 percent higher than the Anchorage TFP, as calculated by FCS, with rounding and other reductions that are appropriate. It is to be used in the following areas: In all places in Kodiak Island Borough with the exception of Kodiak; in all places in the Kenai Peninsula Borough that are west of Cook Inlet (including Tyonek, Kustatan, Kalgin Island, Iliamna, Chenik, and Augustine Island) and Chugach Island, English Bay, Port Graham, Portlock, Pt. Gore, Pye Island, and Seldovia. In the Yukon-Koyukuk Census Area, the city of Nenana; and Skwentna in the Matanuska-Susitna Borough. In the Valdez-Cordova Census Area, all places except Dayville and Valdez; and in the Southeast Fairbanks Census Area all places except Big Delta, Delta Junction, and Fort Greely. In the Skagway-Yakutat-Angoon Census Area, all places except Skagway; in Sitka Borough all places except Sitka; in the Wrangell-Petersburg Census Area, all places except Wrangell and Petersburg; in the Ketchikan Gateway Borough, all places except Ketchikan, Saxman, and Ward Cove; in the Prince of Wales-Outer Ketchikan Census Area, all places except Craig, Hyder, and Metlakatla.

(2) Rural II Alaska TFP refers to a TFP that is 56.42 percent higher than the Anchorage TFP, as calculated by FCS, with rounding and other reductions that are appropriate. It is to be used in the following areas: North Slope Borough; Kobuk Census Area; Nome Census Area; Yukon-Koyukuk Census Area except for the city of Nenana; Wade Hampton Census Area; Bethel Census Area; Denali in the Matanuska-Susitna Borough; Dillingham-Bristol Bay Borough; and in all places in the Aleutian Islands except for Cold Bay and Adak.

(3) Urban Alaska TFP refers to a TFP that is the higher of the TFP that was in effect in each area on October 1, 1985, or .79 percent higher than the Anchorage TFP, as calculated by FCS, with rounding and other reductions that are appropriate. It is to be used in the following areas: Cold Bay and Adak in the Aleutian Islands; Kodiak in Kodiak Island Borough; Valdez and Dayville in the Valdez-Cordova Census Area; all places in Kenai Peninsula Borough that are on the Kenai Peninsula except for those specifically designated as Rural I; the entire Anchorage Borough; the entire Matanuska-Susitna Borough except for Denali and Skwentna; the

entire Fairbanks-North Star Borough; the entire Juneau Borough; the entire Haines Borough; Sitka in the Sitka Borough; Skagway in the Skagway-Yakutat-Angoon Census Area; Wrangell and Petersburg in the Wrangell-Petersburg Census Area; Ketchikan, Saxman, and Ward Cove in the Ketchikan-Gateway Borough; Craig, Hyder, and Metlakatla in the Prince of Wales-Outer Ketchikan Census Area; and Big Delta, Delta Junction, and Fort Greely in the Southeast-Fairbanks Census Area.

(4) The State agency may, in consultation with FCS, change the designation of any Alaska subdivision to reflect changes in demographics or the cost of food within the subdivision.

(c) *Fee agents.* “Fee agent” means a paid agent who, on behalf of the State, is authorized to make applications available to low-income households, assist in the completion of applications, conduct required interviews, secure required verification, forward completed applications and supporting documentation to the State agency, and provide other services as required by the State agency. Such services shall not include making final decisions on household eligibility or benefit levels.

(d) *Application processing.* The State agency may modify the application processing requirements in § 273.2 of this chapter as necessary to insure prompt delivery of services to eligible households. The following restrictions apply:

(1) *Fee agent processing.* If the signed application is first submitted by a household to a fee agent, the fee agent shall mail the application to the State agency within 5 days of receipt. The fee agent shall give the household the maximum amount of time to provide needed verification as long as the five-day processing period is met.

(2) *Application filing date.* An application is considered filed for purposes of timely processing when it is received by an office of the State agency.

(3) *Application processing timeframes.* Eligible households must be provided an opportunity to participate as soon as possible but no later than 30 days after the application is received by an office of the State agency.

(4) *Expedited service.*

(i) If the signed application is first submitted by a household to a fee agent, the fee agent shall mail the application to the State agency within 5 days of receipt. If the household is eligible for expedited service, the State agency will mail the coupons no later than the close of business of the second working day following the date the application was received by the State agency.

(ii) If the signed application is submitted directly to the State agency in person by a rural resident or its authorized representative or by mail, the State agency shall process the application and issue coupons to households eligible for expedited service in accordance with the time standards contained in § 273.2(i)(3) of this chapter.

(iii) If an incomplete application is submitted directly to the State agency by mail, the State agency shall conduct the interview by the first working day following the date the application was received if the fee agent can contact the household or the household can be reached by telephone or radio-phone and does not object to this method of interviewing on grounds of privacy. Based on information obtained during the interview, the State agency shall complete the application and process the case. Because of the mailing time in rural areas, the State agency shall not return the completed application to the household for signature. The processing standard shall be calculated from the date the application was filed.

(5) *SSI joint processing.* SSA workers shall mail all jointly processed applications to the appropriate State agency office within 5 days of receipt of the application. A jointly processed application shall be considered filed for purposes of timely processing when it is received by an office of the State agency. The household, if determined eligible, shall receive benefits retroactive to the first day of the month in which the jointly processed application was received by the SSA worker.

(6) *Interviews.* The State agency shall interview applicant households in the most efficient manner possible, either by face-to-face contact, telephone, radiophone, or other means of correspondence including written correspondence. In instances in which an interview cannot be conducted, the State agency may postpone the interview until after the household is certified.

(e) *Determining household eligibility and benefit level.* If a household submits its application to a fee agent, it shall, if eligible, receive benefits retroactive to the date the application is received by the fee agent. If a household submits its application directly to a State agency office, it shall, if determined eligible, receive benefits retroactive to the date the application is received by the State agency.

(f) *Resources.* In areas of the State where there are no licensing requirements, snowmobiles and boats used by the household for basic transportation shall be evaluated in

accordance with § 273.8(h) of this chapter even though they are unlicensed. Vehicles necessary for subsistence hunting and fishing shall not be counted as a household resource.

(g) *Reporting changes.* The State agency shall allow the household to choose to report changes either directly to the State agency or to the fee agent. If the household reports the change to the fee agent, the fee agent will mail the change report to the State agency office within two working days of the date of receipt. The household's obligation to report the change will have been met if it submits the change to the fee agent within 10 days of the date the change becomes known to the household. However, for purposes of State agency action for increasing or decreasing benefits, the change will be considered to have been reported when it is received by a State agency office.

(h) *Fair hearings, fraud hearings, and agency conferences.* The State agency shall conduct fair hearings, administrative fraud hearings, and agency conferences with households that wish to contest denial of expedited service in the most efficient manner possible, either by face-to-face contact, telephone, radiophone, or other means of correspondence including written correspondence, in order to meet the respective time standards contained in § 273.15 and § 273.16 of this chapter.

(i) *Issuance services.* With the approval of FCS, coupons may be mailed on a quarterly or semiannual basis to certain rural areas of Alaska when provisions are not available on a monthly basis. The decision to allow the distribution of coupons in this manner will be made on an annual basis. These areas shall be listed in the State's Plan of Operation. The State agency shall advise households that live in rural areas where quarterly or semiannual allotments are authorized. If, as the result of the issuance of quarterly or semiannual allotments, food coupons are overissued or underissued, the State agency shall process claim determinations and restore lost benefits.

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

5. § 282.1 is revised to read as follows:

§ 282.1 Legislative authority and notice requirements.

(a) *Legislative Authority.* Section 17 of the Act authorizes the Secretary to conduct demonstration, research, and evaluation projects. In conducting such projects, the Secretary may waive all or part of the requirements of the Act and implementing regulations necessary to

conduct such projects, except that no project, other than a project involving the payment of the average value of allotments by household size in the form of cash to eligible households or a project conducted to test improved consistency or coordination between the food stamp employment and training program and the Job Opportunities and Basic Skills program under Title IV of the Social Security Act, may be undertaken which would lower or further restrict the established income and resource standards or benefit levels.

(b) *Notices.* At least 30 days prior to the initiation of a demonstration project, FCS shall publish a General Notice in the Federal Register if the demonstration project will likely have a significant impact on the public. The notice shall set forth the specific operational procedures and shall explain the basis and purpose of the demonstration project. If significant comments are received in response to this General Notice, the Department will take such action as may be appropriate prior to implementing the project. If the operational procedures contained in the General Notice described above are significantly changed because of comments, an amended General Notice will be published in the Federal Register at least 30 days prior to the initiation of the demonstration project, except where good cause exists supporting a shorter effective date. The explanation for the determination of good cause will be published with the amended General Notice. The amended General notice will also explain the basis and purpose of the change.

§§ 282.2–282.19 [Removed]

6. §§ 282.2 through 282.19 are removed.

7. A new § 282.2 is added to read as follows:

§ 282.2 Funding.

Federal financial participation may be made available to demonstration, research, and evaluation projects awarded by FCS through grants and contracts. Funds may not be transferred from one project to another. FCS will pay all costs incurred during the project, up to the level established in the grant, or in the terms and conditions of the contract. FCS may grant time extensions of the project upon approval. Funding for additional costs is subject to existing Federal grant and contract procedures.

PART 284—[REMOVED AND RESERVED]

8. Part 284 is removed and reserved.

**PART 285—PROVISION OF A
NUTRITION ASSISTANCE GRANT
FOR THE COMMONWEALTH OF
PUERTO RICO**

§ 285.2 [Amended]

9. In § 285.2, the first sentence of paragraph (b) is amended by removing the citations “§§ 285.4 and 285.7 in this part” and adding “§§ 285.3 and 285.5” in their place.

10. In § 285.3:

- a. The second sentence of paragraph (a) is removed.
- b. The third sentence of paragraph (a) is amended by removing the word “subsequent”.
- c. Paragraph (b)(3)(iii) is removed.
- d. New paragraphs (d), (e), (f), (g), and (h) are added.

The additions read as follows:

§ 285.3 Plan of operation.

* * * * *

(d) FCS shall approve or disapprove any plan of operation no later than August 1 of the year of its submission. FCS approval of the plan of operation shall be based on an assessment that the nutrition assistance program, as defined in the plan of operation, is:

- (1) Sufficient to permit analysis and review;
- (2) Reasonably targeted to the most needy persons as defined in the plan of operation;
- (3) Supported by an assessment of the food and nutrition needs of needy persons;
- (4) Reasonable in terms of the funds requested;
- (5) Structured to include safeguards to prevent fraud, waste, and abuse in the use of grant funds; and
- (6) Consistent with all applicable Federal laws.

(e) FCS shall approve or disapprove any amendments to those provisions of the plan of operation specified in paragraph (b) of this section. If FCS fails either to approve or deny the amendment, or to request additional information within 30 days, the amendment to the plan of operation is approved. If additional information is requested, the Commonwealth of Puerto Rico shall provide this as soon as possible, and FCS shall approve or deny the amendment to the plan of operation. Payment schedules and other program operations may not be altered until an amendment to the plan of operation is approved. The Commonwealth of Puerto Rico shall, for informational purposes, submit to FCS any amendments to those provisions of the plan of operation not specified in paragraph (b) of this section. Such submittal shall be made at least 30 days prior to the effective date

of the amendment. If circumstances warrant a waiver of the 30-day requirement, the Commonwealth of Puerto Rico shall submit a waiver request to FCS for consideration. Should FCS determine that such an amendment relates to the provisions of paragraph (b) of this section, FCS approval as established in this paragraph will be necessary for the amendment to be implemented.

(f) FCS may approve part of any plan of operation or amendment submitted by the Commonwealth of Puerto Rico contingent on appropriate action by the Commonwealth of Puerto Rico with respect to the problem areas in the plan of operation.

(g) If all or part of the plan of operation is disapproved, FCS shall notify the appropriate agency in the Commonwealth of Puerto Rico of the problem area(s) in the plan of operation and the actions necessary to secure approval.

(h) In accordance with the provisions of § 285.5, funds may be withheld or denied when all or part of a plan of operation is disapproved.

§§ 285.4–285.5 [Removed]

11. § 285.4 and § 285.5 are removed.

§ 285.6 [Redesignated as § 285.4]

12. § 285.6 is redesignated § 285.4.

§ 285.7 [Amended]

13. In § 285.7:

- a. The section is redesignated 285.5.
- b. The first sentence of paragraph (a) is amended by removing the citation “§ 285.6” and adding “§ 285.4” in its place.
- c. The first sentence of paragraph (b) is amended by removing the citation “§ 285.6” and adding “§ 285.4” in its place.

§§ 285.8–285.10 [Removed]

14. § 285.8 through § 285.10 are removed.

Dated: January 5, 1996.

Ellen Haas,

Under Secretary for Food, Nutrition, and Consumer Services.

[FR Doc. 96-887 Filed 1-23-96; 8:45 am]

BILLING CODE 3410-30-U

Agricultural Marketing Service

7 CFR Part 985

[FV95-985-5PR]

Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1996-97 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle for, producers during the 1996-97 marketing year. The Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West, recommended this rule for the purpose of avoiding extreme fluctuations in supplies and prices, and thus help to maintain stability in the spearmint oil market.

DATES: Comments must be received by February 23, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, PO Box 96456, Washington, DC 20090-6456. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW., Third Avenue, room 369, Portland, Oregon 97204; telephone: (503) 326-2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-5127

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 985 (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of California, Nevada, Montana, and Utah). This marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-