

published as a final rulemaking because of the initiation of a broader AFDC/food stamp consistency effort. However, in the interest of Program simplification, the Department has decided to repropose the provision. We are proposing, therefore, to amend 7 CFR 273.3 to give State agencies the option of permitting households to live anywhere in the State rather than in the project area in which they apply for benefits.

Comments received on this provision of the proposed Consistency rule were favorable. One commenter did ask, however, that State agencies which continue to require an applicant to apply in a particular project area office be required to forward the application from an "incorrect" office to a "correct" receiving office. The regulations at 7 CFR 273.2(c)(2)(ii) provide that if a household files an application at the incorrect office within a project area, the State agency shall forward the application to the correct office the same day. The application processing timeframes begin when the correct office receives the application. This provision of 273.2(c)(2)(ii) would continue to apply to State agencies which require applicants to apply in a particular project area. We are proposing, however, to add a new paragraph (iii) to 7 CFR 273.2(c)(2) to address application processing timeframes in States which opt to allow Statewide residency. If a State agency does not require that households apply in specified project areas, the application processing timeframes would begin the day the application is received by any office.

The Department is also proposing to make a second amendment to 7 CFR 273.3 to clarify the requirements for transferring food stamp cases between project areas. Several commenters on the Consistency rule requested this clarification. The Department is proposing to amend 7 CFR 273.3 to state that when a household moves within a State, the State agency may either require the household to reapply in the new project area or transfer the case from the previous project area to the new one and continue the household's certification without requiring a new application. If the State agency chooses to transfer the case, it must act on changes in the household circumstances resulting from the move in accordance with 7 CFR 273.12(c) or 7 CFR 273.21. The State agency must also ensure that potential client abuse of case transfers from project area to project area is identifiable through the State agency's system of duplicate participation checks required by 7 CFR 272.4(f). Finally, the

State agency must develop transfer procedures to guarantee that the transfer of a case from one project area to another does not affect the household adversely. These proposed requirements are consistent with the requirements for transferring cases between project areas stated in Policy Interpretation Response System (PIRS) Category 3 Policy Memo 3-91-03 issued December 17, 1990.

#### **Funeral Agreements—7 CFR 273.8(e)(2)**

Regulations at 7 CFR 273.8(e)(2) exclude the value of one burial plot per household member from resource consideration. Questions have arisen concerning the treatment of pre-paid funeral agreements. In the Consistency rule, we proposed to adopt a funeral agreement policy similar to that of the AFDC program. AFDC regulations at 45 CFR 233.20(a)(3)(i)(4) exclude from resource consideration "bona fide funeral agreements (as defined and within limits specified in the State plan) of up to a total of \$1,500 of equity value or a lower limit specified in the State plan for each member of the assistance unit." We proposed in the Consistency rule to amend 7 CFR 273.8(e) to allow for an exemption from resource consideration of up to \$1,500 for bona fide, pre-paid funeral agreements that are accessible to the household. Funeral agreements that are inaccessible to a household were not affected by the proposed rule, as they are excluded from resource consideration under the provisions of 7 CFR 273.8(e)(8).

There were 26 comments on the funeral agreement provision in the proposed rule. Many commenters mistakenly thought that the proposed provision would limit the exclusion of inaccessible funeral agreements to a maximum of \$1,500. Others believed the \$1,500 limit on the exclusion of funds in accessible funeral agreements should be either raised or removed.

In this rule, the Department is again proposing the funeral agreement exclusion. We are retaining the \$1,500 limit on the exclusion in order to remain consistent with AFDC and to lessen the likelihood of abuse of the exemption. Therefore, the Department is proposing to amend 7 CFR 273.8(e)(2) to exclude as a resource the value of one bona fide funeral agreement up to \$1,500 in equity value per household member.

#### **Determining Income—7 CFR 273.10(c)(2)**

Current regulations at 7 CFR 273.10(c)(2)(iii) provide that households receiving Federal assistance payments (PA) or State general assistance (GA), Supplemental Security Income (SSI), or

Old-Age, Survivors, and Disability Insurance (OASDI) benefits on a recurring monthly basis shall not have their monthly income from these sources varied merely because mailing cycles may cause two payments to be received in one month and none in the next month.

There are other instances in which a household may receive a disproportionate share of a regular stream of income in a particular month. For example, an employer may issue checks early because the normal payday falls on a weekend or holiday. We have granted waivers to several State agencies to allow income such as State employment checks received monthly or twice a month to be counted in the month the income is intended to cover rather than the month in which it is received.

We are proposing to amend 7 CFR 273.10(c)(2)(iii) to specify that income received monthly or semimonthly (twice a month, not every two weeks) shall be counted in the month it is intended to cover rather than the month in which it is received when an extra check is received in one month because of changes in pay dates for reasons such as weekends or holidays.

#### **Contract Income—7 CFR 273.10(c)(3)(ii)**

Section 5(f)(1)(A) of the Food Stamp Act, 7 U.S.C. 2014(f)(1)(A), provides that households which derive their annual income (income intended to meet the household's needs for the whole year) from contract or self-employment shall have the income averaged over 12 months. Current regulations at 273.10(c)(3)(ii) implement this provision of the Act, stating that "[h]ouseholds which, by contract or self-employment, derive their annual income in a period of time shorter than 1 year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piecework basis." The regulations at 7 CFR 273.11(a)(1)(iii) address how self-employment income which is not a household's annual income and is intended to meet the household's needs for only part of the year should be handled. 7 CFR 273.11(a)(1)(iii) provides that "[s]elf-employment income which is intended to meet the household's needs for only part of the year shall be averaged over the period of time the income is intended to cover." The regulations, however, fail to specify how contract income which is not a household's annual income and is intended to meet the household's needs for only part of the year should be handled. This omission in the regulations has been