

## FINAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

The Invitation to Partner (ITP) is the compilation of requirements for the Electronic Benefit Transfer (EBT) system in California. The requirements of the ITP are the practical application of the direction received from state and federal law, state policy, industry standards and multiple stakeholder input. It is the culmination of extensive research and years of work that has involved the participation and input from multiple state agencies and departments, counties, retailers, client advocates and other stakeholders. The ITP reflects almost all of the EBT policy decisions developed by the California Department of Social Services (CDSS), and has been reviewed and approved by the EBT Committee as required by the Welfare and Institution Code Sections 10068 and 10069. Further, the ITP is an integral part of the contract between the state and contractor; thus the contractor is contractually obligated to meet ITP requirements.

The document commonly referred to as the "contract" is actually comprised of numerous separate documents. The document entitled "Electronic Benefit Transfer Contract" is the negotiated terms and conditions (NTC). This document contains the terms for the legal relationships between the parties and defines how the other documents comprising the contract interplay with the NTC. While the NTC defines the legal relationship, the ITP contains the contractor's responsibilities related to and the requirements for the EBT system. Together, these two documents, along with the contractor's proposal (which is not used as a basis for these regulations) and accepted deliverables, comprise the EBT contract; therefore, each of these documents is part of the overall contract and is therefore legally binding and enforceable.

Division 16 and Chapter 16-000Specific Purpose/Factual Basis:

Division 16 is being adopted to provide the requirements of the statewide EBT system. Chapter 16-000 is being adopted to provide a location within the EBT regulations for general information about the EBT system. These adoptions are necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Section 16-001Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for general system information. This adoption is necessary to implement a statewide EBT system as

required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Handbook Section 16-001.1 et seq.

Specific Purpose:

This handbook section is being adopted to provide general EBT system information. California's EBT system is an on-line issuance system. The benefits are stored in a central computer database. A cardholder will access the benefit account by using a magnetic stripe plastic card at point-of-sale (POS) terminal, automated teller machine (ATM) and other electronic fund transfer devices that will accept the EBT card.

Factual Basis:

This handbook section provides a general description of the statewide EBT system as an on-line issuance system as provided in 7 CFR 274.12(a), finalized April 1, 1992. Cardholders will access benefits in ATMs, POS, and other devices as contained in Welfare and Institutions Code Section 10072(c). The magnetic stripe plastic benefit card is used to access benefits in the EBT account as provided in California EBT ITP Section 6.7.

Handbook Sections 16-001.11 and .12

Specific Purpose:

These handbook sections are being adopted to provide a general description of an EBT issuance system. In general the process involves: 1) transmitting benefit information into a central computer account and 2) issuance of the magnetic stripe plastic EBT card to access food stamp benefits and cash benefits (if the county chooses to offer cash benefits via the EBT system) in place of the recipient receiving food stamp coupons or a public assistance payment.

Factual Basis:

These handbook sections are necessary to provide a general overview of an on-line EBT system as provided in 7 CFR 274.12(a), finalized April 1, 1992. This handbook includes the use of an EBT card for food stamp and cash benefit access as provided in Welfare and Institutions Code Section 10069.

Handbook Section 16-001.13 et seq.

Specific Purpose:

This handbook section is being adopted to provide general description of the on-line EBT system when the cardholder uses the EBT card to make a purchase transaction: 1) on-line connection to the central processor, 2) verification of the personal identification number (PIN), card number and the benefit amount in the EBT account, 3) authorization of the

purchase, and 4) debiting from the recipient's EBT account and crediting the retailer's account. The transaction is completed with the transmitting of information to maintain transaction history and by providing the cardholder with a receipt for the purchase.

Factual Basis:

This handbook section is necessary to provide a general overview of a transaction using an on-line EBT system as provided in 7 CFR 274.12(a), finalized April 1, 1992. This section continues to describe the transaction by including transaction information for up-to-the-minute information regarding cash and food stamp account balances and transaction history as required in California EBT ITP Section 6.5.2. Also, the cardholder will receive a receipt after a purchase transaction as provided in 7 CFR 274.12(g)(3) and California EBT ITP Section 6.10.6.

Section 16-001.2 et seq.

Specific Purpose:

This section is being adopted to require the implementation of the EBT system for the issuance of food stamp benefits for the Food Stamp Program and the California Food Assistance Program.

Factual Basis:

This section is necessary to implement the issuance of food stamp benefits using a statewide EBT system as required in 7 CFR 274.12(a) and Welfare and Institutions Code Section 10069.

Section 16-001.3 et seq.

Specific Purpose:

This section is being adopted to allow use of the EBT system for CalWORKs benefits at county election and other benefits with CDSS approval.

Factual Basis:

The county may elect to issue CalWORKs benefits and other benefit programs using the EBT system as provided in Welfare and Institutions Code Section 10069.

#### Section 16-001.4

##### Specific Purpose:

This section is being adopted to require that when the statewide EBT system is operational, the CWD must implement State EBT regulations.

##### Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Sections 10069, 10075.5, and 10077.

#### Section 16-003

##### Specific Purpose:

This section is adopted to provide a location within the EBT regulations for general information and to identify the county's obligation to comply with all civil rights laws, rules, and regulations when administering these regulations.

##### Factual Basis:

This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077 and for compliance with civil rights laws in the administration of social service programs as required by Government Code Sections 11135 through 11139.5.

#### Section 16-005

##### Specific Purpose:

This section is being adopted to provide the user with a general understanding of terms used in these regulations. The regulations will be used by a variety of people who may not be familiar with terms used in social service programs and terms specific to the California EBT system and processes.

#### Section 16-005(a)(1)

##### Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 2. "EBT" is added to make the definition specific for the EBT regulations.

Section 16-005(a)(2)

Factual Basis:

This section is necessary to conform with California EBT ITP Section 6.3.1.

Section 16-005(a)(3)

Factual Basis:

This section is necessary to conform with MPP Section 80-301a.(9).

Section 16-005(a)(4)

Factual Basis:

This section is necessary to conform with MPP Sections 63-402.61 through .613 and California EBT ITP Appendix B, Page 2. The reference to using coupons is deleted because the term "benefits" includes all food stamp issuance methods.

Section 16-005(a)(5)

Factual Basis:

This section is necessary to conform with EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Glossary, Page 26.

Section 16-005(a)(6)

Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 2. The phrase "computer peripheral" is being replaced by "automated" to use a more familiar term. The phrase, "numerous functions" is being added to reflect the expanded use of the ARU in the EBT system since the initial release of the ITP document.

Section 16-005(a)(7)

Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 2, which is modified to more accurately reflect ATM use for cash EBT. The term "banking transactions" is used in place of listing specific banking transactions; some of which are not appropriate cash EBT transactions.

### Section 16-005(a)(8)

#### Factual Basis:

This section is necessary to define the date benefits become available to a recipient. This date also functions as the cut-off date for counties to make an adjustment to a recipient's account. This section is also necessary to conform with the California EBT Settlement and Reconciliation Guide, Glossary. The term "client" is being replaced by "recipient" and "cardholder" since those are the terms used in these regulations.

### Section 16-005(b)(1)

#### Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 2.

### Section 16-005(b)(2)

#### Factual Basis:

This section is necessary to identify a type of computer interface that may be used by the CWD to interact with the EBT host and to conform with the California EBT Settlement and Reconciliation Guide, Glossary, and California EBT ITP Section 6.3.1.

#### Final Modification:

This section is revised to delete the word "footer" and insert the word "trailer," in accordance with California EBT Interface Document (page 15). At Department discretion, Section 16-005(b)(2) is amended to use the word "trailer" in place of "footer" as part of a record transmitted to the EBT system. Although the term "footer" is used in the California EBT ITP, for accuracy and consistency it is necessary to use the terminology used by the EBT Contractor.

### Section 16-005(b)(3)

#### Factual Basis:

This section is necessary to conform with the California EBT Settlement and Reconciliation Guide, Glossary.

Section 16-005(c)(1)

Factual Basis:

This section is necessary to conform with the Clarification for the FNS-46 Issuance Reconciliation Report from the United States Department of Agriculture Food and Nutrition Service, effective beginning with the Fiscal Year 2000 FNS-46 reporting periods, Page 8.

Section 16-005(c)(2) (Post-Hearing Modification -- New.)

Factual Basis:

In response to testimony, Section 16-005(c) is being amended to include the definition for "card authentication value" as provided by the Quest Operating Rules, Definitions Chapter, Page 2. Existing Sections 16-005(c)(2) through (6) are being renumbered to accommodate inclusion of the new Section 16-005(c)(2).

Section 16-005(c)(2) (Renumbered to Section 16-005(c)(3).)

Factual Basis:

This section is necessary to conform with the Quest Operating Rules, Definitions Chapter, Page 2. Additionally, for a more complete description, information for the statewide EBT system is provided to specify individuals who have access to an EBT account as allowed in Welfare and Institutions Code Section 10072(e).

Final Modification:

Existing Sections 16-005(c)(2) through (6) are being renumbered to Sections 16-005(c)(3) through (7). The renumbering is necessary to accommodate inclusion of the new Section 16-005(c)(2).

Section 16-005(c)(3) (Renumbered to Section 16-005(c)(4).)

Factual Basis:

This section is necessary to conform with MPP Section 80-301c.(1).

Final Modification:

Existing Sections 16-005(c)(2) through (6) are being renumbered to Sections 16-005(c)(3) through (7). The renumbering is necessary to accommodate inclusion of the new Section 16-005(c)(2).

Section 16-005(c)(4) (Renumbered to Section 16-005(c)(5).)

Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 2.

Final Modification:

Existing Sections 16-005(c)(2) through (6) are being renumbered to Sections 16-005(c)(3) through (7). The renumbering is necessary to accommodate inclusion of the new Section 16-005(c)(2).

Section 16-005(c)(5) (Renumbered to Section 16-005(c)(6).)

Factual Basis:

This section is necessary to implement Welfare and Institutions Code Section 10069 by defining the other types of benefits that the EBT system is capable of delivering.

Final Modification:

Existing Sections 16-005(c)(2) through (6) are being renumbered to Sections 16-005(c)(3) through (7). The renumbering is necessary to accommodate inclusion of the new Section 16-005(c)(2).

Section 16-005(c)(6) (Renumbered to Section 16-005(c)(7).)

Factual Basis:

This section is necessary to define a type of transaction available to cardholders and conform with California EBT ITP Section 6.6.2.2.3.

Final Modification:

Existing Sections 16-005(c)(2) through (6) are being renumbered to Sections 16-005(c)(3) through (7). The renumbering is necessary to accommodate inclusion of the new Section 16-005(c)(2).

Section 16-005(d)(1)

Factual Basis:

This section is necessary to provide a definition of who outside of the members of the assistance unit may be issued an EBT card for access to cash benefits. The definition was developed as the result of discussions with county representatives and CDSS program and legal staff.



Final Modification:

This sections is being amended to add the acronym "DAC" for clarity.

Section 16-005(d)(2)

Factual Basis:

This section is necessary to provide a definition of the term "Doctor or Medical Licensed Practitioner" as used in Section 16-325.321(a). This definition was developed by combining the definition of "Medical Licensed Practitioner" at MPP Section 63-102m.(5) in the California Food Stamp Program regulations with the definition of the term "Doctor" at MPP Section 42-701(d)(2) in the California CalWORKs regulations. MPP Section 63-102m.(5) references to "midwives" and "home administrators and registry" are being deleted because they are not applicable to the requirements in Section 16-325.321(a).

Section 16-005(d)(3) (Post-Hearing Modification -- New.)

Factual Basis:

In response to testimony, Section 16-005(d) is being amended to include the term "Dormant Account." The revision is necessary to conform with California EBT Requirements Validation Document, dated November 15, 2001, Section II, Item 3.0.

Section 16-005(e)(1)

Factual Basis:

This section is necessary to conform with the Quest Operating Rules, Definitions Chapter, Page 3.

Section 16-005(e)(2)

Factual Basis:

This section is necessary to conform with the Quest Operating Rules, Definitions Chapter, Page 2. "EBT" is added to specify that the card is used in the EBT system. The phrase "these Rules" is being amended to "Chapter 16-500" to be specific to these EBT regulations.

Section 16-005(e)(3)

Factual Basis:

This section is necessary to conform with the California EBT ITP, Appendix B, Page 4, Prime Contractor. The term "EBT Contractor" is used instead of the term "prime

contractor" because, in this case, the State's contracted work is for the EBT system. For the purposes of these regulations it is a more easily identifiable term for the reader.

Section 16-005(e)(4)

Factual Basis:

This definition of the EBT host is derived from EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Glossary, Page 27, definition of the term "central computer -- The processor's EBT system, also referred to as the Host." The California EBT system uses the term "EBT host" in place of "central computer" because it specifies that the term relates to an EBT system. The additional information is an abbreviated description of the EBT system as it relates to the EBT functional requirements set forth in 7 CFR 274.12(f). These two federal sources provide a more complete description.

Section 16-005(e)(5)

Factual Basis:

This section provides a generic term encompassing the three types of interfaces that may be used to connect a CWD to the EBT host and is necessary to conform with California EBT ITP Section 6.3.1.

Section 16-005(e)(6) (Post-Hearing Modification -- New.)

Factual Basis:

In response to testimony, Section 16-005(e) is being amended to include the term "Expunged Account." This section is necessary to conform with California EBT Requirements Validation Document, dated November 15, 2001, Section II, Item 3.0.

Section 16-005(f)(1)

Factual Basis:

This section is necessary to provide a definition of an FNS authorized retailer. The definition combines the definition of a retail food store as provided in the 7 CFR 271.2 "retail food store" and the FNS approval that is necessary for the firm (retail food store) to receive in order to accept and redeem food stamp benefits provided in 7 CFR 278.1(j).

Section 16-005(f)(2)

Factual Basis:

This is necessary to conform with California EBT ITP Appendix B, Page 2. Additional information regarding FNS and the Food Stamp Program conforms with 7 CFR 271.3.

Section 16-005(f)(3)

Factual Basis:

This section is necessary to conform with the Quest Operating Rules, Definition Chapter, Page 3. The phrase "at a POS terminal" is being deleted to accommodate manual voucher transactions.

Section 16-005(f)(4)

Factual Basis:

This section is necessary to conform with 7 CFR 271.1(a).

Section 16-005(f)(5)

Factual Basis:

This section is necessary to conform with the Quest Operating Rules, Definitions Chapter, Page 3. The phrase "at a POS terminal" is being deleted to accommodate manual voucher transactions. Since the term "retailer" is more commonly used in existing Food Stamp regulations, the term "merchant" is being replaced with "retailer."

Section 16-005(h)(1)

Factual Basis:

This section is necessary to identify a type of computer interface that may be used by the CWD to interact with the EBT host and to conform with California EBT ITP Section 6.3.1.

Section 16-005(i)(1)

Factual Basis:

This section is necessary to conform with the Quest Operating Rules, Definitions Chapter, Page 4. Further explanation of the term is contained in California EBT ITP Section 4.4.

Section 16-005(i)(2)

Factual Basis:

This section is necessary to conform with the Quest Operating Rules, Definitions Chapter, Page 4 and the California EBT Settlement Resettlement Guide, Glossary.

Section 16-005(m)(1)

Factual Basis:

This section is necessary to conform with the Quest Operating Rules, Definition Chapter, Page 4. "EBT" is added to make the definition specific for the EBT regulations.

Section 16-005(m)(2)

Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 4.

Section 16-005(n)(1)

Factual Basis:

This section is necessary to conform with 7 CFR 274.12(k)(1)(v) and the EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Page 19 [7 CFR 274.12(j)(1), subsequently renumbered to 7 CFR 274.12(k)(1)].

Section 16-005(o)(1)

Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 4. For the statewide EBT system, the specific term "EBT host" is used in place of central data base.

Section 16-005(o)(2)

Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 4. For the statewide EBT system, the specific term "EBT host" is used in place of central data base.

Section 16-005(p)(1)

Factual Basis:

This section is necessary to conform with the Quest Operating Rules, Definition Chapter, Page 5. The definition was shortened to accommodate transactions that are initiated without a card, such as manual vouchers.

Section 16-005(p)(2)

Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 4.

Section 16-005(p)(3)

Factual Basis:

This section is necessary to conform with the Quest Operating Rules, Definition Chapter, Page 5.

Section 16-005(r)(1)

Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 4. The word "truncated" is being added because the entire PAN will not appear on the receipt. "ATM" is being added because cardholders can access cash accounts at ATMs. The ITP definition does not contain ATM because many ATM receipts will not contain all the elements required by the ITP definition. "Balance remaining" is being deleted because many ATMs are not capable of printing the balance.

Section 16-005(r)(2)

Factual Basis:

This section is necessary to implement the NTC Section 4.8 (Settlement and Reconciliation) which requires that the EBT Contractor provide settlement information to each county on EBT transactions and 8.3.2 (Operating Rules) which specifies that the Quest Rules shall be the governing rules for EBT transactions. This section is in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.1 (End of Day Cut-off and Processing), Section 6.2 (Settlement Payments), and Section 6.3 (Government Reimbursement).

### Section 16-005(r)(3)

#### Factual Basis:

This section is necessary to implement 7 CFR 274.12(i)(3)(iii)(C) which specifies how to handle reversals (rejects) that are not fully processed and recorded in the contractor's EBT system. In addition, this section is necessary to implement Interface Document Section 2.0 (Processing Rules) which specifies how files sent to the contractor can be rejected and the error codes listed on the return files to the counties and Appendix A: Page 21 (Return File Processing).

### Section 16-005(s)(1)

#### Factual Basis:

This section is necessary to implement the NTC Sections 4.8 (Settlement and Reconciliation) and 8.3.2 (Operating Rules) which require that the EBT Contractor provide settlement information to each county on EBT transactions. This section is in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.1 (End of Day Cut-off and Processing), Section 6.2 (Settlement Payments), and Section 6.3 (Government Reimbursement).

### Section 16-005(s)(2)

#### Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 5. The terms "POS" and "ATM" used to describe the type of terminal were added to specify the types of terminals used in EBT transactions.

### Section 16-005(t)(1)

#### Factual Basis:

This section is necessary to conform with California EBT ITP Appendix B, Page 5. A more generic term "entity" is used in place of "company" to broaden the description of a third party processor.

### Section 16-005(t)(2)

#### Factual Basis:

This section is necessary to conform with 7 CFR 271.2. The phrase "for coupons" is being revised to "for food stamp benefits" to allow for the inclusion of the delivery of benefits by methods other than through coupon issuance.

### Section 16-005(t)(3)

Factual Basis:

This section is necessary to be consistent with the EBT Settlement and Reconciliation Guide, Flow of Information, Page 11.

Section 16-005(u)(1)

Factual Basis:

This section is necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Page 10 [7 CFR 274.12(j)(1)(i), renumbered 7 CFR 274.12(k)(1)(i)].

Section 16-005(v)(1)

Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(4)(i) and (i)(3)(iii)(A) which specify how messages sent to the contractor can be adjusted and voided as specified in the system design. This section is also necessary to implement Interface Document, Section 1.0 (Operational Functions), Section 1.1 (Batch Interface), Section 1.2 (Host-to-Host Interface) Section 1.3 (Administrative Terminal Interface), Appendix A: Page 33 (Benefit Header Record) which specifies how the counties can void a benefit that has been posted to the contractor's EBT system, and Appendix B: Page 93 (Benefit Add/Void Request Message) which specifies how a county can void a pending benefit that has not yet reached its availability.

Section 16-007 (Post-Hearing Modification)

Specific Purpose:

This section and handbook section are being adopted to create a section whereby forms used in the Electronic Benefit Transfer System regulations can be incorporated by reference and to incorporate by reference the forms required by this regulations package.

Factual Basis:

This section is necessary to incorporate by reference, pursuant to the California Code of Regulations, Title 1, Chapter 1, Section 20, the necessary forms. These forms are not printed in CDSS' Manual of Policies and Procedures because it would be cumbersome and impractical. However, these forms are readily available to the users from CDSS.

## Section 16-010

### Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for county interface and administrative transactions requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

## Section 16-010.1 et seq.

### Specific Purpose:

Section 16-010.1 is being adopted to require the CWD to transmit and receive information with the EBT system using the interface methods described. The three types of interface methods are standard batch eligibility interface, standard host-to-host eligibility interface and administrative terminal interface.

### Factual Basis:

The section is necessary to require the CWD eligibility system to interface with the EBT system for the purpose of transmitting and receiving information to meet the functional requirements contained in 7 CFR 274.12(f) and as provided in California EBT ITP Section 6.3.1. The CWD is required to use one or more of the three interface methods described in California EBT ITP Section 6.3.1.

## Section 16-010.2 et seq.

### Specific Purpose:

This section is being adopted to specify some of the administrative transactions that will be transmitted using the eligibility system interface.

### Factual Basis:

This section is necessary to require the administrative transactions as provided in California EBT ITP Sections 6.4 and 6.6.2.5. The item listed in ITP Section 6.6.2.5 as "Debit a food stamp or cash account to pay a replacement card fee" is not included because California EBT ITP Section 6.8.4.1, states that replacement fees will not be imposed.

## Section 16-015

### Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for EBT security information. This adoption is necessary to implement a statewide EBT system as



required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

#### Handbook Sections 16-015.1 and .2

##### Specific Purpose:

Handbook Sections 16-015.1 and .2 are to identify and recommend areas of EBT system security.

##### Factual Basis:

These handbook sections are necessary to comply with 7 CFR 274.12(f)(1)(ix) and (x), and 7 CFR 274.12(i)(3).

#### Chapter 16-100

##### Specific Purpose/Factual Basis:

This chapter is being adopted to provide a location within the EBT regulations for EBT account requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

#### Section 16-105

##### Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for EBT account setup requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and (f)(1)(iii) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

#### Sections 16-105.1 and .2

##### Specific Purpose:

Sections 16-105.1 and .2 are being adopted to require CWDs to provide the EBT Contractor with account setup information and to require the CWD to transmit batch files within a specific time frame.

##### Factual Basis:

These sections are necessary to comply with California EBT ITP Section 6.4 which requires account setup information to be provided to the EBT Contractor by the CWD via the standard EBT interface to meet benefit availability time frames.

Final Modification:

At Department discretion, Section 16-105.2 is being amended. Section 16-105.2 makes reference to Section 16-215.1, which is being deleted, and Section 16-215.2, which is being moved to other sections in the regulations. Therefore, Section 16-105.2 is being amended to remove these references and instead direct the CWD to transmit batch files as directed by system interface time frames. This amendment is consistent with California EBT ITP Section 6.4.

Section 16-105.3 (Post-Hearing Modification – New.)

Specific Purpose:

This section is being adopted to require the CWD to use on-line processing to transmit data to establish an account for an emergency/urgent case. This concept was originally provided in Section 16-215.2.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(8) and California EBT ITP Section 6.4.

Section 16-105.3 et seq. (Renumbered to Section 16-105.4 et seq.)

Specific Purpose:

This section is being adopted to specify recipient case data for the account setup.

Factual Basis:

This section is necessary to comply with California EBT ITP Section 6.4.2. In Section 16-105.34, "corresponding 000s if a recipient does not have an SSN" is being added after "Social Security Number (SSN)" for those clients without an SSN to have a data entry for the SSN.

Final Modification:

Section 16-105.3 et seq. is being renumbered to Section 16-105.4 et seq. to accommodate the adoption of a new Section 16-105.3.

Section 16-105.4 et seq. (Renumbered to Section 16-105.5 et seq.)

Specific Purpose:

This section is being adopted to include inter-county recipient moves in account setup situations. Although the recipient has a case in the previous county, upon moving to a new county, the CWD shall establish a new account for the recipient if program eligible. A cross-reference is being adopted to provide additional regulations concerning inter-county recipient moves.

Factual Basis:

This section is necessary to comply with California EBT ITP Section 6.8.7 which requires that in the event a recipient moves from one county to another and establishes eligibility, the recipient shall have a new EBT account established in the new county. This section is also necessary to comply with Welfare and Institutions Code Section 10072(a) which requires an EBT system that is interoperable.

Final Modification:

Section 16-105.3 et seq. is being renumbered to Section 16-105.4 et seq. to accommodate the adoption of a new Section 16-105.3. The cross-reference to Section 16-510.4 is being amended to Section 16-510.3 to reflect post-hearing renumbering changes to Section 16-510.

Section 16-105.5 (Renumbered to Section 16-105.4 et seq.)

Specific Purpose:

This section is being adopted to require the CWD to transmit account setup data to the EBT system prior to the issuance of the EBT card, except in expedited issuance cases.

Factual Basis:

This section is necessary to comply with California EBT ITP Section 6.4.2 which requires the transmission of account setup data prior to card issuance in all cases, except expedited issuance cases.

Final Modification:

Section 16-105.3 et seq. is being renumbered to Section 16-105.4 et seq. to accommodate the adoption of a new Section 16-105.3.

## Section 16-120

### Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for aging EBT account and benefit expungement requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and (g)(7), and Welfare and Institutions Code Sections 10065, 10069, and 10077.

## Section 16-120.1

### Specific Purpose:

Section 16-120.1 is being adopted to specify that consistent terms are used to describe the status of an aging account as inactive, dormant, or expunged.

### Factual Basis:

This section is necessary to comply with federal requirements on stale account handling in 7 CFR 274.12(g)(7). This section is also necessary for consistency and to comply with the terms used to describe an aged account as set forth in California EBT Requirements Validation Document, dated November 15, 2001, Section II, Item 3.0.

## Section 16-120.11 et seq.

### Specific Purpose:

This section is being adopted to describe inactive account status as an account which has not had any debit activity for 45 days. Whether the CWD becomes aware of the inactive account as a result of the EBT Contractor-produced report or by some other means, the CWD must send a notice to the recipient informing the recipient that the benefits will become inaccessible after a total of 90 days and inform the recipient of how to reaccess those benefits.

### Factual Basis:

This section is necessary to implement the requirements of an inactive account status, as set forth in California EBT Requirements Validation Document, dated November 15, 2001, Section II, Item 3.0. The EBT Contractor will provide the CWD with a monthly report to identify inactive accounts as contained in California EBT ITP Section 6.5.6.2. ITP Section 6.5.6.2 has been amended by Work Authorization No. 3, which eliminated the 60-day report and, instead, the recipient will be notified at the 45-day report time frame about the inaccessibility of the benefits after a total of 90 days and how to reaccess those benefits. This action satisfies 7 CFR 274.12(g)(7)(i)(A) which requires that benefits be made available after recipient reapplication or re-contact. This section is also necessary to comply with 7 CFR 274.12(g)(7)(i)(B) that requires an attempt be made to contact the recipient before the benefits are stored off-line. This section also includes the Client

Advocate Advisory Group recommendation that the CWD notify the recipient of the inactive account status and take the appropriate action regardless of how the CWD becomes aware of the situation.

Section 16-120.12 et seq.

Specific Purpose:

This section is being adopted to describe dormant account status as an account for which there has been no debit activity for 90 days. The section provides that the CWD will receive a report identifying accounts that are dormant and that the recipient must contact the CWD in order to access the account benefits or upon the recipient's reapplication. This section directs the CWD to use the administrative terminal or host-to-host interface to reinstate benefit availability upon recipient contact or recipient's reapplication. The benefits shall be accessible to the recipient within 24 hours after the CWD request to the EBT system.

Factual Basis:

This section is necessary to implement the requirements of dormant accounts, as set forth in the California EBT Requirements Validation Document, dated November 15, 2001, Section II, Item 3.0. Also, this section is necessary to comply with 7 CFR 274.12(g)(7)(i) which specifies that a state may move benefits off-line after three months or longer. California Approved Waiver Request #980070 for 7 CFR 274.12(f)(7) [subsequently renumbered to 7 CFR 274.12(g)(7)] was approved for the State to use 90 days instead of three months. The EBT Contractor will provide the CWD with a 90-day dormant account report as contained in Work Authorization No. 3 to the California EBT ITP. This section is necessary to comply with 7 CFR 274.12(g)(7)(i)(A) which requires the benefits be made available after recipient reapplication or re-contact. California EBT ITP Section 6.5.6.3 contains the requirement that the benefits be available to the recipient within 24 hours of the county's reinstatement request via the on-line interface.

Final Modification:

In response to testimony, Section 16-120.122 is being amended to clarify that the CWD can use the batch interface to reinstate benefits when the account is in dormant status. This is in conformity with the California EBT Requirements Validation Document, dated November 15, 2001, Section II, Item 3.0.

Section 16-120.13

Specific Purpose:

This section is being adopted to provide that benefits that have been available in an account for a total of 270 days or more without debit activity will be expunged from the EBT host. An expungement report, which includes the benefits expunged and the remaining account balance, will be provided to the CWD.

Factual Basis:

This section is necessary to conform with the term "expunged" as set forth in the California EBT Requirements Validation Document, dated November 15, 2001, Section II, Item 3.0. This section is necessary to comply with 7 CFR 274.12.(g)(7)(ii) which requires the expungement of food stamp benefits after one year. FNS letter to EBT Coordinators, FS-9-5-1/EBT GEN, dated September 28, 1998 clarifies benefit expungement. This FNS letter specifies that benefits which have been accessible to the household for the full year (or if the State has a waiver shortening the intended period of use) are the only benefits to be expunged. California Approved Waiver Request #980071 for 7 CFR 274.12(f)(7) [subsequently renumbered to 7 CFR 274.12(g)(7)] allows benefits to be expunged after 180 days of off-line storage. California EBT ITP Section 6.5.6.4 specifies that benefits be available for the full duration of 90 days on-line and 180 days off-line, a total of 270 days, before the benefits are expunged. California EBT ITP Section 6.5.6.4 also specifies that the EBT Contractor will provide the CWD an expunged account report that includes the benefits expunged and the remaining account balance.

Section 16-120.131

Specific Purpose:

This section is being adopted because expunged food stamp benefits will not be reinstated to the recipient.

Factual Basis:

This section is necessary to comply with Preamble of the final rules and regulations Federal Register, Vol. 57, No. 63, April 1, 1992, p. 11232, left column, regarding stale benefits.

Section 16-120.132

Specific Purpose:

This section is being adopted to require the CWD to report expunged benefits according to the federal monthly issuance reporting requirements.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(7)(ii).

### Section 16-120.133

#### Specific Purpose:

This section is being adopted to require the CWD to maintain an accounting of expunged cash benefits and to reissue those cash benefits upon recipient request. It distinguishes the difference in the treatment between food stamp EBT benefits and cash EBT benefits.

#### Factual Basis:

CalWORKs grants that are made available on the EBT system, but not used by the recipient may be taken off-line on the same time frame as food stamp benefits. However, the cash grant balance may not be expunged as the food stamp balance is permitted to be. California law does not currently provide a termination date for cash aid, and establishing such a date must be done legislatively, rather than through regulations, since the current underpayment rules at Welfare and Institutions Code Section 11004(k) could require the State to reinstate any benefits owed which were not used.

#### Final Modification:

At the Department's discretion, Section 16-120.133 is being amended to use the terms "recontact or reapplication" in place of "request." This language is consistent with the terms used in Section 16-120.121 which also provides for recipient access to benefits.

Additionally, in response to testimony, Section 16-120.133 is being amended to include the reissuance of expunged cash benefits as soon as practicable, but in no event more than 30 calendar days after receipt of the recipient recontact or reapplication. Discussions with representatives from the CWDA indicate that expunged cash program benefits can be made available to recipients as soon as practicable, but in all cases within 30 days of recontact or reapplication.

### Handbook Section 16-120.134

#### Specific Purpose:

This handbook section is being adopted to inform the CWD that the EBT Contractor will expunge benefits on a daily basis.

#### Factual Basis:

Benefits must be available for the full availability period before expungement as contained in FNS letter to EBT Coordinators, FS 9-5-1/EBT GEN, dated September 28, 1998. In California, the availability period is 270 days. The EBT Contractor will expunge benefits monthly from an account as contained in California EBT ITP Section 6.5.6.4. However, to more accurately describe the EBT system activity, benefits are expunged on a daily basis.

### Section 16-120.2

Specific Purpose:

This section is being adopted to require the CWD to expunge food stamp benefits that remain in the household's EBT account one week after conversion from food stamp electronic benefits to food stamp coupons.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(6)(vi).

Section 16-130

Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for account balance and transaction history requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and (g)(2), and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Sections 16-130.1 and .4 and Handbook Sections 16-130.2 et seq. and .3

Specific Purpose:

Section 16-130.1 is being adopted to specify the availability of recipient account balances and transaction history data to the CWD through the administrative terminal. The handbook sections are being added to provide some of the transaction history information and the duration the history is to be maintained. Section 16-130.4 is being adopted to specify that the EBT system will retrieve the history data within five business days after the CWD request.

Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(2) which requires that the EBT system provide transaction history. California EBT ITP Section 6.5.2 establishes that the CWD can access transaction history through the administrative terminal. ITP Section 6.5.2 also provides the minimum transaction history information, the duration for which the history is maintained and the retrieval time frames.



Section 16-130.5 et seq.

Specific Purpose:

This section is being adopted to require the CWD to assist the cardholder in obtaining their transaction history by directing them to use the ARU or to call the Customer Service Center. The cardholder will receive a two-month transaction history within five business days.

Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(2) and California EBT ITP Section 6.5.2.

Chapter 16-200 and Section 16-201

Specific Purpose/Factual Basis:

This chapter is being adopted to provide a location within the EBT regulations for EBT benefit requirements. This section is being adopted to provide a location within the EBT regulations for benefit authorization requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and (f)(1)(vi), and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Section 16-201.1 et seq. and Handbook Section 16-201.111

Specific Purpose:

Sections 16-201.1 and .11 are being adopted to require that at least once a month, the CWD transmit ongoing case benefit authorization records to the EBT Contractor. Handbook Section 16-201.111 clarifies that although the benefit authorization files are transmitted at one time, the benefits are available to the recipient according to the recipient's benefit availability date. Section 16-201.12 is being adopted to require that benefit authorization for new accounts, and supplements and corrective underpayments for existing accounts are transmitted at least once daily.

Factual Basis:

These sections are necessary to comply with 7 CFR 274.12(f)(1)(vi) which requires authorizing benefit delivery. Also, Section 16-201.1 is necessary to comply with California EBT ITP Section 6.4.3 which requires the transmission of benefit authorization files. California EBT ITP Section 6.4.3.1 provides clarification between the monthly authorization file transmission and the actual benefit availability date of the recipient in the handbook section. ITP Section 6.4.3.1 provides for at least daily transmission of benefit authorization for new accounts and supplements (i.e., underpayments). CalWORKs uses the term "underpayments" as a type of supplement.

Section 16-201.2 (Post-Hearing Modification – New.)

Specific Purpose:

This section is being adopted to require the CWD to use on-line processing to transmit benefit authorization data for an emergency/urgent case. This concept was originally provided in Section 16-215.2.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(8) and California EBT ITP Section 6.4.

Section 16-201.2 et seq. (Renumbered to Section 16-201.3 et seq.)

Specific Purpose:

This section is being adopted to specify the benefit authorization data fields.

Factual Basis:

This section is necessary to meet the requirement of California EBT ITP Section 6.4.3 that lists the authorization data fields the CWD will use.

Final Modification:

This section is being renumbered from Section 16-201.2 et seq. to Section 16-201.3 et seq. to accommodate inclusion of a new Section 16-201.2.

Section 16-215

Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for benefit availability requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Final Modification:

At the Department's discretion, Section 16-215 is being reorganized for the purpose of clarity.

Section 16-215.1 and Handbook Section 16-215.11 (Repealed)

Specific Purpose:

Section 16-215.1 is being adopted to require EBT benefit availability meet program requirements. The handbook section provides an example of the Food Stamp Program expedited service issuance time frame.

Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(8) which requires states to comply with expedited service benefit delivery and normal application processing standards. The handbook section complies with MPP Section 63-301.531.

Final Modification:

At the Department's discretion Section 16-215.1 is being deleted for consistency and clarity. The reference to existing program benefit time frames conflicts with the required EBT benefit stagger for food stamp and cash benefits. The amended regulations in renumbered Sections 16-215.3 and .4 remedy this by specifying the application to ongoing cases. Counties continue to apply program regulations, such as eligibility determination and application processing; EBT impacts benefit issuance. Therefore, reference to application processing cited in Handbook Section 16-215.11 is unnecessary in this section and is also being deleted.

Section 16-215.2 et seq. and Handbook Section 16-215.22 (Repealed)

Specific Purpose:

Section 16-215.2 is being adopted to require that for emergency cases, such as expedited service and immediate need cases, the CWD use a standard interface to authorize benefits and that EBT card and PIN issuance may occur at a designated county location. The handbook section provides information on the EBT system ability to meet issuance requirements for emergency cases.

Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(8) which requires states to comply with expedited service benefit delivery and normal application processing standards. Emergency cases are to be established using administrative terminal and host-to-host interface as provided in California EBT ITP Section 6.4.3.3. Batch interface is also being added as a result of CWD comments, that batch interface can also meet the program time frames for these cases. EBT card issuance and PIN selection procedures for expedited issuance are contained in California EBT ITP Section 6.8.3. The handbook section refers to the California EBT ITP Section 6.8.3.

Final Modification:

At the Department's discretion Section 16-215.2 et seq. is being deleted for clarity and reader ease. The content of this section is being amended and added to more appropriate sections; account setup language in Section 16-105, benefit authorization language in Section 16-201 and EBT card and PIN issuance language in Section 16-510.

Section 16-215.3 (Renumbered to Section 16-215.1.)

Specific Purpose:

This section is being adopted to require the CWD inform the recipient of the benefit availability date.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(f)(1)(viii) and (g)(4).

Final Modification:

At the Department's discretion, Section 16-215.3 is being renumbered to Section 16-215.1 for clarity.

Section 16-215.4 et seq. (Renumbered to Section 16-215.2 et seq.)

Specific Purpose:

This section is being adopted to specify that the CWD may change benefit issuance cycle and that recipients must be informed about this change.

Factual Basis:

This section is necessary to comply with California EBT ITP Section 6.4.3.1 which allows for issuance cycle change and 7 CFR 274.12(f)(1)(viii) and (g)(4) which require that recipients be informed of benefit availability.

Final Modification:

Section 16-215.4 et seq. is being renumbered to Sections 16-215.2 et seq. At the Department's discretion renumbered Section 16-215.22 is being amended to clarify that the recipient is provided notification of a change in benefit issuance cycle at least 10 days in advance as referenced in MPP Section 22-001t(1).

Section 16-215.5 (Renumbered to Section 16-215.3.)

Specific Purpose:

This section is being adopted to require the CWD to issue food stamp benefits over the first ten calendar days of the month.

Factual Basis:

This section is necessary to comply with 7 CFR 274.2(d)(1) and California EBT ITP Section 6.4.3.1, and is necessary for consistency with MPP Section 63-602.4 (Food Stamp Program Issuance Schedule).

Final Modification:

Section 16-215.5 is being renumbered to Section 16-215.3. At the Department's discretion renumbered Section 16-215.3 is being amended to provide clarity. This section specifies the 10-day food stamp stagger issuance applies to ongoing food stamp cases. Use of the term "ongoing" case will differentiate it from emergency/urgent cases or other types of authorizations.

Sections 16-215.6 and .61 (Renumbered to Sections 16-215.4 and .41.)

Specific Purpose:

These sections are being adopted to require CWDs, that elect to provide cash benefits through the EBT system, to stagger cash issuance over the first three calendar days of the month. The CWD may issue cash benefits in less than three days after receiving waiver approval by the CDSS.

Factual Basis:

These sections are necessary to comply with Welfare and Institutions Code Section 10072(c) which requires the three-day stagger issuance for cash benefits. Welfare and Institutions Code Section 10072(c) also provides for the CWD to submit a request to waive the three-day stagger provision. The regulation is necessary to clarify this waiver process is intended to allow counties with a small caseload, who may not need to stagger cash issuance over three days, to opt out of the three-day stagger.

Final Modification:

Sections 16-215.6 and .61 are being renumbered to Sections 16-215.4 and .41. At the Department's discretion renumbered Section 16-215.4 is being amended to provide clarity. This section specifies the three-day cash benefit stagger issuance applies to ongoing cash cases. Use of the term "ongoing" case will differentiate it from emergency/urgent cases or other types of authorizations.

In response to testimony, renumbered Section 16-215.41 is being amended. Section 16-215.41 broadens the authority of the Department to approve county requests to waive the requirement to issue cash program benefits on a three-day staggered basis. Previously, the section limited this authority to the approval (or denial) of requests for waiver of the three-day stagger for CalWORKs benefits only. As the result of discussions with Department legal staff, it has been concluded that this waiver authority should be extended to include all cash program benefits issued through the EBT system. The Department has mandated (in Section 16-215.4) that all cash program benefits issued via EBT must be issued on a staggered basis. Therefore, any authority to grant or deny a waiver of this section must apply to all impacted cash benefit programs.

Renumbered Section 16-215.41 is being further amended to correct the cross-reference.

Section 16-215.62 (Renumbered to Section 16-215.42.)

Specific Purpose:

This section is being adopted to require the CWD to evaluate a household's request for exemption from the three-day stagger due to recipient hardship. Hardship includes, but is not limited to, the incurrence of late charges to the recipient for housing payments.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 10072(l).

Final Modification:

Section 16-215.62 is being renumbered to Section 16-215.42. Renumbered Section 16-215.42 is being amended to correct the cross-reference.

Section 16-215.63 (Renumbered to Section 16-215.43.)

Specific Purpose:

This section is being adopted to require a CWD electing to use the EBT system to issue General Assistance (GA) benefits to stagger issuance over a minimum of three days. Benefit issuance may be staggered over a period of more than three days at the CWD's discretion.

Factual Basis:

This section is necessary to comply with California EBT ITP Section 6.4.3.1.

Final Modification:

Section 16-215.63 is being renumbered to Section 16-215.43.

Section 16-215.7 (Renumbered to Section 16-215.5.)

Specific Purpose:

This section is being adopted to provide that recipient benefits not used in the issuance month will be carried forward month-to-month for recipient use unless benefit aging regulations at Section 16-120 apply.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(f)(2)(vi) which requires that benefit availability and benefits are to be carried over from month-to-month. This section is also necessary to implement 7 CFR 274.12(g)(7), aging accounts and expungement.

Final Modification:

Section 16-215.7 is being renumbered to Section 16-215.5.

Chapter 16-300 and Section 16-301

Specific Purpose/Factual Basis:

This chapter is being adopted to provide a location within the EBT regulations for benefit transaction requirements. This section is being adopted to provide a location within the EBT regulations for general benefit transaction requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and (g)(9), and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Section 16-301.1

Specific Purpose:

Section 16-301.1 is being adopted to require the CWD to provide recipients with reasonable access to benefits when the CWD issues benefits through the EBT system.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 10071 and 10072(a) and (c), and 7 CFR 274.12(g)(9) regarding the distribution of benefits through the EBT system provided the recipient has reasonable access to his or her benefits.

### Section 16-301.2 et seq.

#### Specific Purpose:

This section is being adopted to describe the steps the EBT system will check to authorize an EBT transaction.

#### Factual Basis:

This section is necessary to comply with California EBT ITP Section 6.6.1 which provides for the transaction authorization or denial factors.

#### Final Modification:

In response to testimony, Section 16-301.23 is being amended to correct a spelling error. This section is being amended to use the correct word "card."

### Section 16-301.3

#### Specific Purpose:

This section is being adopted to provide that all the factors in Section 16-301.2 must be met for transaction approval. When a transaction is denied, the system shall provide a reason. If insufficient funds is the reason for denial, the transaction response will include the available balance.

#### Factual Basis:

The section is necessary to comply with California EBT ITP Section 6.6.2.1.7.

### Section 16-310

#### Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for food stamp EBT benefit transaction requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and (g), and Welfare and Institutions Code Sections 10065, 10069, and 10077.

### Section 16-310.1

#### Specific Purpose:

Section 16-310.1 is being adopted to specify that no transaction fees shall be imposed on food stamp households using the EBT system for any Food Stamp Program transaction.

#### Factual Basis:



This section is necessary to comply with 7 CFR 274.12(g)(1) and California EBT ITP Section 6.6.2.1.

#### Sections 16-310.2 and .21

##### Specific Purpose:

These sections are being adopted to specify the use of food stamp electronic benefits for food stamp purchase.

##### Factual Basis:

Section 16-310.2 is necessary to comply with 7 CFR 274.12(a), finalized April 1, 1992, which states that eligible households will utilize the plastic cards (EBT cards) in lieu of food stamp coupons to purchase food items at authorized food retailers. This section is necessary to also comply with 7 CFR 274.12(f)(4)(i) and (iii), and California EBT ITP Sections 6.6 and 6.6.2.1.1. Section 16-310.21 is necessary to comply with 7 CFR 274.12(a) finalized April 1, 1992 which states that after obtaining authorization for each purchase, the transaction then initiates the debiting of the household's account and the crediting of the retailer's account. The FNS EBT - Frequently Asked Questions, updated 10/31/01, Question #2, clarifies that the recipient's account is then debited for the amount of the purchase and the retailer's account is credited.

#### Section 16-310.22

##### Specific Purpose:

This section is being adopted to specify the food stamp merchandise refund transaction.

##### Factual Basis:

This section is necessary to comply with 7 CFR 274.12(f)(2)(iii) in which the household's food stamp account is debited or credited. Food stamp refund transaction regulations are also necessary to comply with the Quest Operating Rules, Chapter 3 - Acquirer and Terminal Operator Requirements, Section 3.36b (Food Stamp Transactions) and California EBT ITP Section 6.6.2.1.2.

#### Section 16-310.3

##### Specific Purpose:

This section is being adopted to establish that there will be no minimum dollar amount per transaction or maximum limit on the number of transactions.

##### Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(1).

#### Section 16-310.4

##### Specific Purpose:

This section is adopted to specify that food stamp EBT benefits are not to be converted to cash or cash benefits and that no change will be given.

##### Factual Basis:

This section is necessary to comply with 7 CFR 274.12(a), finalized April 1, 1992 in which the household's account is debited for the amount of the purchase. USDA FNS' position is the food stamp household's account is debited for the amount of the purchase in transacting food stamp EBT benefits. No change is provided because this is not a coupon transaction; 7 CFR 274.10(j) applies to change in a food stamp coupon transaction. This section is also necessary to comply with California EBT ITP Section 6.5.4.

#### Section 16-310.5

##### Specific Purpose:

This section is adopted to specify that Food Stamp Program benefits cannot be accessed outside the United States and its territories.

##### Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 10072(a) and California EBT ITP Sections 6.6.3.1 and 6.10.4.1.

#### Sections 16-310.6 and .61

##### Specific Purpose:

These sections are being adopted to specify the requirements and procedures for manual vouchers for food stamp EBT transactions.

##### Factual Basis:

These sections are necessary to implement 7 CFR 274.12(f)(2)(v) which requires that back-up procedures be provided.

Section 16-310.611

Specific Purpose:

This section is being adopted to specify that manual vouchers are to be used when retailers do not have access to a POS device and manual vouchers may be used by non-traditional retailers.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(h)(4)(ii)(C) and California EBT ITP Sections 6.10.4.3. and 6.10.8.

Section 16-310.612 et seq.

Specific Purpose:

This section is being adopted to specify that manual vouchers are to be used when the retailer's system cannot communicate with the EBT host during a food stamp transaction and the steps that the retailers are to follow.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(h)(4)(ii)(C) and California EBT ITP Sections 6.6.2.1.4 and 6.10.8.

Section 16-310.613

Specific Purpose:

This section is being adopted to specify that manual vouchers are to be used when the EBT host is unavailable for processing transactions.

Factual Basis:

This section is necessary to implement 7 CFR 274.12(h)(4)(ii)(C) and California EBT ITP Section 6.10.9.

Handbook Section 16-310.62 et seq.

Specific Purpose/Factual Basis:

This handbook section is being added to provide the EBT Contractor's responsibility concerning off-line transaction floor limits and is necessary to implement California EBT ITP Section 6.10.9.

Section 16-310.63

Specific Purpose:

This section is being adopted: 1) to specify the minimum content of the manual voucher; 2) to require that the voucher is signed by the cardholder; and 3) to specify that the cardholder is to receive a copy of the voucher.

Factual Basis:

This section is necessary to comply with California EBT ITP Section 6.10.8.

Section 16-310.64

Specific Purpose:

This section is being adopted to specify that manual vouchers are not used for cash benefit transactions.

Factual Basis:

This section is necessary to comply with California EBT ITP Section 6.10.8.

Section 16-310.7

Specific Purpose:

This section is being adopted to specify that the EBT system is to provide minimal disruption of access to and service in retail stores by eligible households.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(9) and (h)(3), and California EBT ITP Section 6.10.4.1.

Section 16-315

Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for food stamp benefit conversion requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and (g)(6), and Welfare and Institutions Code Sections 10065, 10069, and 10077.

### Section 16-315.1

#### Specific Purpose:

This section is being adopted to require CWDs to convert food stamp electronic benefits to food stamp coupons at the household's request when the household is relocating to a state that is not interoperable and where electronic benefits are not portable or if the household leaves an EBT project area.

#### Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(6)(i) and (iv), and the California EBT ITP Section 6.4.4.

### Section 16-315.2

#### Specific Purpose:

This section is being adopted to require CWDs to allow conversions to coupons for short-term absences from the EBT project area for family emergencies or similar occurrences.

#### Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(6)(ii).

### Section 16-315.3

#### Specific Purpose:

This section is being adopted to require CWDs to develop conversion procedures that do not conflict with mailing restrictions regarding authorization documents.

#### Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(6)(v).

### Section 16-315.4 et seq.

#### Specific Purpose:

Section 16-315.4 is being adopted to specify that the CWD can opt to store and convert food stamp coupons or have the EBT Contractor store and mail the coupons to the recipient. Section 16-315.41 et seq. is being adopted to specify that the conversion must occur either: 1) within one business day following the recipient's request if the coupons are stored at local agency locations; or 2) within three business days following the request if the coupons are stored at a central location or mailed by the EBT Contractor.

Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(6)(i) and the California EBT ITP Section 6.4.4.

Section 16-315.5

Specific Purpose:

This section is being adopted to specify that any benefits remaining in an account are to be rounded down to the nearest dollar amount suitable for coupon issuance.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(6)(vi).

Section 16-315.6 et seq.

Specific Purpose:

This section is being adopted to require the household to spend any remaining balance that cannot be converted to coupons; to specify that if the recipient fails to spend the remaining balance within one week, the benefits are expunged from the recipient's EBT account; and to require that CWDs report the adjustment to FNS.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(6)(vi).

Final Modification:

Section 16-315.61 is being amended to correct a grammatical error.

Section 16-315.7

Specific Purpose:

This section is being adopted to specify that no limit is to be imposed on the number of times a household can convert coupons.

Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(6)(iv).

### Section 16-315.8

#### Specific Purpose:

This section is being adopted to require CWDs to prohibit coupon conversion solely for shopping outside the EBT area.

#### Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(6)(ii).

### Section 16-315.9

#### Specific Purpose:

This section is being adopted to specify that benefits are not to be split between coupons and electronic benefits.

#### Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(6)(iii).

### Section 16-320

#### Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for cash transaction requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

### Section 16-320.1

#### Specific Purpose:

This section is being adopted to specify that using the EBT system for cash benefits is a county option. Sections 16-320 and 16-325 shall not be implemented in counties that do not issue cash benefits via the EBT system.

#### Factual Basis:

This section is necessary to implement Welfare and Institutions Code Section 10069 which provides for the issuance of cash benefits via the EBT system, upon county election. Regulations in Sections 16-320 and 16-325 will not be applicable in counties that do not choose this issuance method for cash benefits.

### Section 16-320.2

Specific Purpose:

This section is being adopted to provide that cardholders use POS devices, ATMs, or other devices that accept cash EBT transactions to access EBT cash benefits.

Factual Basis:

This section is necessary to implement Welfare and Institutions Code Section 10072(c) which requires that benefits be accessible through such devices.

Section 16-320.3 et seq.

Specific Purpose:

This section is being adopted to specify that cash EBT transactions include, but are not limited to cash withdrawal, purchase, purchase with cash back, and balance inquiry.

Factual Basis:

This section is necessary to implement California EBT ITP Section 5.10.1 and to comply with California EBT ITP Sections 6.6.2.2.1, 6.6.2.2.2, 6.6.2.2.3, and 6.6.2.3.2.

Section 16-320.4 and Handbook Section 16-320.41

Specific Purpose:

This section is being adopted to require CWDs to provide the cardholder with cash access locations and information on additional charges. Handbook Section 16-320.41 is being added to inform CWDs that a monthly report will be provided which will include cash access locations and other applicable information.

Factual Basis:

Section 16-320.4 is necessary to comply with the California EBT ITP Section 5.10.6.4 which requires that the EBT Contractor provide each CWD that chooses EBT for cash benefit issuance with a monthly report of locations where cardholders may obtain cash and other information.

Final Modification:

In response to testimony, Handbook Section 16-320.41 is being amended to provide additional information on the cash access report for the CWD from the EBT Contractor. This is in conformity with California EBT ITP Section 5.10.6.4.

Section 16-320.5



Specific Purpose:

This section is being adopted to specify that there will not be a transaction fee for the first four cash-only transactions per case per month, but that after the four transactions, the cardholder may be charged a fee.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 10072(k) and the California EBT ITP Section 6.6.2.2.3.

Section 16-320.6

Specific Purpose:

This section is being adopted to specify that the cardholder may choose to make a cash withdrawal transactions at any location including those cash access locations that impose an additional charge.

Factual Basis:

This section is necessary to implement Welfare and Institutions Code Section 10072(k) and California EBT ITP Section 5.10.2.

Section 16-320.7

Specific Purpose:

This section is being adopted to provide that the recipient will pay for fees and surcharges that are their responsibility. These charges will be deducted from the recipient's cash account at the time of the transaction.

Factual Basis:

This section is necessary to implement Welfare and Institutions Code Section 10072(k) and California EBT ITP Sections 5.10.2, 6.6.2.2.3, 6.6.2.3, and 6.6.6.

Section 16-325 Title

Specific Purpose/Factual Basis:

This section is being adopted to provide a location within the EBT regulations for requirements regarding alternate methods of EBT cash benefit delivery. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Section 16-325.1

Specific Purpose:

Section 16-325.1 is being adopted to establish that in those counties issuing cash benefits via EBT, such benefits shall be issued via EBT or an alternate method. Alternate methods include direct deposit or the issuance of a paper warrant.

Factual Basis:

This section is necessary to implement Welfare and Institutions Code Section 10072(d) which requires alternative methods of issuance for recipients who are unable to use the EBT system due to physical disabilities or mental disabilities, or are otherwise unable to make effective use of the system.

Section 16-325.2

Specific Purpose:

Section 16-325.2 is being adopted to establish the requirement that, at the option of the recipient head of household/assistance unit, the county shall provide an EBT card to other adult household/assistance unit members to enable them to access benefits.

Factual Basis:

This section is necessary to implement Welfare and Institutions Code Section 10072(e) which allows the recipient head of household/assistance unit to designate other adult household/assistance unit members to receive EBT cards to access the household/assistance unit's benefits.

Sections 16-325.3, .31, and .311 (Renumbered to Sections 16-325.31, .311, and .311(a).)

Specific Purpose:

These sections are being adopted to require that those recipients who request the receipt of a warrant for cash benefit issuance due to a physical or mental incapacity or condition demonstrate their inability to effectively use the EBT system.

Factual Basis:

These sections are necessary to implement Welfare and Institutions Code Section 10072(d). This section states that the system shall provide reasonable access to recipients who demonstrate the inability to use the EBT system due to disability.

Final Modification:

The second sentence in Section 16-325.3 is being numbered to Section 16-325.31 and the following sections are being renumbered to accommodate this revision. Also, in response

to testimony, renumbered Section 16-325.311(a) is being amended to broaden the concept to the EBT system rather than the more specific terms of an inability to use the POS or ATM. This is in conformity with Welfare and Institutions Code Section 10072(d) and is consistent with Section 16-325.3.

Section 16-325.32 et seq. (Renumbered to Section 16-325.312 et seq.)

Specific Purpose:

This section is being adopted to specify the procedure that CWDs are to use in establishing a recipient's eligibility to receive a warrant for cash issuance due to a disability as set forth in Sections 16-325.3 and .311. This section specifies the documentation requirements necessary for a recipient to validate a claim of mental or physical incapacity, including specific guidelines for written verification, if needed. This section also specifies the guidelines for counties to review a claim of disability and the time frames for a recipient to provide the verification to the county.

Factual Basis:

This section is necessary to establish the criteria and relevant verification procedures for counties to follow when a recipient claims to be unable to effectively use the EBT system due to a physical or mental disability. The referenced procedures were developed through consultation with county representatives and CDSS program and legal staff.

Final Modification:

Section 16-325.32 et seq. is being renumbered to Section 16-325.312 et seq. to accommodate the reformatting of Section 16-325.3.

Section 16-325.33 et seq. (Renumbered to Section 16-325.313 et seq.)

Specific Purpose:

This section is being adopted to specify that recipients may continue to receive their benefits via warrant due to their inability to use the EBT system because of other barriers if approved by the CWD.

Factual Basis:

This section is necessary to establish that recipients may receive their cash benefits through the issuance of a warrant if faced with "other barriers" to the successful use of the EBT system. Welfare and Institutions Code Section 10072(d) requires the State to provide "reasonable access" to benefits for recipients faced with "other barriers," but does not provide a pertinent definition of such barriers. This requirement was developed through discussions with county representatives and CDSS program and legal staff.

Final Modification:

Section 16-325.33 et seq. is being renumbered to Section 16-325.313 et seq. to accommodate the reformatting of Section 16-325.3. Also, in response to testimony, renumbered Section 16-325.313(a) is being amended to include examples of other barriers to successful use of the EBT system. This revision is in conformity with the Welfare and Institutions Code Section 10072(d).

Section 16-325.4 (Renumbered to Section 16-325.32.)

Specific Purpose:

This section is being adopted to establish those recipient requests to receive cash benefits via warrant issuance should only be considered after the recipient has considered all other available alternatives.

Factual Basis:

This section is necessary to convey the State's desire that recipients be approved for warrant issuance only after all other options are considered.

Final Modification:

Section 16-325.4 is being renumbered to Section 16-325.32. This section is also being amended to clarify that the CWD shall inform the recipient/applicant of alternate methods to EBT cash issuance.

Chapter 16-400 and Section 16-401

Specific Purpose/Factual Basis:

Chapter 16-400 is being adopted to provide a location within the EBT regulations for settlement, reconciliation, and reporting requirements. Section 16-401 is being adopted to provide a location within the EBT regulations for the food stamp and cash settlement process requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and (k), and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Sections 16-401.1 and .11 et seq.

Specific Purpose:

These sections are being adopted to specify the minimum capabilities of the county's bank that are needed to take retailer credits and/or debits obtained from the EBT Contractor and transmit them to the Automated Clearing House (ACH) network operated by the Federal Reserve.

Factual Basis:

This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

This section is also necessary to implement 7 CFR 274.12(f)(3)(vii) and (viii); (j)(1)(i), (ii), and (iii); and (k)(1)(ii), (iii), (iv), (v), and (vi) which describe the ACH transaction process for EBT. This section maintains consistency between the Food Stamp Program and cash programs.

These sections are necessary to implement the requirement contained in NTC Sections 4.8 and 8.3.2 which require that financial institutions be monetarily reimbursed for EBT transactions. These sections are in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.2 (Settlement Payments).

Final Modification:

This section is being amended to clarify that counties obligate sufficient funds to cover all issuances and funds are available to cover daily cash settlement.

Handbook Section 16-401.12

Specific Purpose:

This handbook section is being added to establish the State's role in monitoring the settlement process to ensure that retailers are being reimbursed.

Factual Basis:

This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

This section is necessary to implement 7 CFR 274.12(k)(5)(i), (ii), and (iii) which require that the state agency must obtain an examination by an independent auditor. The State will monitor the SAS No. 70 federal requirement. This section is also necessary to implement 7 CFR 274.12(k)(2)(ii) which requires that management reports consist of information regarding transactions which is necessary to conduct compliance investigations. This section maintains consistency between the Food Stamp Program and cash programs.

This handbook section is necessary to implement Welfare and Institutions Code Sections 10075.6 and 10600. This handbook section is in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.2 (Settlement Payments).

### Sections 16-401.13

#### Specific Purpose:

This section is being adopted to specify the county's responsibility to have the management and operating structure in place to support settlement.

#### Factual Basis:

This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

This section is necessary to implement 7 CFR 274.12(k)(1)(vi) which requires that there is a maintenance of audit trails that document information on transactions at retailers through settlement. This section is also necessary to implement 7 CFR 274.12(k)(2)(i) and (ii) which specify how the system operates, type and cause of system problems, and information regarding transactions necessary to conduct compliance investigations. In addition, this section is necessary to implement 7 CFR 274.12(i)(2)(iii) which requires reports and other information regarding problematic transactions shall be made available to the state agency. Errors shall be resolved in a timely manner. This section maintains consistency between the Food Stamp Program and cash programs.

This section is necessary to implement NTC Section 4.8 which requires that financial institutions be monetarily reimbursed for EBT transactions. These sections are in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.1 (End of Day Cut-off and Processing), Section 6.2 (Settlement Payments), and Section 6.3 (Government Reimbursement).

### Section 16-401.14 and Handbook Section 16-401.141

#### Specific Purpose:

This section is being adopted to specify the county's liability for late settlement. The handbook section is being added to describe that after the third occurrence of late settlement, fees will be charged to the county.

Factual Basis:

This section is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

This section is necessary to implement 7 CFR 274.12(k)(1)(vi) which requires that audit trails that document the full cycle of issuance from benefit allotment posting to the state issuance authorization through settlement of retailer credits are maintained; 7 CFR 274.12(k)(2)(i) and (ii) which require that there is information on how the system operates and information regarding transactions necessary to conduct compliance investigations; and 7 CFR 274.12(h)(5) which requires that the EBT Contractor provide credit to the retailers or third party processor within two business days. This section is also necessary to implement 7 CFR 274.12(i)(2)(iii) which requires that reconciliation reports and other information regarding problematic transactions shall be made available to the state agency. Errors shall be resolved in a timely manner. This section maintains consistency between the Food Stamp Program and cash programs.

This section is necessary to implement NTC Section 4.8 which requires that financial institutions be monetarily reimbursed for EBT transactions. This section is in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.3 (Government Reimbursement).

Section 16-401.15

Specific Purpose:

This section is being adopted to specify that the EBT Contractor is to be reimbursed by the State in the event the county fails to provide settlement payments to EBT Contractor for settlement.

Factual Basis:

This section is necessary to implement NTC Section 4.8 which requires that financial institutions be monetarily reimbursed for EBT transactions. This section is in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.3 (Government Reimbursement) and Welfare and Institutions Code Section 15153.2.

Final Modification:

This section is revised to delete the word "county" from ". . . county funds owed or payable to the county." The deletion of the word "county" clarifies that the funds are not county's, but could be State and/or federal funds.

### Section 16-401.16

#### Specific Purpose:

This section is being adopted to specify that the state may terminate EBT services in order to maintain the integrity of the EBT system and ensure that recipients maintain access to their benefits, if a county is unable or refuses to settle with the EBT Contractor.

#### Factual Basis:

This section is necessary for the state through the Health and Human Services Data Center to meet the obligation of maintaining and operating an EBT system as provided in Welfare and Institutions Code Section 10075.6 to ensure continued EBT services.

### Section 16-401.17

#### Specific Purpose:

This section is being adopted to specify that the counties are responsible for resolving disputes with the EBT Contractor.

#### Factual Basis:

This section is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

This section is necessary to implement 7 CFR 274.12(h)(5) which requires that the EBT Contractor provide credit to the retailers or third party processor within two business days and 7 CFR 274.12(i)(2)(iii) which requires that reconciliation reports and other information regarding problematic transactions shall be made available to the state agency. Errors shall be resolved in a timely manner. This section maintains consistency between the Food Stamp Program and cash programs.

This section is necessary to implement NTC Section 19.13 (Dispute Resolution) which requires that parties use their best, good faith efforts to cooperatively resolve disputes and problems that arise. This section is in compliance with Chapter Eight – Arbitration and Grievance Procedures, Assessments, Section 8.2 (Classification of Disputes).

### Section 16-410

#### Specific Purpose/Factual Basis:

Section 16-410 is being adopted to provide a location within the EBT regulations for the food stamp and cash reconciliation process requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.



## Sections 16-410.1, .11, and .12

### Specific Purpose:

These sections are being adopted to specify that the county must reconcile benefits entering the EBT system with the county's system on a daily basis.

### Factual Basis:

These sections are necessary to implement 7 CFR 274.12(k)(1) which specifies how electronic benefits entering the EBT system are to be reconciled each day and Welfare and Institutions Code Sections 10075.5 and .6. This section is also necessary to implement EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Page 8 [7 CFR 274.12(j)(1)(i) subsequently renumbered to 7 CFR 274.12(k)(1)(i)] and Page 19 [7 CFR 274.12(j)(1)(v) subsequently renumbered to 7 CFR 274.12(k)(1)(v)].

## Section 16-410.13

### Specific Purpose:

This section is being adopted to specify that the county's eligibility system is the primary keeper of all obligations created by the county's eligibility system.

### Factual Basis:

This section is necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Pages 18 and 19 [7 CFR 274.12(j)(1)(v) subsequently renumbered to 7 CFR 274.12(k)(1)(v)], Page 5 (Reconciliation Overview), and Page 8 [7 CFR 274.12(j)(1)(i) subsequently renumbered to 7 CFR 274.12(k)(1)(i)]. This section is necessary to implement 7 CFR 274.12(k)(1)(i) and (v) which specify how electronic benefits enter the contractor's EBT system.

This section is also necessary to implement Interface Document, Section 2.1 (Batch Interface) which specifies how files are posted in the contractor's EBT system. This section is in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.2 (Settlement Payments) and Section 6.3 (Government Reimbursement).

## Section 16-410.14 et seq.

### Specific Purpose:

This section is being adopted to instruct the counties on the systems to be reconciled.

Factual Basis:

This section is necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Page 2 (Background) and Page 5 (Reconciliation Overview). This section is necessary to implement 7 CFR 274.12(k)(1)(i) through (v) which specifies the five areas of reconciliation.

This section is in compliance with Quest Operating Rules, Chapter Six - Settlement, Section 6.2 (Settlement Payments) and Section 6.3 (Government Reimbursement).

Final Modification:

This section is revised to delete the word "following" and insert the word "between" to clarify that the county shall reconcile between the three systems.

Handbook Section 16-410.2 et seq.

Specific Purpose:

This handbook section is being added to describe benefits entering the EBT system for the purpose of reconciliation.

Factual Basis:

This handbook section is necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Page 7 (Reconciliation Overview) and Page 19 [7 CFR 274.12(j)(1)(v) subsequently renumbered to 7 CFR 274.12(k)(1)(v)]. This handbook section is necessary to implement 7 CFR 274.12(k)(1)(v) which specifies that electronic benefits are returned to the counties via the contractor's EBT system.

In addition, this handbook section is necessary to implement Interface Document Section 1.0 (Operational Functions) and Section 1.1 (Batch Interface) which specify the details of how benefit grants can be expunged from the contractor's EBT system; and Appendix A: Page 20 (California EBT Batch Interface), Page 48 (Inactive/Dormant/Expunged Header Record), Page 49 (Inactive/Dormant/Expunged Detail Record), Page 50 (Inactive/Dormant/Expunged Trailer Record), Page 51 (Grant Expungement Header Record), Page 52 (Grant Expungement Detail Record), and Page 53 (Grant Expungement Trailer Record).

### Sections 16-410.3 and .31

#### Specific Purpose:

These sections are being adopted to specify that the counties are to establish and send electronic files successfully to the EBT Contractor.

#### Factual Basis:

These sections are necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Page 8 [7 CFR 274.12(j)(1)(i) subsequently renumbered to 7 CFR 274.12(k)(1)(i)]. This section is also necessary to implement 7 CFR 274.12(i)(3)(iii)(A) which specifies that electronic benefits are to be sent timely to the contractor.

In addition, this section is necessary to implement Interface Document Section 5.0 (Transmission), Section 5.1 (Transmission Calendar), and Section 5.2 (Operational Monitoring) which specify that counties are to send files on a scheduled basis.

### Sections 16-410.32 et seq. and .33

#### Specific Purpose:

These sections are being adopted to specify that counties are to reconcile benefits by availability date on a daily basis.

#### Factual Basis:

These sections are necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Page 8 [7 CFR 274.12(j)(1)(i) subsequently renumbered to 7 CFR 274.12(k)(1)(i)]. These sections are also necessary to implement 7 CFR 274.12(g)(4) which specifies that electronic benefits are to be sent to the contractor according to the benefits availability date. The availability date is the date on which the recipient can access their benefits.

In addition, these sections are necessary to implement Interface Document, Appendix A: Page 33 (Benefit Header Record) which specifies that benefits are to be posted by availability date.

### Section 16-410.34

#### Specific Purpose:

This section is being adopted to specify how counties will produce and send their own electronic files separately even if they share a system with other counties.

#### Factual Basis:

This section is necessary to require counties to send separate files so commingled files from other counties or duplicate files from other counties will not be sent to the EBT Contractor. This section is necessary to implement 7 CFR 274.12(i)(3)(iii)(A) which specifies that electronic benefits are to be sent to the EBT Contractor separately.

#### Sections 16-410.35 and .36

##### Specific Purpose:

These sections are being adopted to specify that the files are to be sent electronically to the EBT Contractor and how to compare the files sent to the EBT Contractor against the county's eligibility system. The counties will be required to verify the accuracy of files sent to the EBT Contractor.

##### Factual Basis:

These sections are necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Pages 8 and 9 [7 CFR 274.12(j)(1)(i) subsequently renumbered to 7 CFR 274.12(k)(1)(i)]. These sections are also necessary to implement 7 CFR 274.12(i)(3)(iii)(A) which specifies how electronic benefits are to be sent to the EBT Contractor.

In addition, these sections are necessary to implement the requirement contained in Interface Document, Section 4.0 (Error Handling) and Section 4.1 (Batch Interface) which specify that files are to be sent with a header and trailer record and that the return files from the EBT Contractor to the counties will have the error codes listed.

#### Section 16-410.37

##### Specific Purpose:

This section is being adopted to specify how the counties will track unlinked benefits.

##### Factual Basis:

This section is necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Page 10 [7 CFR 274.12(j)(1)(i) subsequently renumbered to 7 CFR 274.12(k)(1)(i)].

## Sections 16-410.4 and .41 and Handbook Section 16-410.411

### Specific Purpose:

These sections and handbook section are being adopted to require counties to track and manage rejects and voids.

### Factual Basis:

These sections and handbook section are necessary to implement the FNS instructions contained in EBT Reconciliation, Guidance for State Agencies, received in September 2001 from FNS, Pages 8 and 9 [7 CFR 274.12(j)(1)(i) subsequently renumbered to 7 CFR 274.12(k)(1)(i)]. These sections are also necessary to implement 7 CFR 274.12(i)(3)(iii)(C) which specifies how to handle reversals (rejects) that are not fully, processed and recorded in the EBT Contractor's EBT system and 7 CFR 274.12(g)(4)(i) and (i)(3)(iii)(A) which specify how messages sent to the contractor can be adjusted and voided as specified in the system design.

In addition, these sections are necessary to implement Interface Document Section 2.0 (Processing Rules) which specifies how files sent to the contractor can be rejected and the error codes listed on the return files to the counties; and Section 1.0 (Operational Functions), Section 1.1 (Batch Interface), Section 1.2 (Host-to-Host Interface), Section 1.3 (Administrative Terminal Interface), and Appendix A: Page 33 (Benefit Header Record), and Appendix A (CA EBT Batch Interface) which specifies how the counties can void a benefit that has been posted to the contractor's EBT system and Appendix B: Page 93 (Benefit Add/Void Request Message).

## Section 16-410.42

### Specific Purpose:

This section is being adopted to specify how the county handles reversals (rejects) of messages sent to the EBT Contractor that are not fully processed and recorded in the EBT Contractor's EBT system.

### Factual Basis:

This section is necessary to implement 7 CFR 274.12(i)(3)(iii)(C) which specifies how to handle reversals that are not fully processed and recorded in the contractor's EBT system. This section is necessary to implement 7 CFR 274.12(k)(1) which specifies how reconciliations are to be conducted.

This section is also necessary to implement Interface Document Section 2.0 (Processing Rules) which specifies how files sent to the contractor can be rejected and the error codes listed on the return files to the counties.

## Sections 16-410.43 and .44

Specific Purpose:

These sections are being adopted to specify how benefits can be voided in the EBT system.

Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(4)(i) and (i)(3)(iii)(A) which specify how messages sent to the contractor can be adjusted and voided as specified in the system design.

This section is necessary to implement Interface Document Section 1.0 (Operational Functions), Section 1.1 (Batch Interface), Section 1.2 (Host-to-Host Interface) Section 1.3 (Administrative Terminal Interface), Appendix A: Page 33 (Benefit Header Record), and Appendix B: Page 93 (Benefit Add/Void Request Message) which specify how the counties can void a benefit that has been posted to the EBT Contractor's EBT system.

Sections 16-410.5 through .53

Specific Purpose:

These sections are being adopted to specify how benefits enter the EBT system and how counties are to reconcile benefits.

Factual Basis:

These sections are necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Pages 8 and 9 [7 CFR 274.12(j)(1)(i) subsequently renumbered to 7 CFR 274.12(k)(1)(i)] and Page 19 [7 CFR 274.12(j)(1)(v) subsequently renumbered to 7 CFR 274.12(k)(1)(v)]. These sections are also necessary to implement 7 CFR 274.12(k)(1)(i) and (v) which specify the reconciliation of total funds entering the system each day.

Further, these sections are necessary to implement Interface Document Section 1.0 (Operational Functions), Section 1.3 (Administrative Terminal Interface), Section 2.0 (Processing Rules), Appendix A: Page 33 (Benefit Header Record), Page 34 (Benefit Header Record Edits), and Appendix B: Page (Host to Host Interface) which specify how the counties can reconcile records based on their availability date, non-settling records and discrepancies in the contractor's EBT system. In addition, this section is in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.2 (Settlement Payments) and Section 6.3 (Government Reimbursement).

Section 16-410.54 et seq.

Specific Purpose:

This section is being adopted to specify how the counties are responsible for resolving disputes with the EBT Contractor.

Factual Basis:

This section is necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, Pages 8 and 9 [7 CFR 274.12(j)(1)(i) subsequently renumbered to 7 CFR 274.12(k)(1)(i)]. This section is consistent with the NTC Pages 17-18, Section 4.8 (Settlement and Reconciliation) and page 78, Section 19.13.1 (Dispute Resolution). This section is also in compliance with the Quest Operating Rules, Chapter Eight - Settlement, Section 8.2 (Classification of Disputes).

Section 16-410.55 (Post-Hearing Modification – New.)

Specific Purpose:

This section is being adopted to specify how the counties will validate all issuances and returned data.

Factual Basis:

This section is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077. These sections are also necessary to implement 7 CFR 274.12(k)(1)(vi), which requires that there is maintenance of audit trails.

Validation is a critical component for the success of the State's EBT project for counties to accurately and timely reconcile their eligibility systems to the EBT system. Daily validation of reconciliation is necessary for counties to ensure that the funds required to cover daily cash settlement for the county are available in the county's designated settlement account on the day of settlement.

The Statewide Automated Reporting System (SARS) was developed to standardize the reconciliation processes and improve reporting at the county and State levels, and to provide counties with a tool to enable them to perform their daily reconciliation tasks in a uniform manner throughout the State.

Section 16-410.55 et seq. (Renumbered to Section 16-16-410.56 et seq..)

Specific Purpose:

This section is being adopted to specify how the counties will reconcile food stamp benefits issued on a worksheet.

Factual Basis:

This section is necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, page 5 (Reconciliation Overview). This section is also necessary to implement 7 CFR 274.12(k)(1)(vi) which requires that there is a maintenance of audit trails.

The 30-day time frame is consistent with the 30-day time frame for counties to submit claims for state/federal reimbursement. Thirty days is a reasonable time frame for counties to submit the worksheet.

Final Modification:

This section is being renumbered from Section 16-410.55 et seq. to Section 16-410.56 et seq. to accommodate the addition of the new Section 16-410.55. Renumbered Section 16-410.56 is being amended to add the phrase "In the absence of an operational SARS" which is necessary to serve as a back-up plan in case SARS is inoperable or absent or the county opts not to use it to stipulate the requirement for daily reconciliation and validation by the County.

Sections 16-410.6 through .62

Specific Purpose:

These sections are being adopted to describe how the counties are to reconcile food stamp benefits to the FNS 46 report.

Factual Basis:

These sections are necessary to implement the FNS instructions contained in EBT Reconciliation, Guidance for State Agencies received in September 2001 from FNS, page 5 (Reconciliation Overview). These sections are also necessary to implement 7 CFR 274.12(k)(1)(vi) which requires that there is a maintenance of audit trails.

The 30-day time frame is consistent with the 30-day time frame for counties to submit claims for state/federal reimbursement. Thirty days is a reasonable time frame for counties to submit the worksheet.



### Final Modification:

These sections are being amended to replace the FNS 46 Report with the DFA 885A, B, and C Reports. The FNS 46 is a statewide report at state level. Its county level equivalent is the DFA 885A, B, and C. The DFA 885A, B, and C were created to take each county's information to compile the statewide FNS 46 Report.

Section 16-410.61 is being further amended to replace "benefit issuance reconciliation worksheet" with "SARS Report," to clarify that counties shall reconcile the SARS Report to the DFA 885A, B, and C Reports. Section 16-410.62 is being further amended to eliminate the phrase "and attach a copy of the monthly benefit issuance reconciliation worksheet as required by Section 16-410.55." This amendment is necessary because the reconciliation worksheet does not need to be sent again as an attachment to the DFA 885A, B, and C, as it has been submitted separately (see Section 16-410.561). These amendments are necessary to make specific the FNS instructions contained in EBT Reconciliation Guidance for State Agencies received September 2001 from FNS, page 5 (Reconciliation Overview). A grammatical correction is also being made.

### Section 16-410.63

#### Specific Purpose:

This section is being adopted to specify how the counties will reconcile federal food stamp benefits separating federal and state food stamp benefits on the DFA 256.

#### Factual Basis:

This section is necessary to implement the FNS instructions contained in EBT Reconciliation Guidance for State Agencies, received in September 2001 from FNS, page 5 (Reconciliation Overview). This section is also necessary to implement 7 CFR 274.12(k)(1)(vi) which requires that there is a maintenance of audit trails.

#### Final Modification:

This section is being amended to replace "benefit issuance reconciliation worksheet" with "DFA 885A, B, and C" to clarify that counties shall reconcile DFA 256 with the DFA 885A, B, and C Reports. This amendment is necessary to make specific FNS instructions contained in EBT Reconciliation Guidance for State Agencies received September 2001 from FNS, page 5 (Reconciliation Overview). These sections are also necessary to implement 7 CFR 274.12(k)(1)(vi), which requires that there is maintenance of audit trails. A grammatical correction is also being made.

Section 16-410.7 et seq.

Specific Purpose:

This section is being adopted to specify how the counties reconcile the reductions in their cash accounts by program.

Factual Basis:

This is in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.2 (Settlement Payments). This section is necessary to implement the requirement contained in Interface Document Section 1.0 (Operational Functions) and Section 1.1 (Batch Interface) which specify the account activity detailed information down to the grant level.

Sections 16-410.8 and .81

Specific Purpose:

These sections are being adopted to specify how the counties reconcile benefits remaining in the EBT system.

Factual Basis:

These sections are in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.2 (Settlement Payments). These sections are necessary to implement the requirement contained in Interface Document Section 1.0 (Operational Functions) and Section 1.1 (Batch Interface) which specify the account activity detailed information down to the grant level.

Section 16-410.82

Specific Purpose:

This section is being adopted to specify how the counties are to ensure that funds are available in the settlement account on a daily basis to fund the EBT Contractor.

Factual Basis:

This section is necessary to implement NTC Section 4.8 which requires that financial institutions be monetarily reimbursed for EBT transactions. This section is in compliance with the Quest Operating Rules, Chapter Six - Settlement, Section 6.2 (Settlement Payments) and Section 6.3 (Government Reimbursement).

## Chapter 16-500 and Section 16-501

### Specific Purpose/Factual Basis:

Chapter 16-500 is being adopted to provide a location within the EBT regulations for EBT card and PIN requirements. Section 16-501 is being adopted to provide a location within the EBT regulations for EBT cardholder requirements. These adoptions are necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

### Sections 16-501.1 and .2

#### Specific Purpose:

Section 16-501.1 is being adopted to require the CWD to issue EBT cards and PINs to recipients and designated cardholders. Section 16-501.2 is being adopted to require all cardholders to have their own EBT card with a unique PAN, and their own PIN to access benefit account(s).

#### Factual Basis:

These sections are necessary to comply with 7 CFR 274.12(f)(1)(i) to issue EBT cards to eligible households. Each cardholder will be issued an EBT card, with a unique PAN, and will have the ability to select their own PIN as required in 7 CFR 274.12(g)(5)(i), Welfare and Institutions Code Section 10072(e) and California EBT ITP Section 6.8. The EBT card is used to access benefits in the recipient's EBT account(s) as specified in California EBT ITP Section 6.7.

### Section 16-501.3

#### Specific Purpose:

This section is being adopted to require multiple cards (EBT card of cardholders other than the recipient) to be linked to the recipient's account.

#### Factual Basis:

This is necessary to comply with California EBT ITP Section 6.4.2.2.

### Handbook Section 16-501.4 et seq.

#### Specific Purpose:

This handbook section is being added to inform the CWD that the EBT system is capable of adding new benefit programs to an existing card. This clarifies that when the recipient is eligible for different program benefits, that will be issued via the EBT system, the same EBT card is used to access the benefits.

Factual Basis:

This handbook section is contained in California EBT ITP Section 6.4.2.3 for the EBT system to have the capability to add new benefit program accounts to an existing card.

Section 16-505

Specific Purpose/Factual Basis:

Section 16-505 is being adopted to provide a location within the EBT regulations for additional EBT cardholder requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Section 16-505.1

Specific Purpose:

In some cases more than one individual will have access to the household/AU's benefit account(s). In addition to the recipient receiving an EBT card and PIN to access his/her benefits, other household /assistance unit (AU) members as well as individuals not a part of the household/AU can be provided an EBT card at the recipient's request. Section 16-505.1 is being adopted to require the CWD to provide, at the recipient's request, an EBT card to adult household/assistance unit (AU) members to access benefits from the household/AU's EBT account(s).

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 10072(e) which specifies that at the option of the recipient head of household/AU, the CWD shall provide an EBT card to each adult member to enable them to access benefits.

Final Modification:

At the Department's discretion, Section 16-505.1 is being amended to clarify that one EBT card is provided to each adult household/assistance unit member at the request of the head of household/assistance unit. This is in conformity with the Welfare and Institutions Code Section 10072(e).

## Section 16-505.2

### Specific Purpose:

This section is being adopted to specify that at the request of the head of household/AU, the CWD shall provide an EBT card and PIN to one additional responsible adult outside of the household/AU.

### Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 10072(e) which allows for an institution, authorized representative or other third party not part of the recipient household/AU to be issued a separate EBT card and PIN.

## Section 16-505.21

### Specific Purpose:

This section is being adopted to allow: 1) the head of household to designate the same AR/designated alternate cardholder to access both of the household/AU's benefit accounts (food stamp and cash benefits) or 2) the head of household to designate two different individuals – one to access food stamp benefits and another to access cash benefits.

### Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 10072(e) which allows for an institution, authorized representative or other third party not part of the household/AU to be issued a separate EBT card and PIN. The referenced section provides that at the option of the recipient, the third party's access to the recipient's benefits may be restricted. Therefore, for practical application, one individual may be designated to access cash benefits, and another may be designated to act as authorized representative for food stamps.

For administrative efficiency between the Food Stamp and CalWORKs Programs, agreement was reached between the CDSS Legal Office, Food Stamp Bureau, CalWORKs Eligibility Bureau, and Program Technology & Support Bureau managers to have one description for the individual outside the household/AU (referred to in Welfare and Institutions Code Section 10072(e)). Although the description of this individual is the same for Food Stamp and cash programs, these programs use different terms. The authorized representative (AR) is a term used in the Food Stamp Program to describe an individual who is authorized by the head of household to obtain food stamp benefits for the household. A designated alternate cardholder is the term that will be used to describe an individual who is not a part of the AU who is authorized to access cash EBT benefits.

Final Modification:

This section is being amended to replace the phrase "food stamps" with "food stamp benefits." This amendment is necessary to maintain consistency throughout the regulations.

Section 16-505.22

Specific Purpose:

This section is being adopted to specify that the head of household/AU may designate a minor to be issued an EBT card and PIN to access benefits, if the CWD determines no responsible adult is available to act as the authorized representative/designated alternate cardholder.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 10072(e) which allows for an institution, authorized representative or other third party not part of the household/AU to be issued a separate EBT card and PIN. For administrative efficiency between the Food Stamp and CalWORKs Programs, agreement was reached between the CDSS Legal Division, Food Stamp Bureau, CalWORKs Eligibility Bureau, and the Program Technology and Support Bureau that the criteria to act as authorized representative for food stamp benefits and alternate designated cardholder for CalWORKs be as similar as possible. Food Stamp regulations do not prohibit the designation of a minor as authorized representative. Therefore, for CalWORKs purposes, a minor may be designated as a designated alternate cardholder in the event that the CWD determines that no adult is available to act in that capacity.

Section 16-505.23

Specific Purpose:

This section is being adopted to require that the authorized representative is subject to Food Stamp Program regulations in MPP Section 63-402.6.

Factual Basis:

This section is required to comply with Welfare and Institutions Code Section 10072(e) which allows the head of household/AU to designate an authorized representative to access the household's food stamp benefits. Existing regulations found in MPP Section 63-402.6 apply to an authorized representative in the Food Stamp Program and must apply when an AR is designated to an EBT food stamp account.

## Section 16-510

### Specific Purpose/Factual Basis:

Section 16-510 is being adopted to provide a location within the EBT regulations for EBT card and PIN issuance requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

### Section 16-510.1

#### Specific Purpose:

This section is being adopted to require the CWD to determine when cards will be issued to recipients.

#### Factual Basis:

This section is necessary to implement 7 CFR 274.12(f)(1)(i) and (g)(5), and the California EBT ITP Section 6.8.

#### Final Modification:

At the Department's discretion, Section 16-510.1 is being amended to add "PINs" to this regulation. The EBT card and PIN are necessary for benefit access and the CWD shall issue both in order for the recipient to access the benefits. Additionally, at Department's discretion, Section 16-510.1 is being amended for clarity. The reference to Section 16-215 is no longer relevant due to amendments to that section. The Department is clarifying that the EBT card and PIN must be provided to the recipient in order for the recipient to access benefits as soon as benefits become available. This is in compliance with 7 CFR 274.12(f)(1)(i), (g)(5), and (g)(8).

### Section 16-510.2

#### Specific Purpose:

Section 16-510.2 is being adopted to specify county options for card and PIN issuance.

#### Factual Basis:

This section is necessary to implement the California EBT ITP Section 6.8.2.

Section 16-510.21 and Handbook Section 16-510.211

Specific Purpose:

This section is being adopted to specify that each county has the option to issue cards and PINs over the counter or via mail, and that the county may make an exception to the card issuance method on a case-by-case basis. The handbook section is added to provide an example of how the options may be used.

Factual Basis:

This section is necessary to implement the California EBT ITP Section 6.8.2.

Section 16-510.212 et seq. and Handbook Section 16-510.213

Specific Purpose:

This section is being adopted to specify that when the CWD elects to provide over-the-counter card and PIN issuance the CWD shall 1) determine the number of card issuance locations, 2) be responsible for site preparations at each location where issuance equipment is to be installed, and 3) be responsible for the furniture, power and phone lines necessary to support the issuance equipment. The handbook section is added to provide the EBT Contractor's responsibilities when the CWD elects to provide over-the-counter issuance process.

Factual Basis:

This section is necessary to comply with the California EBT ITP Section 6.8.2.1.

Final Modification:

In response to testimony, Section 16-510.212(a) is being amended to clarify that there may be multiple EBT card issuance locations. Also in response to testimony and at the Department's discretion, a new Section 16-510.212(d) is being adopted to require the CWD with a countywide EBT card and PIN over-the-counter issuance method to provide homebound recipients with the EBT card and PIN via mail issuance, at their request. This is in conformity with California EBT ITP Section 6.8.5.

Section 16-510.214 et seq. and Handbook Sections 16-510.214(b) et seq. and (c)(1)

Specific Purpose:

This section is being adopted to specify that the EBT card shall be mailed separate from the PIN and there will be a delay between mailing the EBT card and the PIN. Although the CWD selects mail-based EBT card and PIN issuance countywide, the CWD is required to be equipped to provide over-the-counter issuance on a case-by-case basis. For those CWDs that choose to have the mail-based issuance handled by the EBT Contractor, the handbook



section is being adopted to describe the mail issuance process. Also the handbook contains the EBT Contractor responsibilities related to over-the-counter issuance.

Factual Basis:

This section is necessary to comply with Quest Operating Rules, Chapter Nine - Security, Section 9.2d (General Issuer Requirements) and the California EBT ITP Section 6.8.2.2.

Final Modification:

At the Department's discretion, Handbook Section 16-510.214(b)(2) is deleted to eliminate redundancy. Section 16-510.214(a) provides the same information as Handbook Section 16-510.214(b)(2) regarding mailing the EBT card separately with a delay before mailing the PIN.

Section 16-510.3 et seq. and Handbook Section 16-510.311 (Post-Hearing Modification -- Repealed)

Specific Purpose:

This section is being adopted to specify that upon notification, a recipient who is homebound shall be issued a card and PIN via the mail issuance process, and that the recipient is able to change the PIN via the ARU. The handbook section is added to provide examples of a hardship situation that could lead to a recipient being homebound.

Factual Basis:

This section is necessary to implement 7 CFR 274.12(i)(7)(iii), California Approved Waiver Request #980069 for 7 CFR 274.12(h)(7)(iii) [subsequently renumbered to 7 CFR 274.12(i)(7)(iii)], and the California EBT ITP Section 6.8.5.

Final Modification:

Sections 16-510.3 and .31 and Handbook Section 16-510.311 are being deleted to eliminate redundancy. Section 16-510.3 applies when a food stamp recipient is homebound, does not have an authorized representative, and is not able to go to the CWD to obtain the EBT card and make the PIN selection. However, Section 16-510.21 provides for the CWD to make exceptions to their countywide EBT card and PIN issuance method on a case-by-case basis, i.e., when the countywide EBT card and PIN issuance method is over-the-counter. In addition, the Department is amending Section 16-510.212 to exempt homebound recipient from over-the-counter EBT card and PIN issuance (regardless of the program benefit) and to incorporate examples of homebound situations. Also, PIN change via the ARU is now available to all cardholders not just the homebound as provided in Section 16-520.1.

Section 16-510.4 et seq. (Renumbered to Section 16-510.3 et seq.)

Specific Purpose:

Section 16-510.4 is being adopted to establish requirements regarding inter-county recipient moves. Section 16-510.41 is being adopted to require CWDs to establish a new EBT account when a recipient moves from one county and establishes eligibility in another county. Section 16-510.411 is being adopted to specify that any benefits remaining in the EBT account in the original county is to remain available to the recipient via the previous EBT card. Section 16-510.412 is being adopted to specify the time frame for which the previous account is to remain active.

Factual Basis:

This section is necessary to implement Welfare and Institutions Code Section 10072(a) and to comply with the California EBT ITP Section 6.8.7.

Final Modification:

This section is renumbered to accommodate deletion of the existing Section 16-510.3 et seq.

Section 16-510.4 et seq. (Post-Hearing Modification -- New.)

Specific Purpose:

This section is being adopted to provide that the CWD may issue the EBT card and PIN at designated county locations for emergency/urgent cases. Handbook Section 16-510.41 describes that the EBT system has the capability to provide same day card issuance. This modification is also necessary due to changes in Section 16-215, which originally provided this information.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(8) and California EBT ITP Section 6.8.3.

Section 16-515

Specific Purpose/Factual Basis:

Section 16-515 is being adopted to provide a location within the EBT regulations for lost, stolen, and inoperative EBT card requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Section 16-515.1, and Handbook Sections 16-515.2 and .3 (Handbook sections renumbered to Handbook Sections 16-515.3 and .4.)

Specific Purpose:

This section is being adopted to require the CWD to immediately provide the toll-free phone number for the EBT system ARU in order for the cardholder to report that their EBT card has been lost or stolen to the EBT Contractor. The handbook sections are being added to provide the system requirement to have a 24-hour-per-day toll-free telephone line available for reporting a lost or stolen EBT card and that the EBT Contractor shall immediately deactivate the EBT card.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 10072(f) and to implement the California EBT ITP Section 6.8.4. One of the options of the ARU menu is to speak with a customer service representative at the Customer Service Center.

Final Modification:

Handbook Sections 16-515.2 and .3 are being renumbered to Handbook Sections 16-515.3 and .4 to accommodate the addition of a new Section 16-515.2. Renumbered Handbook Section 16-515.3 is being amended to correct a grammatical error.

Section 16-515.2 (Post-Hearing -- New.)

Specific Purpose:

This section is being adopted to direct the CWD to assist a cardholder who can not use the ARU to report a lost or stolen EBT card because the cardholder's language is not an option of the ARU. The CWD shall ensure the lost/stolen EBT card is deactivated as soon as possible. The CWD may do this in several ways, such as the CWD may choose to deactivate the card or it may have an interpreter available to the cardholder in using the ARU for reporting the lost/stolen EBT card.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Section 10072(f) and (g). Although California EBT ITP Section 6.11.2.2, provides for 10 languages on the ARU menu, if the cardholder's language is unknown to the ARU, the State must provide a way for the cardholder to report a lost/stolen EBT to prevent unauthorized use of their benefits.

Handbook Section 16-515.4 (Renumbered to Handbook Section 16-515.5.)

Specific Purpose:

This handbook section is being added to provide the requirement that the EBT Contractor maintains a report of lost or stolen EBT cards that will be available to the CWD.

Factual Basis:

This handbook section is necessary to comply with 7 CFR 274.12(g)(5)(iv) and the California EBT ITP Section 6.8.4.

Final Modification:

Handbook Section 16-515.4 is being renumbered to Handbook Section 16-515.5 to accommodate the addition of a new Section 16-515.2.

Section 16-517

Specific Purpose/Factual Basis:

Section 16-517 is being adopted to provide a location within the EBT regulations for EBT card replacement requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Section 16-517.1

Specific Purpose:

This section is being adopted to require the CWD to provide a replacement card within three business days following a cardholder's request for a replacement EBT card.

Factual Basis:

This section is necessary to implement 7 CFR 274.12(f)(1)(i) and to comply with the California Approved Waiver Request #980091 for 7 CFR 274.12(f)(5)(ii) [subsequently renumbered to 7 CFR 274.12(g)(5)(ii)].

Final Modification:

The Department agrees with the concept of the testimony. Section 16-517.1 is being amended to clarify that the cardholder is to receive the replacement EBT card within three business days following the request for a replacement EBT card. This is necessary to conform with California Approved Waiver Request #980091 for 7 CFR 274.12(f)(5)(ii) [subsequently renumbered to 7 CFR 274.12(g)(5)(ii)] and California EBT ITP 6.8.4.1.

## Section 16-517.2

### Specific Purpose:

This section is being adopted to require the CWD to ensure that a duplicate account is not established that would allow access to duplicate food stamp and/or cash benefits.

### Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(5)(iii).

## Section 16-517.3

### Specific Purpose:

This section is being adopted to specify that any active EBT card is to be deactivated before the replacement card is issued.

### Factual Basis:

This section is necessary to implement 7 CFR 274.12(g)(5)(iv).

## Section 16-517.4

### Specific Purpose:

This section is being adopted to specify that the replacement card shall carry a new PAN.

### Factual Basis:

This section is necessary to comply with the California EBT ITP Section 6.8.4.

## Section 16-517.5 et seq. and Handbook Section 16-517.512(a)

### Specific Purpose:

This section is being adopted to specify the CWD option for issuance of EBT card replacement and to cross-reference the card issuance sections. The handbook section describes the EBT Contractor's process for mailing EBT replacement cards.

### Factual Basis:

This section is necessary to comply with the California EBT ITP Section 6.8.4.

Handbook Section 16-517.6 et seq.

Specific Purpose:

This handbook section is being added to provide the requirement that the EBT system will provide information on card status that will be available to the CWD.

Factual Basis:

This handbook section is necessary to comply with the California EBT ITP Section 6.8.9.

Section 16-520

Specific Purpose/Factual Basis:

Section 16-520 is being adopted to provide a location within the EBT regulations for PIN selection, change, and unlock requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Section 16-520.1

Specific Purpose:

Section 16-520.1 is being adopted to require the CWD to allow the cardholder to select their own PIN. The cardholder can change the PIN by using the ARU or by going to the designated county location that has the necessary equipment for PIN change.

Factual Basis:

The EBT system allows the cardholder to select their own PIN as contained in 7 CFR 274.12(f)(1)(ii), 7 CFR 274.12(g)(5)(i) and Welfare and Institutions Code Section 10072(e). A cardholder can change their PIN by using the ARU or by going to a designated location as described in California EBT ITP Section 6.8.6 and California Approved Waiver Request #2000040 for 7 CFR 274.12(h)(7)(iii) [subsequently renumbered to 7 CFR 274.12(i)(7)(iii)] which provides for PIN change through the ARU.

Section 16-520.2

Specific Purpose:

This section is being adopted to specify that the CWD cannot limit the number of times a cardholder changes their PIN.

Factual Basis:

The section is necessary to comply with California EBT ITP Section 6.8.6.

Section 16-520.3 and Handbook Sections 16-520.31 and .32

Specific Purpose:

The EBT system automatically deactivates an EBT card after four unsuccessful PIN attempts. At 12:00 midnight Pacific Standard Time, the card is reactivated and the PIN count is reset to zero. These sections are being adopted to require the CWD to reactivate an EBT card, at the cardholder's request, when the cardholder's card has been deactivated due to four consecutive invalid PIN attempts. Before the CWD can reactivate the EBT card, the CWD must have the cardholder provide two verifiable items of demographic information about the primary cardholder. The CWD must validate the cardholder's responses with the demographic information available through the administrative terminals. The demographic data fields are name and address, and may include Social Security Number, date of birth, and telephone number.

Factual Basis:

This section is necessary to comply with California EBT ITP Section 6.8.8.3. ITP Section 6.8.8.3, deactivating the EBT card after three consecutive unsuccessful PIN attempts, raised concerns from the CWDs and the Client Advocate Advisory Group. The concern focused on the household's/AU's inability to access their benefits during the card deactivation period. The State addressed this concern by changing the requirement through an amendment to the California EBT ITP in Work Authorization No. 4, which requires the EBT Contractor to increase the number of unsuccessful PIN attempts to four.

Additionally, the State provides for the CWD to reactivate the EBT card by using the administrative terminal as contained in an amendment to the California EBT ITP in Work Authorization No. 2. This would be done upon the request of the cardholder and could allow for an earlier card reactivation time, thus the household/AU would be able to use the EBT card to access their benefits. Prior to the CWD reactivating the EBT card, the cardholder must provide information about the primary cardholder that the CWD would verify using the administrative terminal. The verification step is similar in concept to the cardholder authentication process for a PIN change contained in California EBT ITP Section 6.8.6.

Chapter 16-600

Specific Purpose/Factual Basis:

Chapter 16-600 is being adopted to provide a location within the EBT regulations for EBT training. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

## Section 16-601 et seq.

### Specific Purpose:

This section sets forth when and how to provide cardholder training and the areas the training should include.

### Factual Basis:

Sections 16-601.1, .2, and .3 are necessary to implement the new federal mandate contained in 7 CFR 274.12(f)(1)(v) and (g)(10); California Approved Waiver Request #980090 for 7 CFR 274.12(f)(10)(ii) [subsequently renumbered to 7 CFR 274.12(g)(10)(ii)]; Welfare and Institutions Code Section 10072(h); and California EBT ITP Sections 6.9, 6.9.1, and 6.9.2. Section 16-601.4 is necessary to implement 7 CFR 274.12(g)(10)(vi) and California EBT ITP Section 6.9.2.1 and California EBT ITP as amended by Work Authorization No. 5. Section 16-601.5 is necessary to implement 7 CFR 274.12(g)(10). Section 16-601.6 is necessary to implement 7 CFR 274.12(g)(10)(i) through (viii) [correct (f)(1) through (f)(9) to (g)(1) through (9)] and California EBT ITP Section 6.9.2.2.

### Final Modification:

In response to testimony, Section 16-601.1 is being amended to add Handbook Section 16-601.11. The revision is necessary to clarify that the EBT Contractor will conduct cardholder training during the EBT county conversion phase of the statewide EBT system as provided in California EBT ITP Section 6.9.

In response to testimony, Section 16-601.3 is being amended. This revision is necessary to clarify that the CWD is not limited to one training site.

In response to testimony, Section 16-601.32 et seq. is being amended to include the CWD will contact the cardholder by mail or telephone to offer assistance and additional training, to include face-to-face training, when EBT reports indicate a cardholder may need additional assistance or training. The revisions inform the CWD to contact the cardholder to offer additional training as well as clarify that the CWD will use EBT reports to help identify cardholders who may need assistance to more effectively use the EBT system.

In response to testimony, Section 16-601.4 is being amended by adding the words "appropriate" and "and" in providing training material for households. Training material will be provided in languages listed in Section 16-601.41.

In response to testimony, Section 16-601.41 is being amended to use "Chinese" to describe the written language. The revision uses the term commonly referred to when describing the written language.

In response to testimony, Section 16-601.4 is being amended by adding a new Section 16-601.42 which clarifies that written training material will be at a sixth grade education or reading level as provided in the California EBT ITP Section 6.9.2.1.



In response to testimony, Section 16-601.6 is being amended as follows: Section 16-601.6(i) -- add cash access locations; Section 16-601.6(o) -- include store window signage; Section 16-601.6(w) -- obtain transaction history as a feature of the ARU. These revisions are in conformity with 7 CFR 274.12(g)(10) and California EBT ITP Section 6.9.2.2.

At the Department's discretion, Section 16-601.6(g) is being amended by replacing the current item "stale account handling" with "account aging and expungement" for the purpose of consistency with Section 16-120, Account Aging and Expungement.

In response to testimony, Section 16-601.6(q) is being amended to clarify an area of cardholder training which is the inability to access benefits because of the failure to enter the selected PIN and activate card. The inability to access benefits is from failure to enter the selected PIN not failure to select the PIN.

### Section 16-610

#### Specific Purpose/Factual Basis:

Section 16-610 is being adopted to provide a location within the EBT regulations for county training requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

#### Sections 16-610.1 and .2 et seq.

#### Specific Purpose:

These sections are being adopted to establish the requirement that the CWD provide EBT ongoing training for cardholders and county staff. The training content is provided in this regulation. Training will include: training provided to cardholders, use of the administrative terminal, system functions, card status, county responsibilities, equipment usage, card issuance and PIN selection processes, contractor contacts and escalation procedures, EBT security for equipment, cards, and data, error resolution process, settlement and reconciliation, using and understanding reports, and producing ad hoc reports, use of administrative terminals for fraud investigation, set-up and use of pseudo-households for investigative purposes.

#### Factual Basis:

This section is necessary to comply with 7 CFR 274.12(f)(1)(v) which requires training for EBT system users and 7 CFR 274.12(g)(10) which requires training be provided to cardholders. Also, Section 16-610 is necessary to comply with California EBT ITP Section 6.9 which states that cardholder and administrative staff training is a county responsibility. ITP Section 6.9.4.1 lists the minimum training areas.

### Chapter 16-700

Specific Purpose/Factual Basis:

This chapter is being adopted to provide a location within the EBT regulations for adjustment requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Section 16-701

Specific Purpose/Factual Basis:

This section is being reserved for regulations pertaining to error resolution which will be added when completed.

Final Modification:

This section is being amended to provide a location within the EBT regulations for the CWD to process benefit adjustments prior to the benefits being available to the recipients. The section title is amended to "Benefit Adjustment Prior to Availability Date." These adoptions are necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and (g)(4) and Welfare and Institutions Code Section 10065, 10069, 10072(i), and 10077.

Section 16-701.1 (Post-Hearing Modification -- New.)

Specific Purpose:

This section is being adopted to ensure that erroneously posted benefit amounts can be corrected prior to benefit availability.

Factual Basis:

This section is necessary to comply with 7 CFR 274.12(g)(4)(i).

Section 16-750

Specific Purpose/Factual Basis:

Section 16-750 is being adopted to provide a location within the EBT regulations for food stamp overissuance collections from EBT accounts requirements. This adoption is necessary to implement a statewide EBT system as required by 7 CFR 274.12(a) and Welfare and Institutions Code Sections 10065, 10069, and 10077.

Final Modification:

The section title is being amended to correct a typographical error.

## Section 16-750.1

### Specific Purpose:

This section is being adopted to comply with federally mandated provisions regarding recipient claim establishment and collections as they pertain to EBT benefits.

### Factual Basis:

The United States Department of Agriculture, Food and Nutrition Service, established final federal rules, as outlined in Administrative Notice 00-57 dated August 11, 2000, that mandate several provisions be implemented in the establishment and collection of recipient overissuances. These provisions are published in the Federal Register dated July 6, 2000, and are listed in 7 CFR 273.18(g)(2).

## Section 16-750.11 et seq.

### Specific Purpose:

This section is being adopted to specify the methods by which the CWD may obtain permission from the household to use the household's EBT account to recoup food stamp overissuances.

### Factual Basis:

7 CFR 273.18(g)(2)(i) allows the household to repay its overissuance claims by using benefits from its EBT accounts. However, permission must be obtained from the household pursuant to 7 CFR 273.18(g)(2)(ii)(A).

## Section 16-750.12

### Specific Purpose:

This section is being adopted to specify instruction on collecting overissuance claims from a household's stale EBT benefits.

Factual Basis:

7 CFR 273.18(g)(2)(ii)(B) allows the CWD to collect overissuance claims from a household by applying stale EBT benefits to the outstanding claim amount.

Final Modification:

In response to testimony, Section 16-750.12 is being amended to substitute the word "dormant" for the word "stale." This amendment is necessary for consistency in the EBT regulations, in this case, to use the terms that are consistent with Section 16-120.

Section 16-750.13

Specific Purpose:

This section is being adopted to specify instruction to the CWD on adjusting outstanding overissuance claims by subtracting any expunged amounts from the household's EBT benefit account.

Factual Basis:

7 CFR 273.18(g)(2)(ii)(C) provides the state with the authority to adjust overissuance claim amounts by subtracting any expunged amount from the household's EBT benefit account.

Section 16-750.14

Specific Purpose:

This section is being adopted to instruct the CWD that any collections from EBT accounts are considered "non-cash" transactions and are to be considered as an adjustment to the household's EBT benefit account.

Factual Basis:

7 CFR 273.18(g)(2)(iii) specifies that collections from EBT accounts are to be considered non-settling transactions, and that any amount taken from an EBT account is to be considered an adjustment to that account.

Section 16-750.15 et seq.

Specific Purpose:

This section is being adopted to specify the minimum requirements for a written agreement with a household to pay overissuance claims by using the household's EBT benefits.

Factual Basis:

7 CFR 273.18(g)(2)(iv) specifically identifies the minimum requirements for the CWD to enter into a written agreement with a household to repay any overissuance claim using the household's EBT benefit account.

Section 16-750.2

Specific Purpose:

This section is being adopted to instruct the CWD that households that have overpaid claims shall not be entitled to a refund if the overpaid amount is attributed to an expunged EBT benefit.

Factual Basis:

7 CFR 273.18(h)(2) states that households that have overpaid a claim as a result of expunged EBT benefits shall not be entitled to a refund.

Final Modification:

In response to testimony, Section 16-750.2 is being amended to add language at Sections 16-750.2 and .21 regarding refunds to households for overpaid claims in accordance with 7 CRF 273.18(h). The renumbering of existing Section 16-750.2 to Section 16-750.22 is necessary to accommodate the new added language.

Chapter 16-800 and Section 16-801

Specific Purpose/Factual Basis:

Chapter 16-800 and Section 16-801 are being adopted to provide a location within the EBT regulations for referring and investigating fraud and misuse of benefits received via the EBT system. This chapter and section are necessary to comply with Welfare and Institutions Code Sections 10553, 10554, and 10600.

Section 16-801.1

Specific Purpose:

This section is being adopted to instruct counties to refer cases of suspected fraud or misuse of benefits delivered via the EBT system to the county Special Investigative Unit (SIU) or appropriate agency.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Sections 10553, 10554, and 10600.

Section 16-801.2

Specific Purpose:

This section is being adopted to instruct counties to refer to the MPP Division 20 including Sections 20-004, 20-007, 20-008, 20-300 and 20-350 for comprehensive regulations regarding fraud, criteria for referring cases for investigation, investigating cases, referring cases for prosecution, and imposing Intentional Program Violations.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Sections 10553, 10554, 10600, and 10980.

Section 16-801.3

Specific Purpose:

This section is adopted to instruct county SIUs that cases of suspected fraud and misuse of benefits received via the EBT system must be investigated in accordance with MPP Division 20, Section 20-007.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Sections 10553, 10554, and 10600.

Section 16-801.4

Specific Purpose:

This section is adopted to inform county SIUs that they have the ability to access on-line EBT transaction data and fraud reports to detect potential retailer and/or recipient fraud/trafficking.

Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Sections 10553, 10554, and 10600.

### Section 16-801.5

#### Specific Purpose:

This section is being adopted to direct SIUs to contact the CDSS Fraud Bureau or the USDA to coordinate investigations of potential retailer trafficking/fraud in the Food Stamp Program.

#### Factual Basis:

This section is necessary to comply with Welfare and Institutions Code Sections 10553, 10554, and 10600.

### Section 20-300.12

#### Specific Purpose:

The proposed amendment to this section is to replace the words "coupons or ATPs" with the word "benefits."

#### Factual Basis:

This amendment is necessary for consistency and clarity and to reference the correct term for Food Stamp Program benefits. The reference to food stamp benefits will include Food Stamp Program benefits that are received in any form including those benefits delivered through the EBT system.

### Sections 20-300.312 and .313

#### Specific Purpose:

The proposed amendments to these sections are to delete the "s" in the word "stamps" and add "benefits."

#### Factual Basis:

These amendments are necessary to reference the correct term for Food Stamp Program benefits. The reference to food stamp benefits will include Food Stamp Program benefits that are received in any form including those benefits delivered through the EBT system.

## Section 44-302 Title

### Specific Purpose:

Regulations are being added in this section to allow CalWORKs benefit payment by electronic benefit transfer as well as by direct deposit. The section title is amended to reflect both payment methods.

### Factual Basis:

This amendment is necessary to comply with Welfare and Institutions Code Section 10072 which provides counties the option to issue cash benefits via electronic benefit transfer and Welfare and Institutions Code Section 11006.2 which directs counties to permit benefit payment by direct deposit if this option is available to county employees.

## Section 44-302.1 et seq.

### Specific Purpose:

The numbering sequence in this section is revised to consolidate placement of direct deposit language and to allow for the addition of regulatory language to permit use of an EBT system for delivery of benefits. Section numbers are modified to add .1 to the existing first paragraph in Section 44-302 and renumber subsections .1, .2, and .3 to .11, .12, and .13 for direct deposit regulations.

### Factual Basis:

These numbering changes are necessary to regulate the implementation of electronic benefit transfer pursuant to Welfare and Institutions Code Section 10072.

## Section 44-302.2

### Specific Purpose:

This section is being adopted to provide counties the option to use the EBT system as a method to deliver cash benefits as outlined in proposed Section 16-001.23.

### Factual Basis:

Section 44-302.2 is necessary to comply with Welfare and Institutions Code Section 10072, which provides counties the option to issue cash benefits via an EBT system.

## Final Modification

This section is being amended to correct the cross-reference to Section 16-001.3.

## Section 44-304.53



Specific Purpose:

Section 44-304.53 is being adopted to require those counties opting to use the EBT system to issue cash benefits pursuant to Section 16-215.

Factual Basis:

Section 44-304.53 is necessary to comply with Welfare and Institutions Code Section 10072 and to provide consistency and clarity, and to cross-reference EBT requirements for issuing cash benefits.

Section 44-304.611 and Handbook Section 44-304.611(a)

Specific Purpose:

Section 44-304.611 is being amended to ensure that benefits issued through the EBT system are available to recipients by their designated payment date when that date falls on a weekend or holiday. Editorial changes are also being made to incorporate this change into existing language. Also, handbook section is being amended to include EBT benefit availability.

Factual Basis:

This change is necessary to comply with Welfare and Institutions Code 10072, which requires that recipients receive their payment on or by their designated payment date.

Final Modification:

This section and handbook section are being amended to delete the phrase "direct deposit." These amendments are necessary to clarify that electronic fund transfer is not limited to only direct deposit. Section 44-304.611 is being further modified to amend the cross-reference from Section 16-215.5 to Section 16-215. This amendment is necessary to reflect the reformatting of Section 16-215.

b) Identification of Documents Upon Which Department Is Relying

Public Law (P.L.) 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996

7 USC 2016

7 CFR 271.1

7 CFR 271.2

7 CFR 271.3

7 CFR 273.18

7 CFR 274.2

7 CFR 274.10

7 CFR 274.12

7 CFR 278.1

California Approved Waiver Request #980069, 980070, 980071, 980090, 980091, 2000040, and 2010191

EBT Coordinators Letter, FS-9-5-1/EBT GEN, dated September 28, 1998 from FNS Western Region Office

Preamble of the Final Rules and Regulations Federal Register, Vol. 57, No. 63, April 1, 1992

USDA, Food and Nutrition Service (FNS), EBT Reconciliation Guidance for State Agencies

FNS EBT – Frequently Asked Questions, updated 10/31/01

AB 1542, Chapter 270, Statutes of 1997

AB 2779, Chapter 329, Statutes of 1998

AB 2772, Chapter 902, Statutes of 1998

SB 1247, Chapter 371, Statutes of 1999

Negotiated Terms and Conditions of the Electronic Benefit Transfer Contract (NTC)

California EBT Invitation to Partner (ITP)

California EBT ITP Work Authorization No. 2 through 7

California EBT Requirements Validation Document

California EBT Interface Document

California EBT Settlement and Reconciliation Guide

Quest Operating Rules

c) Local Mandate Statement

These regulations implement issuance of Food Stamp and cash benefits via the EBT system. The regulations implementing issuance of cash benefits via the EBT system do not impose a mandate on local agencies or school districts because this is a county option as set forth in Welfare and Institutions Code Section 10069. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

The regulations implementing issuance of Food Stamp benefits via the EBT system do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by Federal Food Stamp regulations at 7 CFR 274.12.

d) Statement of Alternatives Considered

CDSS has determined that no reasonable alternative considered would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would lessen any adverse impact on small business.

e) Significant Adverse Economic Impact On Business

CDSS has determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

f) Testimony and Response

These regulations were considered as Item #1 at the public hearings held on June 19 and 21, 2002 in Sacramento and Monterey Park, California, respectively. Written testimony was received from the following during the 45-day comment period from April 26, 2002 to 5:00 p.m. June 21, 2002:

Neighborhood Legal Services of Los Angeles County (NLS)  
Los Angeles County Department of Public Social Services (LA DPSS)

Oral testimony was received at the public hearing from the following:

\*Debra Garcia - Consumers Union (DG)  
Joseph Massa – Legal Aid Foundation of Los Angeles (JM)  
Lamont T. King, Jr. – Neighborhood Legal Services (LTK)

\* In Ms. Garcia's testimony she requested that previously submitted written comments be considered again. The comments she referred to were comments on three draft versions of the regulations that were shared with various advocacy groups prior to the 45-day comment period. Since those draft versions differed significantly from the regulations that were noticed during the 45-day comment period, the Department requested Ms. Garcia to review the previously submitted comments and resubmit those comments that were pertinent to the regulation version that was noticed during the 45-day comment period. Those written comments and the Department's responses have also been included. The written comments can be found in the rulemaking file for this package in Exhibit H.

The comments received and the Department's responses to those comments follow. At the end of each comment is the name of the commenter in parentheses. General comments follow the specifically identified section comments.

Section 16-005

1. Comment:

"We recommend revising this section to add the following definitions.

- "(d) (3) Dormant Account – Status of an EBT account indicating that the account has not been accessed within the last 90 days. When the account is Dormant, benefits are no longer accessible to the participation without CWD intervention.
- "(e) (6) Expunged Account – Status of an EBT account indicating that the account has not been accessed within the last 270 days.
- "(7) Expunged Benefit – Unused balance o benefit authorization that is returned to the CWD after 270 days and no longer available to the participant on the EBT system.
- "(s) (2) Stale – This term needs definition and clarifications as to how it relates to EBT.
- "(3) Stale Benefit – This term need to be defined.
- "(4) Surcharge – A fee added to a transaction by an acquirer, terminal operator or merchant for a transaction initiated at a POS or ATM terminal." (LA DPSS)

Response:

(d)(3) The Department agrees with the testimony and is including the term "Dormant Account" in Section 16-005, Definitions Section.

(e)(6) The Department agrees with the testimony and is including the term "Expunged Account" in Section 16-005, Definitions Section.

(e)(7) The Department disagrees with the testimony. Inclusion of this term may be confusing because after 270 days food stamp and cash benefits are treated differently. No revision is being made to the regulation in response to the testimony.

(s)(2) and (3) The Department disagrees with the testimony. The term "stale" is being removed in Section 16-601.6(g) and in Section 16-750. Other terms will be used for consistency in the regulations. No revisions will be made to the regulations in response to the testimony.

(s)(4) The Department disagrees with the testimony. This term and definition are currently in the regulations. No revision is being made to the regulation in response to the testimony.

Section 16-005(c)(5) (Renumbered to Section 16-005(c)(6).)

2. Comment:

"We note that § 4.3 of the Invitation to Partner (ITP) anticipates that the State may later add any number of other types of benefits which may or may not have a "monetary" character, 'such as foster care payments, child care payments, child support payments, Welfare-to-Work, In-Home Supportive Services (IHSS), special circumstances, and vendor payments,' as well as, presumably, WIC, Workers' Comp, LIHEAP, and direct federal benefits. Against the prospect of non-cash assistance programs later being added to the EBT system (such as categorical medical programs, educational programs, etc.), the definition of 'cash' should be sharpened to define it as a monetary term. The following definition is proposed.

"Cash - Any ~~other non-Food Stamp program~~, monetary form of state, county or federal benefit other than the federal or state Food Stamp programs, e.g., CalWORKs, General Assistance." (CU)

Response:

The Department disagrees with the testimony. The current definition allows for additional governmental payments and, at this time, the Department believes it is sufficient. No revision is being made to the regulation in response to the testimony.

Section 16-005(d)(2)

3. Comment:

"The second part of that is that if you are going to keep the written verification requirement and it talks about, that it has to be from the doctor or licensed, or excuse me, medical licensed practitioner and that medical licensed practitioner includes things like psychiatrists, psychiatric technician, acupuncturist, chiropractor, that's in the Definition Section 16-005(d)(2). And we asked this in our written comments before, but want to stress it again that, ask that you would include licensed clinical professionals and then that way it would include things like MSWs and MFTs, formerly MFCCs, so that if a client is currently have a relationship with somebody like a social worker, but it might not be a medical licensed practitioner, that they be allowed to give written verification and still require that they be allowed to get verification from the professional with whom they're working and so we ask that you would extend that definition to include licensed clinical professional . . . (GARCIA)

Response:

The Department disagrees with the testimony. See response to Comment #23.

Section 16-105.35 (Renumbered to Section 16-105.45.)

4. Comment:

"Some clients do not have a home address (e.g., the homeless, those in temporary shelters, etc.), as such, instead receiving correspondence from the county at an alternate address or 'on call' at the CWD itself. This revised directive makes clear that it is not necessary to provide an actual home address for clients who do not have one. We propose the following addition to 16-105.35:

"Address where the client receives correspondence from the county" (CU)

Response:

The Department disagrees with the testimony. Address is one of the data elements for establishing the recipient EBT account. Current program policy/regulations have clear instruction on how clients will obtain benefits and/or assistance if they do not have an address. The information the CWD uses for address would be used in the EBT system. For example, the Food Stamp regulations, Section 63.601.11, existing policy is sufficient to cover mailings in regards to the Food Stamp benefits. No revision is being made to the regulation in response to the testimony.

Section 16-120

5. Comment:

"The discussion of account aging does not impose obligations on the county to contact the cardholder after it receives the forty-five day, or any earlier report of non-use. The following proposed language should be added as New section 16-120.113.

"The CWD should promptly contact or make attempts to contact the cardholder after receipt of the non-use report or at an earlier time when the CWD learns of non-use of the card persisting more than ten days, to determine whether the cardholder is having difficulties with the use of EBT. In that contact, the CWD should offer individualized training and/or other steps to correct the difficulties, and should offer alternative distribution methods for cash benefits distributed through EBT." (NLS)

Response:

The Department disagrees with the testimony. Section 16-120.112 states, ". . . when the CWD receives the 45-day report or when the CWD becomes aware that no debit activity has occurred for 45 days, **the recipient shall be notified . . .**" No revision is being made to the regulation in response to the testimony.

Section 16-120.122

6. Comment:

"This change in regulations indicates that the CWD may use the administrative terminal and host-to-host interfaces to reinstate benefit availability to participants.

"We recommend changing the regulation to read:

".122 The CWD shall use the administrative terminal, host-to-host *or batch interfaces* to reinstate benefit availability. The benefits shall be reinstated and accessible to the recipient within 24 hours after the CWD has transmitted the request to the EBT system. (LA DPSS)

Response:

The Department agrees with this testimony and the regulation is being revised to include batch interface.

7. Comment:

"This section imposes no time limit upon a CWD to reinstate benefits that are in Dormant Account Status. There appears to be a drafting error in the original. We assume the intent was to define the 24-hour time frame between the recipient's request and the action by the CWD to reinstate the benefits. We recommend that same-day reinstatement is preferable whenever practicable. The following change will clarify:

"The CWD shall use the administrative terminal or host-to-host interface to reinstate benefit availability. ~~The benefits shall be reinstated and accessible to the recipient within 24 hours after the CWD has transmitted the request to the EBT system.~~ Whenever practicable, the benefits shall be reinstated and accessible to the recipient the same day the request is received by the CWD, but in no event more than 24 hours after receipt of the request by the CWD." (CU)

Response:

The Department disagrees with the testimony. This section establishes the time frame in which benefits in a Dormant Account Status are to be reinstated by the EBT system after the CWD has transmitted the request for reinstatement. This section is not intended to establish the time frame for the recipient to have access to such benefits subsequent to contacting CWD. That time frame is addressed in Section 16-120.133. No revisions are being made to the regulations in response to the testimony.

Section 16-120.133

8. Comment:

"The CWD shall maintain an accounting of expunged cash benefits and reissue the cash benefits ~~upon~~ as soon as practicable, but in no event more than 24 hours after receipt of the recipient request."

"It is essential to specify the time within which the CWD must act on the client's request to gain or re-gain access to benefits." (NLS)

Response:

The Department agrees that a time frame should be established for the reissuance of expunged cash benefits in response to a recipient request. Subsequent to discussions with county representatives, it has become apparent that due to operational considerations at the county level, the time frame included in the suggested language ("... as soon as practicable, but in no event more than 24 hours after receipt of the recipient request.") is functionally impossible for CWDs to meet. The majority of cases with expunged cash benefits will be discontinued or terminated, and in many cases the actual case file will have been sent to a storage facility or even purged. CWDs have indicated that they will not reissue any such benefits without first examining the case file and circumstances. This may require a time-consuming search for the case file and in extreme cases, the reconstruction of the case file from storage media. The Department agrees with this position. As a result of these considerations, Section 16-120.133 is being amended.

9. Comment:

"As with several other proposed revisions, it is essential to specify the time frame within which the CWD must act on the client's request to gain or re-gain access to benefits. If the EBT system allows immediate reinstatement, then recipients should not be without their benefits longer than necessary. The following change will serve this purpose.

"The CWD shall maintain an accounting of expunged cash benefits and reissue the cash benefits ~~upon~~ as soon as practicable but in no event more than 24 hours after receipt of the recipient request." (CU)

Response:

See response to Comment #8.



Section 16-130.4

10. Comment:

"This section should be clarified to set forth the procedure for the client to obtain the transaction history, and make clear that the stated five business-day time frame is the time frame within which the transaction history reaches the client. The following change should be made."

"Upon request of CWD, transaction history information stored off-line will be retrieved and provided to the recipient in a time frame not to exceed five business days from the date of any request by the recipient." (CU)

Response:

The Department disagrees with the testimony. Section 16-130.4 relates to the CWD requesting transaction history information from the EBT Contractor. The EBT Contractor is to provide the requested information to the CWD within five business days. Section 16-130.4 does not apply a cardholder request for transaction history. Sections 16-130.5 and .51 provides information for a cardholder's request for transaction history which is made to the EBT Contractor via the automated response unit (ARU) or the customer service center. The cardholder receives this information within five business days. No revisions are being made to the regulations in response to the testimony.

Section 16-215.6 (Renumbered to Section 16-215.4.)

11. Comment:

"Regulation changes in subsections .61 and .63 of this section provide instructions for distribution of CalWORKs and General Assistance benefits; i.e., CalWORKs shall be staggered over three days and General Assistance may be staggered over a period longer than three days at CWD's discretion. It, however, does not address the Cash Assistance Payments to Immigrants (CAPI) and Refugee Cash Assistance (RCA) Programs.

*"We recommend the addition of subsections to address the distribution of benefits for the CAPI and RCA programs. Please keep in mind that all CAPI benefits are currently available on the first of the month."* (LA DPSS)

Response:

The Department agrees with the concept of the testimony and is amending Section 16-215. The countywide waiver request provided in this section will apply to cash benefits. The CWD must submit a written waiver request to CDSS.

12. Comment:

**"New Section 16-215.64**

"Section 16-215.6 may be waived on a countywide basis for General Assistance (GA) benefits for the issuance of benefits in less than three days, allowing for a shorter cash benefit issuance time frame, with CDSS approval. The CWD must submit a written waiver request to CDSS."

**"New Section 16-215.64**

"Section 16-215.6 may be waived on a countywide basis for General Assistance (GA) benefits for the issuance of benefits in less than three days, allowing for a shorter cash benefit issuance time frame, with CDSS approval. The CWD must submit a written waiver request to CDSS."

"Counties should have the ability to *shorten* the staggering period to less than three days for GA benefits, particularly in those cases where the general staggering methodology places particular recipients at risk of loss of shelter or other essential personal needs. This could be accomplished with a waiver provision similar to 16-215.61." (NLS)

Response:

See response to Comment #11.

Section 16-215.62 (Renumbered to Section 16-215.42.)

13. Comment:

"At recipient's request for a hardship exemption, the CWD shall determine on a case-by-case basis whether to exempt a recipient from the three-day staggering requirement of Section 16-215.6. Hardship includes, but is not limited to, the incidence of late charges on the household's housing payments, or the risk of loss of services due to late payment for child care, an automobile, or insurance."

"Additional examples should be added to the current regulation in order to give counties further guidance regarding circumstances that give rise to a hardship exemption determination." (NLS and MASSA))

"My concern is that although the language states and I quote, 'but is not limited to' referring to hardship, the regulation has the risk of limiting hardship to late charges on household housing payments. More examples of what constitutes hardship for purposes of this section should be added so the exemption does not become so limited. It's my understanding that based on this section a county in Northern California, I believe Alameda, used this section to create a form to be used by participants when hardship may be present and on the form they only have a space for problems with

household payments and I think that goes to show that this does seem to limit that it should be broadened." (MASSA)

Response:

The Department disagrees with the testimony. The example cited is from Welfare and Institutions Code Section 10072(l). Renumbered Section 16-215.42 clearly states that it is not an inclusive list of hardships and the Department does not believe it is necessary to include additional examples. No revision is being made to the regulation in response to the testimony.

14. Comment:

"And on the first issue, Benefit Availability, Section 16-215, I specifically want to talk about the exemption from the three-day stagger for cash benefits. In the existing section, it's 16-215.62, where it talks about the request, at a recipient's request for hardship exempt, for a hardship exemption, CWDA shall grant on a case-by-case basis and then it says that "hardship includes, but is not limited to, the incurrence of late charges on household's housing payments". And we have become concerned because of what this, how this regulation is being interpreted through the forms of the, through the two pilot counties. Two of the versions of the forms that I've seen is that the forms are appearing to show that, that late payments on housing on your rent are the only, is the only reason that a person can get an exemption, a hardship exemption. And the way that the forms are being constructed is that there's, there are, at least in the most recent Alameda County version, there are two large boxes. One of them is a box that just gives the recipient's name, address, social security number, I believe, and then there's another really large box right below it that says landlord or other creditor information and it appears that the landlord is required or other creditor is required to sign the form and also just from the face of the form that that's the only, again the only thing that a person could request an exemption for. So by providing this one example of hardship includes, but is not limited to, the occurrence of late charges on the household's housing payments, it looks like it's being interpreted that that could be the only reason and there is certainly, the only reason that the client has a hardship and just even looking at the household part of it, I mean, something besides the incurrence of late charges, well there could also be, especially in the Bay Area, Alameda County, where housing is kind of tight and landlords often look for, they don't have to have a reason to evict someone. And some clients we found don't wish to let their landlords know that they are receiving aid. And this could also be a reason that would lead a landlord to provide an eviction notice. So we suggest that either additional examples are given, you know hardship includes, but is not limited to, incurrences of late charges, an eviction notice, incurrence of late charges on child care payments or insurance payments, or somehow to include other examples. Or not include any examples at all so that it doesn't look like it's just limited to just a hardship being the household's late, household, late charges on the household payments." (GARCIA)

Response:

See response to Comment #13. Additionally, in response to the comment regarding the form developed by Alameda County, it has been revised. In the revised county form, Exemption from Cash EBT Stagger, the recipient provides a reason for requesting an exemption from cash EBT stagger; the box for landlord or creditors to complete has been deleted.

#### Section 16-301

15. Comment:

"Change this to 'card authentication value'. Provide a definition of 'card authentication value' in the Definitions section 16-005 et. seq." (NLS)

Response:

The Department agrees with the comment and the regulation is being revised. The Department agrees to add "card authentication value" to Section 16-005, Definitions Section.

#### Section 16-315.8

16. Comment:

"This section appears based on 7 C.F.R. § 274.12(g)(6)(ii) ('solely for purposes of shopping outside the pilot area'), a regulatory provision not applicable to the present statewide EBT implementation. The policy concerns compelling this requirement in the pilot phase do not apply here. Until full implementation is accomplished, such a prohibition would in the interim defeat the larger program goal of preserving pre-existing shopping patterns, an essential element of statewide implementation. We recommend that this subsection be deleted in its entirety." (CU)

Response:

The Department disagrees with the testimony. This section is based on the federal EBT regulation and applies to the statewide EBT system. The State evaluates the adequacy of the food retailer access to meet the needs of food stamp recipient population before the counties convert to the EBT system. Large grocery chains and other food retailers are already prepared to accept EBT food stamp benefits in the region, and in some cases statewide. For example, large chains (statewide) and some regional food retailers in the pilot counties have made the programming changes necessary to perform EBT transactions not only in the pilot county but in all their stores within the state or the region. No revision is being made to the regulation in response to the testimony.

#### Section 16-320

17. Comment:

**"New Section 16-320.8**

"No minimum dollar amount per transaction or maximum limit on the number of transactions shall be established."

"This language should be adopted to provide consistency with 16-310.3. The regulations should clearly state that participants should not be restricted to a minimum dollar amount per transaction, nor a maximum limit on the number of transactions."  
(NLS)

Response:

The Department disagrees with the testimony. Section 16-310.3 is based on Federal EBT regulations for the Food Stamp Program and applies to food stamp benefit transactions at USDA, Food and Nutrition Service authorized retailers. The State lacks the authority to impose this type of requirement upon acquirers and retailers for cash EBT. No revision is being made to the regulations in response to the testimony.

18. Comment:

"Section 16-320 would be enhanced by adding a new subsection .8 which mirrors the language of section 16-310.3. Because the regulations specifically prohibit minimums and maximums for food stamps, silence on the issue with respect to cash benefits might unintentionally suggest that counties have some flexibility to impose minimums and maximums with respect to cash transactions.

"No minimum dollar amount per transaction or maximum limit on the number of transactions shall be established." (CU)

Response:

The Department disagrees with the testimony. See response to Comment #17.

Section 16-320.41

19. Comment:

".41 'The CWD will receive a monthly report of locations where cardholders may obtain cash. This report will include those retailers that provide \$200 or more without fee, surcharge, or purchase requirement, as well as other retailers providing cash back, bill payment services, or location providing financial services.'

".42 'The CWD shall set up and maintain a system by which client can receive information by phone and mail of locations where free cash withdrawals of \$200 or more can be made without a fee, surcharge, or purchase requirement. On

request, the CWD shall mail this list, for the county or for particular requested zip codes, to any client and any community-based organization providing services or information to clients."

"Information on how to obtain cash should be separated according to whether or not the location charges a fee or requires a purchase. The current language is inadequate because it would permit one list containing locations including cash back, bill payment services, locations providing financial services, as well as retailers who provide \$200 or more without a surcharge. If the report includes the different types of locations mixed together, it will not offer practical help to CWD personnel called upon to answer the question, 'Where can I withdraw cash without a fee?' The additional proposed language is intended to augment existing section .41, to require the CWD to maintain and provide, upon request, a list of cash access location which do not include fees, surcharges, and purchase requirements." (NLS)

Response:

The Department agrees to revise Handbook Section 16-320.41 to clarify and provide additional information regarding the cash access report the EBT Contractor provides to the CWD.

However, the Department disagrees with the proposed new section. This handbook section is not intended to be a detailed description of the report and it does not limit how the CWD can use the report information. The additional language proposed by the comment (.42) is unnecessary. When a cardholder requests cash access information, Section 16-320.4 directs the CWD to provide cash access locations. The CWD can provide the information over the telephone or it can be mailed to the cardholder.

20. Comment:

"Section 16-320.41 is useful. It makes clear that the CWD will receive a monthly report of locations for cash withdrawal including locations which do not assess a surcharge. We suggest adding the following sentence to the end of section 16-320.41:

"The CWD shall make this information available to recipients by phone and by mail upon request." (CU)

Response:

The Department disagrees with the testimony. See response to Comment #19.

Section 16-325.31 (Renumbered to Section 16-325.311.)

21. Comment:

"This section recognizes physical or mental incapacity, but is too narrow because it requires that the disability prevent the cardholder from 'successfully using the POS or ATM devices required.' If the physical or mental disability prevents use of EBT in other ways, such as a mental disability interfering with the ability to keep track of balances that cannot be touched or seen, that disability should still qualify, although it may not prevent the individual from using a POS or ATM device. Section 16-325.31 should comply with Welfare and Institutions Code Section 10072(d).

**"New Section 16-325.31**

"The system shall provide for reasonable access to benefits to recipients who demonstrate an inability to use, an electronic benefits transfer card or other aspect of the system because of disability, language, lack of access, or other barrier. These alternative methods shall conform to the requirements of the Americans with Disabilities Act (42 U.S.C. Sec. 12101, et seq.), including reasonable accommodations for recipients who, because of physical or mental disabilities, are unable to operate or otherwise make effective use of the electronic benefits transfer system. An individual who has a permanent or temporary physical or mental disability preventing them from effectively using the EBT system may receive benefits via a warrant or other requested method." (NLS and MASSA)

"My concern with the language as currently stated is that it's ambiguous and fails to adequately protect the rights of the disabled recipients. The term 'successfully using POS or ATM devices' is open to numerous interpretations. Whereas the language in the Welfare and Institutions Code section where it states 'are unable to operate or otherwise make effective use of the electronic benefits transfer system' is clearer and open to less interpretation." (MASSA)

Response:

The Department disagrees with this proposed change. The intent of renumbered Section 16-325.311 is not to address "reasonable access" as described in Welfare and Institutions Code Section 10072(d). That code section requires that alternative methods be made available to recipients unable to make effective use of EBT because of mental or physical disabilities. Section 16-325 defines these alternatives as either direct deposit or the issuance of a warrant. The purpose of renumbered Section 16-325.311 is to define one of the possible criteria for warrant issuance, that being mental or physical incapacity. No revision is being made to the regulation in response to the testimony.

Section 16-325.311 (Renumbered to Section 16-325.311(a).)

22. Comment:

"This section recognizes physical or mental incapacity, but is too narrow because it requires that the condition prevent the cardholder from 'successfully using the POS or ATM devices required.' If the physical or mental condition prevents use of EBT in other ways, such as a mental disability interfering with the ability to keep track of funds that cannot be touched or seen, that condition should still qualify although it may not prevent the individual using from a POS or ATM device. We propose the following change:

"An individual who has a permanent or temporary physical or mental condition preventing them from successfully using ~~POS or ATM devices required to access benefits via~~ EBT may receive benefits via a warrant." (CU)

Response:

The Department agrees with the testimony. Renumbered Section 16-325.311(a) is being amended.

Section 16-325.321(a) (Renumbered to Section 16-325.312(a)(1).)

23. Comment:

"As stated in the discussion above under 16-005(d)(2) [Comment 2], 'licensed clinical professionals' will have the ability to verify a recipient's physical or mental condition required to receive a warrant. This group of professionals should be included here. The following change is proposed:

"provide written verification (CW 61 Rev. 7/01 or its equivalent) from a doctor, ~~or~~ medical licensed practitioner, or licensed clinical professional (as defined in Section 16-005) identifying the condition and its expected duration, or" (CU)

Response:

The Department disagrees with the testimony. Licensed clinical professional includes marriage and family counselors and other types of specialized counselors or social workers whose training would not include the ability to diagnose mental or physical disorders that might prohibit an individual from successfully using EBT. No revision is being made to the regulation in response to the testimony.



Section 16-325.331 (Renumbered to Section 16-325.313(a).)

24. Comment:

" And then the second matter, the Alternative Methods to EBT Cash Delivery, Section 16-325, and especially with regard to verification parts at 16-325.32. The written verification that's required for some folks is setting a bit, it's setting a higher than folks for whom their mental or physical disability is readily apparent. The example that we've heard state folks refer to is like if someone has no arms than obviously they can't use the EBT system. Use the ATM or POS, parts of the EBT system. And so, the eligibility worker can say, okay, yeah, you obviously, you know, you, apparent, there's no apparent disability here and exempt that person from the cash delivery and give them an alternative method, presumably the paper warrant. So it's setting a higher standard for people with hidden disabilities and most often with mental disabilities you have to then go to a doctor and get, or a licensed medical professional. You have to make an appointment, go to the doctor, get the verification, go through the whole system to get that written verification. And especially in the area again of mental illness it's, in talking to folks who deal specifically with the General Assistance population in Alameda County, sometimes having to admit that you have a mental illness is not something that you feel too, it's something that's very difficult to do and could present an additional barrier for people who can't use the system, but also don't want to have to deal with the addition of saying, 'Yes, I'm mentally ill, can you please provide me this written verification.' So we would suggest that written verification also be something like a statement by the client saying that they are, under penalty of perjury, they are unable to use the EBT system. And that that would be written verification enough for those people for whom it would be difficult to get the written verification required by the regs, regulations so far.

". . . or extend the written verification requirement in 16-325.32 to include licensed clinical professional." (GARCIA)

Response:

The Department disagrees with this testimony and the proposed changes. This section was purposely written to allow applicants/recipients with obvious/apparent disabilities to be granted an exemption from cash EBT participation without requiring further verification. The proposed alternative (self-certification) would effectively diminish the ability of CWDs to determine the validity of exemption requests. The only other alternative would be to follow the example of Welfare-to-Work requirements and to mandate verification in all cases. The Department is unwilling to apply such a strict requirement on disabled or incapacitated recipients by depriving them of having an exemption granted without further verification at county discretion. No revision is being made to the regulation in response to the testimony.

25. Comment:

"And there's also, in another section, Section 16-325.331 when you talk about alternative methods to cash EBT, one of the reasons for getting an alternative method to cash EBT is other barriers and there aren't any suggestions listed there and that seems to be in the forms that counties are producing that seem to be the better way to go because they are making it broader because they are including traditional things like remoteness, language, and I think one other issue, but they are also including on the form that say, or a box that says other so it looks like it gives the client a little bit more flexibility. So again the suggestion for Section 16-215.62 would be either to eliminate the example that you have of hardship includes, but is not limited to, the incurrence of late charges on the household's housing payments so, either to eliminate that or include additional, additional examples and of course keep the text, 'includes, but is not limited to.'" (GARCIA)

Response:

The Department agrees with the proposed change and language is being added to renumbered Section 16-325.313(a) with examples to provide counties with guidance in identifying other barriers to successful use of the EBT system.

Section 16-325.4 (Renumbered to Section 16-325.32.)

26. Comment:

"A recipient's request to receive benefits via warrant should be approved only after the CWD has informed the client ~~recipient/applicant's consideration~~ of other available alternatives, e.g., individualized training, direct deposit, or cards issued to other adult household/assistance unit members, or other third party not part of the household or assistance unit. After the client has been informed of alternatives, the client shall have the option to receive a warrant instead of the other identified alternatives.'

"The client may not be aware of all of the alternative methods to cash EBT delivery. The CWD should inform the client of the available alternatives. The proposed language makes the role of the CWD and the client's options clearer." (NLS and MASSA)

Response:

The Department agrees with the concept of the testimony. Section 16-325.4 is being renumbered to Section 16-325.32 and revised to reflect the proposed changes.

27. Comment:

"It should be stated that it is the responsibility of the CWD to inform the client of his or her options to EBT and that after the client's consideration of the options, he or she

may elect to receive a warrant instead of the other identified alternatives. We propose the addition of the following underlined language:

"A recipient's request to receive benefits via warrant should be approved only after the recipient/applicant's consideration of other available alternatives, e.g., individualized training, direct deposit, or cards issued to other adult household/assistance unit members, or other third party not part of the household or assistance unit. After the CWD has informed the recipient/applicant of other available alternatives, the recipient/applicant shall have the option to receive a warrant instead of the other identified alternatives." (CU)

Response:

The Department agrees with the concept of the testimony. See response to Comment #26.

Section 16-510

28. Comment:

"A new subsection should be added if the contract requires or is amended to require mailing in the proper languages.

"Prior to mailing of cards, PINs, or appointment letters, the CWD must determine any language preference of the household shown in the CWD's files and must provide all lists of clients to be used for mailing of cards, PINs, or appointment letters in a form segregated by identified language preference within the ten languages identified in section 16-601.41. For this purpose, persons identifying any dialect of Chinese shall be placed on the list to receive training materials in Mandarin." (CU)

Response:

The Department disagrees with the testimony. The CWD determines the language preference of the recipient based on their records. Depending on the language, the appropriate translated material will be provided to the recipient. The suggested language does not accommodate the variety of ways in which material is provided to recipients.

Section 16-510.1

29. Comment:

"The CWD will determine when the cards will be issued to recipients as required to meet benefit program time frames, pursuant to MPP 16-215. Card issuance may occur either prior to or after final eligibility determination depending on county operational

procedures. In either case, the card must reach the recipient before the first eligibility date.'

"This subsection permits counties to issue cards before or after the eligibility determination. It should make clear that regardless of the chosen method, the county must have the card in the recipient's hand before the first eligibility date." (NLS)

Response:

The Department disagrees with the testimony. It is unclear what is meant by the term "the first eligibility date" in the testimony. The day a recipient is determined eligible for the program may differ from the date benefits become available to the recipient. However, the Department will clarify that the CWD will provide the EBT card and PIN in order for the recipient to access benefits as soon as the benefits become available.

30. Comment:

"This section permits counties to choose to issue cards before or after the eligibility determination. It should make clear that regardless of the chosen method, the county must have the card in the recipient's hand before the first eligibility date. We propose the following addition to the end of section 16-510.1:

"In either case, the card must reach the recipient before the first eligibility date."  
(CU)

Response:

The Department disagrees with the testimony. See response to Comment #29.

Section 16-510.212(a)

31. Comment:

"The CWD shall designate an adequate number of EBT card issuance locations, geographically distributed throughout the county where recipients are concentrated, and accessible by public transit ~~determine the number of EBT card issuance locations.~~"

"This subsection is too vague. At a minimum, the over-the-counter card and PIN issuance subsections should require counties to designate an adequate number of card issuance locations, geographically distributed throughout the county where recipients are concentrated, and accessible by public transit." (NLS and KING)

Response:

The Department disagrees with the testimony. The Department has no authority to establish criteria for EBT card issuance locations. No revision is being made to the regulation in response to the testimony.

Sections 16-510.212(a) and .214(c)

32. Comment:

"At a minimum, the over-the-counter card and PIN issuance sections should require each county to designate an adequate number of card issuance locations geographically distributed throughout the county where recipients are concentrated, and accessible by public transit. The following language should be added to sections 16-510.212(a) and 16-510.214(c):

"The CWD shall identify an adequate number of locations to serve the client population, geographically distributed throughout those parts of the county where clients live, and accessible to the maximum extent possible by public transit."  
(CU)

Response:

The Department disagrees with the testimony. See response to Comment #31.

Section 16-510.214(a)

33. Comment:

"This section should establish a maximum limit on the amount of time that may transpire before the PIN must be mailed." (NLS)

Response:

The Department disagrees with the testimony. Mail-based PIN issuance can be handled in a variety of ways and it is not practical to establish a maximum limit on the number of days before the PIN is mailed to the cardholder. As stated in the amended Section 16-510.1, the EBT card and PIN must be issued in a timely manner to comply with benefit issuance time frames established by the benefit program regulations. No revisions are being made to the regulation in response to the testimony.

Section 16-510.214(b)

34. Comment:

"For CWDs that choose the mail-based option with the EBT Contractor performing the mailing service, the EBT Contractor shall:

"(a) Mail card, with training materials, and PINs using first class postage. EBT cards shall be delivered to the postal facility no later than the next business day following the receipt of account setup information from the CWD.

"(b) Mail the PIN, with training materials, (including instructions of how to change the PIN), separately from the card with a delay between mailing dates.'

"Subsections (1) and (2) refer to mailing of the card and PIN with 'usage instructions.' The term that has been consistently used to indicate 'usage instructions' is 'training materials.' This change should be made for consistency and also because it is reflective of the ITP requirement. The proposed revisions are intended to make clear that full training materials should be mailed along with the separately mailed card rather than the PIN, and that the mailing of the PIN should include relevant instructions on its proper use." (NLS)

Response:

The Department disagrees with the testimony. Cardholder training material is addressed in Section 16-601. Section 16-601.2 states that EBT training material is provided to the cardholder before he/she uses the EBT system. The suggested wording in Section 16-510.214(b) does not allow for flexibility in sending training material. At this time the EBT card is not mailed together with the training material; EBT training material is sent before the EBT card is sent to the cardholder. PIN change procedures are listed in Section 16-601.6(t) as an item included in cardholder training. No revision is being made to the regulations in response to the testimony.

Section 16-510.3

35. Comment:

"This change in regulations allows counties to use the mail issuance process for a Food Stamp recipient who is homebound and does not have an Authorization Representative (AR).

*"We recommend changes in the regulations to allow counties to also use the mail issuance process for homebound Cash Assistance recipients." (LA DPSS)*

Response:

The Department agrees with the concept of the testimony. Section 16-510.3 and the comment are appropriate when the countywide EBT card and PIN issuance method is over-the-counter. This applies to homebound recipients receiving food stamp or cash benefits. Section 16-510.21 already provides for the CWD to make exceptions to their countywide EBT card and PIN issuance method on a case-by-case basis. The Department is amending Section 16-510.212 to exempt homebound recipients from over-the-counter card and PIN issuance regardless of the program benefit. Also, Section 16-520.1 provides the option for any cardholder to change their PIN via the ARU. Amending Section 16-510.212 as such eliminates the need for Section 16-510.3.

36. Comment:

"The same procedure described for homebound Food Stamp recipients should be available to homebound cash recipients. The regulations should also require counties that already have a list or other knowledge of homebound recipients, to contact those recipients and offer them the option to have cards issued by mail for both Food Stamps and cash. This could be accomplished by changing the heading and the text of 16-510.3 to the following:

"16-510.3 Homebound ~~Food Stamp~~ Recipient Issuance

~~"Upon notification from a recipient who is homebound and does not have an AR,~~  
the The CWD shall issue an EBT card and PIN via the mail issuance process to recipients who do not have an AR and have not elected direct deposit. The recipient shall be able to change the PIN via the ARU." (CU)

Response:

The Department agrees with the concept of the testimony. See response to Comment #35.

Section 16-510.41 (Renumbered to Section 16-510.31.)

37. Comment:

"The Inter-County Recipient Move' rule set forth in Section 16-510.4 may work well after all counties have implemented EBT. However, during the transition between the first and last county, recipients should have the ability to convert to coupons if they are moving to a county which has not implemented EBT. In addition, persons leaving the EBT project area on a short-term basis should be permitted to convert remaining Cash EBT benefits to a warrant under the same standards and timelines offered for the conversion of Food Stamp EBT benefits to coupons. See related comments regarding section 16-315.8, above [Comment 10a.]. The following subsection should be added:

"16-510.413

"If the county to which the recipient moves uses EBT for fewer than all of the programs in which the recipient participates, then the benefits that are not distributed on EBT in the new county shall, upon notice of the new address of the recipient, be converted to paper form." (CU)

Response:

Renumbered Section 16-510.3 addresses the issuance of the EBT card and PIN when the recipient moves to another county. In Section 16-315, Food Stamp Benefit Conversion, the Department addresses the situation in which a Food Stamp recipient moves from a county that has implemented EBT to a county which has not implemented EBT. Section 16-315.1 allows the CWD to convert EBT food stamp benefits to coupons when the household leaves the EBT project area.

The Department disagrees with the second part of the testimony. With the EBT system, the recipient can withdraw remaining cash benefits from the EBT cash account prior to leaving the EBT project area. There are several banks statewide that will be providing free cash access. A recipient's ability to withdraw cash from their EBT account is more convenient than converting to a warrant. It is unnecessary to convert EBT cash benefits to a warrant when the recipient can withdraw cash from their EBT account. No revision is being made to the regulation in response to the testimony.

Section 16-515

38. Comment:

"And then the last issue is around Lost, Stolen, and Inoperative EBT Cards, Section 16-515. I know that I've been told that the regulation, the requirements, the federal requirements that provide greater protection to debit and credit card holders in the traditional mainstream. I realize that that has been a battle that was fought and lost, but I just want you to let you know that it's not going to go away because we strongly feel that people for whom losing their entire benefits is more of a burden than a person who has a debit or ATM card or credit card is, it still seems overly burdensome to the client if, in fact, they have absolutely no responsibility in theft of those, of those benefits and that is something that could be determined. I mean there's going to be a lot of reports provided by the vendor and there are going to be investigations based on those reports and if a client is saying that my benefits have been stolen, then an investigation should be able to be opened into that to find out if indeed they are not responsible in any way for those benefits being stolen. So we would ask that the regulations be changed to include some provision for, for replacement of benefits when, when it's determined that the benefits were stolen and that the client was not responsible in any way. And we find that this is going to be a particular challenge because, well, let me back up.



"Another issue around the Lost, Stolen, Inoperative Cards is that the current regulations say that the client reports this to the county welfare department. That the county welfare department needs to give the client the automated response number, the customer service number of CitiCorp and that that's how the card will be statused or deactivated. So two issues with that, one, while 11 language on the ARU is really great in comparison to other states, it still doesn't do, well serve all the clients that are on aid in California and speak languages other than those 11. So it's going to be a particular challenge for folks who are directed to call the ARU. That the ARU is not going to be in their, in the language that they can speak in order to deactivate the card. So we would ask that the regulations be include, that in the regulations it would include a statement that requires an additional affirmative action on the part of the county welfare department. If it, for example, something as simple as if requested by the client that the county welfare department will assist them in reporting the card lost or stolen to the CitiCorp customer service line." (GARCIA)

Response:

In response to the first part of the testimony, the Department is not revising the regulations. The federal regulation and Welfare and Institutions Code are specific in providing for the replacement of benefits subsequent to the cardholder reporting a lost or stolen EBT card. The State does not have the authority to replace benefits accessed prior to the reporting of lost/stolen EBT card. The cardholder can seek a remedy through the administrative process.

In response to the second part of the testimony, the Department is amending Section 16-515 to provide for situations when the cardholder's language is not supported by the ARU. The CWD is to take action to assist the cardholder.

Section 16-517

39. Comment:

"'The CWD shall provide a replacement EBT card to the cardholder within three business days following a cardholder's request to the CWD for an EBT replacement card. The cardholder shall not be charged a fee or sanctioned for the replacement card.'

"The proposed language is intended to make it clearer that the card must be received by the cardholder within three business days. This section should also include a statement that a cardholder cannot be charged a fee or sanctioned for one or more replacement cards." (NLS and KING)

Response:

In response to testimony, Section 16-517.1 is being amended to clarify the cardholder receives the replacement EBT card within three business days. The Department disagrees with the testimony to include in these regulations that no fee is charged to the

cardholder for a replacement card. It is more appropriate to include this information in other material/manuals; the Administrative User's Guide, May 30, 2002, Section 2.6 on card replacement, states that clients are not charged a fee for card replacement. There are no penalties or sanctions for replacing the EBT card in program regulations.

#### Section 16-517.1

40. Comment:

"Additional language should be included to make it clear that 'provide a replacement EBT card' means that the card must be received by the cardholder within the three business days. This section should also be augmented with an express statement that a cardholder cannot be charged a fee or sanctioned for one or more card replacements. The following change is proposed:

"The CWD shall provide a replacement EBT card to be received by a cardholder within three business days following a cardholder's request to the CWD for an EBT replacement card. The cardholder shall not be charged a fee for the replacement card." (CU)

Response:

The Department agrees with the concept of the testimony. See response to Comment #39.

#### Section 16-601.1

41. Comment:

"This section refers to the responsibility of the CWD to provide EBT training and instructions to EBT cardholders. *However, counties have the understanding that the EBT contractor is responsible for training the recipient at the time of EBT conversation.* (LA DPSS)

Response:

During EBT county conversion phase, the EBT Contractor will conduct EBT cardholder training. The Department is adding a handbook section for clarification.

#### Section 16-601.2

42. Comment:

"Counties should use existing information to determine in which languages CEFS should send the training material. The regulations do not impose a duty on the CWD to determine, from the information available in its files, in which language training material should be sent, and to provide that information to CEFS so that training

brochures are mailed in the proper languages. If CEFS is not required by the contract to mail brochures in the appropriate languages designated (by recipient) by the country, then the State should seek a contract change to require this. The value of having training materials in multiple languages is significantly undercut if the materials mailed to clients are all in English. This will be a particular problem in counties which issue cards by mail, where there may not be an opportunity to receive the brochure in the proper language.

"A much inferior alternative would be for the State or county to prepare a letter stating, in each of the training languages, the availability of the training brochure in that language. The State would provide this letter to CEFS for mailing with each (English language) training brochure.

"It would be much better for the brochure to be sent in the proper language in the first place. The State should determine if a contract amendment will be necessary to require CEFS to accept lists from the counties of the recipient language preferences, and these regulations should impose on the counties the obligation to provide lists of recipients by language preference to CEFS, or to the State for transmission to CEFS, both at the time of conversion and for new cases added after the initial conversion.

"The following change to subsection 16-601.2 is proposed:

"EBT training material on the use of the EBT system shall be provided to the cardholder prior to using the EBT system. Training material shall be mailed to the cardholder ~~and material shall also be available at the CWD.~~ in the language of the cardholder's preference, if that preference is identified in the CWD's records and is one of the languages in which training materials are available under Section 16.601.41. Training material shall also be available at the CWD. Retraining will be available in the use of the EBT card and/or system subsequent to the initial mail-based training." (CU)

Response:

The Department agrees with the concept of the testimony. In response to testimony, Section 16-601.4 is being amended to include the use of CWD records to determine the recipient's language preference.

### Section 16-601.3

43. Comment:

"Face-to-face training shall be available on an as-needed basis at a designated county locations that are ~~is~~ readily accessible to cardholders.'

"This subsection should be rewritten to require that there be an adequate number of face-to-face training locations, geographically distributed throughout the county where recipients are concentrated, and accessible by public transit." (NLS and KING)

"The current draft is too narrow. It reads as if all face-to-face training will take place at one location within the county. This is inadequate. This section should be written in a way that indicates that designated locations be accessible to cardholders wherever they reside in the county." (KING)

Response:

The Department agrees to clarify that the CWD is not limited to one location for training.

44. Comment:

"Language should be added to either this section on cardholder training, or the section on notices, requiring the CWD to give cardholders notice of the right to request face-to-face training. The following language should be added.

"The CWD shall provide notice to recipients of the right to request face-to-face training." (CU)

Response:

The Department disagrees with the testimony. Section 16-601.2 requires the CWD provide training material to the cardholder prior to using the EBT system. The training brochure the CWD uses (PUB 388) is translated in 10 languages and clearly states in prominent type on the top of the page, that if after reading the training material the cardholder would like additional training, then the cardholder can call their caseworker. Section 16-601.31 requires the CWD to provide face-to-face training at the cardholder's request. The Department believes this informs recipients that additional training is available, including face-to-face training. No revision is being made to the regulations in response to the testimony.

Section 16-601.32

45. Comment:

"Face-to-face training shall be provided to cardholders who:

".322 ~~“Habitually lose or damage EBT cards, or~~

".323 ~~Make excessive calls to the CSC or excessive balance inquiries.'~~

"These subsections uses terminology that is too general and undefined, at the risk of recipients being administratively punished or called into the CWD for using normal features of the EBT system. It is not evident what level, incident or frequency of EBT card loss or damage constitutes 'habitual' abuse, what constitutes 'excessive' use of the CSC, or what constitutes 'excessive' balance inquiries. This section should be

rewritten with the goal of identifying and assisting recipients whose use of the EBT system suggests they may be having difficulty using the system or reliably handling their EBT cards. To that end, please consider the following proposed language:

"Should EBT usage reports indicate a particular cardholder chronically and substantially exceeds the average overall county rate of cardholder usage for making calls to the CSC, making balance inquiries, or reporting lost or damaged EBT cards, the CWD shall offer the cardholder face-to-face training to assist in ameliorating the problem. In the first instance, the CWD shall do so by notifying the cardholder in writing about the particular problem and recommending that the cardholder voluntarily attend face-to-face training to assist with the handling of their EBT account." (NLS and KING)

Response:

The Department agrees with some of the concepts expressed in the comment. The Department agrees to include the use of EBT reports in this regulation section to help identify cardholders who may need additional training. The Department disagrees with requiring the CWD to calculate average overall county rate of cardholder usage in making calls to the customer service center, calculating average overall county rate for making balance inquiries, and calculating average overall county rate for reported lost or damaged EBT cards. It is an unnecessary and unproductive workload for county staff to calculate the overall averages in these areas. If upon review, the CWD finds high cardholder activity in one of these areas, the CWD would analyze the report information in that area. The CWD will contact the cardholder by phone or mail to offer assistance and additional training, such as face-to-face training. The training is not mandatory as the comment suggests. A recipient would not be cut off or sanctioned for non-use of EBT benefits. When benefits in the recipient's EBT account are not used, benefit aging and expungement process applies as described in Section 16-120.

46. Comment:

Subsections 16-601.322 and 16-601.323 use terminology that is too general and undefined, at the risk of recipients being administratively punished or called into the CWD for using normal features of the EBT system. It is not evident what level, incident or frequency of EBT card loss or damage constitutes 'habitual loss or damage,' what constitutes 'excessive' use of the CSC, or what constitutes 'excessive' balance inquiries. The proposed language is to suggest an additional subsection reflecting the goal of identifying and assisting recipients whose use of the EBT system suggests they may be having difficulty using the system or reliably handling their EBT cards. It also affords recipients the opportunity to self-correct the problem without the need for further training.

"Language should also be added to the regulations expressly stating that there can be no cut off or sanction for non-use of EBT benefits unless there has been an attempt to contact the head of household and to offer in-person training, one-on-one counseling

on how to use EBT, and an offer to arrange for use of an authorized representative to receive Food Stamps, or other alternative means, including a warrant, to receive cash benefits.

"The following language is proposed for a new subsection 16-601.324:

"Should EBT usage reports indicate a particular cardholder chronically and substantially exceeds the average overall county rate of cardholder usage for making calls to the CSC, making balance inquiries, or reporting lost or damaged EBT cards, the CWD shall offer the cardholder face-to-face training to assist in ameliorating the problem. In the first instance, the CWD shall do so by notifying the cardholder in writing about the particular problem (e.g., excess reports of lost EBT cards), recommending the cardholder voluntarily attend face-to-face training to assist with handling of their EBT account, and encouraging the cardholder to contact the CWD to schedule the training. Should the same problem persist, the CWD may in a subsequent month issue a new written notice requiring the cardholder to attend such training." (CU)

Response:

The Department agrees with some of the concepts expressed in the comment. See response to Comment #45.

Section 16-601.323 (Renumbered to Section 16-601.32.)

47. Comment:

*"This section refers to the CSC. This acronym should be listed and defined in Section 16-005 – Definitions."* (NLS)

Response:

At the Department discretion, customer service center will be used in place of "CSC."

Section 16-601.4

48. Comment:

"Training materials shall be provided in appropriate languages for monolingual and or bilingual households. Training materials will be provided in languages specified by the CWD office, which may vary between district offices.'

"This change is more inclusive of all client households." (NLS)

Response:

The Department agrees with the concept of the testimony. Section 16-601.4 is being amended by adding the words "appropriate" and "and" to clarify the use of training material for households.

Section 16-601.41

49. Comment:

*"We recommend changing this regulation to read:*

".41 Written training materials shall be produced in all languages required by the provisions of the Dymally-Alatorre Bilingual Services Act 1973 (currently English and Spanish) and additional languages, (including, but not limited to Chinese, Vietnamese, Cambodian, Russian, Hmong, Eastern Armenian, Lao and Farsi).

*"We recommend this change since Chinese is used as the written form while the spoken language may be Mandarin, Cantonese, Taiwanese, etc." (LA DPSS)*

Response:

The Department agrees with the testimony. In response to testimony, Section 16-601.41 is being amended to use "Chinese" to describe the written language.

50. Comment:

"Written training materials shall be produced in all languages required by the provisions of the Dymally-Alatorre Bilingual Services Act of 1973 (currently English and Spanish) and additional languages, (including, but not limited to, Mandarin, Vietnamese, Cambodian, Russian, Hmong, Eastern Armenian, Lao, and Farsi). Written training materials shall be prepared at an educational reading level suitable for recipients, not to exceed a sixth grade reading level.'

"This change gives guidance to the counties and conforms to the requirement in ITP section 6.9.2.1." (NLS and MASSA)

". . . and gives further direction for how these written materials should be drafted so that all of the participants have a better understanding of them." (MASSA)

Response:

The Department agrees with the concept of the testimony. In response to testimony, Section 16-601.4 is being amended to add Section 16-601.42 which clarifies that written training material will be at a sixth grade education or reading level.

51. Comment:

"Guidance should be given to the counties that may prepare their own additional training materials. The county-prepared materials should conform to the educational level of the contractor-prepared materials as specified in ITP § 6.9.2.1. This can be accomplished by adding the following language to the end of subsection 16-601.41:

"Written training materials shall be prepared at an educational reading level suitable for recipients, not to exceed a sixth grade reading level." (CU)

Response:

The Department agrees with the concept of the testimony. See response to Comment #50.

Section 16-601.6 et seq.

52. Comment:

"Additions should be made to the minimum required for cardholder training materials to clarify and conform to ITP § 6.9.2.2, assure cardholder training addresses a basic cardholder right (see 7 C.F.R. § 274.12(f)(2)), assure that cardholders understand how best to minimize their cost in utilizing EBT, and provide additional useful information to cardholders and retailers. The following underlined text is proposed:

""6 At a minimum, cardholder training shall include the following areas:

"\* \* \*

"(c) Transaction receipts and how to use them to track balances

"\* \* \*

"(aa) Requesting a copy of a written transaction history covering the two months preceding the date of the request

"(bb) How to locate no-fee and no-surcharge cash access locations



"(cc) Information on store windows signs so clients know EBT benefits are accessible in a given store

"(dd) The availability of direct deposit, in those counties where direct deposit is an option permitted to recipients under section 44-302" (CU)

Response:

The Department agrees with the testimony in the following areas:

- Amend Section 16-601.6(i) to include cash access locations.
- Amend Section 16-601.6(o) to include store window. (This information is provided in the training brochure (PUB 388) for CWD use.)
- Amend Section 16-601.6(w) to include an example of obtaining transaction history as part of ARU use.

The Department disagrees with the testimony in the following areas:

- Section 16-601(b) addresses the training area of access to balances which is broader because there are several ways to obtain an account balance. It is for this reason that the Department disagrees with the suggested language to Section 16-601(c). It should be noted that information regarding use of the transaction receipt to track account balance is included in the training brochure, PUB 388.
- In regard to including the availability of direct deposit as a required training element, direct deposit is not part of the EBT system, therefore, it is not a required area for training. It should be noted that training brochure, PUB 388, includes information on direct deposit.

Section 16-601.6(q)

53. Comment:

*"We recommend changing this regulation to read:*

"(q) Inability to access benefits from failure to **enter the selected PIN and activate card.**" (LA DPSS)

Response:

The Department agrees with the testimony. In response to testimony, Section 16-601.6(q) is being amended to clarify an area of cardholder training.

Section 16-750.12

54. Comment:

*"We recommend defining the term 'stale benefits,' especially since it differs from the term 'expunged benefits' as reference in Section 16-750.2. "'stale benefits' was added to the list of definitions. (LA DPSS)*

Response:

The Department agrees with the concept of the testimony. The Department does not use the term "stale" in describing aging benefits, Section 16-120. Instead, the Department uses the term "dormant." Section 16-750.12 is being modified to delete the term "stale" and replace it with the term "dormant." In addition, Section 16-005 is being amended to include a definition of "dormant" account.

55. Comment:

"This provision is based on a corresponding federal regulation. See 7 C.F.R. § 273.18(g)(2) and 7 C.F.R. § 274.12 (g)(7) (defining 'stale account'). A corresponding definition for 'stale account' should be added to section 16-005, or better still inserted here, to clarify that this collection procedure is only authorized where the EBT account has not been accessed for three months or longer." (CU)

Response:

Based on other comments and at Department discretion, the term "stale" will not be used in describing aging benefits, Section 16-120. Instead, the Department uses the term "dormant." Section 16-750.12 is being modified to delete the term "stale" and replace it with the term "dormant." See response to Comment #54.

Section 16-750.153

56. Comment:

"The following underlined addition is a technical amendment required to conform to the corresponding federal regulation. See 7 C.F.R. § 273.18 (g)(2)(iv)(C).

""The frequency of the payments (i.e., whether monthly or one time only)."" (CU)

Response:

The Department disagrees with the testimony. The Department is required, under federal regulations, to enter into a written agreement with the household if the household is to pay an overissuance claim using active EBT benefits. The written agreement must include several items, including the frequency of payments. The wording, as written, conforms and complies with the federal regulations. No revision is being made to the regulation in response to the testimony.

## Section 16-750.2

### 57. Comment:

"This regulation is based on 7 C.F.R. 273.18(h) but only includes the second part of that regulation. The intent of the following revision is to make the current draft consistent with the full intent of the federal requirement and should be inserted prior to the current 16-750.2.

"If a household overpays a claim, the CWD shall provide a refund for the overpaid amount as soon as possible after the CWD finds out about the overpayment. The CWD will pay the refund by whatever method the CWD deems appropriate considering the circumstances." (NLS)

### Response:

The Department agrees with the testimony. In response to the testimony, Section 16-750.2 is being amended to include additional language regarding refunds to households for overpaid claims.

### 58. Comment:

"Existing section 16-750.2, plainly based on 7 C.F.R. § 273.18(h), includes only the second part of that regulation. The proposed revisions are intended to conform the regulations to the full intent of the federal requirement. Adding a new subsection 16-750.21 and renumbering the existing section 16-750.2 will accomplish this.

".21 If a household overpays a claim, the CWD shall provide a refund for the overpaid amount as soon as possible after the CWD finds out about the overpayment. The CWD will pay the refund by whatever method the CWD deems appropriate considering the circumstances.

".22 The household shall not be entitled to a refund for an overpaid claim if the payment was made with an expunged EBT benefit. (CU)

### Response:

The Department agrees with the testimony. See response to Comment #57.

## Section 16-801.4

### 59. Comment:

"As a result of EBT implementation, county SIUs have the ability to access on-line EBT transaction data and fraud reports from the EBT Contractor, CDSS, and the USDA to detect potential recipient and/or retailer fraud/trafficking. County SIUs may review/analyze the on-line EBT transaction data/fraud reports and investigate in accordance with MPP Division 20. However, the availability of data may not be an independent basis for opening investigations against recipients.

"We are concerned that section 16-801.4 seems to contain a open invitation for county SIUs to engage in 'fishing expeditions' in EBT online transaction data in order to target recipients for investigation. We propose the additional language to protect recipients from arbitrary SIU investigations." (NLS)

### Response:

Section 16-801.4 is not an open invitation for county SIUs to engage in fishing expeditions of EBT transaction data. Fraud personnel will review and analyze EBT fraud reports and data that indicate inconsistencies with normal EBT usage such as transactions against invalid cards or excessive manual transactions. The EBT transaction reports and data are fraud indicators whereby the investigator may review and analyze the information to determine whether or not an investigation is warranted. It is estimated that the EBT system will generate millions of transactions per month. Routine EBT transaction data will not appear on the fraud reports and will not be subject to potential investigation.

This section instructs counties to refer to MPP Division 20 for investigative policy. MPP Division 20 states the conditions for which cases of suspected fraud are referred for investigation. When there are reasonable grounds to suspect that a crime against a public social services program has occurred a referral for investigation shall be made to the SIU.

Because the EBT fraud reports and data indicate inconsistencies and are fraud indicators, an investigation may be opened as a result of the review and analysis of EBT transaction reports and data. The Department disagrees with the recommendation. Therefore, no revision is being made to the section in response to this testimony.

Section 44-302.1

60. Comment:

"Notwithstanding Section 25-301, direct deposit of assistance payments must be made available to public assistance CalWORKs recipients in all counties that offer a program of direct payroll deposit to some or all of their employees.'

"This subsection should be broadened to allow for the direct deposit of other types of assistance payments such as General Relief as contemplated by Welfare and Institutions Code section 11006.2."

". . . The revision should be made because direct deposit should not only be available to CalWORKs recipients, but also other assistance payments such as General Relief recipients and those receiving CAPI, the Cash Assistance Program for Immigrants. (NLS and MASSA)

Response:

The Department does not agree with the testimony. MPP Section 44-302 is a CalWORKs program regulation and therefore does not regulate and cannot revise the payment delivery system of other public assistance programs. While the Department agrees that the direct deposit statute gives the counties the authority to deliver other public assistance payments by direct deposit, changes to programs, other than CalWORKs, would be outside the scope of this regulation package.

61. Comment:

"This section on payment by direct deposit addresses only CalWORKs recipients, but the California statute permits direct deposit for a wider range of assistance benefits. If section 44-302 is restricted to CalWORKs payments, then parallel sections should be added to other parts of the existing regulations to make it clear that the direct deposit option must also be available for General Assistance, and for other cash benefits, in those counties that permit direct payroll deposit to some or all of its employees." (CU)

Response:

The Department disagrees with the testimony. See response to Comment #60.

62. Comment:

"New section 44-302.14 Prohibiting a CWD fee for setting up direct deposit

"We seek the following added language because we have heard that one bank is trying to make an arrangement with counties whereby the bank offers a certain type of account to recipients, and the county pays a set-up fee. We want to ensure that those fees are not passed on to recipients. In addition, we have heard that under this bank

program, the recipient must pay a set-up fee if he or she seeks the account without going through a specific branch. It is not clear to us whether that fee is collected by the county or the bank, but we think that the regulations should make it clear that counties should not impose or arrange for a set-up or other fee for the option of direct deposit.

"44-302.14

"The CWD may not impose a fee, or arrange for the imposition of a fee, as a condition of the arranging for or permitting direct deposit of assistance payments." (CU)

Response:

The Department disagrees with the testimony. Welfare and Institutions Code Section 11006.2 requires counties to deliver CalWORKs public assistance payments by direct deposit at the recipient's request when the county offers a direct deposit program for its employees. Counties will employ the same procedures and processes for direct deposit of public assistance payments as is utilized for payments to county employees. A recipient's direct deposit account is established by the recipient at the financial institution of his or her choice. The CWD deposits public assistance payments into an established account; the CWD is not authorized to set up bank accounts for recipients. Neither the state nor the county is authorized to regulate processes or procedures, including account set-up fees, utilized by the banking industry.

Section 44-302.12

63. Comment:

"The recipient can request at anytime to receive direct deposit. Direct deposit must begin with the next month's benefits if the request for direct deposit is made within three business days before the next benefit issuance date."

"This section should state that the county must initiate direct deposit to start with benefits in the month immediately following the request for direct deposit, if the recipient's request is made within three business days prior to the close of the month. Whether the time period should be three business days or slightly longer, the regulation should make it clear that the county must move to implement the direct deposit request in the next benefit month, rather than simply placing the recipient on a list for future action.

"This change is particularly important for those who are unable to use EBT and need direct deposit of benefits as an alternate method of delivery as soon as possible." (NLS)

Response:

The Department does not agree with the testimony. The language in Section 44-302.12 conforms to the statutory provision in Welfare and Institutions Code Section 11006.2 which requires that counties deliver CalWORKs public assistance payments by direct deposit at the recipient's request when the county offers a direct deposit program for its employees. Counties will employ the same procedures and processes for direct deposit of public assistance payments as is utilized for payments to county employees. The length of time necessary to establish a direct deposit account may vary from county to county and from financial institution to financial institution. The State cannot regulate processes or procedures utilized by the banking industry.

General

64. Comment:

**"New Section 16-316 Cash Benefit Conversion**

"Whether as part of an inclusive, renamed section 16-315 or elsewhere in a new, parallel section 16-316, the regulations should permit conversion of Cash EBT benefits when leaving the state or moving to a part of the state which has not yet converted to Cash EBT. For example, a recipient who moves to a county that does not use Cash EBT or has not yet rolled out Cash EBT, could access cash benefits from a pre-existing Cash EBT card using the commercial infrastructure, but this would be unavoidably disadvantageous for the client where the new county does not yet have Cash EBT, there is no 'cash access plan' for that county, and surcharges are in all likelihood to be incurred using the commercial infrastructure. There is also the prospect that merchants may refuse to accept an EBT card in the new county for cash payments if EBT in the new county is used only for Food Stamp eligible purchases. We propose adding the following section:

"16.316 Cash Benefit Conversion

".1 At the recipient's request, the CWD shall convert cash electronic benefits to a warrant when the household is relocating to another state or the household leaves an EBT project area and moves to another project area which does not use EBT for the delivery of cash benefits.'

"[Additional new sections to parallel subsections 16-315.2 through .7 should also be added.]" (CU)

Response:

The Department disagrees with the testimony. With the EBT system, the recipient can withdraw remaining cash benefits from the EBT cash account prior to leaving the EBT project area or the state. There are several banks statewide that will be providing free cash access. A recipient's ability to withdraw cash from their EBT account is more

convenient than a warrant. It is unnecessary to convert EBT cash benefits to a warrant when the recipient can withdraw cash from their EBT account. No revision is being made to the regulation in response to the testimony.

65. Comment:

**"New Section 16-530 Ongoing Reasonableness of Cash Access Plan**

"The contractor is required to maintain adequate cash access. If the CWD has no obligation to engage in an annual or other periodic review, it will be harder for the State to enforce the contractor's ongoing obligation to provide reasonable cash access. The following new section is proposed.

"At least annually, the CWD in each cash option county shall review the cash access plan for the county, with input from organizations that represent and service clients, and shall make a recommendation to the State about the continued adequacy of the number, capacity, proximity and distribution of no-fee, no-surcharge cash access locations available for cash withdrawal transactions."  
(CU)

Response:

The Department disagrees with the testimony. At least annually the EBT Contractor is required to provide the State with updated cash access documentation. The State will monitor the contract to ensure the EBT Contractor meets its obligations in this area. The State and CWDs, that select EBT cash issuance, are committed to work with the EBT Contractor to provide adequate cash access. No regulatory requirement is necessary. No revision is being made to the regulations in response to the testimony.

66. Comment:

**"New Section 16-760 Settle and Compromise Authority**

"This proposed new section is intended to conform the draft regulations to the requirements of the settlement agreement and judgement in *Lomeli v. Saenz*.

"16-760.1 Settlement and Compromise Authority

".11 Any notice for repayment of Food Stamp overissuance resulting from administrative error shall include reference to the household's right to request such overissuance be settled and compromised, as required under the terms of the court judgement in *Lomeli v. Saenz*. The notice will be in a form as approved by the State agency.

".12 For those households currently participating in the Food Stamp program, collection of overissuances resulting from administrative errors shall be recovered by the CWD only by reduction of a current monthly allotment by



5% or \$10 per month, whichever is greater, for a maximum period not to exceed 36 consecutive months.

".13 The 36-month period shall run from the month of the first allotment reduction and shall be deemed to continue for 36 consecutive months, regardless whether the household continues to receive Food Stamp benefits during that same period.

".14 Upon completion of the 36 month period, the balance of the overissuance shall be deemed forgiven and not collectible through any means." (CU)

Response:

The Department disagrees with the testimony. See response to Comment #67.

67. Comment:

"New Section 16-760 – Settlement and Compromise Authority for Administrative Error Food Stamp Overpayments

**"16-760.1 Settlement and Compromise Authority for Administrative Error Overpayments**

".11 'Any notice for repayment of Food Stamp overissuance resulting from administrative error shall include reference to the household's right to request such overissuance be settled and compromised, as required under the terms of the court judgment in Lomeli v. Saenz. The notice will be in a form as approved by the State agency.'

".12 'For those households currently participating in the Food Stamp program, collection of overissuances resulting from administrative errors shall be recovered by the CWD only by reduction of a current monthly allotment by 5% or \$10 per month, whichever is greater, for a period not to exceed 36 consecutive months.'

".13 'The 36-month period shall run from the month of the first allotment reduction and shall be deemed to continue for 36 consecutive months, regardless whether the household continues to receive Food Stamp benefits during that same period.'

".14 'Upon completion of the 36-month period, the balance of the overissuance shall be deemed forgiven and not collectible through any means.'

"This proposed new section is intended to conform the draft regulations to the requirements of the settlement agreement and judgment in Lomeli v. Saenz." (NLS and KING)

"My next comment is about Food Stamp Overissuance Collections, Section 16-750 talks about Food Stamp overissuance collections from EBT accounts. The new section

we propose adds information regarding settlement and compromise authority for administrative error overpayments as outlined in the settlement of Lomeli v. Saenz. This settlement applies to households participating in the Food Stamp Program when an administrative overpayment is identified. Under this settlement, the CWD may collect food stamp overpayment by a reduction in the food stamp benefits at a level of 10 percent or \$10, whichever is greater, for 36 consecutive months from the first allotment reduction. Actually the 36 consecutive months is wrong, the collection stops and any balance remaining is deemed forgiven. Advocate experience has been that many clients encounter overpayments due to county error, if they are not informed of the repayment remedy under the Lomeli settlement. Adding the settlement process to the MPP will allow advocates, caseworkers, and administrative law judges to quickly identify the requirements of the Lomeli settlement and apply it to applicable situations. I won't read the full proposed comments which are contained in the written comments." (KING)

Response:

The Department disagrees with the testimony. The state regulations contain an entire section (Section 63-801, Claims Against Households) dealing specifically with the procedures for establishing and collecting overissuance claims against households. The CWD must follow the procedures for establishing and collecting overissuance claims as outlined in Section 63-801, whether the benefits are EBT or coupons. Section 16-750 contains additional information specific to EBT overissuance claims, whereas Section 63-801 contains information relative to all overissuance claims.

g) Renotice Held, Testimony Received

Pursuant to Government Code Section 11346.8, a 15-day renotice and complete text of modifications made to the regulations were made available to the public following the public hearing. The following written testimony on the modifications renoticed for public comment from September 27, 2002 to October 14, 2002 was received from Los Angeles County Department of Public Social Services (LA DPSS).

Section 16-120.133

Comment:

"This section of the regulations indicates that the CWD reinstate expunged cash benefits no later than 30 days from the participant contact or reapplication. This section should also set a time limit in which an expunged benefit may be reissued from the point it was expunged. For example, under the current warrant system, LA County is restricted from reissuing a warrant more than three (3) years after it was outlawed. The question is whether, under the EBT regulations, the CWD would be responsible for re-issuing funds for a benefit that was expunged 10 years ago. With no outside time limit on reissuing cash expungements, there are significant financial implications for LA County, especially with regard to GR funds."

Response:

No revisions are being made to the regulations in response to the comment. The regulations will not include a time limit for which a recipient may request cash benefit reissuance for expunged cash benefits. Currently a cash grant balance may not be expunged as the food stamp balance is permitted to be. California law does not currently provide a termination date for cash aid. No revisions are being made to the regulations in response to the comment. The regulations will not include a time limit for which a recipient may request cash benefit reissuance for expunged cash benefits. Currently a cash grant balance may not be expunged as the food stamp balance is permitted to be. California law does not currently provide a termination date for cash aid.