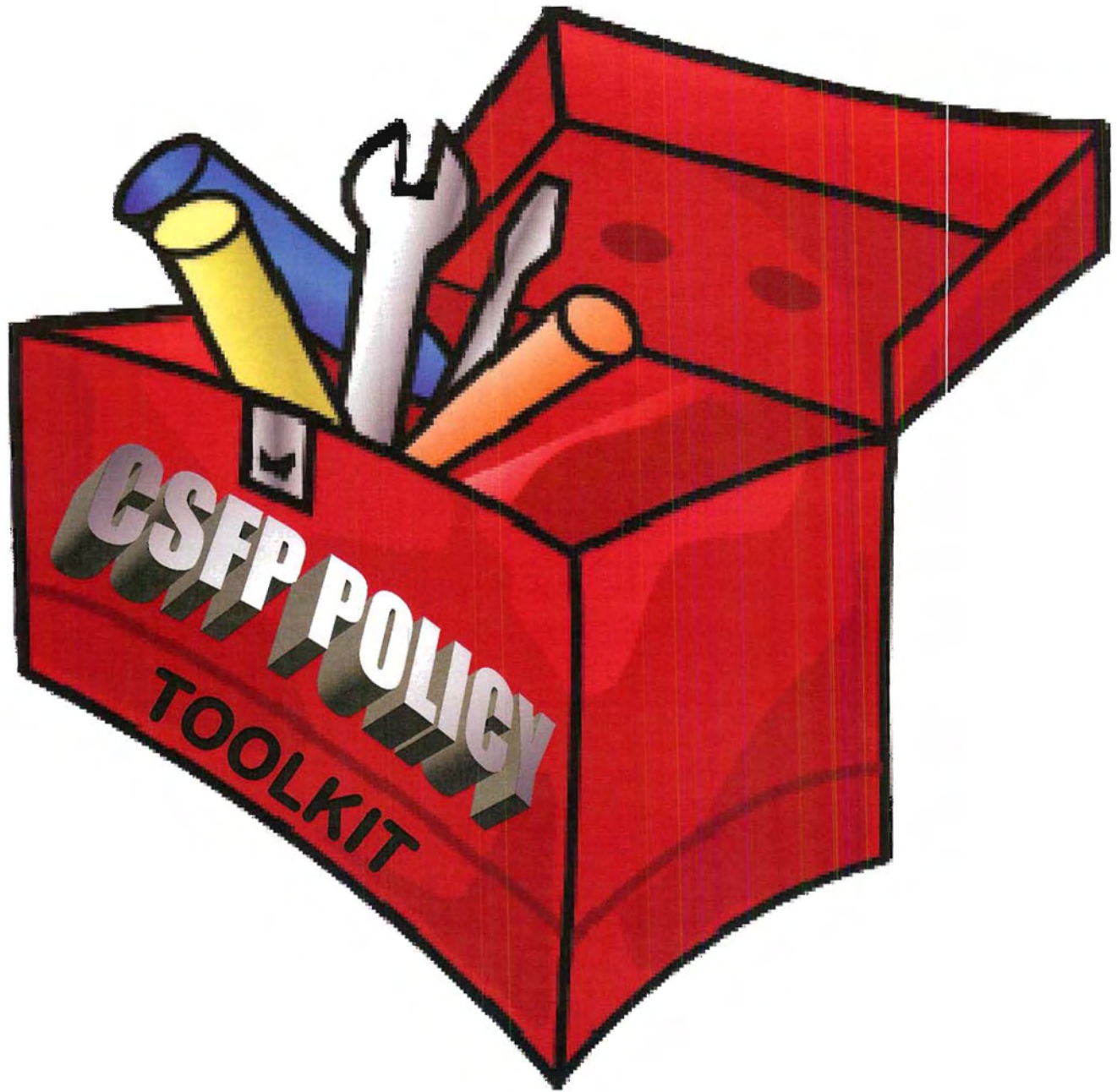


SECTION 4
CSFP Law and Policy



CSFP Welcome packet

December 31, 2009

Created by: Michelle Waters, FDD Program Analyst



Legislation



Regulations



Policy Memos



Forms & Inventory Calculator



Websites



Legislation

Handout

1

Authorizing Legislation: Agriculture and Consumer Protection Act of 1973

<http://agriculture.senate.gov/Legislation/Compilations/FNS/ACPA73.pdf>

Other Important Legislation: The “Farm Bill” is a comprehensive omnibus bill through which Congress addresses CSFP and may modify the program’s authorizing legislation. The Farm Bill is renewed about every five years.

- ▼ The Food, Conservation, and Energy Act of 2008 (Current Farm Bill) was enacted on June 18, 2008.

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ246.110.pdf

Funding Legislation: Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h2997enr.txt.pdf

- ▼ Congress provided CSFP \$171,409,000 for FY2010.
- ▼ Of this amount, Congress earmarked \$5 million for new States with approved State plans, but not currently participating.



Regulations

Handout

2

CSFP Regulations: Title 7 Code of Federal Regulations Part 247 (7 CFR 247)

http://www.fns.usda.gov/fdd/regs/final/7cfr247_07CSFP.pdf

- Part 247 are regulations which specifically govern CSFP. Where Part 247 and 7 CFR 250 conflict, Part 247 applies (see below).
- Part 247 is changing! The 2008 Farm Bill changed the Program's authorizing legislation (Agriculture and Consumer Protection Act of 1973) by eliminating the priority given to women, infants, and children (WIC) over the elderly in program participation. Several provisions of Part 247 were written to comply with the before-the-Farm-Bill legislation, which required the priority status. Now that the legislation has changed, the regulations will too!

Handout

3

See the attached memo implementing the Farm Bill.

http://www.fns.usda.gov/fdd/programs/csfp/CSFPImplementationMemo_FarmBill2008.pdf

Food Distribution Program Donation of Foods Regulations: Title 7 Code of Federal Regulations Part 250 (7 CFR 250)

http://www.fns.usda.gov/fdd/regs/final/7cfr250_07DonatedFoods.pdf

- Part 250 contains regulations applicable to all food distribution programs.
- For CSFP, Part 250 applies where it doesn't overlap with Part 247.

CSFP Policy Memos

Handout
4

Policy #	Subject	Issued
FD-098	FY 2010 Appropriations for Human Pandemic Emergencies	11/05/09
FD-097	Allowability of Participant Payments and Contributions for Foods Donated by the USDA and/or Non-USDA Sources.	10/21/09
FD-096	Simultaneous Participation in CSFP and other Nutrition Assistance Programs administered by the Food and Nutrition Service (FNS)	10/05/09
FD-094	Cancellation of Policy Memoranda FD-063, Household Eligibility Determinations for Disaster or Emergency Evacuees Residing with a Host Family, and FD-072, FDPIR Households Displaced During a Disaster	08/06/09
FD-093	Questions and Answers about Disaster Policies and Procedures	08/06/09
FD-091	Supplemental Nutrition Assistance Program Cash Payment Pilot Projects (SNAP Pilot Projects) and Work Supplementation or Support Programs (SNAP Work Programs) Benefits	06/29/09
FD-090	American Recovery and Reinvestment Act of 2009 Increases to Unemployment Compensation Payments	07/14/09
FD-088	Reimbursement of Intra-State Transportation Costs During Disasters	04/21/09
FD-086	Economic Recovery Payments to Recipients of Social Security, Supplemental Security Income (SSI), Railroad Retirement Benefits, and Veteran's Disability Compensation or Pension Benefits.	04/06/09
FD-083	Infant Formula - "Use-By" Date	12/11/08
FD-082	Responsibility for Claims for Food Losses	12/10/08
FD-079	Retroactive Food Package Distributions Not Permitted http://www.fns.usda.gov/fdd/policymemo/pmfd079_CSFP-RetroactiveDistribNotPermitted.pdf	11/12/08
FD-073	Rebates from the Economic Stimulus Act of 2008	03/31/08
FD-071	Setting Aside the Commodity Acceptability Reporting Requirement	01/16/08
FD-066	Continuation of Commodity Assistance During Human Pandemics	07/03/07
FD-062	Electronic Receipting for USDA Commodity Shipments	10/19/06
FD-058	Annual Physical Inventory-Reconciliation of Book Inventory to Physical Inventory	06/15/06
FD-056	Physical Inventory - Required Frequency	04/21/06
FD-053	Set Aside of the Commodity Acceptability Reporting Requirement	03/24/06
FD-052	Annual Physical Inventory - Reconciliation and Offsetting	01/27/06
FD-051	National Flood Insurance Program Payments	01/05/06
FD-044	Use of Proxies in Certification, Recertification, and Distribution of Food Packages	02/23/05
FD-037	Office of Management and Budget A-133 Audit Requirements	09/02/04
FD-032	Maximum Monthly Distribution Rates for Powdered Infant Formula - Reissued	05/20/08 (reissued)
FD-031	Treatment of Income Intended for Foster Care	07/15/04
FD-029	Medicare Prescription Drug Card-CSFP	06/30/04
FD-012	Family Subsistence Supplemental Allowance	03/31/03
FD-011	Caseload Assignment and Utilization	03/31/03
FD-010	Counting the Preg. Woman's Embryo or Fetus in Utero as a Household Member	03/31/03



Forms & Inventory Calculator

(1) SF-269A (Financial Status Report)

<http://www.whitehouse.gov/omb/grants/sf269a.pdf>

- ▼ State agencies submit to report the financial status of the program at the close of the fiscal year.
- ▼ Submitted annually, within 90 days after the end of the fiscal year.



(2) FNS-153 (Monthly Report of the Commodity Supplemental Food Program and Quarterly Administrative Financial Status Report)

<http://www.fns.usda.gov/fdd/forms/FNS-153.pdf>

- ▼ State agencies submit to report program participation, receipt and distribution of commodities, and other commodity data on a monthly basis.
- ▼ Quarterly, State agencies must also report the cumulative amount of administrative funds expended and obligated, and the amount remaining unobligated on FNS-153.
- ▼ Participation and commodity data is submitted monthly, and administrative fund data is submitted quarterly. The report is submitted within 30 days after the end of the reporting period.

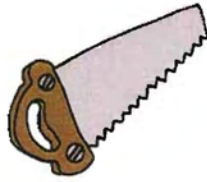


(3) FNS-191 (Racial/Ethnic Group Participation). Contact your RO for an electronic copy of this form.

- ▼ Local agencies must submit annually.

(4) CSFP Inventory Calculator - contact your FNS Regional Office for a copy of the CSFP Inventory Calculator and Instructions.

- ▼ An optional tool which State agency staff may use to monitor State-level inventories, ensuring that inventory levels are appropriate based on caseload and participation.



Websites

Commodity Supplemental Food Program <http://www.fns.usda.gov/fdd/programs/csf/default.htm>

- ▼ Provides information about the Commodity Supplemental Food Program
- ▼ Includes links to Commodity Fact Sheets, FAQs, 2009 Income Guidelines, and State Agency Contacts

Food Distribution Programs <http://www.fns.usda.gov/fdd/>

- ▼ Provides information about all Food Distribution Programs
- ▼ Includes links to One Stop USDA Commodity Food Network Website, MyPyramid, Forms & Instructions, Commodity and FDD Program Fact Sheets, and more

FD Food Safety http://www.fns.usda.gov/fdd/fd_foodsafety.htm

- ▼ Provides information on registering for USDA/FNS Commodity Alert System
- ▼ Includes links to information about USDA Hold & Recall Procedures, FSIS Food Recalls, and How to File a Complaint in ECOS

USDA Commodity Food Network <http://www.commodityfoods.usda.gov/>

- ▼ A one-stop site that provides links to a wealth of information about Food Distribution Programs

WBSCM Website <http://www.fns.usda.gov/fdd/WBSCM/default.htm>

- ▼ Provides guidance materials and updates regarding the Web Based Supply Chain Management System (WBSCM)

AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

[As Amended Through P.L. 110-246, Effective October 1, 2008]

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COMMODITY DISTRIBUTION PROGRAM

SEC. 4.⁴⁻¹ [7 U.S.C. 612c note] (a) Notwithstanding any other provision of law, the Secretary may, during fiscal years 2008 through 2012, purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions (including hospitals and facilities caring for needy infants and children), supplemental feeding programs serving women, infants, and children or elderly persons, or both, wherever located, disaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977 (section 2013(b) of this title). In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

(b) The Secretary may furnish commodities to summer camps for children in which the number of adults participating in camp activities as compared with the number of children 18 years of age and under so participating is not unreasonable in light of the nature of such camp and the characteristics of the children in attendance.

(c) Whoever embezzles, willfully misapplies, steals or obtains by fraud any agricultural commodity or its products (or any funds, assets, or property deriving from donation of such commodities) provided under this section, or under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), or the Emergency Food Assistance Act of 1983, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such commodities, products, funds, assets, or property for personal use or gain, knowing such commodities, products, funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such commodities, products, funds, assets, or property are of a value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than five years, or both, or if such

⁴⁻¹ P.L. 93-86, 87 Stat. 249, August 10, 1973.

commodities, products, funds, assets, or property are of value of less than \$100, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

SEC. 5. [7 U.S.C. 612c note] (a) GRANTS PER ASSIGNED CASELOAD SLOT.—

(1) IN GENERAL.—In carrying out the program under section 4 (referred to in this section as the “commodity supplemental food program”), for each of fiscal years 2008 through 2012, the Secretary shall provide to each State agency from funds made available to carry out that section (including any such funds remaining available from the preceding fiscal year), a grant per assigned caseload slot for administrative costs incurred by the State agency and local agencies in the State in operating the commodity supplemental food program.

(2) AMOUNT OF GRANTS.—

(A) FISCAL YEAR 2003.—For fiscal year 2003, the amount of each grant per assigned caseload slot shall be equal to the amount of the grant per assigned caseload slot for administrative costs in 2001, adjusted by the percentage change between—

(i) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 2001; and

(ii) the value of that index for the 12-month period ending June 30, 2002.

(B) SUBSEQUENT FISCAL YEARS.—For each of fiscal years 2004 through 2012, the amount of each grant per assigned caseload slot shall be equal to the amount of the grant per assigned caseload slot for the preceding fiscal year, adjusted by the percentage change between—

(i) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

(ii) the value of that index for the 12-month period ending June 30 of the preceding fiscal year.

(b) During the first three months of any commodity supplemental food program, or until such program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully: *Provided*, That in no event shall administrative costs paid by the Secretary for any fiscal year exceed the limitation established in subsection (a) of this section.

(c) Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

(d)(1) During each fiscal year the commodity supplemental food program is in operation, the types and varieties of commodities and their proportional amounts shall be determined by the Secretary,

but, if the Secretary proposes to make any significant changes in the types, varieties, or proportional amounts from those that were available or were planned at the beginning of the fiscal year (or as were available during the fiscal year ending June 30, 1976, whichever is greater) the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of fiscal years 2008 through 2012 to the Secretary of Agriculture. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.

(e) The Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the commodity supplemental food program.

(f) The Secretary shall, in any fiscal year, approve applications of additional sites for the program, including sites that serve only elderly persons, in areas in which the program currently does not operate to the full extent that this can be done within the appropriations available for the program for the fiscal year and without reducing actual participation levels (including participation of elderly persons under subsection (g)) in areas in which the program is in effect.

(g) PROHIBITION.—Notwithstanding any other provision of law (including regulations), the Secretary may not require a State or local agency to prioritize assistance to a particular group of individuals that are—

(1) low-income persons aged 60 and older; or

(2) women, infants, and children.

(h) Each State agency administering a commodity supplemental food program serving women, infants, and children shall—

(1) ensure that written information concerning food stamps, the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and the child support enforcement program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is provided on at least one occasion to each adult who applies for or participates in the commodity supplemental food program;

(2) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 6 under the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (hereinafter referred to in this section as the “medicaid program”) which materials may be identical to those provided under section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)); and

(3) ensure that local agencies provide to pregnant, breast feeding and post partum women, and adults applying on behalf of infants or children, who apply to the commodity supplemental food program, or who reapply to such program, written information about the medicaid program and referral to the program or to agencies authorized to determine presumptive

eligibility for the medicaid program, if the individuals are not participating in the medicaid program.

(i) Each State agency administering a commodity supplemental food program serving elderly persons shall ensure that written information is provided on at least one occasion to each elderly participant in or applicant for the commodity supplemental food program for the elderly concerning—

(1) food stamps provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(2) the supplemental security income benefits provided under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); and

(3) medical assistance provided under title XIX of such Act (42 U.S.C. 1396 et seq.) (including medical assistance provided to a qualified medicare beneficiary (as defined in section 1905(p) of such Act (42 U.S.C. 1396d(5)))).

(j)(1) If the Secretary must pay a significantly higher than expected price for one or more types of commodities purchased under the commodity supplemental food program, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.

(k)(1) The Secretary or a designee of the Secretary shall have the authority to—

(A) determine the amount of, settle, and adjust any claim arising under the commodity supplemental food program; and

(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the program.

(2) Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

(1) USE OF APPROVED FOOD SAFETY TECHNOLOGY.—

(1) IN GENERAL.—In acquiring commodities for distribution through a program specified in paragraph (2), the Secretary shall not prohibit the use of any technology to improve food safety that—

(A) has been approved by the Secretary; or

(B) has been approved or is otherwise allowed by the Secretary of Health and Human Services.

(2) PROGRAMS.—A program referred to in paragraph (1) is a program authorized under—

(A) this Act;

(B) the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(C) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.);

(D) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); or

(E) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

SHORT TITLE

SEC. 6. [7 U.S.C. 612c note] This Act may be cited as the "Agriculture and Consumer Protection Act of 1973".

Food and Nutrition Service, USDA

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Rhode Island, Vermont: U.S. Department of Agriculture, FNS, Northeast Region, 10 Causeway Street, room 501, Boston, Massachusetts 02222-1066.

(b) Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Mid-Atlantic Region, Mercer Corporate Park, 300 Corporate Boulevard, Robbinsville, New Jersey 08691-1598.

(c) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 61 Forsyth Street, SW., room 8T36, Atlanta, Georgia 30303.

(d) Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 77 West Jackson Boulevard—20th Floor, Chicago, Illinois 60604-3507.

(e) Arkansas, Louisiana, New Mexico, Oklahoma, Texas: U.S. Department of Agriculture, FNS, Southwest Region, 1100 Commerce Street, room 5-C-30, Dallas, Texas 75242.

(f) Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming: U.S. Department of Agriculture, FNS, Mountain Plains Region, 1244 Speer Boulevard, suite 903, Denver, Colorado 80204.

(g) Alaska, American Samoa, Arizona, California, the Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Idaho, Nevada, Oregon, Washington: U.S. Department of Agriculture, FNS, Western Region, 90 Seventh Street, Suite #10-100, San Francisco, California 94103.

[50 FR 6121, Feb. 13, 1985; 50 FR 8098, Feb. 28, 1985, as amended at 59 FR 11508, Mar. 11, 1994; 71 FR 56733, Sept. 27, 2006; 73 FR 11314, Mar. 3, 2008]

§ 246.28 OMB control numbers.

The following control numbers have been assigned to the information collection requirements in 7 CFR part 246 by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

7 CFR part 246 section where requirements are described	Current OMB control no.
.4(a) (8), (9), (11)	0584-0386

7 CFR part 246 section where requirements are described	Current OMB control no.
.5	0584-0043
.6	0584-0043
.7(a)	0584-0386
.7(e), (h), (j)	0584-0043
.7(n)	0584-0386
.7(i)	0584-A536
.10	0584-A536
.11(a)(3)	0584-0386
.11(d)	0584-0043
.12(f), (i), (i)(3), (j)	0584-0043
.14(d)(1)	0584-0043
.16(c)	0584-0043
.17(c)(1)	0584-0043
.19	0584-0043
.20(a)	0584-0043
.25(a), (b)	0584-0043, 0584-0347

[50 FR 6121, Feb. 13, 1985, as amended at 53 FR 15653, May 3, 1988; 54 FR 51295, Dec. 14, 1989; 58 FR 11507, Feb. 26, 1993]

**PART 247—COMMODITY
SUPPLEMENTAL FOOD PROGRAM**

- Sec.
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 - 247.2 The purpose and scope of CSFP.
 - 247.3 Administering agencies.
 - 247.4 Agreements.
 - 247.5 State and local agency responsibilities.
 - 247.6 State Plan.
 - 247.7 Selection of local agencies.
 - 247.8 Individuals applying to participate in CSFP.
 - 247.9 Eligibility requirements.
 - 247.10 Distribution and use of CSFP commodities.
 - 247.11 Applicants exceed caseload levels.
 - 247.12 Rights and responsibilities.
 - 247.13 Provisions for non-English or limited-English speakers.
 - 247.14 Other public assistance programs.
 - 247.15 Notification of eligibility or ineligibility of applicant.
 - 247.16 Certification period.
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 - 247.25 Allowable uses of administrative funds and other funds.
 - 247.26 Return of administrative funds.
 - 247.27 Financial management.

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- 247.28 Storage and inventory of commodities.
- 247.29 Reports and recordkeeping.
- 247.30 Claims.
- 247.31 Audits and investigations.
- 247.32 Termination of agency participation.
- 247.33 Fair hearings.
- 247.34 Management reviews.
- 247.35 Local agency appeals of State agency actions.
- 247.36 Confidentiality of applicants or participants.
- 247.37 Civil rights requirements.

AUTHORITY: Sec. 5, Pub. L. 93–86, 87 Stat. 249, as added by Sec. 1304(b)(2), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 612c note); sec. 1335, Pub. L. 97–98, 95 Stat. 1293 (7 U.S.C. 612c note); sec. 209, Pub. L. 98–8, 97 Stat. 35 (7 U.S.C. 612c note); sec. 2(8), Pub. L. 98–92, 97 Stat. 611 (7 U.S.C. 612c note); sec. 1562, Pub. L. 99–198, 99 Stat. 1590 (7 U.S.C. 612c note); sec. 101(k), Pub. L. 100–202; sec. 1771(a), Pub. L. 101–624, 101 Stat. 3806 (7 U.S.C. 612c note); sec. 402(a), Pub. L. 104–127, 110 Stat. 1028 (7 U.S.C. 612c note); Pub. L. 107–171.

SOURCE: 70 FR 47063, Aug. 11, 2005, unless otherwise noted.

§ 247.1 Definitions.

Following is a list of definitions that apply to the Commodity Supplemental Food Program (CSFP).

Applicant means any person who applies to receive program benefits. Applicants include program participants applying for recertification.

Breastfeeding women means women up to one year postpartum who are breastfeeding their infants.

Caseload means the number of persons the State agency may serve on an average monthly basis over the course of the caseload cycle.

Caseload cycle means the period from January 1 through the following December 31.

Certification means the use of procedures to determine an applicant's eligibility for the program.

Certification period means the period of time that a participant may continue to receive program benefits without a review of his or her eligibility.

Children means persons who are at least one year of age but have not reached their sixth birthday.

Commodities means nutritious foods purchased by USDA to supplement the diets of CSFP participants.

CSFP means the Commodity Supplemental Food Program.

Department means the U.S. Department of Agriculture.

Disqualification means the act of ending Program participation of a participant as a punitive sanction.

Dual participation means simultaneous participation by an individual in CSFP and the WIC Program, or in CSFP at more than one distribution site.

Elderly persons means persons at least 60 years of age.

Fiscal year means the period from October 1 through the following September 30.

FNS means the Food and Nutrition Service.

Infants means persons under one year of age.

Local agency means a public or private nonprofit agency, including an Indian tribal organization, which enters into an agreement with the State agency to administer CSFP at the local level.

Nonprofit agency means a private agency or organization with tax-exempt status under the Internal Revenue Code, or that has applied for tax-exempt status with the Internal Revenue Service.

Postpartum women means women up to one year after termination of pregnancy.

Proxy means any person designated by a participant, or by the participant's adult parent or caretaker, to obtain supplemental foods on behalf of the participant.

7 CFR part 250 means the Department's regulations pertaining to the donation of foods for use in USDA food distribution programs.

7 CFR part 3016 means the Department's regulations pertaining to administrative requirements for grants and cooperative agreements with State, local, and Indian tribal governments.

7 CFR part 3019 means the Department's regulations pertaining to administrative requirements for grants and cooperative agreements with nonprofit organizations.

7 CFR part 3052 means the Department's regulations pertaining to audits of States, local governments, and nonprofit organizations.

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State means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

State agency means the agency designated by the State to administer CSFP at the State level; an Indian tribe or tribal organization recognized by the Department of the Interior that administers the program for a specified tribe or tribes; or, the appropriate area office of the Indian Health Service of the Department of Health and Human Services.

State Plan means the document that describes the manner in which the State agency intends to administer the program in the State.

Subdistributing agency means an agency or organization that has entered into an agreement with the State agency to perform functions normally performed by the State, such as entering into agreements with eligible recipient agencies under which commodities are made available, ordering commodities and/or making arrangements for the storage and delivery of such commodities on behalf of eligible recipient agencies.

WIC Program means the Special Supplemental Nutrition Program for Women, Infants, and Children.

§ 247.2 The purpose and scope of CSFP.

(a) *How does CSFP help participants?* Through CSFP, the Department provides nutritious commodities to help State and local agencies meet the nutritional needs of low-income pregnant, postpartum, and breastfeeding women, infants under one year of age, children who are at least one year of age but have not reached their sixth birthday, and elderly persons. Through local agencies, each participant receives a monthly package of commodities, based on food package guide rates developed by FNS, with input from State and local agencies. Food packages include such nutritious foods as infant formula and cereal, juices, canned fruits and vegetables, canned meat or poultry and other protein items, and grain products such as pasta, as well as

other foods. Participants also receive nutrition education.

(b) *How many persons may be served in CSFP?* State agencies may serve eligible persons up to the caseload limit assigned to them by FNS. Caseload is the number of persons that may be served on an average monthly basis over the course of the caseload cycle, which extends from January 1 through the following December 31.

§ 247.3 Administering agencies.

(a) *What agencies are responsible for administering CSFP?* CSFP is administered at the Federal level by the Department's Food and Nutrition Service (FNS), which provides commodities, assigns caseload, and allocates administrative funds to State agencies. State agencies are responsible for administering the program at the State level. The State agency may select local agencies to administer the program in local areas of the State. The State agency must provide guidance to local agencies on all aspects of program operations. The State agency may also select subdistributing agencies (e.g., another State agency, a local governmental agency, or a nonprofit organization) to distribute or store commodities, or to perform other program functions on behalf of the State agency. Local or subdistributing agencies may also select other agencies to perform specific program functions (e.g., food distribution or storage), with the State agency's approval. Although the State agency may select other organizations to perform specific activities, the State agency is ultimately responsible for all aspects of program administration.

(b) *Are there specific functions that the State agency cannot delegate to another agency?* Yes. The State agency may not delegate the performance of the following functions to another agency:

(1) Establishing eligibility requirements, in accordance with the options provided to the State agency under § 247.9; or

(2) Establishing a management review system and conducting reviews of local agencies, in accordance with § 247.34.

(c) *What Federal requirements must State, subdistributing, and local agencies*

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follow in administering CSFP? State, subdistributing, and local agencies must administer the program in accordance with the provisions of this part, and with the provisions contained in part 250 of this chapter, unless they are inconsistent with the provisions of this part.

§ 247.4 Agreements.

(a) *What agreements are necessary for agencies to administer CSFP?* The following agreements are necessary for agencies to administer CSFP:

(1) *Agreements between FNS and State agencies.* Each State agency must enter into an agreement with FNS (Form FNS-74, the Federal-State Agreement) prior to receiving commodities or administrative funds;

(2) *Agreements between State agencies and local or subdistributing agencies.* The State agency must enter into written agreements with local or subdistributing agencies prior to making commodities or administrative funds available to them. The agreements must contain the information specified in paragraph (b) of this section. Agreements between State and local agencies must also contain the information specified in paragraph (c) of this section. Copies of all agreements must be kept on file by the parties to the agreements; and

(3) *Agreements between local and subdistributing agencies and other agencies.* The State agency must ensure that local and subdistributing agencies enter into written agreements with other agencies prior to making commodities or administrative funds available to these other agencies. The agreements must contain the information specified in paragraph (b) of this section. Copies of all agreements must be kept on file by the parties to the agreements.

(b) *What are the required contents of agreements?* All agreements described under paragraphs (a)(2) and (a)(3) of this section must contain the following:

(1) An assurance that each agency will administer the program in accordance with the provisions of this part and with the provisions of part 250 of this chapter, unless they are inconsistent with the provisions of this part;

(2) An assurance that each agency will maintain accurate and complete records for a period of three years from the close of the fiscal year to which they pertain, or longer if the records are related to unresolved claims actions, audits, or investigations;

(3) A statement that each agency receiving commodities for distribution is responsible for any loss resulting from improper distribution, or improper storage, care, or handling of commodities;

(4) A statement that each agency receiving program funds is responsible for any misuse of program funds;

(5) A description of the specific functions that the State, subdistributing, or local agency is delegating to another agency; and

(6) A statement specifying:

(i) That either party may terminate the agreement by written notice to the other; and

(ii) The minimum number of days of advance notice that must be given. (The advance notification period must be at least 30 days.)

(c) *What other assurances or information must be included in agreements between State and local agencies?* In addition to the requirements under paragraph (b) of this section, agreements between State and local agencies must contain the following:

(1) An assurance that the local agency will provide, or cause to be provided, nutrition education to participants, as required in §247.18;

(2) An assurance that the local agency will provide information to participants on other health, nutrition, and public assistance programs, and make referrals as appropriate, as required in §247.14;

(3) An assurance that the local agency will distribute commodities in accordance with the approved food package guide rate;

(4) An assurance that the local agency will take steps to prevent and detect dual participation, as required in §247.19;

(5) The names and addresses of all certification, distribution, and storage sites under the jurisdiction of the local agency; and

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(6) An assurance that the local agency will not subject any person to discrimination under the program on the grounds of race, color, national origin, age, sex, or disability.

(d) *What is the duration of required agreements?* Agreements between FNS and State agencies are considered permanent, but may be amended at the initiation of State agencies or at the request of FNS. All amendments must be approved by FNS. The State agency establishes the duration of agreements it signs with local agencies or sub-distributing agencies. The State agency may establish, or permit the local or subdistributing agency to establish, the duration of agreements between local or subdistributing agencies and other agencies. However, State and local agencies must comply with the requirements in §250.12(c) of this chapter when entering agreements with other entities.

(Approved by the Office of Management and Budget under control numbers 0584-0067, 0584-0293)

§ 247.5 State and local agency responsibilities.

State and local agencies are responsible for administering the program in accordance with the provisions of this part, and with the provisions of part 250 of this chapter, as applicable. Although the State agency may delegate some responsibilities to another agency, the State agency is ultimately responsible for all aspects of program administration. The following is an outline of the major responsibilities of State and local agencies; it is not intended to be all-inclusive.

(a) *What are the major responsibilities shared by State and local agencies?* The major responsibilities shared by State and local agencies include:

- (1) Entering into required agreements;
- (2) Ordering commodities for distribution;
- (3) Storing and distributing commodities;
- (4) Establishing procedures for resolving complaints about commodities;
- (5) Complying with civil rights requirements;
- (6) Maintaining accurate and complete records; and

(7) Conducting program outreach.

(b) *What are the major State agency responsibilities?* The major responsibilities of State agencies include:

- (1) Completing and submitting the State Plan;
 - (2) Selecting local agencies to administer the program in local areas of the State;
 - (3) Determining caseload needs, and submitting caseload requests to FNS;
 - (4) Assigning caseload, and allocating administrative funds, to local agencies;
 - (5) Establishing eligibility requirements, in accordance with the options provided to the State agency under §247.9. (This function may not be delegated to another agency.);
 - (6) Establishing nutritional risk criteria and a residency requirement for participants, if such criteria are to be used;
 - (7) Establishing a financial management system that effectively accounts for funds received for program administration;
 - (8) Developing a plan for the detection and prevention of dual participation, in coordination with CSFP local agencies and with the State WIC agency;
 - (9) Developing a plan for providing nutrition education to participants;
 - (10) Establishing appeals and fair hearing procedures for local agencies and program participants;
 - (11) Developing a management review system and conducting reviews of local agencies. (This function may not be delegated to another agency.);
 - (12) Determining and pursuing claims, and establishing standards for pursuit of claims against participants;
 - (13) Ensuring compliance with Federal audit requirements;
 - (14) Providing guidance to local agencies, as needed; and
 - (15) Ensuring that program participation does not exceed the State agency's caseload allocation on an average monthly basis.
- (c) *What are the major local agency responsibilities?* The major local agency responsibilities include:
- (1) Determining eligibility of applicants in accordance with eligibility criteria established by the State agency;

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(2) Complying with fiscal and operational requirements established by the State agency;

(3) Ensuring that participation does not exceed the caseload assigned by the State agency;

(4) Issuing foods to participants in accordance with the established food package guide rates;

(5) Providing nutrition education and information on the availability of other nutrition and health assistance programs to participants;

(6) Informing applicants of their rights and responsibilities in the program;

(7) Meeting the special needs of the homebound elderly, to the extent possible; and

(8) Pursuing claims against participants.

§ 247.6 State Plan.

(a) *What is the State Plan?* The State Plan is a document that describes how the State agency will operate CSFP and the caseload needed to serve eligible applicants. The State agency must submit the State Plan to FNS for approval. Once submitted and approved, the State Plan is considered permanent, with amendments submitted at the State agency's initiative, or at FNS request. All amendments are subject to FNS approval. The State Plan may be submitted in the format provided in FNS guidance, in an alternate format, or in combination with other documents required by Federal regulations. The State agency is encouraged to collaborate with the State WIC agency in developing the State Plan, for example, in developing plans for serving women, infants, and children, program outreach, and nutrition education. (Collaboration with the State WIC agency is required in preventing and detecting dual participation.) The State Plan must be signed by the State agency official responsible for program administration. A copy of the State Plan must be kept on file at the State agency for public inspection.

(b) *When must the State Plan be submitted?* The State Plan must be submitted by August 15 to take effect for the fiscal year beginning in the following October. FNS will provide notification of the approval or disapproval

of the State Plan within 30 days of receipt, and will notify the State agency within 15 days of receipt if additional information is needed. Disapproval of the Plan will include a reason for the disapproval. Approval of the Plan is a prerequisite to the assignment of caseload and allocation of administrative funds, but does not ensure that caseload and funds will be provided.

(c) *What must be included in the State Plan?* The State Plan must include:

(1) The names and addresses of all local agencies and subdistributing agencies with which the State agency has entered into agreement;

(2) The income eligibility standards to be used for women, infants, and children, and the options to be used relating to income or other eligibility requirements, as provided under § 247.9;

(3) The nutritional risk criteria to be used, if the State chooses to establish such criteria;

(4) A description of plans for serving women, infants, children, and elderly participants and the caseload needed to serve them;

(5) A description of plans for conducting outreach to women, infants, children, and the elderly;

(6) A description of the system for storing and distributing commodities;

(7) A description of plans for providing nutrition education to participants;

(8) A description of the means by which the State agency will detect and prevent dual participation, including collaboration with the State WIC agency, and a copy of the agreement signed with the State WIC agency to accomplish this;

(9) A description of the standards the State agency will use in determining if the pursuit of a claim against a participant is cost-effective;

(10) A description of the means by which the State will meet the needs of the homebound elderly; and

(11) Copies of all agreements entered into by the State agency.

(d) *When must the State agency submit amendments to the State Plan?* The State agency must submit amendments to FNS to reflect any changes in program operations or administration described

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in the State Plan, and to request additional caseload for the following caseload cycle. FNS may also require that the State Plan be amended to reflect changes in Federal law or policy. The State agency may submit amendments to the State Plan at any time during the fiscal year, for FNS approval. The amendments will take effect immediately upon approval, unless otherwise specified by FNS. If a State agency would like to receive additional caseload for the caseload cycle beginning the following January 1, it must submit an amendment to the Plan which conveys the request for additional caseload by November 5. The State agency must also describe in this submission any plans for serving women, infants, children, and the elderly at new sites. FNS action on the State agency's request for additional caseload is part of the caseload assignment process, as described under § 247.21.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.7 Selection of local agencies.

(a) *How does a local agency apply to participate in CSFP?* Local agencies wishing to participate in CSFP must submit a written application to the State agency. The application must describe how the local agency will operate the program and, for nonprofit agencies, must include the agency's tax-exempt status. To be eligible to participate in CSFP, a nonprofit agency must have tax-exempt status under the Internal Revenue Code (IRC), or have applied for tax-exempt status with the Internal Revenue Service (IRS), and be moving towards such status. Nonprofit agencies organized or operated exclusively for religious purposes are automatically tax-exempt under the IRC. Nonprofit agencies required to obtain tax-exempt status must provide documentation from the IRS that they have obtained such status, or have applied for it.

(b) *On what basis does the State agency make a decision on the local agency's application?* The State agency must approve or disapprove the local agency's application based on, at minimum, the following criteria:

(1) The ability of the local agency to operate the program in accordance with Federal and State requirements;

(2) The need for the program in the projected service area of the local agency;

(3) The resources available (caseload and funds) for initiating a program in the local area; and

(4) For nonprofit agencies, the tax-exempt status, with appropriate documentation.

(c) *What must the State agency do if a nonprofit agency approved for CSFP is subsequently denied tax-exempt status by the IRS, or does not obtain this status within a certain period of time?* In accordance with paragraph (a) of this section, the State agency may approve a nonprofit agency that has applied to the IRS for tax-exempt status, and is moving toward compliance with the requirements for recognition of tax-exempt status. However, if the IRS subsequently denies a participating agency's application for recognition of tax-exempt status, the agency must immediately notify the State agency of the denial. The State agency must terminate the agency's agreement and participation immediately upon notification. If documentation of recognition of tax-exempt status is not received within 180 days of the effective date of the agency's approval to participate in CSFP, the State agency must terminate the agency's participation until such time as recognition of tax-exempt status is obtained. However, the State agency may grant an extension of 90 days if the agency demonstrates that its inability to obtain tax-exempt status in the 180-day period is due to circumstances beyond its control.

(d) *How much time does the State agency have to make a decision on the local agency's application?* The State agency must inform the local agency of approval or denial of the application within 60 days of its receipt. If the application is denied, the State agency must provide a written explanation for the denial, along with notification of the local agency's right to appeal the decision, in accordance with § 247.35. If the application is approved, the State and local agency must enter into an

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agreement in accordance with the requirements of § 247.4.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.8 Individuals applying to participate in CSFP.

(a) *What information must individuals applying to participate in CSFP provide?* To apply for CSFP benefits, the applicant, or the adult parent or caretaker of the applicant, must provide the following information on the application:

(1) Name and address, including some form of identification for each applicant;

(2) Household income, except where the applicant is determined to be automatically eligible under § 247.9(b)(1)(i) and (b)(1)(ii);

(3) Household size, except where the applicant is determined to be automatically eligible under § 247.9(b)(1)(i) and (b)(1)(ii); and

(4) Other information related to eligibility, such as age or pregnancy, as applicable.

(b) *What else is required on the application form?* The application form must include a nondiscrimination statement that informs the applicant that program standards are applied without discrimination by race, color, national origin, age, sex, or disability. After informing the applicant (or adult parent or caretaker) of his or her rights and responsibilities, in accordance with § 247.12, the local agency must ensure that the applicant, or the adult parent or caretaker of the applicant, signs the application form beneath the following pre-printed statement. The statement must be read by, or to, the applicant (or adult parent or caretaker) before signing.

“This application is being completed in connection with the receipt of Federal assistance. Program officials may verify information on this form. I am aware that deliberate misrepresentation may subject me to prosecution under applicable State and Federal statutes. I am also aware that I may not receive both CSFP and WIC benefits simultaneously, and I may not receive CSFP benefits at more than one CSFP site at the same time. Furthermore, I am aware that the information provided may be shared with other or-

ganizations to detect and prevent dual participation. I have been advised of my rights and obligations under the program. I certify that the information I have provided for my eligibility determination is correct to the best of my knowledge.

I authorize the release of information provided on this application form to other organizations administering assistance programs for use in determining my eligibility for participation in other public assistance programs and for program outreach purposes. (Please indicate decision by placing a checkmark in the appropriate box.)

YES []

NO []”

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.9 Eligibility requirements.

(a) *Who is eligible for CSFP?* To be eligible for CSFP, individuals must fall into one of the following population groups:

(1) Infants, *i.e.*, persons under one year of age;

(2) Children, *i.e.*, persons who are at least one year of age but have not reached their sixth birthday;

(3) Pregnant women;

(4) Breastfeeding women, up to one year after giving birth (post-partum);

(5) Post-partum women, up to one year after termination of pregnancy; or

(6) Elderly persons, *i.e.*, persons at least 60 years of age.

(b) *What are the income eligibility requirements for women, infants, and children?* (1) The State agency must establish household income limits that are at or below 185 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services, but not below 100 percent of these guidelines. However, the State agency must accept as income-eligible, regardless of actual income, any applicant who is:

(i) Certified as eligible to receive food stamps under the Food Stamp Act of 1977 (7 U.S.C. 2011 *et seq.*), Temporary Assistance for Needy Families (TANF) under Part A of Title IV of the Social Security Act (42 U.S.C. 601 *et seq.*), or Medical Assistance (*i.e.*, Medicaid)

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under Title XIX of the Social Security Act (42 U.S.C. 1396 *et seq.*); or

(ii) A member of a family that is certified eligible to receive assistance under TANF, or a member of a family in which a pregnant woman or an infant is certified eligible to receive assistance under Medicaid.

(2) The State agency may consider women, infants, and children participating in another Federal, State, or local food, health, or welfare program as automatically eligible for CSFP if the income eligibility limits for the program are equal to or lower than the established CSFP limits.

(3) For a pregnant woman, the State agency must count each embryo or fetus in utero as a household member in determining if the household meets the income eligibility standards.

(c) *What are the income eligibility requirements for elderly persons?* The State agency must use a household income limit at or below 130 percent of the Federal Poverty Income Guidelines. Elderly persons in households with income at or below this level must be considered eligible for CSFP benefits (assuming they meet other requirements contained in this part). However, elderly persons certified before September 17, 1986 (*i.e.*, under the three elderly pilot projects) must remain subject to the eligibility criteria in effect at the time of their certification.

(d) *When must the State agency revise the CSFP income guidelines to reflect the annual adjustments of the Federal Poverty Income Guidelines?* Each year, FNS will notify State agencies, by memorandum, of adjusted income guidelines by household size at 185 percent, 130 percent, and 100 percent of the Federal Poverty Income Guidelines. The memorandum will reflect the annual adjustments to the Federal Poverty Income Guidelines issued by the Department of Health and Human Services. The State agency must implement the adjusted guidelines for elderly applicants immediately upon receipt of the memorandum. However, for women, infants, and children applicants, the State agency must implement the adjusted guidelines at the same time that the State WIC agency implements the adjusted guidelines in WIC.

(e) *How is income defined and considered as it relates to CSFP eligibility?* (1) Income means gross income before deductions for such items as income taxes, employees' social security taxes, insurance premiums, and bonds.

(2) The State agency may exclude from consideration the following sources of income listed under the WIC regulations at §246.7(d)(2)(iv) of this chapter:

(i) Any basic allowance for housing received by military services personnel residing off military installations; and

(ii) The value of inkind housing and other inkind benefits.

(3) The State agency must exclude from consideration all income sources excluded by legislation, which are listed in §246.7(d)(2)(iv)(C) of this chapter. FNS will notify State agencies of any new forms of income excluded by statute through program policy memorandum.

(4) The State agency may authorize local agencies to consider the household's average income during the previous 12 months and current household income to determine which more accurately reflects the household's status. In instances in which the State makes the decision to authorize local agencies to determine a household's income in this manner, all local agencies must comply with the State's decision and apply this method of income determination in situations in which it is warranted.

(f) *What other options does the State agency have in establishing eligibility requirements for CSFP?* (1) The State agency may require that an individual be at nutritional risk, as determined by a physician or by local agency staff.

(2) The State agency may require that an individual reside within the service area of the local agency at the time of application for CSFP benefits. However, the State agency may not require that an individual reside within the area for any fixed period of time.

§247.10 Distribution and use of CSFP commodities.

(a) *What are the requirements for distributing CSFP commodities to participants?* The local agency must distribute a package of commodities to participants each month, or a two-

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month supply of commodities to participants every other month, in accordance with the food package guide rates established by FNS.

(b) *What must the local agency do to ensure that commodities are distributed only to CSFP participants?* The local agency must require each participant, or participant's proxy, to present some form of identification before distributing commodities to that person.

(c) *What restrictions apply to State and local agencies in the distribution of CSFP commodities?* State and local agencies must not require, or request, that participants make any payments, or provide any materials or services, in connection with the receipt of CSFP commodities. State and local agencies must not use the distribution of CSFP commodities as a means of furthering the political interests of any person or party.

(d) *What are the restrictions for the use of CSFP commodities?* CSFP commodities may not be used for outreach, refreshments, or for any purposes other than distribution to, and nutrition education for, CSFP participants.

§ 247.11 Applicants exceed caseload levels.

(a) *What must the local agency do if the number of applicants exceeds the local agency's caseload level?* If all caseload has been filled, the local agency must maintain a waiting list of individuals who apply for the program. In establishing the waiting list, the local agency must include the date of application, the population group of the applicant, and information necessary to allow the local agency to contact the applicant when caseload space becomes available. Unless they have been determined ineligible, applicants must be notified of their placement on a waiting list within 10 days of their request for benefits in accordance with § 247.15.

(b) *What are the requirements for serving individuals on the waiting list once caseload slots become available?* When caseload slots open up, the local agency must provide benefits to eligible individuals on the waiting list in the following order of priority:

- (1) Pregnant women, breastfeeding women, and infants;
- (2) Children ages 1 through 3;

- (3) Children ages 4 and 5;
- (4) Postpartum women; and
- (5) Elderly persons.

§ 247.12 Rights and responsibilities.

(a) *What information regarding an individual's rights in CSFP must the local agency provide to the applicant?* The local agency is responsible for informing the applicant, orally or in writing, of the following:

(1) The local agency will provide notification of a decision to deny or terminate CSFP benefits, and of an individual's right to appeal this decision by requesting a fair hearing, in accordance with § 247.33(a);

(2) The local agency will make nutrition education available to all adult participants, and to parents or caretakers of infant and child participants, and will encourage them to participate; and

(3) The local agency will provide information on other nutrition, health, or assistance programs, and make referrals as appropriate.

(b) *What information regarding an individual's responsibilities in CSFP must the local agency provide to the applicant?* In addition to the written statement required by § 247.8(b), the local agency is responsible for informing the applicant, orally or in writing, of the following:

(1) Improper use or receipt of CSFP benefits as a result of dual participation or other program violations may lead to a claim against the individual to recover the value of the benefits, and may lead to disqualification from CSFP; and

(2) Participants must report changes in household income or composition within 10 days after the change becomes known to the household.

§ 247.13 Provisions for non-English or limited-English speakers.

(a) *What must State and local agencies do to ensure that non-English or limited-English speaking persons are aware of their rights and responsibilities in the program?* If a significant proportion of the population in an area is comprised of non-English or limited-English speaking persons with a common language, the State agency must ensure that local agencies inform such persons of

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their rights and responsibilities in the program, as listed under §247.12, in an appropriate language. State and local agencies must ensure that bilingual staff members or interpreters are available to serve these persons.

(b) *What must State and local agencies do to ensure that non-English or limited-English speaking persons are aware of other program information?* If a significant proportion of the population in an area is comprised of non-English or limited-English speaking persons with a common language, the State agency must ensure that local agencies provide other program information, except application forms, to such persons in their appropriate language.

§ 247.14 Other public assistance programs.

(a) *What information on other public assistance programs must the local agency provide to women, infants, and children applicants?* The local agency must provide CSFP applicants eligible for both CSFP and WIC with written information on the WIC Program, to assist them in choosing the program in which they wish to participate. Additionally, the local agency must provide women, infants, and children applicants with written information on the following nutrition, health, or public assistance programs, and make referrals to these programs as appropriate:

(1) The Medicaid Program, which is the medical assistance program established under Title XIX of the Social Security Act (42 U.S.C. 1396 *et seq.*), and other health insurance programs for low-income households in the State. The State agency must provide local agencies with materials showing the income standards utilized in the Medicaid Program;

(2) The Temporary Assistance for Needy Families (TANF) program under part A of Title IV of the Social Security Act (42 U.S.C. 601 *et seq.*);

(3) The Child Support Enforcement Program under part D of Title IV of the Social Security Act (42 U.S.C. 651 *et seq.*); and

(4) The Food Stamp Program (7 U.S.C. 2011 *et seq.*).

(b) *What information on other public assistance programs must the local agency provide to elderly applicants?* The local

agency must provide elderly applicants with written information on the following programs, and make referrals, as appropriate:

(1) Supplemental security income benefits provided under Title XVI of the Social Security Act (42 U.S.C. 1381 *et seq.*);

(2) Medical assistance provided under Title XIX of the Social Security Act (42 U.S.C. 1396 *et seq.*), including medical assistance provided to a qualified Medicare beneficiary (42 U.S.C. 1395(p) and 1396d(5)); and

(3) The Food Stamp Program (7 U.S.C. 2011 *et seq.*).

(c) *Is the value of CSFP benefits counted as income or resources for any other public assistance programs?* No. The value of benefits received in CSFP may not be considered as income or resources of participants or their families for any purpose under Federal, State, or local laws, including laws relating to taxation and public assistance programs.

§ 247.15 Notification of eligibility or ineligibility of applicant.

(a) *What is the timeframe for notifying an applicant of eligibility or ineligibility for CSFP benefits?* Local agencies must notify applicants of their eligibility or ineligibility for CSFP benefits, or their placement on a waiting list, within 10 days from the date of application.

(b) *What must be included in the notification of eligibility or ineligibility?* The notification of eligibility must include information on the time, location, and means of food distribution, and the length of the certification period. Notification of ineligibility must be in writing, and must include the reason the applicant is not eligible, a statement of the individual's right to a fair hearing to appeal the decision, and a statement that informs the applicant that program standards are applied without discrimination by race, color, national origin, age, sex, or disability.

§ 247.16 Certification period.

(a) *How long is the certification period?—(1) Women, infants, and children.* For women, infants, and children, the State agency must establish certification periods that may not exceed 6 months in length. However, pregnant

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women may be certified to participate for the duration of their pregnancy and for up to six weeks post-partum.

(2) *Elderly persons.* For elderly persons, the State agency must establish certification periods that may not exceed 6 months in length. However, the State agency may authorize local agencies to extend the certification period without a formal review of eligibility for additional 6-month periods, as long as the following conditions are met:

(i) The person's address and continued interest in receiving program benefits are verified;

(ii) The local agency has sufficient reason to believe that the person still meets the income eligibility standards (e.g., the elderly person has a fixed income); and

(iii) No eligible women, infants, or children are waiting to be served.

(b) *On what day of the final month does the certification period end?* The certification period extends to the final day of the month in which eligibility expires (e.g., the last day of the month in which a child reaches his or her sixth birthday).

(c) *Does the certification period end when a participant moves from the local area in which he or she was receiving benefits?* No. The State agency must ensure that local agencies serve a CSFP participant, or WIC participant (if also eligible for CSFP), who moves from another area to an area served by CSFP, and whose certification period has not expired. The participant must be given the opportunity to continue to receive CSFP benefits for the duration of the certification period. If the local agency has a waiting list, the participant must be placed on its waiting list ahead of all other waiting applicants. The local agency that determined the participant's eligibility must provide verification of the expiration date of the certification period to the participant upon request.

(d) *What must the local agency do to ensure that participants are aware of the expiration of the certification period?* The local agency must notify program participants in writing at least 15 days before the expiration date that eligibility for the program is about to expire. The local agency must include a statement in the written notification that in-

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forms the applicant that program standards are applied without discrimination by race, color, national origin, age, sex, or disability.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.17 Notification of discontinuance of participant.

(a) *What must a local agency do if it has evidence that a participant is no longer eligible for CSFP benefits during the certification period?* If a local agency has evidence that a participant is no longer eligible for CSFP benefits during the certification period, it must provide the participant with a written notification of discontinuance at least 15 days before the effective date of discontinuance.

(b) *What must a local agency do if it has to discontinue a participant from participation in the program prior to the end of the certification period due to the lack of resources necessary to continue providing benefits to the participant?* If a local agency does not have sufficient resources, such as a sufficient number of caseload slots, to continue providing benefits to the participant(s) for the entire certification period, it must provide the participant(s) with a written notification of discontinuance at least 15 days before the effective date of discontinuance.

(c) *What must be included in the notification of discontinuance?* The notification of discontinuance must include the effective date of discontinuance, the reason for the participant's discontinuance, a statement of the individual's right to appeal the discontinuance through the fair hearing process, in accordance with § 247.33(a), and a statement that informs the applicant that program standards are applied without discrimination by race, color, national origin, age, sex, or disability.

§ 247.18 Nutrition education.

(a) *What are the State agency's responsibilities in ensuring that nutrition education is provided?* The State agency must establish an overall nutrition education plan and must ensure that local agencies provide nutrition education to participants in accordance with the plan. The State agency may allow local agencies to share personnel

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and educational resources with other programs in order to provide the best nutrition education possible to participants. The State agency must establish an evaluation procedure to ensure that the nutrition education provided is effective. The evaluation procedure must include participant input and must be directed by a nutritionist or other qualified professional. The evaluation may be conducted by the State or local agency, or by another agency under agreement with the State or local agency.

(b) *What type of nutrition education must the local agency provide?* The local agency must provide nutrition education that can be easily understood by participants and is related to their nutritional needs and household situations. The local agency must provide nutrition education that includes the following information, which should account for specific ethnic and cultural characteristics whenever possible:

(1) The nutritional value of CSFP foods, and their relationship to the overall dietary needs of the population groups served;

(2) Nutritious ways to use CSFP foods;

(3) Special nutritional needs of participants and how these needs may be met;

(4) For pregnant and postpartum women, the benefits of breastfeeding;

(5) The importance of health care, and the role nutrition plays in maintaining good health; and

(6) The importance of the use of the foods by the participant to whom they are distributed, and not by another person.

(c) *To whom must local agencies provide nutrition education?* The local agency must make nutrition education available to all adult participants and to parents or caretakers of infants and child participants. Local agencies are encouraged to make nutrition education available to children, where appropriate.

(d) *May CSFP foods be used in cooking demonstrations?* Yes. The State or local agency, or another agency with which it has signed an agreement, may use CSFP foods to conduct cooking demonstrations as part of the nutrition

education provided to program participants, but not for other purposes.

§ 247.19 Dual participation.

(a) *What must State and local agencies do to prevent and detect dual participation?* The State agency must work with the State WIC agency to develop a plan to prevent and detect dual participation, in accordance with an agreement signed by both agencies. The State agency must also work with local agencies to prevent and detect dual participation. In accordance with § 247.8(a)(1), the local agency must check the identification of all applicants when they are certified or recertified. In accordance with § 247.8(b), the local agency must ensure that the applicant, or the adult parent or caretaker of the applicant, signs an application form which includes a statement advising the applicant that he or she may not receive both CSFP and WIC benefits simultaneously, or CSFP benefits at more than one CSFP site at the same time.

(b) *What must the local agency do if a CSFP participant is found to be committing dual participation?* A participant found to be committing dual participation must be discontinued from one of the programs (WIC or CSFP), or from participation at more than one CSFP site. Whenever an individual's participation in CSFP is discontinued, the local agency must notify the individual of the discontinuance, in accordance with § 247.17. The individual may appeal the discontinuance through the fair hearing process, in accordance with § 247.33(a). In accordance with § 247.20(b), if the dual participation resulted from the participant, or the parent or caretaker of the participant, making false or misleading statements, or intentionally withholding information, the local agency must disqualify the participant from CSFP, unless the local agency determines that disqualification would result in a serious health risk. The local agency must also initiate a claim against the participant to recover the value of CSFP benefits improperly received, in accordance with § 247.30(c).

(Approved by the Office of Management and Budget under control number 0584-0293)

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§ 247.20 Program violations.

(a) *What are program violations in CSFP?* Program violations are actions taken by CSFP applicants or participants, or the parents or caretakers of applicants or participants, to obtain or use CSFP benefits improperly. Program violations include the following actions:

- (1) Intentionally making false or misleading statements, orally or in writing;
- (2) Intentionally withholding information pertaining to eligibility in CSFP;
- (3) Selling commodities obtained in the program, or exchanging them for non-food items;
- (4) Physical abuse, or threat of physical abuse, of program staff; or
- (5) Committing dual participation.

(b) *What are the penalties for committing program violations?* If applicants or participants, or the parents or caretakers of applicants or participants, commit program violations, the State agency may require local agencies to disqualify the applicants or participants for a period of up to one year. However, if the local agency determines that disqualification would result in a serious health risk, the disqualification may be waived. For program violations that involve fraud, the State agency must require local agencies to disqualify the participant from CSFP for a period of up to one year, unless the local agency determines that disqualification would result in a serious health risk. The State agency must require local agencies to permanently disqualify a participant who commits three program violations that involve fraud. For purposes of this program, fraud includes:

- (1) Intentionally making false or misleading statements to obtain CSFP commodities;
- (2) Intentionally withholding information to obtain CSFP commodities; or
- (3) Selling CSFP commodities, or exchanging them for non-food items.

(c) *What must the local agency do to notify the individual of disqualification from CSFP?* The local agency must provide the individual with written notification of disqualification from CSFP at least 15 days before the effective

date of disqualification. The notification must include the effective date and period of disqualification, the reason for the disqualification, and a statement that the individual may appeal the disqualification through the fair hearing process, in accordance with § 247.33(a).

§ 247.21 Caseload assignment.

(a) *How does FNS assign caseload to State agencies?* Each year, FNS assigns a caseload to each State agency to allow persons meeting the eligibility criteria listed under § 247.9 to participate in the program, up to the caseload limit. To the extent that resources are available, FNS assigns caseload to State agencies in the following order:

(1) *Base caseload.* The State agency may not receive base caseload in excess of its total caseload assigned for the previous caseload cycle. Base caseload is determined in the following manner:

(i) Each State agency entering its second year of program participation receives base caseload equal to the amount assigned to it in its first year of participation; and

(ii) A State agency that has participated in two or more caseload cycles receives base caseload equal to the highest of:

(A) Average monthly participation for the previous fiscal year; or

(B) Average monthly participation for the last quarter of the previous fiscal year; or

(C) Participation during September of the previous fiscal year, but only if:

(1) The full-year appropriation for the preceding fiscal year was enacted on or after February 15; and

(2) The State agency received additional caseload equal to or greater than 10 percent of its base caseload in the previous caseload cycle; and

(3) October participation in the current fiscal year was equal to or greater than 95 percent of September participation in the previous fiscal year.

(2) *Additional caseload.* Each participating State agency may request additional caseload to increase service to women, infants, and children, and the elderly. Requests by State agencies to increase service to women, infants, and children receive priority over requests

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to increase service to the elderly. Eligibility for and assignment of additional caseload are determined in the following manner:

(i) A State agency entering its second year of program participation qualifies to receive additional caseload if the State achieved a participation level which was equal to or greater than 95 percent of assigned caseload for the previous caseload cycle, based on the highest of:

(A) Average monthly participation for the previous fiscal year; or

(B) Average monthly participation for the last quarter of the previous fiscal year; or

(C) Participation during September of the previous fiscal year, but only if:

(1) The full-year appropriation for the preceding fiscal year was enacted on or after February 15; and

(2) October participation in the current fiscal year was equal to or greater than 95 percent of September participation in the previous fiscal year.

(ii) A State agency that has participated in two or more caseload cycles qualifies to receive additional caseload if the State achieved a participation level which was equal to or greater than 95 percent of assigned caseload for the previous caseload cycle, based on the highest of:

(A) Average monthly participation for the previous fiscal year; or

(B) Average monthly participation for the last quarter of the previous fiscal year; or

(C) Participation during September of the previous fiscal year, but only if:

(1) The full-year appropriation for the preceding fiscal year was enacted on or after February 15; and

(2) The State agency received additional caseload equal to or greater than 10 percent of its base caseload in the previous caseload cycle; and

(3) October participation in the current fiscal year was equal to or greater than 95 percent of September participation in the previous fiscal year.

(iii) Of each eligible State agency's request for additional caseload, FNS assigns an amount that it determines the State needs and can efficiently utilize. In making this determination, FNS considers the factors listed below, in descending order of importance. If

all reasonable requests for additional caseload cannot be met, FNS assigns it to those States that are most likely to utilize it. The factors are:

(A) Program participation of women, infants, and children, and the elderly in the State, in the previous fiscal year;

(B) The percentage of caseload utilized by the State in the previous fiscal year;

(C) Program participation trends in the State in previous fiscal years; and

(D) Other information provided by the State agency in support of the request.

(3) *New caseload.* Each State agency requesting to begin participation in the program, and with an approved State Plan, may receive caseload to serve women, infants, and children, and the elderly, as requested in the State Plan. State agency requests to initiate service to women, infants, and children receive priority over requests to initiate service to the elderly. Of the State agency's caseload request, FNS assigns caseload in an amount that it determines the State needs and can efficiently utilize. This determination is made based on information contained in the State Plan and on other relevant information. However, if all caseload requests cannot be met, FNS will assign caseload to those States that are most likely to utilize it.

(b) *When does FNS assign caseload to State agencies?* FNS must assign caseload to State agencies by December 31 of each year, or within 30 days after enactment of appropriations legislation covering the full fiscal year, whichever comes later. Caseload assignments for the previous caseload cycle will remain in effect, subject to the availability of sufficient funding, until caseload assignments are made for the current caseload cycle.

(c) *How do State agencies request additional caseload for the next caseload cycle?* In accordance with §247.6(d), a State agency that would like additional caseload for the next caseload cycle (beginning the following January 1) must submit a request for additional caseload by November 5, as an amendment to the State Plan. The State agency must also describe plans for serving women, infants, and children,

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and the elderly, at new sites in this submission.

§ 247.22 Allocation and disbursement of administrative funds to State agencies.

(a) *What must State agencies do to be eligible to receive administrative funds?* In order to receive administrative funds, the State agency must have signed an agreement with FNS to operate the program, in accordance with § 247.4(a)(1), and must have an approved State Plan.

(b) *How does FNS allocate administrative funds to State agencies?* (1) As required by law, each fiscal year FNS allocates to each State agency an administrative grant per assigned caseload slot, adjusted each year for inflation.

(2) For fiscal year 2003, the amount of the grant per assigned caseload slot was equal to the per-caseload slot amount provided in fiscal year 2001, adjusted by the percentage change between:

(i) The value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 2001; and

(ii) The value of that index for the 12-month period ending June 30, 2002.

(3) For subsequent fiscal years, the amount of the grant per assigned caseload slot is equal to the amount of the grant per assigned caseload slot for the preceding fiscal year, adjusted by the percentage change between:

(i) The value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

(ii) The value of that index for the 12-month period ending June 30 of the preceding fiscal year.

(c) *How do State agencies access administrative funds?* FNS provides administrative funds to State agencies on a quarterly basis. Such funds are provided by means of a Letter of Credit, unless other funding arrangements have been made with FNS. The State agency obtains the funds by electroni-

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cally accessing its Letter of Credit account.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.23 State provision of administrative funds to local agencies.

(a) *How much of the administrative funds must State agencies provide to local agencies for their use?* The State agency must provide to local agencies for their use all administrative funds it receives, except that the State agency may retain for its own use the amount determined by the following formula:

(1) 15 percent of the first \$50,000 received;

(2) 10 percent of the next \$100,000 received;

(3) 5 percent of the next \$250,000 received; and

(4) A maximum of \$30,000, if the administrative grant exceeds \$400,000.

(b) *May a State agency request to retain more than the amount determined by the above formula in the event of special needs?* Yes, the State agency may request approval from FNS to retain a larger amount than is allowed under the formula prescribed in paragraph (a) of this section. However, in making its request, the State agency must provide justification of the need for the larger amount at the State level, and must ensure that local agencies will not suffer undue hardship as a result of a reduction in administrative funds.

(c) *How must the State agency distribute funds among local agencies?* The State agency must distribute funds among local agencies on the basis of their respective needs, and in a manner that ensures the funds will be used to achieve program objectives.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.24 Recovery and redistribution of caseload and administrative funds.

(a) *May FNS recover and redistribute caseload and administrative funds assigned to a State agency?* Yes. FNS may recover and redistribute caseload and administrative funds assigned to a State agency during the fiscal year. FNS will redistribute these resources to other State agencies in accordance with the provisions of §§ 247.21(a) and

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247.22(b). In reassigning caseload, FNS will use the most up-to-date data on participation and the extent to which caseload is being utilized, as well as other information provided by State agencies. In accordance with § 247.21(a)(2), in instances in which FNS recovers caseload slots, the State agency must use 95 percent of its original caseload allocation to be eligible for additional caseload. However, the State agency must not exceed its reduced caseload allocation on an average monthly basis.

(b) *Is there a limit on the amount of caseload slots or administrative funds that FNS may recover?* Yes. FNS will not unilaterally recover caseload that would result in the recovery of more than 50 percent of the State's administrative funds. However, in instances in which the State agency requests that FNS recover any portion of its assigned caseload, the 50-percent limitation will not apply.

§ 247.25 Allowable uses of administrative funds and other funds.

(a) *What are allowable uses of administrative funds provided to State and local agencies?* Administrative funds may be used for costs that are necessary to ensure the efficient and effective administration of the program, in accordance with parts 3016 and 3019 of this title. Part 3016 of this title contains the rules for management of Federal grants to State, local, and Indian tribal governments, and part 3019 of this title contains the grants management rules for nonprofit organizations. These departmental regulations incorporate by reference OMB Circulars A-87 (Cost Principles for State, Local, and Indian Tribal Governments) and A-122 (Cost Principles for Non-Profit Organizations), which set out the principles for determining whether specific costs are allowable. For availability of OMB Circulars referenced in this section, see 5 CFR 1310.3. Some examples of allowable costs in CSFP include:

- (1) Storing, transporting, and distributing foods;
- (2) Determining the eligibility of program applicants;
- (3) Program outreach;
- (4) Nutrition education;
- (5) Audits and fair hearings;

(6) Monitoring and review of program operations; and

(7) Transportation of participants to and from the local agency, if necessary.

(b) *What are unallowable uses of administrative funds?* In addition to those costs determined to be unallowable by the principles contained in the OMB circulars referenced in paragraph (a) of this section, specific examples of unallowable uses of administrative funds in CSFP include:

(1) The cost of alteration of facilities not required specifically for the program; and

(2) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or by other means).

(c) *What costs are allowable only with prior approval of FNS?* Capital expenditures, which include the acquisition of facilities or equipment, or enhancements to such capital assets, with a cost per unit of at least \$5,000, are allowable only with prior approval of FNS. Examples of equipment include automated information systems, automated data processing equipment, and other computer hardware and software.

(d) *What procedures must State and local agencies use in procuring property, equipment, or services with program funds, and disposing of such property or equipment?* The procedures that State and local agencies must follow in procuring property, equipment, or services with program funds, or disposing of such property or equipment, are contained in parts 3016 and 3019 of this title. State, local, and Indian tribal governments must comply with part 3016 of this title, while nonprofit subgrantees must comply with part 3019 of this title. State and local agencies may use procurement procedures established by State and local regulations as long as these procedures do not conflict with Federal regulations. Federal regulations do not relieve State or local agencies from responsibilities established in contracts relating to procurement of property, equipment, or services. The State agency is the responsible authority regarding the settlement of all contractual and administrative issues arising out of procurements for the program.

(e) *What is program income and how must State and local agencies use it?* Program income is income directly generated from program activities. It includes, for example, income from the sale of packing containers or pallets, and the salvage of commodities. Program income does not include interest earned from administrative funds. State and local agencies must use program income for allowable program costs, in accordance with part 3016 of this title.

(f) *How must State and local agencies use funds recovered as a result of claims actions?* The State agency must use funds recovered as a result of claims actions against subdistributing or local agencies in accordance with the provisions of §250.15(c) of this chapter. The State agency must use funds recovered as a result of claims actions against participants for allowable program costs. The State agency may authorize local agencies to use such funds for allowable program costs incurred at the local level.

§ 247.26 Return of administrative funds.

(a) *Must State agencies return administrative funds that they do not use at the end of the fiscal year?* Yes. If, by the end of the fiscal year, a State agency has not obligated all of its allocated administrative funds, the unobligated funds must be returned to FNS.

(b) *What happens to administrative funds that are returned by State agencies at the end of the fiscal year?* If, in the following fiscal year, OMB reappropriations the returned administrative funds, the funds are used to support the program. Such funds are not returned to State agencies in the form of administrative funds in addition to the legislatively mandated grant per assigned caseload slot.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.27 Financial management.

(a) *What are the Federal requirements for State and local agencies with regard to financial management?* State and local public agencies must maintain a financial management system that complies with the Federal regulations contained in part 3016 of this title, while non-

profit organizations must comply with the Federal regulations contained in part 3019 of this title. The State agency's financial management system must provide accurate, current, and complete disclosure of the financial status of the program, including an accounting of all program funds received and expended each fiscal year. The State agency must ensure that local agencies develop and implement a financial management system that allows them to meet Federal requirements.

(b) *What are some of the major components of the State agency's financial management system?* In addition to other requirements, the State agency's financial management system must provide for:

- (1) Prompt and accurate payment of allowable costs;
- (2) Timely disbursement of funds to local agencies;
- (3) Timely and appropriate resolution of claims and audit findings; and
- (4) Maintenance of records identifying the receipt and use of administrative funds, funds recovered as a result of claims actions, program income (as defined under §247.25(e)), and property and other assets procured with program funds.

§ 247.28 Storage and inventory of commodities.

(a) *What are the requirements for storage of commodities?* State and local agencies must provide for storage of commodities that protects them from theft, spoilage, damage or destruction, or other loss. State and local agencies may contract with commercial facilities to store and distribute commodities. The required standards for warehousing and distribution systems, and for contracts with storage facilities, are included under §250.14 of this chapter.

(b) *What are the requirements for the inventory of commodities?* A physical inventory of all USDA commodities must be conducted annually at each storage and distribution site where these commodities are stored. Results of the physical inventory must be reconciled

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with inventory records and maintained on file by the State or local agency.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.29 Reports and recordkeeping.

(a) *What recordkeeping requirements must State and local agencies meet?* State and local agencies must maintain accurate and complete records relating to the receipt, disposal, and inventory of commodities, the receipt and disbursement of administrative funds and other funds, eligibility determinations, fair hearings, and other program activities. State and local agencies must also maintain records pertaining to liability for any improper distribution of, use of, loss of, or damage to commodities, and the results obtained from the pursuit of claims arising in favor of the State or local agency. All records must be retained for a period of three years from the end of the fiscal year to which they pertain, or, if they are related to unresolved claims actions, audits, or investigations, until those activities have been resolved. All records must be available during normal business hours for use in management reviews, audits, investigations, or reports of the General Accounting Office.

(b) *What reports must State and local agencies submit to FNS?* State agencies must submit the following reports to FNS:

(1) *SF-269A, Financial Status Report.* The State agency must submit the SF-269A, Financial Status Report, to report the financial status of the program at the close of the fiscal year. This report must be submitted within 90 days after the end of the fiscal year. Obligations must be reported for the fiscal year in which they occur. Revised reports may be submitted at a later date, but FNS will not be responsible for reimbursing unpaid obligations later than one year after the end of the fiscal year in which they were incurred.

(2) *FNS-153, Monthly Report of the Commodity Supplemental Food Program and Quarterly Administrative Financial Status Report.* The State agency must submit the FNS-153 on a monthly basis. FNS may permit the data contained in the report to be submitted less frequently, or in another format.

The report must be submitted within 30 days after the end of the reporting period. On the FNS-153, the State agency reports:

(i) The number of program participants in each population category (e.g., infants, children, and elderly);

(ii) The receipt and distribution of commodities, and beginning and ending inventories, as well as other commodity data; and

(iii) On a quarterly basis, the cumulative amount of administrative funds expended and obligated, and the amount remaining unobligated.

(3) *FNS-191, Racial/Ethnic Group Participation.* Local agencies must submit a report of racial/ethnic participation each year, using the FNS-191.

(c) *Is there any other information that State and local agencies must provide to FNS?* FNS may require State and local agencies to provide data collected in the program to aid in the evaluation of the effect of program benefits on the low-income populations served. Any such requests for data will not include identification of particular individuals.

(d) *What data must the State agency collect related to local agencies?* (1) Each State agency must collect data related to local agencies that have an agreement with the State agency to participate in the program for each of Federal fiscal years 2006 through 2009; including those local agencies that participated only for part of the fiscal year. Such data shall include:

(i) The name of each local agency;

(ii) The city in which each participating local agency was headquartered and the name of the state;

(iii) The amount of funds provided to the participating organization, i.e., the amount of federal administrative funds provided to each participating local agency; and

(iv) The type of participating organization, e.g., government agency, educational institution, non-profit organization/secular, non-profit organization/faith-based, and "other."

(2) On or before August 31, 2007, and each subsequent year through 2010, State agencies must report to FNS data as specified in paragraph (d)(1) of this section for the prior Federal fiscal

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year. State agencies must submit this data in a format designated by FNS.

(Approved by the Office of Management and Budget under control numbers 0584-0025, 0584-0293)

[70 FR 47063, Aug. 11, 2005 as amended at 72 FR 24184, May 2, 2007]

§ 247.30 Claims.

(a) *What happens if a State or local agency misuses program funds?* If FNS determines that a State or local agency has misused program funds through negligence, fraud, theft, embezzlement, or other causes, FNS must initiate and pursue a claim against the State agency to repay the amount of the misused funds. The State agency will be given the opportunity to contest the claim. The State agency is responsible for initiating and pursuing claims against subdistributing and local agencies if they misuse program funds.

(b) *What happens if a State or local agency misuses program commodities?* If a State or local agency misuses program commodities, FNS must initiate a claim against the State agency to recover the value of the misused commodities. The procedures for pursuing claims resulting from misuse of commodities are detailed in §250.15(c) of this chapter. Misused commodities include commodities improperly distributed or lost, spoiled, stolen, or damaged as a result of improper storage, care, or handling. The State agency is responsible for initiating and pursuing claims against subdistributing agencies, local agencies, or other agencies or organizations if they misuse program commodities. The State agency must use funds recovered as a result of claims for commodity losses in accordance with §250.15(c) of this chapter.

(c) *What happens if a participant improperly receives or uses CSFP benefits through fraud?* The State agency must ensure that a local agency initiates a claim against a participant to recover the value of CSFP commodities improperly received or used if the local agency determines that the participant, or the parent or caretaker of the participant, fraudulently received or used the commodities. For purposes of this program, fraud includes intentionally making false or misleading statements, or intentionally with-

holding information, to obtain CSFP commodities, or the selling or exchange of CSFP commodities for non-food items. The local agency must advise the participant of the opportunity to appeal the claim through the fair hearing process, in accordance with §247.33(a). The local agency must also disqualify the participant from CSFP for a period of up to one year, unless the local agency determines that disqualification would result in a serious health risk, in accordance with the requirements of §247.20(b).

(d) *What procedures must be used in pursuing claims against participants?* The State agency must establish standards, based on a cost-benefit review, for determining when the pursuit of a claim is cost-effective, and must ensure that local agencies use these standards in determining if a claim is to be pursued. In pursuing a claim against a participant, the local agency must:

(1) Issue a letter demanding repayment for the value of the commodities improperly received or used;

(2) If repayment is not made in a timely manner, take additional collection actions that are cost-effective, in accordance with the standards established by the State agency; and

(3) Maintain all records regarding claims actions taken against participants, in accordance with §247.29.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.31 Audits and investigations.

(a) *What is the purpose of an audit?* The purpose of an audit is to ensure that:

(1) Financial operations are properly conducted;

(2) Financial reports are fairly presented;

(3) Proper inventory controls are maintained; and

(4) Applicable laws, regulations, and administrative requirements are followed.

(b) *When may the Department conduct an audit or investigation of the program?* The Department may conduct an audit of the program at the State or local agency level at its discretion, or may investigate an allegation that the State or local agency has not complied

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with Federal requirements. An investigation may include a review of any State or local agency policies or practices related to the specific area of concern.

(c) *What are the responsibilities of the State agency in responding to an audit by the Department?* In responding to an audit by the Department, the State agency must:

(1) Provide access to any records or documents compiled by the State or local agencies, or contractors; and

(2) Submit a response or statement to FNS describing the actions planned or taken in response to audit findings or recommendations. The corrective action plan must include time frames for implementation and completion of actions. FNS will determine if actions or planned actions adequately respond to the program deficiencies identified in the audit. If additional actions are needed, FNS will schedule a follow-up review and allow sufficient time for further corrective actions. The State agency may also take exception to particular audit findings or recommendations.

(d) *When is a State or local agency audit required?* State and local agency audits must be conducted in accordance with part 3052 of this title, which contains the Department's regulations pertaining to audits of States, local governments, and nonprofit organizations. The value of CSFP commodities distributed by the agency or organization must be considered part of the Federal award.

(e) *What are the requirements for State or local agency audits?* State and local agency audits must be conducted in accordance with the requirements of part 3052 of this title, which contains the Department's regulations pertaining to audits of States, local governments, and nonprofit organizations. The State agency must ensure that local agencies meet the audit requirements. The State agency must ensure that all State or local agency audit reports are available for FNS review.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.32 Termination of agency participation.

(a) *When may a State agency's participation in CSFP be terminated?* While paragraphs (a)(1), (a)(2), and (a)(3) of this section, as applicable, describe the circumstances and basic procedures for terminating State agency programs, specific actions and procedures relating to program termination are more fully described in part 3016 of this title.

(1) *Termination by FNS.* FNS may terminate a State agency's participation in CSFP, in whole or in part, if the State agency does not comply with the requirements of this part. FNS must provide written notification to the State agency of termination, including the reasons for the action, and the effective date.

(2) *Termination by State agency.* The State agency may terminate the program, in whole or in part, upon written notification to FNS, stating the reasons and effective date of the action. In accordance with § 247.4(b)(6), which relates to the termination of agreements, either party must provide, at minimum, 30 days' written notice.

(3) *Termination by mutual agreement.* The State agency's program may also be terminated, in whole or in part, if both parties agree the action would be in the best interest of the program. The two parties must agree upon the conditions of the termination, including the effective date.

(b) *When may a local agency's participation in CSFP be terminated?* While paragraphs (b)(1), (b)(2), and (b)(3) of this section, as applicable, describe the circumstances and basic procedures for termination of local agency programs, specific actions and procedures relating to program termination are more fully described in part 3016 of this title.

(1) *Termination by State agency.* The State agency may terminate a local agency's participation in CSFP, or may be required to terminate a local agency's participation, in whole or in part, if the local agency does not comply with the requirements of this part. The State agency must notify the local agency in writing of the termination, the reasons for the action, and the effective date, and must provide the local agency with an opportunity to appeal, in accordance with § 247.35. (The

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local agency may appeal the termination in accordance with § 247.35.)

(2) *Termination by local agency.* The local agency may terminate the program, in whole or in part, upon written notification to the State agency, stating the reasons and effective date of the action. In accordance with § 247.4(b)(6), which relates to the termination of agreements, either party must provide, at minimum, 30 days' written notice.

(3) *Termination by mutual agreement.* The local agency's program may also be terminated, in whole or in part, if both the State and local agency agree that the action would be in the best interest of the program. The two parties must agree upon the conditions of the termination, including the effective date.

§ 247.33 Fair hearings.

(a) *What is a fair hearing?* A fair hearing is a process that allows a CSFP applicant or participant to appeal an adverse action, which may include the denial or discontinuance of program benefits, disqualification from the program, or a claim to repay the value of commodities received as a result of fraud. State and local agencies must ensure that CSFP applicants and participants understand their right to appeal an adverse action through the fair hearing process, which includes providing written notification of the individual's right to a fair hearing along with notification of the adverse action. Such notification is not required at the expiration of a certification period.

(b) *What are the basic requirements the State agency must follow in establishing procedures to be used in fair hearings?* The State agency must establish simple, clear, uniform rules of procedure to be used in fair hearings, including, at a minimum, the procedures outlined in this section. The State agency may use alternate procedures if approved by FNS. The rules of procedure must be available for public inspection and copying.

(c) *How may an individual request a fair hearing?* An individual, or an individual's parent or caretaker, may request a fair hearing by making a clear expression, verbal or written, to a

State or local agency official, that an appeal of the adverse action is desired.

(d) *How much time does an individual have to request a fair hearing?* The State or local agency must allow an individual at least 60 days from the date the agency mails or gives the individual the notification of adverse action to request a fair hearing.

(e) *When may a State or local agency deny a request for a fair hearing?* The State or local agency may deny a request for a fair hearing when:

(1) The request is not received within the time limit established in paragraph (d) of this section;

(2) The request is withdrawn in writing by the individual requesting the hearing or by an authorized representative of the individual; or

(3) The individual fails to appear, without good cause, for the scheduled hearing.

(f) *Does the request for a fair hearing have any effect on the receipt of CSFP benefits?* Participants who appeal the discontinuance of program benefits within the 15-day advance notification period required under §§ 247.17 and 247.20 must be permitted to continue to receive benefits until a decision on the appeal is made by the hearing official, or until the end of the participant's certification period, whichever occurs first. However, if the hearing decision finds that a participant received program benefits fraudulently, the local agency must include the value of benefits received during the time that the hearing was pending, as well as for any previous period, in its initiation and pursuit of a claim against the participant.

(g) *What notification must the State or local agency provide an individual in scheduling the hearing?* The State or local agency must provide an individual with at least 10 days' advance written notice of the time and place of the hearing, and must include the rules of procedure for the hearing.

(h) *What are the individual's rights in the actual conduct of the hearing?* The individual must have the opportunity to:

(1) Examine documents supporting the State or local agency's decision before and during the hearing;

Food and Nutrition Service, USDA

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(2) Be assisted or represented by an attorney or other persons;

(3) Bring witnesses;

(4) Present arguments;

(5) Question or refute testimony or evidence, including an opportunity to confront and cross-examine others at the hearing; and,

(6) Submit evidence to help establish facts and circumstances.

(i) *Who is responsible for conducting the fair hearing, and what are the specific responsibilities of that person?* The fair hearing must be conducted by an impartial official who does not have any personal stake or involvement in the decision and who was not directly involved in the initial adverse action that resulted in the hearing. The hearing official is responsible for:

(1) Administering oaths or affirmations, as required by the State;

(2) Ensuring that all relevant issues are considered;

(3) Ensuring that all evidence necessary for a decision to be made is presented at the hearing, and included in the record of the hearing;

(4) Ensuring that the hearing is conducted in an orderly manner, in accordance with due process; and

(5) Making a hearing decision.

(j) *How is a hearing decision made?* The hearing official must make a decision that complies with Federal laws and regulations, and is based on the facts in the hearing record. In making the decision, the hearing official must summarize the facts of the case, specify the reasons for the decision, and identify the evidence supporting the decision and the laws or regulations that the decision upholds. The decision made by the hearing official is binding on the State or local agency.

(k) *What is the time limit for making a hearing decision and notifying the individual of the decision?* A hearing decision must be made, and the individual notified of the decision, in writing, within 45 days of the request for the hearing. The notification must include the reasons for the decision.

(l) *How does the hearing decision affect the individual's receipt of CSFP benefits?* If a hearing decision is in favor of an applicant who was denied CSFP benefits, the receipt of benefits must begin within 45 days from the date that the

hearing was requested, if the applicant is still eligible for the program. If the hearing decision is against a participant, the State or local agency must discontinue benefits as soon as possible, or at a date determined by the hearing official.

(m) *What must be included in the hearing record?* In addition to the hearing decision, the hearing record must include a transcript or recording of testimony, or an official report of all that transpired at the hearing, along with all exhibits, papers, and requests made. The record must be maintained in accordance with §247.29(a). The record of the hearing must be available for public inspection and copying, in accordance with the confidentiality requirements under §247.36(b).

(n) *What further steps may an individual take if a hearing decision is not in his or her favor?* If a hearing decision upholds the State or local agency's action, and a State-level review or rehearing process is available, the State or local agency must describe to the individual any State-level review or rehearing process. The State or local agency must also inform the individual of the right of the individual to pursue judicial review of the decision.

§ 247.34 Management reviews.

(a) *What must the State agency do to ensure that local agencies meet program requirements and objectives?* The State agency must establish a management review system to ensure that local agencies, subdistributing agencies, and other agencies conducting program activities meet program requirements and objectives. As part of the system, the State agency must perform an on-site review of all local agencies, and of all storage facilities utilized by local agencies, at least once every two years. As part of the on-site review, the State agency must evaluate all aspects of program administration, including certification procedures, nutrition education, civil rights compliance, food storage practices, inventory controls, and financial management systems. In addition to conducting on-site reviews, the State agency must evaluate program administration on an ongoing basis by reviewing financial reports, audit reports, food orders, inventory

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reports, and other relevant information.

(b) *What must the State agency do if it finds that a local agency is deficient in a particular area of program administration?* The State agency must record all deficiencies identified during the review and institute follow-up procedures to ensure that local agencies and sub-distributing agencies correct all deficiencies within a reasonable period of time. To ensure improved program performance in the future, the State agency may require that local agencies adopt specific review procedures for use in reviewing their own operations and those of subsidiaries or contractors. The State agency must provide copies of review reports to FNS upon request.

(Approved by the Office of Management and Budget under control number 0584-0293)

§ 247.35 Local agency appeals of State agency actions.

(a) *What recourse must the State agency provide local agencies to appeal a decision that adversely affects their participation in CSFP?* The State agency must establish a hearing procedure to allow local agencies to appeal a decision that adversely affects their participation in CSFP—*e.g.*, the termination of a local agency's participation in the program. The adverse action must be postponed until a decision on the appeal is made.

(b) *What must the State agency include in the hearing procedure to ensure that the local agency has a fair chance to present its case?* The hearing procedure must provide the local agency:

(1) Adequate advance notice of the time and place of the hearing;

(2) An opportunity to review the record before the hearing, and to present evidence at the hearing;

(3) An opportunity to confront and cross-examine witnesses; and

(4) An opportunity to be represented by counsel, if desired.

(c) *Who conducts the hearing and how is a decision on the appeal made?* The hearing must be conducted by an impartial person who must make a decision on the appeal that is based solely on the evidence presented at the hearing, and on program legislation and regulations. A decision must be made within 60 days from the date of the re-

7 CFR Ch. II (1-1-09 Edition)

quest for a hearing, and must be provided in writing to the local agency.

§ 247.36 Confidentiality of applicants or participants.

(a) *Can the State or local agency disclose information obtained from applicants or participants to other agencies or individuals?* State and local agencies must restrict the use or disclosure of information obtained from CSFP applicants or participants to persons directly connected with the administration or enforcement of the program, including persons investigating or prosecuting program violations. The State or local agency may exchange participant information with other health or welfare programs for the purpose of preventing dual participation. In addition, with the consent of the participant, as indicated on the application form, the State or local agency may share information obtained with other health or welfare programs for use in determining eligibility for those programs, or for program outreach. However, the State agency must sign an agreement with the administering agencies for these programs to ensure that the information will be used only for the specified purposes, and that agencies receiving such information will not further share it.

(b) *Can the State or local agency disclose the identity of persons making a complaint or allegation against another individual participating in or administering the program?* The State or local agency must protect the confidentiality, and other rights, of any person making allegations or complaints against another individual participating in, or administering CSFP, except as necessary to conduct an investigation, hearing, or judicial proceeding.

§ 247.37 Civil rights requirements.

(a) *What are the civil rights requirements that apply to CSFP?* State and local agencies must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794 *et seq.*), the Age Discrimination Act of 1975 (42 U.S.C. 6101

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et seq.), and titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*). State and local agencies must also comply with the Department's regulations on non-discrimination (parts 15, 15a, and 15b of this title), and with the provisions of FNS Instruction 113-2, including the collection of racial/ethnic participation data and public notification of non-discrimination policy. State and local agencies must ensure that no person shall, on the grounds of race, color, national origin, age, sex, or disability, be subjected to discrimination under the program.

(b) *How does an applicant or participant file a complaint of discrimination?* CSFP applicants or participants who believe they have been discriminated against should file a discrimination complaint with the USDA Director, Office of Civil Rights, Room 326W, Whitten Building, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or telephone (202) 720-5964.

PART 248—WIC FARMERS' MARKET NUTRITION PROGRAM (FMNP)

Subpart A—General

Sec.

- 248.1 General purpose and scope.
- 248.2 Definitions.
- 248.3 Administration.

Subpart B—State Agency Eligibility

- 248.4 State Plan.
- 248.5 Selection of new State agencies.

Subpart C—Recipient Eligibility

- 248.6 Recipient eligibility.
- 248.7 Nondiscrimination.

Subpart D—Recipient Benefits

- 248.8 Level of benefits and eligible foods.
- 248.9 Nutrition education.

Subpart E—State Agency Provisions

- 248.10 Coupon and market management.
- 248.11 Financial management system.
- 248.12 FMNP costs.
- 248.13 FMNP income.
- 248.14 Distribution of funds.
- 248.15 Closeout procedures.
- 248.16 Administrative appeal of State agency decisions.

Subpart F—Monitoring and Review of State Agencies

- 248.17 Management evaluations and reviews.
- 248.18 Audits.
- 248.19 Investigations.

Subpart G—Miscellaneous Provisions

- 248.20 Claims and penalties.
- 248.21 Procurement and property management.
- 248.22 Nonprocurement debarment/suspension, drug-free workplace, and lobbying restrictions.
- 248.23 Records and reports.
- 248.24 Other provisions.
- 248.25 FMNP information.
- 248.26 OMB control number.

AUTHORITY: 42 U.S.C. 1786.

SOURCE: 59 FR 11517, Mar. 11, 1994, unless otherwise noted.

Subpart A—General

§ 248.1 General purpose and scope.

This part announces regulations under which the Secretary of Agriculture shall carry out the WIC Farmers' Market Nutrition Program. The dual purposes of the FMNP are:

(a) To provide resources in the form of fresh, nutritious, unprepared foods (fruits and vegetables) from farmers' markets to women, infants, and children who are nutritionally at risk and who are participating in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) or are on the waiting list for the WIC Program; and

(b) To expand the awareness, use of and sales at farmers' markets.

This will be accomplished through payment of cash grants to approved State agencies which administer the FMNP and deliver benefits at no cost to eligible persons. The FMNP shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 *et seq.*) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

§ 248.2 Definitions.

For the purpose of this part and all contracts, guidelines, instructions, forms and other documents related hereto, the term:



JUL 16 2008

United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

SUBJECT: Implementation of the Food, Conservation, and Energy Act of 2008,
(Public Law 110-246) - Commodity Supplemental Food Program (CSFP)

On June 18, 2008, the Food, Conservation, and Energy Act of 2008 (the Farm Bill) was enacted into law. Section 4406(b)(3) of the Farm Bill authorizes appropriations for CSFP through 2012. The purpose of this memorandum is to implement the provisions of the Farm Bill that relate to CSFP.

Previously, State and local agencies were required by statute to serve all women, infants, and children eligible to participate in the program before serving low-income elderly. Section 4221 of the Farm Bill eliminates the statutory preference by amending Section 5(g) of the Agriculture and Consumer Protection Act of 1973. Effective October 1, 2008, all State and local agencies must begin serving all CSFP applicants on a first-come, first-served basis.

Because the Farm Bill eliminates the preference in CSFP for women, infants, and children, some of the individuals who previously participated in the program may be denied program benefits when States do not have sufficient caseload to serve all eligible applicants. Therefore, it is particularly important, in areas where both CSFP and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) operate, for local agencies to best serve the interests of women, infants, and children by referring them to the appropriate program. Given the greater accessibility to health care and nutrition education, as well as the elimination of the statutory preference, WIC is the more appropriate program for women, infants, and children who are eligible for benefits.

Should you have any questions as to the implementation of the Farm Bill provisions with regard to CSFP, please contact Michelle Waters or Lillie Ragan at (703) 305-2662.

A handwritten signature in cursive script that reads "Cathie McCullough".

Cathie McCullough
Director
Food Distribution Division



Food Distribution National Policy Memorandum

United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

DATE: October 5, 2009

POLICY NO: FD-096: Commodity Supplemental Food Program (CSFP)

SUBJECT: Simultaneous Participation in CSFP and other Nutrition Assistance Programs administered by the Food and Nutrition Service (FNS)

Per CSFP regulations at 7 CFR 247.19, participants are prohibited from receiving CSFP benefits and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program) benefits at the same time. However, there is no prohibition against simultaneous participation in CSFP and other FNS programs including but not limited to the Supplemental Nutrition Assistance Program (SNAP), The Emergency Food Assistance Program, and the Senior Farmers' Market Nutrition Program, provided the eligibility requirements for these programs are met.

Per 7 CFR 247.9(b)(1), women, infants, and children who are certified as eligible to receive SNAP benefits automatically meet CSFP income eligibility requirements. Nevertheless, these applicants must still meet all other CSFP eligibility requirements, including categorical and residency requirements.

For senior applicants age 60 years and over, eligibility for SNAP benefits does not create automatic income eligibility for CSFP. Senior applicants must separately meet CSFP income eligibility requirements in order to participate in the program. It is important to note that, in accordance with section 8(b) of the Food and Nutrition Act of 2008, which reads that SNAP benefits are "not considered income or resources for any purpose under any Federal, State, or local laws," senior applicants who meet all other CSFP eligibility requirements cannot be denied CSFP benefits because they participate in SNAP.

Finally, 7 CFR 247.14(c) prohibits the value of benefits received under CSFP from being considered as income or resources when determining eligibility for other public assistance programs, including other FNS nutrition assistance programs.

Cathie McCullough
Director
Food Distribution Division

AN EQUAL OPPORTUNITY EMPLOYER AND PROVIDER
(Food Distribution Web site: www.fns.usda.gov/fdd)

CSFP POLICY TOOLKIT
HANDOUT 5

FORM APPROVED OMB NO. 0584-0293

UNITED STATES DEPARTMENT OF AGRICULTURE - FOOD AND NUTRITION SERVICE

MONTHLY REPORT OF THE COMMODITY SUPPLEMENTAL FOOD PROGRAM AND QUARTERLY ADMINISTRATIVE FINANCIAL STATUS REPORT

SEE INSTRUCTIONS ON REVERSE

1. REPORTING MONTH AND YEAR		3. TYPE OF SUBMISSION <input type="checkbox"/> (A) - INITIAL <input type="checkbox"/> (B) - LATEST REV. <input type="checkbox"/> (C) - CLOSEOUT INVENTORY		4. NUMBER OF PARTICIPANTS							5. REPORTING MEASUREMENTS					
2A. ST AGENCY NAME				INFANTS (0-3) MONTHS (A)	INFANTS (4-12) MONTHS (B)	CHILDREN (1-6) YEARS (C)	PREGNANT/BREAST FEEDING WOMEN (D)	POST-PARTUM WOMEN (E)	TOTAL NO. PART. (4A + B + C + D + E = 4F) (F)	TOTAL NO. OF ELDERLY PART. (G)	(A) CASES <input type="checkbox"/>	(B) UNITS <input type="checkbox"/>				
				STATE AND LOCAL DATA												
2B. DA CODE																
6. COMMODITY NAME	6A. CODE	6B. PACK SIZE	7. STATE AND LOCAL BEGINNING INVENTORY	8. RECEIPTS	9. REDO-NATIONS IN	10. TOTAL INVENTORY AVAILABLE (7 + 8 + 9 = 10)	11. COMMODITY ISSUANCE		12. COMMODITY ACTIVITY				13. TOTAL ACTIVITY (12A + B + C + D = 13)	14. ADJUSTMENTS		15. STATE AND LOCAL ENDING INVENTORY ((10 - 13) +/- 14A & B = 15)
							TOTAL NUMBER ISSUED TO:		TOTAL NUMBER ISSUED (11A + B = 12) (A)	REDO-NATIONS OUT (B)	FOOD LOSS (C)	AMT USED FOR NUT ED (D)		POSITIVE (A)	NEGATIVE (B)	
							W-I-C (A)	ELDERLY (B)								
GREEN BEANS 300	A059	24/300 can														
GREEN BEANS 303	A060	24/303 can														
BEANS VEG 300	A090	24/300 can														
CARROTS	A095	24/303 can														
CARROTS 300	A098	24/300 can														
CORN KERNEL 300	A119	24/300 can														
CORN CREAM	A120	24/303 can														
CORN KERNEL	A121	24/303 can														
CORN CREAM 300	A122	24/300 can														
LENTILS	A135	12/2 lb.														
PEAS 300	A144	24/300 can														
PEAS 303	A145	24/303 can														
PUMPKIN	A163	24/300 can														
SPINACH	A166	24/303 can														
SPINACH 300	A167	24/300 can														
POTATOES 303	A169	24/303 can														
POTATOES SLC 300	A170	24/300 can														
POTATOES DEHY 12	A196	12/1 lb.														

FORM FNS - 153 (5/00) Previous editions obsolete

SBU

Electronic Form Version Designed in Adobe 7.1 Version

PAGE 1 OF 8

MONTHLY REPORT OF THE COMMODITY SUPPLEMENTAL FOOD PROGRAM STATE AND LOCAL INVENTORY	REPORTING MONTH AND YEAR:	STATE AGENCY NAME:	REPORTING MEASUREMENT: CASES () OR UNITS ()
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STATE AND LOCAL DATA

6. COMMODITY NAME	6A. CODE	6B. PACK SIZE	7. STATE AND LOCAL BEGINNING INVENTORY	8. RECEIPTS	9. REDO- NATIONS IN	10. TOTAL INVENTORY AVAILABLE (7 + 8 + 9 = 10)	11. COMMODITY ISSUANCE		12. COMMODITY ACTIVITY				13. TOTAL ACTIVITY (12A + B + C +D = 13)	14. ADJUSTMENTS		15. STATE AND LOCAL ENDING INVENTORY (10 - 13) +/- 14A & B = 15)
							TOTAL NUMBER ISSUED TO:		TOTAL NUMBER ISSUED (11A + B = 12)	REDO- NATIONS OUT	FOOD LOSS	AMT USED FOR NUT ED		POSITIVE	NEGATIVE	
							W-I-C (A)	ELDERLY (B)								
EVAP 12	B081	48/12 Fl oz.														
INSTANT 24	B090	6/4 lb.														
EVAP 24	B117	24/12 Fl oz.														
CORNMEAL 5 DEG	B137	10/5 lb.														
CORNMEAL 8/5 DEG	B138	8/5 lb.														
CORNMEAL 10 DEG	B141	5/10 lb.														
CORNMEAL 40 DEG	B142	5/10 lb.														
FORMULA POWDER 14.1	B158	24/14 oz.														
FARINA	B160	24/14 oz.														
CEREAL INFANT R8	B161	12/8 oz.														
FORMULA SOY DRY 6/14	B162	6/14 oz.														
FORMULA SOY 12	B163	12/13 Fl oz.														
FORMULA 12	B164	12/13 Fl oz.														
FORMULA	B165	24/13 Fl oz.														
FORMULA SOY	B166	24/13 Fl oz.														
FORMULA POWDER	B167	12/1 lb.														
FORMULA POWDER 6	B168	6/1 lb.														
FORMULA SOY PWDR 6	B169	6/1 lb.														

FNS-153 REPORTING INSTRUCTIONS

Reporting Measurements - Data reported on the FNS-153 form can be shown in either "case/remaining" or "units." Reporting data in "cases/remaining units" for some columns and just "units" for other columns or vice versa is prohibited on the same form. Prior FNS approval is required for a State agency to switch one reporting measurement to another. The choice of the measurement "cases/remaining units" or "units" is left to the discretion of the reporting State agency. Rounding the count is unacceptable.

"Cases" means the container size in which the commodity is shipped. For example, the pack size for egg mix is 48/6 oz. foils. If reporting "cases/remaining units," 48 cases and 3 units would be shown on the FNS-153 as "48/3." Any number appearing to the left of the slash will represent the number of cases. In contrast, any number to the right of the slash will represent the actual number of units. When a number appears with no slash, FNS will automatically assume it is whole cases when 5A is checked.

"Unit" means individual cans, boxes, packages, etc., not cases. For example, 1 case of egg mix would be reported as "48," and 5A would be checked.

Submission - The CSFP State agency shall collect the necessary data for this report from the local certification, State and local warehouse sites within its jurisdiction and combine the data so that only one FNS-153 report would be submitted by the CSFP State agency to the appropriate FNS regional office no later than 30 days after the end of the month being reported for. Financial status data (item 20) shall be completed quarterly and submitted on the FNS-153 for December, March, June, and September. A final closeout SF-269 for CSFP must be submitted to FNS within 90 days after the end of the fiscal year.

1. Reporting Month and year - Enter month and year for which data is reported.

2A & 2B. State Agency name & DA Code - Self-explanatory.

3. Type of Invent/Part Submission - Indicate type of submission for month being reported. The initial submission of this report should be such by checking (A). Any subsequent revisions for the report month should be indicated by checking 3(b). The submission of the annual physical inventory which is due for the report month of September should be indicated by checking 3(c). If the September report is submitted with 3(c) checked, FNS will automatically consider it the final report for September.

4. Number of Participants - (A through E) Enter the total number of participants by category, to whom commodities were actually issued.

4(F). Self-explanatory.

4(G). Enter the total number of elderly participants to whom commodities were actually issued.

5. (A and B) - Reporting Measurement - (see above explanation) Check appropriate clock 5A or 5B.

6. (A and B) - Commodity name, code and shipping pack size - Where the code and name of a commodity is not preprinted on this form, enter that information on the next available blank line.

7. State and Local Beginning inventory - Enter the number appearing in item 15 in the previous month's report. (This number must reflect all foods physically located at State and local storage and distribution site(s)).

8. Receipts - Enter the total number of commodities actually accepted in good condition from USDA

during the reported month. (This column should not reflect commodity movement between State and local agencies.)

9. Redonations In - Enter the total number of redonated commodities received by the State from another State agency or another USDA program from the CSFP. Specify in the remarks section the name of the State and program those commodities were redonated from and their commodity code.

10. Total Inventory Available - Enter the total number of commodities available for issuance for the CSFP. (The sum of items 7, 8, and 9 should equal item 10.)

11. CSFP Issuance - Enter the total number of commodities actually issued to and accepted by participants during the reporting month as specified below. This figure should exclude those commodities not accepted by the participant at the time of food pick-up. If a participant has refused a commodity at pick-up it should not be considered issued.

(A) Reflect the total number of commodities that were actually issued and accepted by Women, Infants and Children (W-I-C).

(B) Reflect the total number of commodities actually issued and accepted by elderly during the reporting month.

12. Commodity Activity.

12A. Total number issued - Self-explanatory (11A + 11B = 12A).

12B. Redonations Out - Enter the total number of commodities shipped by the reporting State to another State agency or to another USDA food program. Specify in the remarks section the name of the State and program those commodities were redonated to and their commodity code.

12C. Food Loss - Enter the number of commodities that are actual food losses. These would include foods that: (1) after consignee receipt were found to have concealed damaged; (2) were damaged in the warehouse or during transit from the State warehouse to the local sites; (3) were found to be out-of-condition or unfit for human consumption; or (4) were known to have been stolen or lost due to fraud, misuse or embezzlement. (The reasons for food loss must be detailed in the REMARKS section. Attach additional pages if necessary.)

12D. Food Used for Nutrition Education - Enter the number of commodities used for CSFP nutrition education purposes.

13. Total Activity - Self-explanatory (sum 12A thru 12D = 13).

14. Inventory Adjustments - Enter the actual number of commodities adjusted. A partial list of such adjustments are provided below as examples. (Note: the reasons for adjustments must be detailed in "Remarks," item 16). This column should not reflect the movement of commodities between the State and its local agencies.

REPORTING INSTRUCTIONS - CONTINUED

(a) A "Positive" Commodity adjustments could be the result of a bookkeeping error or previous inaccurate inventory count. Any commodity still in good condition which was returned to a distribution site by a participant should be reflected as a positive adjustment.

(b) A "Negative" Commodity adjustment could be caused by a bookkeeping discrepancy.

15. State and Local Ending Inventory - Enter the combined total number of CSFP commodities in inventory at the end of the reporting month at all State and local storage and distribution sites (10-13) plus or minus 14A and 14B = 15.

16. Remarks - Self-explanatory.

17. Signature - Self-explanatory.

18. Title - Self-explanatory.

19. Date - Self-explanatory.

20. Complete item number 20 for CSFP as follows.

(a) Outlays - Show the administrative outlays for State and local agencies, administrative outlays are the cumulative year-to-date payments, or invoices certified by the program for payment, for administrative costs incurred through the quarter being reported for. (Do not report advances as outlays.)

(b) Unliquidated Obligations - Show the unliquidated obligations for the State and local agencies. Unliquidated administrative obligations are the cumulative year-to-date dollars which the State agency expects to pay out for administrative cost incurred through the quarter being reported for but not yet paid or certified for payment. (Only obligations to be paid with Federal funds should be shown.)

(c) Total - Show the sums of (A) and (B).

(d) Unliquidated Balances of Advances - where applicable show the unliquidated balance of advances as of the end of the report quarter. This should be calculated as follows:

(1) Determine the total amount of payments provided to local agencies and contract agents for administration year-to-date.

(2) Determine the total amount of outlays made by local agencies and contract agents for administration for the year-to-date.

(3) Subtract (2) from (1) and record the result as the unliquidated balances of advances.

Advances for Administration are actual payments made by the State agency to a local agency or contract agent which are not administrative costs already paid or fees for goods/services already provided.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0584-0293. The time required to complete this collection is estimated to average 6.3 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information.

U.S. DEPARTMENT OF AGRICULTURE - FOOD AND NUTRITION SERVICE

**RACIAL/ETHNIC GROUP PARTICIPATION
COMMODITY SUPPLEMENTAL FOOD PROGRAM**

FNS INSTRUCTION 113-1

1. STATE 2. STATE # L/A # NO. OF SITES

3. REPORTING LOCAL AGENCY NAME
ADDRESS
CITY
STATE ZIP CODE
TELEPHONE NUMBER

4. REPORTING YEAR: APRIL

PARTICIPANTS FOR THE MONTH OF APRIL		COLUMN A	COLUMN B
		TOTAL NUMBER OF PARTICIPANTS BY RACE	NUMBER OF HISPANIC OR LATINO PARTICIPANTS REPORTED IN COLUMN A BY RACE
PARTICIPANTS WHO MARKED ONLY ONE RACE	5. AMERICAN INDIAN OR ALASKA NATIVE	<input type="text"/>	<input type="text"/>
	6. ASIAN	<input type="text"/>	<input type="text"/>
	7. BLACK OR AFRICAN AMERICAN	<input type="text"/>	<input type="text"/>
	8. NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER	<input type="text"/>	<input type="text"/>
	9. WHITE	<input type="text"/>	<input type="text"/>
PARTICIPANTS WHO MARKED TWO RACES	10. AMERICAN INDIAN OR ALASKA NATIVE AND WHITE	<input type="text"/>	<input type="text"/>
	11. ASIAN AND WHITE	<input type="text"/>	<input type="text"/>
	12. BLACK OR AFRICAN AMERICAN AND WHITE	<input type="text"/>	<input type="text"/>
	13. AMERICAN INDIAN OR ALASKA NATIVE AND BLACK OR AFRICAN AMERICAN	<input type="text"/>	<input type="text"/>
	14. BALANCE REPORTING MORE THAN ONE RACE	<input type="text"/>	<input type="text"/>
	15. TOTAL (ADD ITEMS 5 THRU 14)	<input type="text"/>	<input type="text"/>

16. REMARKS

DATE TITLE SIGNATURE



No further monies or other benefits may be paid out under this program unless this report is completed and filed in accordance with Title VI of the Civil Rights Act of 1964 and USDA implementing regulations.

INSTRUCTIONS

This report will be prepared annually covering the month of April.

LOCAL AGENCIES - Must submit the data to the State agency by the due date established by the State.

STATE AGENCIES - Must determine that the data has been received from all local agencies. The data must be submitted to the appropriate FNS Regional Office by the 31st of July.

FNS REGIONAL OFFICES - Must determine that the data has been received from all State and local agencies. The FNS Regional Office must ensure that all data is posted into the Food Programs Reporting System database by the 19th of September.

Item 1. Self-explanatory.

Item 2. For the State agency, enter the seven-digit State agency code. For the local agency, enter the 10-digit identification number assigned by FNS. New local agencies must obtain an identification number from FNS. Enter the number (001 or more) of sites under each local agency's supervision.

Items 3, 4 and 16. Self-explanatory.

Items 5-15. Report for each racial group the number of participants who received program commodities in April. For purposes of this form, "Hispanic or Latino" is an ethnic group, not a race. In Column A, report the total number of participants by race, including individuals of Hispanic or Latino origin. In Column B, report only participants of Hispanic or Latino origin by race. The form is requesting separate counts for participants who chose only one race and those who chose more than one race.

For item 14, report the total number of participants who chose racial combinations that are *not included* in items 10 through 13.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0584-0025. The time required to complete this information collection is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.