

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

Improving Access and Parity in Food  
Distribution Programs

Docket No. FNS-2023-0026

COMMENTS OF THE  
CENTER FOR SCIENCE IN THE PUBLIC INTEREST

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The Center for Science in the Public Interest (CSPI) submits these comments in response to the U.S. Department of Agriculture’s (USDA) “Improving Access and Parity in Food Distribution Programs” proposed rule, which proposes to amend its regulations to make access and parity improvements within several food distribution programs, including the Commodity Supplemental Food Program (CSFP), the Food Distribution Program on Indian Reservations (FDPIR), The Emergency Food Assistance Program (TEFAP), and USDA Foods disaster response.

CSPI has worked since 1971 to improve the public’s health through better nutrition and safer food. We are an independent, non-profit consumer education and advocacy organization. CSPI has partnered with stakeholders across the country to support advocacy efforts to increase access to healthy food for people experiencing food insecurity. CSPI appreciates the USDA’s commitment to improving food access to those in need through TEFAP and encourages further changes to TEFAP and USDA Foods disaster response to better address the needs of the communities through this rulemaking. We are providing comments on the portions of the proposed rule that address TEFAP and USDA Foods disaster response.

### ***TEFAP:***

#### *Standardizing eligibility and reducing access barriers*

TEFAP household income eligibility requirements vary by state.<sup>1</sup> The proposed rule would set a maximum income eligibility threshold for TEFAP at or between 185 percent to 250 percent of the federal poverty level (FPL), with the ability for states to request a waiver for higher thresholds. This allows for some flexibility for states to adjust eligibility based on differences in costs of living, while expanding access in states that have had lower maximum income requirements (ex: 125 percent FPL). In 2021, 26.5 percent of households with incomes below 185 percent FPL were food insecure, compared to the national average of 10.2 percent.<sup>2</sup> Raising the maximum income eligibility will expand access to households that experience significantly higher rates of food insecurity than the national average.

In addition, the proposed change would not allow state agencies to require households to provide an address or identification to confirm residency. This change has the potential to expand access to people who are unhoused, without a permanent address, and those unable to provide a form of identification but still meet the income eligibility requirements. Furthermore, information on eligibility and a list of recipient agencies would be available on a public website. Establishing clear and consistent public communication standards could make it easier for eligible people to understand where and how they can access TEFAP.

#### *Increasing transparency and privacy*

The proposed rule would increase reporting on participation rates, enhancing transparency in the implementation of TEFAP. By reporting this data quarterly, USDA can more effectively monitor

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<sup>1</sup> Feeding America. *The Emergency Food Assistance Program: State Guide*. 2020. [https://feedingamericaaction.org/wp-content/uploads/2021/04/Resource\\_Feeding-America-TEFAP-State-by-State-Guide.pdf](https://feedingamericaaction.org/wp-content/uploads/2021/04/Resource_Feeding-America-TEFAP-State-by-State-Guide.pdf).

<sup>2</sup> Coleman-Jensen A et al. *Household Food Security in the United States in 2021*. USDA Economic Research Service 2022. <https://www.ers.usda.gov/webdocs/publications/104656/err-309.pdf?v=7578.8>.

the impact of TEFAP. This transparency can support informed decisions about program improvements. Although transparency around participation would increase, the proposed rule would also establish important guidelines to maintain participant confidentiality and would clarify limits on disclosure of information. Establishing confidentiality requirements could prevent the disclosure of potentially stigmatizing information that could be harmful to individuals or families receiving food assistance. Additionally, households might be more likely to participate in TEFAP when they know their information will be kept confidential.

### *Expanding reach*

The proposed rule would promote TEFAP distributions in rural, remote, and Tribal areas, with the goal of expanding TEFAP's outreach to all eligible individuals in need. This change acknowledges the importance of addressing food insecurity among Indigenous people, who often experience high rates of food insecurity<sup>3</sup> and encourages expanding program access to areas that have been underserved.

### *Additional considerations:*

CSPI urges the USDA to display the Nutrition Facts Panel (NFP) and ingredient list online for all USDA Foods, except fresh produce, available through TEFAP. Food banks across the country are working hard to source and distribute nutritionally dense foods for the populations they serve. Over 100 food banks are using the Healthy Eating Research Nutrition Guidelines, which reflect the Dietary Guidelines for Americans recommendations and categorize foods based on the presence of whole grains, saturated fat, added sugars, and sodium.<sup>4</sup> Currently, the NFP and ingredient list are not available online when selecting TEFAP products. This makes it impossible to assess the nutritional profile of foods prior to ordering them. Therefore, we strongly recommend that the USDA displays the NFP and ingredient list for all USDA Foods (except fresh produce) on the USDA's Web-Based Supply Chain Management system. It is critically important to have access to this nutritional information at the point of purchase in order for food banks to make informed decisions.

### ***USDA Foods in Disasters:***

CSPI has partnered with the New Orleans Food Policy Action Council to learn from community members how the Disaster Supplemental Nutrition Assistance Program (D-SNAP) can best serve communities. Input from Louisiana residents during interviews and listening sessions has informed the following recommendations:

### *Expedite the authorization of D-SNAP*

The proposed simultaneous provision of USDA Foods and D-SNAP benefits during a disaster is a welcome change. In order to ensure that D-SNAP is accessible to people as soon as assistance is needed, we additionally recommend that the President and USDA authorize Individual

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<sup>3</sup> Maillacheruvu SU. *The Historical Determinants of Food Insecurity in Native Communities*. Center on Budget and Policy Priorities. 2022. <https://www.cbpp.org/sites/default/files/10-4-22fa.pdf>.

<sup>4</sup> Costanzo C. *100+ Food Banks are Using HER Nutrition Guidelines* Food Bank News. 2023. <https://foodbanknews.org/100-food-banks-are-using-her-nutrition-guidelines/#:~:text=In%202020%2C%20when%20Healthy%20Eating,appears%20to%20be%20coming%20true>.

Assistance and D-SNAP, respectively, for affected residents immediately when a disaster is declared.

*Ensure that resources are in line with the needs of communities experiencing disasters*

The proposed change includes a provision to direct state agencies to ensure that the use of USDA Foods for disaster response activities does not have an ongoing negative impact on the operation of other programs. In other words, the proposed change would put the onus on state agencies for making sure there are enough USDA Foods for disaster response and simultaneous implementation of other programs like FDPIR and TEFAP. We believe that this places an undue burden on the state to divide resources. Instead, the USDA should guarantee that resources will keep up with peoples' needs until they have recovered from disasters.

*Increase investment in state agencies that administer SNAP, D-SNAP, and USDA Foods*

Importantly, state agencies that administer SNAP, D-SNAP, and USDA Foods need additional capacity for responsiveness, communication, and efficiency, especially during disasters. Many offices are not adequately funded or resourced to provide comprehensive services during times of emergency. Gathering information on people served by disaster services is crucial for understanding their needs, and we appreciate the proposed provision that a weekly report to FNS must be provided after 14 days of distribution. However, this may create an additional administrative burden on agencies that are already overwhelmed. We recommend increased investment to support state agencies to report on communities' needs during disasters. We also recommend a mechanism to collect data prior to 14 days to capture communities' needs in the immediate aftermath and recovery of the disaster.

The following are additional recommendations for D-SNAP that go beyond the proposed provisions:

*Improve outreach about D-SNAP*

In addition to the proposed changes, we recommend that the USDA work with states to issue clear guidance around D-SNAP eligibility and enrollment. Community members indicated lack of clarity about eligibility and shared concerns about receiving conflicting information between the processes to pre-register and register for benefits.

*Expand options for applying to D-SNAP*

We appreciate the USDA's willingness to offer virtual components to D-SNAP operations on a case-by-case basis. However, there is a need within the program to standardize virtual D-SNAP operations plus other means to enroll and interview, such as using call centers or on-site assistance. Community members mention that elderly residents in particular need more application options as they are less likely to be able to travel for an in-person interview or have technology to apply for D-SNAP online.

*Provide robust and transparent D-SNAP data*

Currently there are not standardized systems in place to record and report data for D-SNAP applications received, benefits issued, and benefits redeemed. Receipt of this data could help serve populations in need during disasters and provide a better understanding of where D-SNAP benefits are needed and utilized. We recommend more robust and transparent D-SNAP data collection and data disaggregation from regular SNAP usage.

*Create a system to rapidly provide SNAP and D-SNAP authorization to mobile retailers*

There is a need for non-SNAP authorized mobile retailers, such as mobile markets and food trucks, to become temporarily authorized in order to provide meals to people in disaster-stricken regions who may not have access to kitchens, power, or who may be unable to prepare meals for themselves and their families.

*Conclusion:*

CSPI commends the USDA for its continued work to improve access to the USDA Food programs. At the same time, we urge the USDA to consider additional measures to provide nutrition information for USDA Foods and ensure D-SNAP resources, access, and reporting are in line with the needs of communities experiencing disasters. Thank you for your consideration.

Sincerely,

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