

CRS Report for Congress

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Federal Food Assistance: Hurricane Katrina

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Summary

The Agriculture Department has effectively waived most eligibility and benefit rules governing food assistance programs for those affected by Hurricane Katrina, making them automatically eligible for maximum benefits. It also is providing substantial amounts of direct food aid drawn from its commodity stocks. However, a number of potential issues remain, for example, paying for administrative and commodity distribution costs, how long to continue current waiver policies, the degree of equity in current food stamp waiver rules, and whether to provide more than current maximum benefits to hurricane victims. This report will be updated.

There are a number of federal food assistance efforts that can provide help in the case of emergencies or disasters like Hurricane Katrina. The most important are the Food Stamp program, child nutrition programs (e.g., school meal programs), the Special Supplemental Nutrition Program for Women, Infants and Children (the WIC program), and federally donated food commodities.¹

What Executive and Congressional Entities Have Jurisdiction?

All these efforts are under the aegis of the federal Agriculture Department (USDA), although states have very important roles (in some cases, they must ask for federal action to change rules). Congressional committee jurisdiction is divided. In the Senate, the Agriculture, Nutrition, and Forestry Committee has jurisdiction over legislation relating to all the above-mentioned programs. In the House, legislative jurisdiction is split. The House Agriculture Committee has authority over laws relating to food stamps and donated commodities, while the Committee on Education and the Workforce has jurisdiction over child nutrition and WIC programs (and, to a limited extent, food commodities donated through child nutrition programs). As to appropriations, the House and Senate Agriculture Appropriations subcommittees have responsibility for the aforementioned programs.

¹ Other avenues of potential government assistance include the Emergency Food and Shelter program, operated under the Federal Emergency Management Administration (FEMA), and meal programs supported through the Older Americans Act.

What Are The Legislative Authorities for Food Assistance in Disasters?

The Food Stamp Act and the Robert T. Stafford Disaster Relief and Emergency Assistance Act contain broad authority for the Secretary of Agriculture to waive normal program rules in the case of emergencies/disasters like Hurricane Katrina. They effectively allow the Secretary to greatly liberalize (or abrogate) eligibility rules and stipulations as to how states are held accountable for errors in program administration. However, they do not permit waiver of some important rules like state cost-sharing requirements.

In addition, the Secretary has the authority to acquire and distribute food commodities in the case of emergencies/disasters. These can be newly acquired commodities (using the money and commodities provided through Section 32 of the Act of August 24, 1935, and the Commodity Credit Corporation) and food diverted from stocks normally available for school meal programs, The Emergency Food Assistance Program (TEFAP), the Commodity Supplemental Food Program (CSFP), and the Food Distribution Program on Indian Reservations (FDPIR).²

What Funding is Available?

Most federally supported food assistance — food stamps, child nutrition programs, and commodity distribution — is classified as entitlement (i.e., mandatory) funding. This means that funding is effectively guaranteed for any benefit paid under the program. While these programs typically have contingency funding available, special appropriations may be necessary in the case of very large emergencies/disasters like Hurricane Katrina. Moreover, new appropriations may be needed to replenish commodity stocks diverted to emergency/disaster needs. On the other hand, the WIC program is discretionary, and *any* new federal support must be appropriated.

What Has Been Done?

Food Stamps. Under the Food Stamp Act, states (which administer the Food Stamp program) are required to have a plan for dealing with emergencies/disasters that disrupt the normal course of commerce. However, they must request (from the Agriculture Department's Food and Nutrition Service) approval of changes in their food stamp rules to deal with an emergency/disaster.

The Act also requires that the federal government (1) establish temporary emergency standards of eligibility for the duration of an emergency/disaster that disrupts commercial channels of food distribution, (2) establish a Food Stamp Disaster Task Force, (3) provide for emergency benefits to pay for food lost in an emergency/disaster, (4) adjust food stamp eligibility and benefit rules consistent with the conditions in the affected area, and (5) waive penalties for administrative errors (e.g., eligibility determinations) made during the emergency/disaster. Under these procedures, normal food stamp eligibility

² It should be noted that TEFAP, the CSFP, and the FDPIR also are programs that can be used to help in emergencies/disasters.

requirements — including financial and work requirements — can be effectively waived and most, if not all, applicant and recipient households in (or from) an affected area given at least a full month's food stamp benefit.

The Agriculture Department has approved three sets of eligibility rules for those affected by Hurricane Katrina. In all cases, food stamp work requirements are waived and applicants are not asked about their citizen status. In addition, the regular food stamp rule barring the use of benefits to purchase hot prepared foods has been waived for affected areas, states have been authorized to “pre-load” food stamp electronic benefit transfer (EBT) cards for applicants from affected areas with \$50 worth of benefits before applications are processed, and states have been held harmless for any errors they make in judging eligibility or benefits. As to household eligibility —

- In the affected areas (e.g., Louisiana, the southern counties of Mississippi and Alabama), pre-existing emergency/disaster assistance program rules apply. Applicants must — without the need to specifically document — claim residence in an affected area, and claim damage to their homes, expenses related to protecting their homes, lost income as the result of the disaster, or no access to bank accounts or other financial resources.³ Regular food stamp income and asset limits are used (claimed, without the need to verify). Monthly income must be under 130% of the federal income poverty level, and liquid assets must be less than \$2,000 (or \$3,000 for elderly or disabled persons). But, when judging eligibility and calculating a benefit, maximum “deductions” are used (this increases benefits based on a household's expenses), only accessible liquid resources are counted when determining household assets, and counted income is reduced by any disaster-related expenses not expected to be reimbursed. One-month's maximum benefits typically are issued under these emergency/disaster assistance rules. Households already participating in the Food Stamp program can request a change in their benefit based on an emergency/disaster situation (e.g., loss of income, new expenses, loss of food supplies); however, pre-emergency/disaster benefit levels typically return after one month.
- For evacuees in states other than Texas, using a policy put forward on September 9, 2005, states may provide expedited services, treat the applicant household separately from those with whom they are staying (not count the financial resources of the household with whom they may be residing), and provide one month's maximum benefits. Evacuees generally are not subject to normal food stamp financial eligibility tests and rules governing benefit calculations and do not have to provide documentation.
- For evacuees in Texas, the Agriculture Department has approved a waiver effectively making any evacuee household automatically eligible for three months' maximum benefits.

³ Affected persons also may apply as homeless households (under normal food stamp rules) and receive special treatment.

Food stamp benefits are issued through “electronic benefit transfer” (EBT) cards that work like debit cards. EBT cards issued in any part of the United States are usable in other states and can be replaced or replenished with new benefits. However, households qualifying for food stamps must have a place (e.g., a grocery store) that can transact their EBT card. In an emergency/disaster situation this can be difficult, and households qualifying for benefits may have no place to use them. In this case, the Agriculture Department is providing food commodities (discussed below).

Child Nutrition Programs. Child nutrition programs — primarily, the School Lunch and Breakfast programs, the Child and Adult Care Food Program (CACFP), and the Summer Food Service program — do not have specific legislative provisions dealing with emergencies/disasters. But the Robert T. Stafford Disaster Relief and Emergency Assistance Act grants the Secretary of Agriculture broad discretionary authority to waive rules relating to eligibility for free meals served under these programs and other program requirements.

Exercising this authority, the Agriculture Department has (1) allowed schools in affected areas to serve all meals free (with accompanying federal subsidies), (2) exempted schools in affected areas from normal meal pattern requirements, (3) permitted evacuee children to be considered homeless and eligible for free federally subsidized meals, and (4) allowed summer program operations to extend beyond September. In addition, states may effectively designate any facility as an emergency shelter (all children and disabled adults in these shelters can receive federally subsidized free meals/snacks), and rules governing federal subsidies for meals/snacks served in day care centers, family day care homes, and after-school programs have been relaxed to allow support for free meals/snacks served to affected children (effectively treating them as homeless). In all of the above cases, those getting emergency food stamp benefits are automatically eligible for free meals/snacks served by a participating school, day care center/home, or after-school program, and normal eligibility documentation requirements have been waived.

The WIC Program. As with child nutrition programs, the WIC program has no specific legislative authority relating to emergency/disaster assistance. However, the Robert T. Stafford Disaster Relief and Emergency Assistance Act allows the Agriculture Department to waive various rules.

The Department has waived most rules governing eligibility documentation and made clear that WIC vouchers can be used by evacuees at any vendor (without regard to the state of issuance). However, it is important to note that the WIC program is a grant program limited by its appropriation, and a given state (e.g., Louisiana, Texas) only has the resources provided by its annual grant.

Commodity Distribution. The Robert T. Stafford Disaster Relief and Emergency Assistance Act and provisions of Agriculture Department law (e.g., Section 32, noted above) give the Secretary of Agriculture the ability to acquire and divert food commodity stocks in the case of emergencies/disasters.

Using these authorities, the Agriculture Department has provided food to congregate feeding sites (e.g., emergency shelters) and additional food items in the form of household-size packages. According to the Department, about 400 truckloads of commodities (15 million pounds) have been made available as of September 7, 2005.

Contacts. Detailed information as to the Agriculture Department's response relating to food assistance and Hurricane Katrina can be found at the following website: www.fns.usda.gov.

Potential Issues

While the Agriculture Department has moved to make substantial changes in food assistance program rules in response to Hurricane Katrina, several issues are likely to arise.

- Affected states will face major food stamp administrative costs. Current law (no waiver allowed) requires that states pay roughly 50% of the cost of administering food stamps. A larger federal share may be asked for.
- The waivers of food assistance program rules currently in place are time-limited — typically for one to three months. However, the effects of Hurricane Katrina are likely to last longer, and an extension may be called for.
- Food stamp rules related to Hurricane Katrina differ by state. Equity issues may be raised because those in affected areas are treated differently than evacuees.
- Commodity stocks used to provide food for hurricane victims will have to be replenished in order to continue regular food assistance under school meal programs, the CSFP, the FDPIR, and TEFAP.
- While the CSFP and TEFAP are receiving additional food commodities, extra assistance for *distribution* costs may be necessary.
- Higher food costs may prompt calls for added benefits, for example, a higher maximum food stamp benefit for affected households, and larger federal school lunch subsidies.
- Additional WIC program funding for affected states may be needed, given that it is a discretionary grant program.
- There may be longer-term administrative problems brought on by Hurricane Katrina, for example, how to deal with duplicate benefits and the effects of errors made in eligibility/benefit determinations.