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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 247

RIN 0584-AD33

Commodity Supplemental Food Program—Allocation of Administrative Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends Commodity Supplemental Food Program regulations to implement nondiscretionary provisions of the Farm Security and Rural Investment Act of 2002 affecting the allocation of administrative funds to State agencies. In accordance with that Act, using whatever funds are appropriated for the fiscal year to support the program, and any program funds remaining available from the preceding fiscal year, this rule requires the allocation of an administrative grant per assigned caseload slot, adjusted each year for inflation, to pay State and local agency administrative costs. This method of allocation provides States a specific amount of administrative funds to support each caseload slot assigned.

DATES: This rule will become effective on September 29, 2003. The statutory formula for determining the grant per assigned caseload slot for fiscal year 2003 will apply for the entire fiscal year. The formula for fiscal years 2004 through 2007 differs from that for 2003 and will apply to each of those years respectively.

FOR FURTHER INFORMATION CONTACT: Lillie F. Ragan, Assistant Branch Chief, Household Programs Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 500, 3101 Park

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SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Public Law 104-4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Food and Nutrition Service (FNS) generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of \$100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The program addressed in this action is listed in the Catalog of Federal Domestic Assistance under 10.565, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule-related notices published at 48 FR 29114, June 24, 1983, and 49 FR 22676, May 31, 1984).

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact

of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. The FNS has considered the impact of this rule on State and local governments and has determined that this rule does not have Federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Regulatory Impact Analysis

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612). The regulatory provisions contained in this rule will benefit State and local agencies by providing a stable level of funding to support administration of the program. Under the Farm Security and Rural Investment Act of 2002, State agencies will receive a grant per assigned caseload slot to pay for administrative program costs. The per caseload slot grant will be adjusted for inflation each year. Funding to support the program, including administrative grants, is discretionary. Therefore, an increase in program funds is not mandatory. However, if additional funds are not appropriated, the number of caseload slots allocated to each State will be reduced.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect. Prior to any judicial action challenging the application of Commodity Supplemental Food Program (CSFP) rules, exhaustion of administrative remedies, as set out in 7 CFR 247.33, would be required.