

### Paperwork Reduction Act

This final rule reflects no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The existing reporting and recordkeeping requirements for 7 CFR part 247, which were approved under OMB control number 0584-0293, will not change as a result of this rule.

### Government Paperwork Elimination Act

FNS is committed to compliance with the Government Paperwork Elimination Act (Pub. L. 105-277), which requires Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

This action is published as a final rule without prior notice or public comment under authority of 5 U.S.C. 553(b)(3)(B). This final rule implements section 4201, a non-discretionary statutory provision of the Farm Security and Rural Investment Act of 2002, Pub. L. 107-171, by mandating the allocation of an administrative grant per assigned caseload slot, adjusted each year for inflation, to pay State and local agencies' administrative costs of the CSFP. Thus, the Department has determined in accordance with 5 U.S.C. 553(b)(3)(B) that notice of proposed rulemaking and opportunity for public comments are impracticable and contrary to the public interest. The provisions will become effective 30 days after publication in the **Federal Register**.

### Background

Through the CSFP, the Department of Agriculture's FNS provides commodities and administrative funds to participating State agencies, which, through local agencies, distribute a package of foods each month to participating pregnant, postpartum, and breastfeeding women, infants, children up to age 6, and seniors (age 60 or older). FNS utilizes funds provided in the CSFP appropriation and funds carried over from the previous year to assign caseload and allocate administrative funds to State agencies each year. State and local agencies serve participants in accordance with their assigned caseload limits, and utilize administrative funds to meet program costs, which may include costs of storage and distribution of foods, determination of eligibility, provision of nutrition education and other costs.

The Farm Security and Rural Investment Act of 2002 (2002 Act), Pub.

L. 107-171, which was enacted on May 13, 2002, amended the means by which the Department provides administrative funds to State agencies. Section 4201(b) of the 2002 Act amended section 5(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c *note*) to provide State agencies with a grant per assigned caseload slot to pay for administrative program costs. It also deleted the limitation of total administrative funding for the program, which before the deletion was limited to 20 percent of the program appropriation and of food funds carried over from the previous year.

Prior to the deletion of the 20 percent limit, as discussed above, State agencies received a portion of the total administrative funding equal to their share of total assigned caseload.

Thus, a State agency with a caseload assignment that was 10 percent of the total for all State agencies would have received funds totaling 10 percent of the total funds allocated. However, since the cost of food per caseload slot and related factors fluctuate from year to year while the 80/20 split between food funds and administrative funds remained constant, the actual amount of administrative funding available for each assigned caseload slot could change from year to year, having nothing to do with the State and local government price index.

In order to remedy the situation described above, Congress allotted specific amounts for CSFP administrative support in excess of the 20 percent limit, in the program appropriations legislation for each of fiscal years (FY) 2001 and 2002. In FY 2001, Congress allotted \$20,781,000 to meet administrative costs, and in FY 2002 allotted \$20,820,000. These administrative allocations allowed FNS to provide administrative support, on a per-caseload slot basis, of \$50.89 in FY 2001 and \$50.25 in FY 2002. This provided considerably more administrative funding for each caseload slot assigned than in previous years. However, administrative funding per slot continued to fluctuate from year to year.

Section 4201(b)(2) of the 2002 Act stipulates the per-caseload slot amounts State agencies are to receive in FY 2003, and for subsequent fiscal years. For FY 2003, the grant per assigned caseload slot is \$51.49, an amount equal to the per-caseload slot amount provided in FY 2001 (\$50.89), adjusted by the percentage change between:

(1) 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

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

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:

(1) 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

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

FNS issued two memoranda to State Directors of CSFP which explained and implemented these changes to the means of allocating administrative funds to State agencies participating in CSFP. The first memorandum, dated July 24, 2002, explained generally the statutory change resulting in the method for calculating CSFP administrative funding based on the per caseload slot formula. The second memorandum, dated September 16, 2002, specifically calculated the legislatively mandated administrative grant assigned per caseload slot for FY 2003.

Regulatory provisions pertaining to the allocation of administrative funds to State agencies administering CSFP are described under 7 CFR 247.10(b). This rule revises subsections (b)(1), (b)(2), and (b)(3) of § 247.10 to reflect the new method of allocation of administrative funds. Subsection (b)(1) describes the allocation to the States of an administrative grant per assigned caseload slot, adjusted each year for inflation. Subsection (b)(2) describes the means of determining the amount of the per-caseload slot grant for FY 2003, and subsection (b)(3) codifies the means for determining the amounts for subsequent fiscal years, as set forth in the 2002 Act.

In accordance with the 2002 Act, the current language in subsections (b)(1), (b)(2), and (b)(3) which limits administrative funding to a percentage of total program funds, and describing the portion of the total that each State receives, has been deleted. The current language describing the separate allocation of administrative funds to support the distribution of surplus commodities provided to CSFP was rendered ineffective by legislation enacted previous to the enactment of the 2002 Act, and has also been deleted.

### List of Subjects in 7 CFR Part 247

Agricultural commodities, Food assistance programs, Infants and