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## **Federal Food Assistance in Disasters: Hurricanes Katrina and Rita**

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# Federal Food Assistance in Disasters: Hurricanes Katrina and Rita

## Summary

The Food Stamp program, child nutrition programs, the Special Supplemental Nutrition Program for Women, Infants and Children (the WIC program), and federally donated food commodities delivered through relief organizations provide major support in disasters like Hurricanes Katrina and Rita. Existing laws authorize the Agriculture Department to change eligibility and benefit rules to facilitate emergency aid, and, in the short term, funding and federally provided food commodities are available without the need for additional appropriations.

With regard to Hurricane Katrina, numerous food assistance program rules have been waived — e.g., granting at least one-month's food stamp benefits to affected households, authorizing free school meals to affected children, greatly easing eligibility documentation requirements. It also is likely that these same (or expanded) rules will apply in the wake of Hurricane Rita.

However, a number of potential issues are likely to face Congress in the longer term — e.g., administrative costs, how long to extend disaster rules, costs associated with replenishing commodity stocks used to help hurricane victims, additional funding for the WIC program in affected areas, how to deal with those made temporarily eligible (like some noncitizens normally barred from participation in food stamps), whether to increase normal benefits and loosen eligibility rules for those affected.

Several bills were introduced in response to Hurricane Katrina (S. 1695 and H.R. 3809 are the most prominent). They would expand on the steps the Administration has already taken. For example, they would lengthen the period during which disaster rules apply, further ease eligibility and benefit rules for food stamps, and mandate extra money to support the distribution of food commodities and the WIC program.

With respect to food assistance, no Administration proposals have yet been advanced, nor has legislation directly related to Hurricane Rita been introduced. Specific disaster-related food assistance funding has not yet been proposed as part of the appropriations process.

This report will be updated as events warrant.

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# Federal Food Assistance in Disasters: Hurricanes Katrina and Rita

## Introduction

There are a number of federal food assistance efforts that can provide help in the case of disasters like Hurricanes Katrina and Rita. 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 delivered through relief organizations and emergency shelters/congregate feeding sites.<sup>1</sup> In addition, The Emergency Food Assistance Program (TEFAP), the Commodity Supplemental Food Program (CSFP), and the Food Distribution Program on Indian Reservations (FDPIR) can play a limited role, if they have commodities available and providers are geographically positioned to help. Authorities under the Food Stamp Act, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and Agriculture Department laws relating to the acquisition of commodities provide the Department with the ability to change program rules and acquire and distribute food in response to disasters.

## What Executive and Congressional Entities Have Jurisdiction?

All the above-noted efforts are under the aegis of the federal Agriculture Department (USDA); states also have very important administrative roles (although, in some cases, they must ask for federal action to change program rules).<sup>2</sup> 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, donated commodities, TEFAP, the CSFP, and the FDPIR, 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.

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<sup>1</sup> Other avenues of potential government food assistance outside the Agriculture Department's jurisdiction include the Emergency Food and Shelter program, operated through local entities serving the homeless that receive Federal Emergency Management Administration (FEMA) grants, and meal programs supported through the Older Americans Act. However, these programs are not normally set up to provide substantial aid in disasters.

<sup>2</sup> The lead USDA agency is the Food and Nutrition Service (FNS).

## 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 disasters like Hurricanes Katrina and Rita. They effectively allow the Secretary to greatly liberalize (or abrogate) eligibility and administrative rules, as well as most 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 in the case of 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 federal, state, and local stocks normally used for school meal programs, TEFAP, the CSFP, and the FDPIR.

## What Funding is Available?

In the *short term*, new funds may not need to be appropriated. Most federally supported food assistance — food stamps, child nutrition programs, and commodity distribution — is treated as entitlement (i.e., mandatory) funding. This means that federal funding is effectively guaranteed for any benefit paid under the program. While these programs have large contingency funds to carry out this guarantee, special new appropriations may be necessary in the case of very large disasters like Hurricanes Katrina and Rita. Moreover, new appropriations probably will be needed to replenish many of the commodity stocks diverted to disaster needs and may be needed if available commodity stocks are depleted. Separately, (1) the WIC program is discretionary, and any new federal support above its \$125 million contingency fund would require an appropriation, (2) *distribution* costs for USDA-provided commodities may need new appropriations, and (3) any newly incurred commodity *distribution* costs under the CSFP, TEFAP, and FDPIR may require added appropriations.

## What Has Been Done with Regard to Hurricane Katrina?

**Food Stamps.** Under the Food Stamp Act, states (which administer the Food Stamp program) are required to have a plan for dealing with 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 a disaster.

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

stamp eligibility requirements — including financial, work and other (e.g., application, reporting, and other non-financial) requirements — can effectively be waived and most, if not all, applicant and recipient households in (or from) an affected area given at least a full month’s maximum food stamp benefit.

The Agriculture Department has approved special eligibility and administrative rules for dealing with households affected by Hurricane Katrina. In all cases, (1) food stamp work requirements are waived (for 1-3 months), (2) applicants are not asked non-financial questions that normally would affect their eligibility (e.g., their citizen or postsecondary student status), and (3) verification of eligibility is postponed through December 2005. In addition, (1) the regular food stamp rule barring the use of benefits to purchase hot prepared foods has been waived for Louisiana, Mississippi, southern Alabama, Florida, and Texas, (2) those receiving congregate meals are not barred from also getting food stamps, (3) states have been authorized to “pre-load” food stamp electronic benefit transfer (EBT) cards (used to access benefits) for applicants from affected areas with \$50 worth of benefits before applications are completely processed, (4) special rules have been established to facilitate processing EBT cards when electronic communications have been interrupted, (5) affected households can apply separately from those they might temporarily reside with (so that they can get full benefits), (6) states have been held harmless for any errors they make in judging eligibility or benefits, (7) states that contribute eligibility workers to process applicants will be paid 100% of their costs (using FEMA funds), (8) FEMA assistance is not to be considered when judging eligibility and benefits, and (9) normal rules pro-rating benefits from the time of application have been waived (allowing full-month benefits to be issued no matter when applied for).

As to household eligibility under Hurricane Katrina rules —

- For *newly applying* households in affected areas (Louisiana, southern counties of Mississippi and Alabama, and certain areas of southern Florida) who are *not evacuees*, “normal” disaster assistance program rules apply once a state’s plan has been approved. *Under these rules, one-month’s maximum benefits for the appropriate household size typically are issued using expedited (benefits within 7 days) procedures.* Applicants must — without the need to specifically document (in the short term) — 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.<sup>3</sup> Regular food stamp income and asset limits are used (claimed, without the need to immediately verify). Monthly gross 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),

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

only accessible liquid resources are counted when determining household assets, and counted income is reduced by any disaster-related expenses not expected to be immediately reimbursed. *Non-evacuee* households in the affected areas *already participating* in the Food Stamp program automatically get a one-month supplement that brings their benefit to the maximum for their household size. For both new and currently participating households in the affected areas, eligibility and benefits after the first month typically are calculated using regular food stamp program rules (with postponed verification), although they may very well claim losses of income and assets, and increased expenses, that effectively bring them to the maximum benefit level.

- For *evacuees* in states other than Texas (including those who did not leave their own state), a different rule applies. States provide expedited services, treat the applicant household separately from those with whom they are staying, and provide one month's maximum benefits for the appropriate household size. *Eligibility is based simply on evacuee status*, and, if no documentation is available, self-declaration by the applicant is allowed. After the first month, eligibility and benefits are based on regular food stamp rules (although verification of eligibility is postponed, evacuee households continue to be treated as separate from those they live with, and application of work rules is put off).
- For *evacuees* in Texas, the Agriculture Department has approved a special waiver for Hurricane Katrina evacuees effectively making any evacuee household automatically eligible for up to *three months'* maximum benefits (through November 2005). After this period, they are treated as noted above for evacuees in other states.

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 a 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).

Finally, it should be noted that the automatic 1-month maximum benefit rule (3 months for evacuees in Texas) is very likely be lengthened if the situation warrants, according to the USDA.

**Child Nutrition Programs.** Child nutrition programs — 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 Secretary of Agriculture has used the Robert T. Stafford Disaster Relief and Emergency Assistance Act to waive rules relating to eligibility for free meals served under these programs and other program requirements.

The Agriculture Department has (1) allowed schools in affected areas to serve all meals free (with accompanying federal subsidies), (2) exempted schools and other meal providers in affected areas from normal meal pattern requirements, (3) permitted evacuee children to be considered homeless and eligible for free federally subsidized meals/snacks, (4) allowed summer program operations (providing free meals) to extend beyond September, and (5) temporarily waived various administrative and financial accountability/reporting rules. 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, summer program, 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 Secretary of Agriculture has used the Robert T. Stafford Disaster Relief and Emergency Assistance Act to waive various rules.

The Department has waived most rules governing eligibility documentation, ruled that WIC vouchers can be used by evacuees at any vendor (without regard to the state of issuance), and made clear that evacuee applicants can apply immediately for benefits (no durational residency requirement).<sup>4</sup> 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 commodity food stocks in the case of emergencies/disasters.

Using these authorities, the Agriculture Department is providing food to congregate feeding sites (e.g., schools, emergency shelters) and additional food items in the form of infant formula, baby food, and household-size food packages. According to the Department, at least 400 truckloads of commodities (15 million pounds) have been delivered as of September 20, 2005.

## What About Hurricane Rita?

No firm information is yet available. However, like Hurricane Katrina, it is highly probable that the USDA will waive various food assistance program rules and

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<sup>4</sup> It should be noted that Mississippi does not use vouchers to distribute WIC benefits. It supplies WIC food packages through state-sponsored distribution centers. As a result, WIC benefits in Mississippi have to be supplied by providing infant formula and other food items from state warehouses and federal and out-of-state stocks.

provide food items for emergency feeding. As with Hurricane Katrina, the Department reports that it has pre-positioned food commodities for immediate distribution as of September 22, 2005, and has announced that it is working with Texas, Louisiana, and other states to approve new or extended disaster waiver plans.

## Contacts

Detailed information as to the Agriculture Department's response relating to food assistance and Hurricanes Katrina and Rita can be found at the following website: [www.fns.usda.gov/fns/](http://www.fns.usda.gov/fns/).

## Potential Issues

While the Agriculture Department has moved to make substantial changes in food assistance program rules in response to Hurricane Katrina (and will probably follow on with additional initiatives for Hurricane Rita), a number of important issues are likely to arise for Congress to consider.

- Affected states will face major new 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.<sup>5</sup>
- The waivers of food assistance program rules currently in place are time-limited — typically for one to three months. However, the effects of Hurricanes Katrina and Rita may last longer, and time extensions may be called for.
- Food stamp disaster rules now differ by state and type of affected household. Equity issues may be raised.
- The Agriculture Department has interpreted its authority to waive child nutrition program rules very expansively. Specific new disaster waiver authority may be needed.
- Commodity stocks used to provide food for hurricane victims will have to be replenished in order to continue regular operations under school meal programs, the CSFP, the FDPIR, and TEFAP, and the Commodity Credit Corporation may need to be reimbursed for its contributions.
- While the CSFP and TEFAP providers are receiving additional food commodities, extra assistance for *distribution* costs may be necessary.

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<sup>5</sup> An important related issue is how to *allocate* increased costs among the various programs affected in which the federal government shares administrative costs — e.g., food stamps, Medicaid, and the Temporary Assistance for Needy Families (TANF) program.

- Higher food and other costs incurred by affected households may prompt calls for added benefits and looser eligibility standards — 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 problems brought on by Hurricanes Katrina and Rita — for example, how to deal with duplicate benefits, issues related to fraudulent receipt of benefits, and the effects of errors made in eligibility/benefit determinations.<sup>6</sup>
- Even with existing contingency funds (and the ability to draw on food commodity stocks), new appropriations will most probably be needed to cover replenishment of diverted commodities, pay for distribution costs, and fund added food stamp and child nutrition costs.
- Unlike earlier disasters/emergencies, defining “affected areas” and “affected households” in any legislative response will be difficult, especially with two major hurricanes involved and the dispersion of those affected.
- Noncitizens not normally eligible for food stamp benefits are eligible under disaster assistance rules; applicants are not asked about their citizen status. Extending this policy may be in question.

## Legislation and Appropriations

Several bills dealing with food assistance have been introduced in the wake of Hurricane Katrina.<sup>7</sup> No Administration proposal has yet been advanced, nor legislation directly related to Hurricane Rita. Specific disaster-related food assistance funding has not yet been proposed as part of the appropriations process.

**S. 1695** (the Hurricane Katrina Food Assistance Relief Act of 2005) contains the broadest set of proposals for food assistance programs.<sup>8</sup> In general, this bill would put into place, by law, the major actions already taken by the USDA in response to Hurricane Katrina, extends their application for up to 1 year, increases food stamp benefits for those affected and loosens food stamp financial and non-

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<sup>6</sup> In this regard, it should be noted that some program requirements have been “waived” by simply not asking normally pertinent questions — e.g., those relating to citizen status — or postponing verification.

<sup>7</sup> The only major comprehensive proposal relating to food assistance from outside Congress has been put forward by the Center on Budget and Policy Priorities (September 9, 2005). See the center’s website at: [www.cbpp.org](http://www.cbpp.org).

<sup>8</sup> S. 1695 supercedes an earlier version — **S. 1643**.

financial (including citizenship-related) eligibility tests for affected households (for up to 1 year), provides mandatory funding increases for TEFAP, the CSFP, and the WIC program, and gives legislative authority for child nutrition program waivers already granted.

More specifically —

- The bill would establish a “*disaster recovery period*” extending for 180 days after enactment and requires another 180-day extension unless the President judges the extension unnecessary.
- ***Food stamps:*** For affected households during the disaster recovery period, (1) work requirements are waived, (2) expedited service must be provided, (3) maximum benefits are to be increased by 10%, (4) the federal government will pay 100% of state administrative costs (as opposed to the normal 50%), (5) monthly gross income eligibility limits are raised to 150% of the federal income poverty guidelines (as opposed to the normal 130%), (6) any asset to which a household has lost access is not to be counted for eligibility purposes, (7) any funds received by an affected household for rebuilding or relocation are to be excluded as assets, (8) affected households living with others may be treated as separate from their co-residents, and (9) food stamp rules barring eligibility to some noncitizens are effectively waived. The bill also includes provisions limiting authority to take action against households getting improper benefits, excuses states for any errors made in administering the program for affected households, and provides \$5 million for contracts with nonprofit organizations to support food assistance and related needs of affected households.
- ***Child nutrition programs:*** For affected households during the disaster recovery period, the bill makes clear that any condition governing federal assistance may be waived.
- ***The WIC program:*** The bill would mandate \$200 million in additional funding, to be apportioned without regard to normal formula allocation rules.
- ***TEFAP:*** The bill would mandate \$200 million in additional funding for commodity and food distribution costs related to affected households and requires that at least \$200 million of funds available under Section 32 be used for helping affected persons.<sup>9</sup>
- ***The CSFP:*** The bill would require \$20 million in additional funding.

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<sup>9</sup> It is unclear to what extent the requirement that at least \$200 million in Section 32 funding be provided would actually increase federal support because the Secretary of Agriculture has (and has used) existing authority to draw on Section 32 to provide food aid in disasters.

- ***More generous plans:*** The bill makes clear that any administratively approved disaster assistance plan that provides more generous treatment for affected households would supercede its provisions.

**H.R. 3809** (the Emergency Food and Farm Disaster Assistance Act of 2005) contains provisions very similar to those in S. 1695, noted above. Title I of this proposal differs in the following major ways —

- ***Food stamps:*** the federal share of administrative costs for affected households would be 90%; and food stamp benefit increases could be slightly smaller for many affected households.
- ***Other programs:*** The bill includes no child nutrition, WIC, or CSFP proposals.

**S. 1637** (Subtitle E of Title IV of the Katrina Emergency Relief Act of 2005) is effectively the same as H.R. 3809, noted above, except that it includes additional funding for the WIC program (as proposed in S. 1695).