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Federal Food Assistance in Disasters: Hurricanes Katrina and Rita

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Summary

The Food Stamp program, child nutrition programs, 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 the Katrina and Rita hurricanes, numerous food assistance program rules were waived — e.g., granting one to three months of food stamp benefits to affected households, authorizing free school meals to affected children, and greatly easing eligibility documentation requirements.

However, Congress faced a number of issues with regard to the longer term — e.g., who should pay for extra administrative costs, whether to extend the application of disaster rules beyond one to three months, costs associated with replenishing commodity stocks used to help hurricane victims, additional funding for the Special Supplemental Nutrition Program for Women, Infants, and Children (the WIC program) in affected areas, how to deal with those made temporarily eligible (like some noncitizens normally barred from participation in food stamps), and whether to increase normal benefits and further loosen eligibility rules for those affected.

Several bills were introduced in response to the hurricanes (S. 1695 and H.R. 3809 were the most prominent). They were intended to expand on the steps already taken by the Administration. For example, they would have lengthened the period during which disaster rules apply, further eased eligibility and benefit rules for food stamps, and mandated extra money to support the distribution of food commodities and the WIC program.

But in the end, no significant action was taken, other than (1) small one-time increases in appropriations (totaling to \$10 million) to replenish some commodity stocks used for hurricane-relief purposes and pay for commodity distribution costs, and (2) a \$120 million transfer of funding from food stamp appropriations to support extra child nutrition costs.

This version is the final report on food assistance related to the 2005 hurricanes, and will not be updated.

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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), and federally donated food commodities delivered through relief organizations and emergency shelters/congregate feeding sites.¹ 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 many cases, they must ask for federal action to change program rules).² 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.

¹ 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.

² 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 allow the Secretary of Agriculture 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?

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. These programs have large contingency funds and the authority to transfer significant sums among programs to carry out this guarantee, making special new appropriations generally unnecessary. However, in the longer term, new appropriations are typically needed to replenish some commodity stocks diverted to disaster needs. 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 Was Done with Regard to Hurricanes Katrina and Rita?

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 (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 approved special eligibility and administrative rules for dealing with households affected by Hurricanes Katrina and Rita in Louisiana, Mississippi, southern Alabama, and Texas. In all cases, (1) food stamp work requirements were waived (for one to three months), (2) applicants were not asked non-financial questions that normally would affect their eligibility (e.g., their citizen or postsecondary student status), and (3) verification of eligibility was postponed through December 2005. In addition, (1) the regular food stamp rule barring the use of benefits to purchase hot prepared foods was waived, (2) those receiving congregate meals were not barred from also getting food stamps, (3) states were 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 were completely processed, (4) special rules were established to facilitate processing EBT cards when electronic communications were interrupted, (5) affected households could apply separately from those they might temporarily reside with (so that they could get full benefits), (6) states were held harmless for any errors they made in judging eligibility or benefits, (7) states that contributed eligibility workers to process applicants were paid 100% of their costs (using FEMA funds), (8) FEMA assistance was not considered when judging eligibility and benefits, and (9) normal rules pro-rating benefits from the time of application were waived (allowing full-month benefits to be issued no matter when applied for).

As to household eligibility under Hurricane Katrina/Rita rules:

- For ***newly applying*** households in affected areas who were ***not evacuees***, "normal" disaster assistance program rules applied once a state's plan was approved. *Under these rules, one-month's maximum benefits for the appropriate household size typically were issued using expedited (benefits within seven days) procedures.*³ Applicants had to — 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.⁴ Regular food stamp income and asset limits were used (claimed, without the need to immediately verify). Monthly gross income had to be under 130% of the federal income poverty level, and liquid assets had to be less than \$2,000 (or \$3,000 for elderly/disabled persons). But when judging eligibility and calculating a benefit, maximum "deductions" were used (this increased benefits based on a household's expenses), only accessible liquid resources were counted when determining household assets, and counted income was reduced by any disaster-related expenses not expected to be immediately reimbursed. ***Non-evacuee***

³ This one-month maximum benefit rule was, in many cases, extended to three months.

⁴ Affected persons also may apply as homeless households (under normal food stamp rules) and receive special treatment.

households in the affected areas *already participating* in the Food Stamp program automatically got a one-month supplement that brought 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 were calculated using regular food stamp program rules (with postponed verification), although they could often claim losses of income and assets, and increased expenses, that effectively brought 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 applied. States provided expedited services, treated the applicant household separately from those with whom they are staying, and provided one month of maximum benefits for the appropriate household size. *Eligibility was based simply on evacuee status and effectively extended for three months*, and, if no documentation was available, self-declaration by the applicant was allowed. After the first month, benefits were based on regular food stamp rules (although verification of eligibility was postponed, evacuee households continued to be treated as separate from those they lived with, and application of work rules was put off).
- For *evacuees* in Texas, the Agriculture Department approved a special waiver for evacuees effectively making any evacuee household automatically eligible for up to *three months* of maximum benefits. After this period, they were 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 provided food commodities (discussed below).

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 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 (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 were effectively allowed to 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 were 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 were 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 were 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 used the Robert T. Stafford Disaster Relief and Emergency Assistance Act to waive various rules.

The Department 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).⁵ 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 provided 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.

What Was the Scale of Federal Support?

The Agriculture Department reports that at least \$585 million in food stamp benefits was issued under disaster assistance rules for Hurricanes Katrina and Rita (including those for evacuees). Commodity donations (including infant formula) totaled to 22 million pounds and were valued at more than \$27 million.⁶ However, no specific estimate for the cost of additional child nutrition assistance is available, although the Department had to transfer \$120 million from its food stamp budget account to the child nutrition account because of unanticipated payments to child nutrition providers.

⁵ 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.

⁶ \$50 million worth of commodity assistance was *authorized*.

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: [<http://www.fns.usda.gov/fns/>].

Issues

While the Agriculture Department made substantial changes in food assistance program rules in response to Hurricanes Katrina and Rita, a number of important issues were raised (but not acted on) in Congress.

- Affected states faced 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 was asked for.⁷
- The waivers of food assistance program rules were time-limited — typically for one to three months. However, time extensions were be called for.
- Food stamp disaster rules differed by state and type of affected household. Equity issues were raised.
- The Agriculture Department interpreted its authority to waive child nutrition program rules very expansively. *New* disaster waiver authority specific to child nutrition was supported.
- While the CSFP and TEFAP providers received additional food commodities, extra assistance for *distribution* costs was thought necessary.
- Higher food and other costs incurred by affected households prompted 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 was advocated.
- Concerns were raised about longer-term problems — 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.⁸
- The policy under which noncitizens not normally eligible for food stamp benefits are eligible under disaster assistance rules was questioned.

⁷ An important related issue was 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.

⁸ In this regard, it should be noted that some program requirements were “waived” by simply not asking normally pertinent questions — e.g., those relating to citizen status — or postponing verification.

Legislation and Appropriations

Several bills dealing with food assistance were introduced in the wake of Hurricanes Katrina and Rita.⁹ But the Administration did not advance any legislative or appropriations proposal dealing with food assistance. And in the end, Congress took no substantial action as to hurricane-related food assistance efforts — other than providing appropriations of \$6 million for help with TEFAP distribution costs and \$4 million for CSFP expenses, and allowing the Agriculture Department to relax rules governing how TEFAP support is allocated among states.

S. 1695 (the Hurricane Katrina Food Assistance Relief Act of 2005) contained the broadest set of proposals for food assistance programs.¹⁰ In general, this bill would have put into place, by law, the major actions already taken by the Agriculture Department in response to Hurricane Katrina (and Rita), extended their application for up to one year, increased food stamp benefits for those affected and loosened food stamp financial and non-financial (including citizenship-related) eligibility tests for affected households (for up to one year), provided mandatory funding increases for TEFAP, the CSFP, and the WIC program, and given legislative authority for child nutrition program waivers already granted.

More specifically:

- The bill would have established a “*disaster recovery period*” extending for 180 days after enactment and requires another 180-day extension unless the President judged the extension unnecessary.
- ***Food stamps:*** For affected households during the disaster recovery period, (1) work requirements would be waived, (2) expedited service would be required, (3) maximum benefits would be increased by 10%, (4) the federal government would pay 100% of state administrative costs (as opposed to the normal 50%), (5) monthly gross income eligibility limits would be 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 would not be counted for eligibility purposes, (7) any funds received by an affected household for rebuilding or relocation would be excluded as an asset, (8) affected households living with others would be treated as separate from their co-residents, and (9) food stamp rules barring eligibility to some noncitizens would be effectively waived. The bill also included provisions limiting authority to take action against households getting improper benefits, excused states for any errors made in administering the program for affected households, and provided \$5 million for contracts with nonprofit organizations to support food assistance and related needs of affected households.

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

¹⁰ S. 1695 superceded an earlier version — **S. 1643**.

- ***Child nutrition programs:*** For affected households during the disaster recovery period, the bill made clear that any condition governing federal assistance may be waived.
- ***The WIC program:*** The bill mandated \$200 million in additional funding, to be apportioned without regard to normal formula allocation rules.
- ***TEFAP:*** The bill mandated \$200 million in additional funding for commodity and food distribution costs related to affected households and required that at least \$200 million of funds available under Section 32 be used for helping affected persons.¹¹
- ***The CSFP:*** The bill required \$20 million in additional funding.
- ***More generous plans:*** The bill made clear that any administratively approved disaster assistance plan that provides more generous treatment for affected households supercedes its provisions.

H.R. 3809 (the Emergency Food and Farm Disaster Assistance Act of 2005) contained provisions very similar to those in S. 1695, noted above. Title I of this proposal differed 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 included no child nutrition, WIC, or CSFP proposals.

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

¹¹ 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.

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