



## Food and Nutrition Service

U.S. DEPARTMENT OF AGRICULTURE

**DATE:** November 6, 2024

**SUBJECT:** Food Distribution Programs: Improving Access and Parity Final Rule:  
The Emergency Food Assistance Program (TEFAP) Implementation  
Memorandum

**TO:** Regional Directors  
Supplemental Nutrition Programs  
MARO, MPRO, MWRO, NERO, SERO, SWRO, and WRO  
  
State Directors TEFAP  
State Agencies

On October 31, 2024, FNS published the [\*Food Distribution Programs: Improving Access and Parity Final Rule\*](#) (final rule). Through this memorandum, FNS is providing TEFAP State agencies with initial implementation guidance and implementation dates for the provisions of the final rule that pertain to TEFAP.

All TEFAP provisions in this final rule will take effect 60 days after publication on December 30, 2024, and when required, most must also be implemented by December 30, 2024. However, three of the rule's TEFAP provisions have a longer implementation period and must be implemented no later than 12 months after the rule's publication, by October 31, 2025. This implementation period was established in response to comments received on the proposed rule and in recognition of the fact that these provisions will require program partners to take more action or implement a larger change in program administration.

**Attachment A, “TEFAP Final Rule Provisions with Implementation Date of December 30, 2024”** provides initial implementation guidance for those provisions that will take effect and, when required, must be implemented 60 days after publication of the final rule. **Attachment B, “TEFAP Final Rule Provisions with Implementation Date of October 31, 2025”** provides

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

initial implementation guidance for those provisions that must be implemented no later than 12 months after the final rule's publication.

FNS will provide further guidance on specific provisions in the coming months, as needed.

State agencies may direct any questions to their respective [FNS Regional Office](#).

*/s/ Original Signature on File*

Sara Olson

Director

Policy Division

Supplemental Nutrition and Safety Programs

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

Attachment A – TEFAP Final Rule Provisions with Implementation Date of December 30, 2024

**TEFAP in Tribal Areas**

| Regulatory Citation   | Final Rule Provision   | State Agency Action   |
|---|--|---|
| <a href="#"><u>§ 251.4(k)</u></a><br><br>TEFAP in Rural, Remote, & Tribal Areas | State agencies and eligible recipient agencies are encouraged to implement or expand TEFAP distributions in rural, remote, and Tribal areas. | <p><i>Optional for State agency.</i></p> <p>State agencies are encouraged to explore options for distribution of TEFAP in rural, remote, and Tribal areas. State agencies can implement distribution changes now even though the regulatory change will not be officially implemented until December 30, 2024. State agencies are not required to implement changes by that date.</p> <p>[Additional guidance to follow.]</p> |

**TEFAP Income Eligibility Guidelines**

| Regulatory Citation  | Final Rule Provision  | State Agency Action  |
|--|---|--|
| <a href="#"><u>§ 251.5(b)(2)</u></a><br><br>Eligibility Requirements | State agencies must set maximum income-based eligibility guidelines (IEG) at a standard at or between 185 percent and 300 percent of the U.S. Federal Poverty Guidelines. State agencies may submit a request to FNS to establish guidelines at a higher level, with justification. | <p><i>Required for State agency.</i></p> <p>State agencies that have IEGs set above the 300% threshold must submit a request via a State Plan amendment to maintain IEGs at a level above 300%. State agencies that have IEGs set below 185% must submit a State Plan amendment to raise them to the minimum standard of 185%.</p> <p>State agencies must implement by December 30, 2024.</p> <hr/> <p><i>No action required.</i></p> <p>States that currently have IEGs at or between 185 - 300% are not required to take action to implement this provision.</p> <p>[Additional guidance to follow.]</p> |

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

**Removal of TEFAP Address Collection Requirement**

| Regulatory Citation  | Final Rule Provision   | State Agency Action  |
|--|--|--|
| <p><a href="#"><u>§ 251.5(b)(3)</u></a> and <a href="#"><u>§ 251.10(a)(4)</u></a></p> <p>Residency Requirements &amp; Address Collection Prohibition</p> | <p>TEFAP State agencies may no longer require that households provide an address or identification to demonstrate eligibility and TEFAP ERAs are no longer required to collect and maintain household addresses on file. TEFAP State agencies must develop a process for requesting residency information from households to determine eligibility that does not require households to provide an address or identification to confirm residency; for example, State agencies may allow self-declaration of residency.</p> | <p><i>Required for State agency.</i></p> <p>State agencies must submit a State Plan amendment describing the process they will use for requesting residency information from households to determine eligibility. This process cannot require households to provide an address or identification to confirm residency. State agencies must ensure that TEFAP ERAs are following the revised process as of December 30, 2024.</p> <p>[Additional guidance to follow.]</p> |

**TEFAP Confidentiality Protections**

| Regulatory Citation  | Final Rule Provision   | State Agency Action  |
|--|--|--|
| <p><a href="#"><u>§ 251.10(c)</u></a></p> <p>Confidentiality Protections</p> | <p>Applicant and participant information must be kept confidential. Limits are established on the disclosure of information obtained from applicants or participants and the identity of persons making a complaint or allegation against persons participating in or administering TEFAP.</p> | <p><i>Required for State agency.</i></p> <p>State agencies must evaluate current program operations and ensure that TEFAP ERAs comply with these confidentiality requirements as of December 30, 2024.</p> |

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

**TEFAP Eligible Recipient Agency (ERA) Report**

| Regulatory Citation  | Final Rule Provision   | State Agency Action  |
|--|--|--|
| <a href="#"><u>§251.10(b)(3)</u></a><br><br>ERA List Reporting | State agencies must annually report a complete list of eligible recipient agencies (ERAs) to FNS. This includes all ERAs with direct agreements with the State agency and ERAs with agreements with another ERA and statewide income and residency eligibility criteria. State agencies must also annually report their statewide eligibility criteria to FNS. | <p><b><i>Required for State agency.</i></b></p> <p>State agencies must follow the reporting format and deadlines established by FNS to report this information. This requirement will be effective as of December 30, 2024, and the first report will be due after this date.</p> <p>[Additional guidance to follow, including the format and timing of this annual report.]</p> |

**Technical Edits**

| Regulatory Citation  | Final Rule Provision   | State Agency Action   |
|--|--|---|
| <a href="#"><u>7 CFR Part 251</u></a><br><br>Technical Edits | <p>Technical changes were made throughout part 251, replacing the term “commodities” with “USDA Foods”.</p> <p>Updates definition of “food bank” for clarity.</p> <p>Reorganizes “Miscellaneous provisions” section for readability and clarity.</p> <p>Revises Farm to Food Bank Project regulations for clarity.</p> | <p><b><i>No action required.</i></b></p> <p>As a part of routine updates, State agencies are encouraged to replace the outdated terms within State agency materials such as websites, the State Plan, etc. State agencies may implement as soon as December 30, 2024, but are not required to make these changes.</p> |

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

## Attachment B – TEFAP Final Rule Provisions with Implementation Date of October 31, 2025

**Public Posting of TEFAP Program Information**

| <b>Regulatory Citation</b>  | <b>Final Rule Provision</b>   | <b>State Agency Action</b>  |
|---|---|---|
| <a href="#"><u>§ 251.4(l)</u></a><br><br>Eligible Recipient<br>Agency(ERA) List | State agencies must post a list of all ERAs that have an agreement with the State agency on a publicly available internet webpage. This includes posting the name, address, and telephone number for each ERA and updating the list annually. | <i>Required for State agency.</i><br><br>State agencies must post ERA information on a public webpage no later than 12 months after the publication of the final rule, by October 31, 2025.<br><br>[Additional guidance to follow.]               |
| <a href="#"><u>§ 251.4(l)</u></a><br><br>Statewide Eligibility<br>Criteria      | State agencies must publicly post their statewide income and residency eligibility criteria. The information must be updated on an annual basis or whenever changes to eligibility criteria are made.   | <i>Required for State agency.</i><br><br>State agencies must post TEFAP eligibility information on a public webpage no later than 12 months after the publication of the final rule, by October 31, 2025.<br><br>[Additional guidance to follow.] |

**TEFAP Participation Reporting**

| <b>Regulatory Citation</b>   | <b>Final Rule Provision</b>   | <b>State Agency Action</b>   |
|--|---|--|
| <a href="#"><u>§ 251.10(b)(4)</u></a><br><br>Household<br>Distribution<br>Participation<br>Reporting | State agencies must report the total number of persons served by each TEFAP distribution site for home consumption in each month to FNS on a quarterly basis. | <i>Required for State agency.</i><br><br>State agencies must follow the reporting format and deadlines established by FNS to report this information on a quarterly basis. This requirement is effective on December 30, 2024, and the first report will be due on a schedule defined by FNS, but no later than October 31, 2025.<br><br>[Additional guidance to follow, including the format and timing of the report.] |

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.