

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 253

[FNS-2019-0031]

RIN 0584-AE74

#### Food Distribution Program on Indian Reservations: Revisions to the Administrative Match Requirement

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule; request for comments.

**SUMMARY:** Through this rulemaking, the U.S. Department of Agriculture's (the Department or USDA) Food and Nutrition Service (FNS) is codifying new and revised statutory requirements included in the Agriculture Improvement Act of 2018 (the 2018 Farm Bill). First, the Department is revising the minimum Federal share of the Food Distribution Program on Indian Reservations (FDPIR) administrative costs and State agency/Indian Tribal Organization (ITO) mandatory administrative match requirement amounts. Second, the Department is revising its administrative match waiver requirements by allowing State agencies and ITOs to qualify for a waiver if the required match share would be a substantial burden. Third, the Department is limiting the reduction of any FDPIR benefits or services to State agencies and ITOs that are granted a full or partial administrative match waiver. Last, the Department is allowing for other Federal funds, if such use is otherwise consistent with both the purpose of the other Federal funds and with the purpose of FDPIR administrative funds, to be used to meet the State agency/ITO administrative match requirement.

**DATES:**

**Effective Date:** This rule is effective September 3, 2019.

**Comment Date:** Written comments on this rule must be received on or before November 4, 2019.

**ADDRESSES:** The Food and Nutrition Service (FNS), USDA, invites interested persons to submit written comments on this rule. Comments may be submitted in writing by one of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- **Mail:** Send comments to Erica Antonson, Branch Chief, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 506, Alexandria, Virginia 22302-1592, (703) 305-2680.

- **Email:** Send comments to [FDPIR-RC@usda.gov](mailto:FDPIR-RC@usda.gov). Include Docket ID Number FNS-2019-0031, "Food Distribution Program on Indian Reservations: Revisions to the Administrative Match Requirement" in the subject line of the message.

- All written comments submitted in response to this Final Rule with Request for Comments will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the written comments publicly available on the internet via <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Barbara Lopez, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 506, Alexandria, Virginia 22302-1592, or by email at [Barbara.Lopez@usda.gov](mailto:Barbara.Lopez@usda.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background and Discussion of Final Rule With Request for Comments
  - A. State Agency/ITO Administrative Match Requirement
  - B. State Agency/ITO Administrative Match Waiver
  - C. Limitation on Reducing Benefits or Services to State Agencies/ITOs Granted an Administrative Match Waiver
  - D. Use of Other Federal Funds To Meet the State Agency/ITO Administrative Match
- III. Procedural Matters

## I. Public Comment Procedures

Your written comments on this rule should be specific, should be confined to issues pertinent to the rule, and should explain the reason(s) for any change you recommend or oppose. Where possible, you should reference the specific section or paragraph of the rule you are addressing. This rule is effective upon publication. If the Department determines that comments received change any provisions of this rule, the Department will publish a new final rule in the **Federal Register**. Comments must be received on or before the comment period (see **DATES**) to be assured of consideration.

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these regulations easier to understand, including answers to questions such as the following:

- (1) Are the requirements in the regulation clearly stated?
- (2) Does the rule contain technical language or jargon that interferes with its clarity?
- (3) Does the format of the rule (e.g., grouping and order of sections, use of heading, and paragraphing) make it clearer or less clear?
- (4) Would the rule be easier to understand if it was divided into more (but shorter) sections?
- (5) Is the description of the rule in the preamble section entitled "Background and Discussion of Final Rule with Request for Comments" helpful in understanding the rule? How could this description be more helpful in making the rule easier to understand?

## II. Background and Discussion of Final Rule With Request for Comments

In the following discussion and regulatory text, the term "State agency," as defined at 7 CFR 253.2, is used to include ITOs authorized to administer FDPIR and the Food Distribution Program for Indian Households in Oklahoma (FDPIHO) in accordance with 7 CFR parts 253 and 254. The term "FDPIR" is used in this rulemaking to refer collectively to FDPIR and FDPIHO.

The 2018 Farm Bill (Pub. L. 115-334) was signed into law on December 20, 2018. Section 4003 included FDPIR-specific provisions and modified Section 4(b) of the Food and Nutrition Act (FNA) (7 U.S.C. 2013(b)). This rule

codifies new and revised statutory requirements included in the 2018 Farm Bill by amending FDPIR regulations at 7 CFR part 253. Upon publication, this rulemaking makes the following changes: (1) Revises the required minimum Federal share of FDPIR administrative costs and State agency/ITO mandatory administrative match amounts; (2) allows State agencies/ITOs to qualify for an administrative match waiver if their required match share would be a substantial burden; (3) limits the reduction of FDPIR benefits or services to State agencies/ITOs that are granted a full or partial administrative match waiver; and (4) allows for other Federal funds to be used to meet the State agency/ITO administrative match requirement, if such use is otherwise consistent with the purpose of the other Federal funds. The amendments are discussed in more detail below.

The Administrative Procedure Act (APA) at 5 U.S.C. 553(a)(2) specifically exempts rules involving grants and benefits from notice-and-comment requirements, giving the Department the authority to issue final rules in grants and benefits programs, like FDPIR.<sup>1</sup> The Department does, however, retain the discretion to issue a final rule with a request for comments, and FNS welcomes comments on the specified sections below. The Department is issuing this final rule with request for comments in order to ensure that the provisions in this rulemaking apply to the next FDPIR administrative grant cycle, fiscal year (FY) 2020, which begins October 1, 2019. State agencies and ITOs that administer FDPIR benefit from the timely implementation of these provisions as they have a direct and positive impact on individual State agency and ITO grant allocations to operate the program. The Department determined that prolonging the implementation of these provisions would negatively impact State agencies and ITOs that administer the FDPIR by delaying their ability to utilize the new flexibilities provided for in the 2018 Farm Bill. As previously stated, if the Department, upon consideration of the comments received, decides to amend any provisions of the rule, the Department will publish a new final rule in the **Federal Register** with an explanation of the changes.

<sup>1</sup> Previous USDA practice pursuant to the Statement of Policy published on July 24, 1971 (36 FR 13804) was to utilize APA notice-and-comment rulemaking procedures regardless of the APA's stated exceptions, but that memo was rescinded in 2013. 78 FR 64194 (Oct. 28, 2013).

#### *A. State Agency/ITO Administrative Match Requirement*

Under Federal regulations at 7 CFR 253.11(b) and (c), the Department provides 75 percent of FDPIR administrative funds and State agencies/ITOs are required to contribute the remaining 25 percent in matching funds, unless a match waiver is granted by the Department. The State agency/ITO administrative match requirement may be a cash or non-cash (*i.e.*, in-kind) contribution, per 7 CFR 253.11(c)(1).

Section 4003 of the 2018 Farm Bill modified Section 4(b)(4) of the FNA (7 U.S.C. 2013(b)(4)) to require the Department to pay not less than 80 percent of State agencies and ITOs' administrative costs in FDPIR. Therefore, the corresponding State agency/ITO administrative match requirement would be a maximum of 20 percent. This rule amends 7 CFR 253.11(b) and (c)(1) and (2) to increase the Federal share of FDPIR administrative costs from 75 to 80 percent. This rule also amends 7 CFR 253.11(c)(1) and (2) to reduce the State agency/ITO match requirement from 25 to 20 percent.

The corresponding State agency/ITO match requirement for FY 2019 FDPIR administrative grants is 25 percent as those grants precede this rulemaking. At the time this rulemaking goes into effect (see DATES), the revised Federal share of 80 percent and revised State agency/ITO administrative match requirement amount of 20 percent, as described in this rulemaking, will apply to new FDPIR administrative grants only starting in FY 2020. FDPIR administrative grants for FY 2019 that have a period of performance through September 30, 2020 will retain the Federal share of 75 percent and the State agency/ITO administrative match requirement amount of 25 percent. This rulemaking applies to FY 2020 FDPIR administrative grants and to FDPIR administrative grants annually thereafter.

The Department does not request comments on the minimum amount of the Federal share, as the 80 percent is specified in statute. However, rulemaking is necessary to implement the 80 percent provision because the Department must exercise discretion in determining the inextricably related issues of changes to the standard for receiving an administrative match waiver, the prohibition on reducing benefits and services to State agencies and ITOs in receipt of the administrative match waiver, and the determination of what other Federal funds may count towards the 20 percent

State agency/ITO administrative match requirement. This issue is discussed below.

#### *B. State Agency/ITO Administrative Match Waiver*

FDPIR regulations at 7 CFR 253.11(c)(2) allow State agencies and ITOs to request an administrative match waiver to reduce or eliminate their match requirement in the event that a State agency/ITO is unable to meet the match requirement. In its request, the State agency/ITO must provide compelling justification and include a summary statement and recent financial documents. Section 4003 of the 2018 Farm Bill adds a provision at Section 4(b)(4)(B)(i) of the FNA (7 U.S.C. 2013(b)(4)(B)(ii)) to codify the existing regulation to allow State agencies and ITOs to submit a match waiver request if they are financially unable to meet the State agency/ITO administrative match requirement. Section 4003 of the 2018 Farm Bill also provides a new provision in Section 4(b)(4)(B)(ii) of the FNA to allow State agencies and ITOs to qualify for the administrative match waiver if funding their share of the costs would be a substantial burden for the State agency/ITO.

The Department interprets substantial burden to mean the State agency/ITO would be substantially negatively impacted if it is required to provide the full or partial share of administrative funds. For example, an ITO may submit an administrative match waiver request demonstrating substantial burden by detailing how providing its share of the administrative match requirement would deplete the Tribe's reserves to a level that would have a substantial negative impact on the Tribe.

The Department has also determined that the submission of a waiver request and corresponding documents for review cannot, in and of itself, constitute a substantial burden for purposes of qualifying for the administrative match waiver. For example, if an ITO submits an administrative match waiver request based solely on the difficulty of collecting compelling justification as a reason to qualify for the waiver under the substantial burden standard, then the Department would deny the administrative match waiver request.

The Department has determined that, in order to approve an administrative match waiver request based on substantial burden, the State agency must submit compelling justification to the FNS Regional Office for review and approval, similar to the current process as outlined at 7 CFR 253.11(c)(2). To apply for a waiver of the administrative

match based on substantial burden, the State agency/ITO must submit a signed letter from the leadership of a State agency or, in the case of an Indian Tribal Organization, a signed letter from the Tribal Council, describing why providing the match would be a substantial burden for the State agency/ITO along with supporting documentation, as needed.

This rulemaking revises the existing regulatory requirements at 7 CFR 253.11(c)(2) introductory text and (c)(2)(i) and (ii) to allow for an administrative match waiver request to be submitted under financial burden or substantial burden.

Under the revised 7 CFR 253.11(c)(2), this rule adds language on how a State agency/ITO can qualify for the administrative match waiver based on compelling justification submitted for either of the two standards, the existing financial burden standard and the new substantial burden standard. Under the revised 7 CFR 253.11(c)(2)(i), this rule keeps the existing regulatory requirement in 7 CFR 253.11(c)(2) that a State agency/ITO must submit a summary statement and recent financial documents showing that the State agency/ITO is unable to meet the matching requirement and that additional administrative funds are necessary for the effective operation of the program. Under the revised 7 CFR 253.11(c)(2)(ii), this rule adds new language to allow a State agency/ITO to submit a signed letter from the leadership of a State agency or, in the case of an Indian Tribal Organization, a signed letter from the Tribal Council, describing the State agency/ITO's substantial burden along with supporting documentation, as needed, to qualify for the administrative match waiver based on substantial burden. This option is in lieu of the summary statement and financial documentation currently required under 7 CFR 253.11(c)(2) for waiver requests based on financial inability to meet the match requirement.

The Department requests comments on this section of the rulemaking.

#### *C. Limitation on Reducing Benefits or Services to State Agencies/ITOs Granted an Administrative Match Waiver*

Current FDPIR regulations at 7 CFR 253.11(c)(2) provide the FNS Regional Office with discretion on whether to provide additional Federal administrative funds above the required Federal share when a State agency/ITO is granted a match waiver. For example, if the FNS Regional Office waives a State agency/ITO's current 25 percent match requirement, the FNS Regional

Office may provide the State agency/ITO with only 75 percent of its requested funding level or make up the difference by supplementing this amount with additional Federal funds, up to the State agency/ITO's total requested funding level, or 100 percent. The FNS Regional Office decision regarding additional Federal funds is often dependent on funding availability and currently may not account for whether any funding gap would lead to a reduction of FDPIR benefits or services at the State agency/ITO level.

Section 4003 of the 2018 Farm Bill adds a new provision at Section 4(b)(4)(C) of the FNA (7 U.S.C. 2013(b)(4)(C)), prohibiting the Secretary from reducing FDPIR benefits or services to State agencies and ITOs that are granted an administrative match waiver. The Department interprets this limitation to mean that the same level of program benefits or services must be maintained.

This rulemaking adds a new 7 CFR 253.11(c)(3) to require the FNS Regional Office to not reduce any benefits or services to State agencies/ITOs in receipt of an administrative match waiver.

The Department requests comments on this section of the rulemaking.

#### *D. Use of Other Federal Funds To Meet the State Agency/ITO Administrative Match*

Current FDPIR regulations at 7 CFR 253.11(c)(1) allow for the State agency/ITO administrative match requirement to be met with cash or non-cash contributions, including in-kind contributions. Furthermore, 7 CFR 253.11(c)(1)(v) provides that such contributions may not be paid for by the Federal Government under another assistance agreement unless authorized under the other agreement and its subject laws and regulations. Section 4003 of the 2018 Farm Bill adds a new provision at Section 4(b)(4)(D) of the FNA (7 U.S.C. 2013(b)(4)(D)) to allow for other Federal funds to be used towards meeting the State agency/ITO administrative match requirement, if that use is otherwise consistent with the purpose of the other Federal funds.

In addition, the Department has determined that existing regulations at 7 CFR 253.11(c)(1)(i), (iii), (iv), and (vi) apply to the use of other Federal funds because matching funds must be verifiable; not be contributed for another Federally-assisted program unless authorized by Federal legislation; be necessary and reasonable to accomplish program objectives; be allowable costs under 7 CFR part 277; and be included in the approved budget.

The Department has also determined that a State agency/ITO seeking to use other Federal funds towards its FDPIR administrative match must demonstrate that such use is not prohibited by law for those funds to be used to meet a Federal match of another program. For example, an ITO has AmeriCorps VISTA volunteers, who are paid from another Federal source, working at the food distribution center in support of FDPIR operations. The ITO could submit the salary of the AmeriCorps VISTA volunteers as an in-kind contribution towards their administrative match requirement. By contrast, the salary of AmeriCorps VISTA volunteers working for an ITO on a project unrelated to FDPIR could not be used as an in-kind contribution towards their administrative match requirement.

This rulemaking, therefore, requires State agencies and ITOs seeking to use other Federal funds to meet their State agency/ITO administrative match requirement to submit documentary evidence for review and approval by the FNS Regional Office that details the source, value, and purpose of those other Federal funds. This rule revises 7 CFR 253.11(c)(1) to allow for the use of other Federal funds, requires documentary evidence to be submitted on the source, value, and purpose of those other Federal funds, and requires approval by the FNS Regional Office for those funds to be used towards the State agency/ITO administrative match. The rule also removes 7 CFR 253.11(c)(1)(ii) as the provision is already captured under part 277, removes existing regulation at § 253.11(c)(1)(v) which prohibits the use of Federal funds, redesignates § 253.11(c)(1)(iii), (iv), and (vi) to § 253.11(c)(1)(ii), (iii), and (iv), and revises newly redesignated § 253.11(c)(1)(iii) (formerly § 253.11(c)(1)(iv)) to add an "and".

The Department requests comments on this section of the rulemaking.

#### **Procedural Matters**

##### *Congressional Review Act*

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

##### *Executive Order 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety

effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule with request for comments has been determined to be not significant and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

#### *Regulatory Impact Analysis*

This rule has been designated as not significant by the Office of Management and Budget; therefore, no Regulatory Impact Analysis is required.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it has been certified that this rule would not have a significant impact on a substantial number of small entities. While there may be some burden/impact on State agencies and ITOs that administer FDPIR, the impact is not significant due to this rule providing a reduction in the State agency/ITO administrative match requirement. This rulemaking also provides flexibilities in meeting this requirement.

#### *Executive Order 13771*

Executive Order 13771 directs agencies to reduce regulation and control regulatory costs and provides that the cost of planned regulations be prudently managed and controlled through a budgeting process.

This rule is not an E.O. 13771 regulatory action because it is not significant under E.O. 12866.

#### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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 Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local, or tribal governments, in the aggregate, or the private sector, of \$146 million or more (when adjusted for inflation; GDP deflator source: Table 1.1.9 at <https://apps.bea.gov/iTable/iTable.cfm>) in any one year. When such a statement is

needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This final rule with request for comments does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of \$146 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### *Executive Order 12372*

The program addressed in this section is listed in the Catalog of Federal Domestic Assistance under No. 10.567 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

#### *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 Department 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.

#### *Executive Order 12988, Civil Justice Reform*

This final rule with request for comments has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not 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 and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule with request for comments, all applicable administrative procedures must be exhausted.

#### *Civil Rights Impact Analysis*

FNS has reviewed this final rule with request for comments in accordance with USDA Regulation 4300–004, “Civil Rights Impact Analysis,” to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After a careful review of the rule’s intent and provisions, FNS has determined that this rule is not expected to affect the participation of protected individuals in FDPIR.

#### *Executive Order 13175*

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. In 2019, the Department engaged in a series of consultative and coordinated sessions with elected Tribal leaders and Tribal representatives from the FDPIR community to discuss these provisions. Reports from the consultative sessions will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA is unaware of any current Tribal laws that could be in conflict with this rule.

#### *Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires the Office of Management and Budget (OMB) to approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule contains information collection requirements that have been approved by OMB under OMB# 0584–0594 Food Programs Reporting System (FPRS). This rule, however, does not impact these information collection requirements and therefore they are not subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

#### *E-Government Act Compliance*

The Department is committed to complying with the E-Government Act of 2002 (Pub. L. 107–347) to promote the use of the internet and other information technologies to provide increased opportunities for citizen

access to Government information and services, and for other purposes.

#### List of Subjects in 7 CFR Part 253

Administrative practice and procedure, Food assistance programs, Grant programs, Indians, Social programs, Surplus agricultural commodities.

Accordingly, 7 CFR part 253 is amended as follows:

### PART 253—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR HOUSEHOLDS ON INDIAN RESERVATIONS

■ 1. The authority citation for 7 CFR part 253 continues to read as follows:

**Authority:** 91 Stat. 958 (7 U.S.C. 2011–2036).

■ 2. In § 253.11:

- a. Revise paragraphs (b) and (c)(1) introductory text;
- b. Remove paragraphs (c)(1)(ii) and (v);
- c. Redesignate paragraphs (c)(1)(iii), (iv), and (vi) as paragraphs (c)(1)(ii), (iii), and (iv);
- d. Revise newly redesignated paragraph (c)(1)(iii) and paragraph (c)(2); and
- e. Add paragraph (c)(3).

The revisions and addition read as follows:

#### § 253.11 Administrative funds.

\* \* \* \* \*

(b) *Allocation of administrative funds to State agencies.* Prior to receiving administrative funds, State agencies must submit a proposed budget reflecting planned administrative costs to the appropriate FNS Regional Office for approval. Planned administrative costs must be allowable under part 277 of this chapter. To the extent that funding levels permit, the FNS Regional Office allocates to each State agency administrative funds necessary to cover no less than 80 percent of approved administrative costs.

(c) \* \* \*

(1) Unless Federal administrative funding is approved at a rate higher than 80 percent of approved administrative costs, in accordance with paragraph (c)(3) of this section, each State agency must contribute 20 percent of its total approved administrative costs. Cash or non-cash contributions, including third party in-kind contributions, and the value of services rendered by volunteers, may be used to meet the State agency matching requirement. Funds provided from another Federal source may be used to meet the State agency matching requirement, provided that such use is

consistent with the purpose of those funds and complies with this subsection. To use funds from another Federal source, the State agency must submit documentation for approval to the FNS Regional Office which shows the source, value, and purpose of those funds. In accordance with part 277 of this chapter, such contributions must:

\* \* \* \* \*

(iii) Be allowable under part 277 of this chapter; and

\* \* \* \* \*

(2) Upon request from a State agency, an FNS Regional Office may approve a waiver reducing a State agency's matching requirement below 20 percent. To request a waiver, the State agency must submit compelling justification for the waiver to the appropriate FNS Regional Office. Compelling justification is based on either financial inability to meet the match requirement or the match requirement imposing a substantial burden. The request for the match waiver must be submitted with the following and in accordance with other FNS instructions:

(i) For a waiver based on financial inability, a summary statement and recent financial documents showing that the State agency is unable to meet the 20 percent matching requirement and that additional administrative funds are necessary for the effective operation of the program; or

(ii) For a waiver based on substantial burden, a signed letter from the leadership of the State agency or, in the case of an Indian Tribal Organization, from the Tribal Council, describing why meeting the 20 percent matching requirement would impose a substantial burden on the State agency, and why additional administrative funds are necessary for the effective operation of the program, along with supporting documentation, as needed.

(3) The FNS Regional Office may not reduce any benefits or services to State agencies that are granted a waiver.

\* \* \* \* \*

Dated: August 26, 2019.

**Pamilyn Miller,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2019–18815 Filed 8–30–19; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 718

### Commodity Credit Corporation

#### 7 CFR Part 1412

**RIN 0560–AI24**

[Docket ID FSA–2019–0008]

### Agriculture Risk Coverage and Price Loss Coverage Programs

**AGENCY:** Commodity Credit Corporation and Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule implements the Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) Programs authorized by the Agricultural Act of 2014 (the 2014 Farm Bill), as amended. The Agriculture Improvement Act of 2018 (2018 Farm Bill) amended 2014 Farm Bill provisions regarding ARC and PLC, and authorized the ARC and PLC Programs for the 2019 through 2023 program years. The ARC and PLC Programs are continuing, with some changes. This rule also includes conforming changes to Farm Service Agency (FSA) general regulations that apply to multiple programs. The ARC and PLC Programs provide producers a choice between a counter-cyclical payment support type program (PLC) and an income support program (ARC). In a defined election and enrollment period, producers can elect different programs for different covered commodities on a farm, for example, choosing PLC for corn and ARC for soybeans on the same farm. There is also an option to elect ARC individual coverage (ARC-IC); however, if that option is elected, all the farm's covered commodities are elected with that option. This rule specifies the eligibility requirements, enrollment procedures, and payment calculations for the ARC and PLC Programs.

**DATES:** Effective September 3, 2019.

**FOR FURTHER INFORMATION CONTACT:** Brent Orr; telephone: (202) 720–7641, email address: [brent.orr@usda.gov](mailto:brent.orr@usda.gov). Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice only).

#### SUPPLEMENTARY INFORMATION:

#### Background

The 2018 Farm Bill (Pub. L. 115–334) amended the 2014 Farm Bill (Pub. L. 113–79) and authorized the continuation of the ARC and PLC