



Temporary Enforcement Guidance: State Food Purchase Program Act

Program Participant Eligibility

Issued and Effective April 1, 2020

Updated July 1, 2020

This document is Temporary Enforcement Guidance for Pennsylvania Department of Agriculture (Department) employees involved in the administration and enforcement of the State Food Purchase Program Act (62 P.S. §§ 4041 – 4049) (Act).

This document will be made available to impacted regulated entities and the public. It will also be identified by the Department in the regular listing of Non-Regulatory Public Documents it is required to disseminate under Executive Order 1996-1, titled *Regulatory Review and Promulgation*.

A. Background.

The Act establishes the State Food Purchase Program (SFPP) – a program that directs funds to county governments, regional food banks or emergency food providers for the purchase, transportation, storage and distribution of food to eligible needy persons.

The Act (at 62 P.S. § 4044) directs the Department to establish the eligibility requirements for participation in the SFPP, and the Department has done so in the regulations published at 7 Pa. Code Chapter 160 (titled *State Food Purchase Program*). The provision at 7 Pa. Code § 160.5 (titled *Eligibility of persons to participate*) establishes an income-based eligibility standard, requiring that a person have income that does not exceed “150% of the poverty levels established by the USDA” in order to be eligible to participate in the SFPP and receive food. The entire regulatory provision reads as follows

§ 160.5. Eligibility of persons to participate.

(a) *Primary determinant.* If the county government, lead agency or emergency food provider administering the Program within a particular county has established procedures and guidelines for determining whether persons are eligible to participate in the Program, these procedures and guidelines shall be the sole determinant of eligibility.

(b) *Department guidelines.* In counties where the county government, lead agency or emergency food provider administering the Program does not have procedures and guidelines for determining the eligibility of persons to be Program participants, persons shall be eligible to be Program participants if their incomes do not exceed 150% of the poverty levels established by the USDA.

The current emergency measures related to the COVID-19 presence in the Commonwealth of Pennsylvania and the Declaration of National Emergency issued by the President of the United States of America have contributed to a significant increase in the need to distribute food quickly and efficiently among an increasing number of needy Pennsylvanians. The regulatory and contractual provisions requiring persons to complete income eligibility paperwork present problems related to COVID-19 containment and slows the flow of food to needy persons.

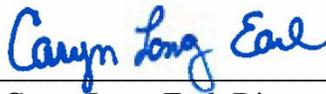
In consideration of the foregoing, the Department elects to exercise its administrative enforcement discretion and issue the Temporary Enforcement Guidance presented below.

B. Enforcement Guidance.

From April 1, 2020 through September 30, 2020, Department staff administering and enforcing the State Food Purchase Program Act will refrain from requiring compliance with or otherwise enforcing the SFPP income-related eligibility requirements at 7 Pa. Code § 160.5(b) (titled *Eligibility of persons to participate*), including enforcing any contractual provisions requiring adherence to this regulatory eligibility standard.

Through September 30, 2020, County governments, regional food banks and emergency food providers administering the SFPP are not required to verify or confirm that SFPP participants meet the income-based eligibility standards set forth in the regulation at 7 Pa. Code § 160.5, or to adhere to contractual provisions otherwise requiring compliance with this regulatory income-based eligibility requirement.

The Department will evaluate the efficacy of this Temporary Enforcement Guidance on an ongoing basis.



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