



Food and Nutrition Service

U.S. DEPARTMENT OF AGRICULTURE

Date: May 22, 2024

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Subject: Geographic Preference Expansion Related to the Final Rule titled, *Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans*

To: Regional Directors, Child Nutrition Programs, All Regions
State Directors, Child Nutrition Programs, All States

On April 25, 2024, the Food and Nutrition Service (FNS) published [*Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans*](#) (89 FR 31962, April 25, 2024) (final rule). The final text of the final rule covers a broad range of Child Nutrition Programs (CNP) provisions, including, but not limited to, the expansion of the geographic preference option.

This memorandum provides a detailed explanation of the expanded geographic preference option. CNP operators, State agencies purchasing for CNPs, and the USDA Department of Defense Fresh Fruit and Vegetable Program (USDA DoD Fresh) may use local as a specification and continue to set a geographic preference when soliciting or buying unprocessed agricultural products. CNP operators and State agencies purchasing on their behalf are not required to use geographic preference when procuring unprocessed agricultural products; it remains an option. The implementation date of the final rule provision is July 1, 2024.

Background on the Existing Geographic Preference Provision

Section 4302 of the Food Conservation and Energy Act of 2008 (P.L. 110-246) amended section 9(j) of the Richard B. Russell National School Lunch Act, 42 USC 1758(j), and directed FNS to encourage institutions operating CNPs to purchase unprocessed, locally grown, and locally raised agricultural products to the maximum extent practicable and appropriate. The provision authorized use of a geographic preference in procuring these products. The

provision applied to schools, sponsors, and institutions participating in any CNP, including the National School Lunch Program (NSLP), School Breakfast Program (SBP), Fresh Fruit and Vegetable Program (FFVP), Special Milk Program (SMP), Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), and Seamless Summer Option (SSO), as well as to purchases made for these programs by State agencies and USDA DoD Fresh.

In April 2011, FNS published the [Geographic Preference Option for the Procurement of Unprocessed Agricultural Products in Child Nutrition Programs – Final Rule](#). This final rule clarified the implementation of the geographic preference option for CNP operators. The option applied to “unprocessed locally grown or locally raised agricultural products,” and was defined in such a way as to allow for some minimal processing, food handling, and preservation techniques. CNP operators were allowed the discretion to apply a geographic preference, which allowed them to give additional points or credit to products from a specified geographic area during evaluation of proposals or bids received in response to a solicitation. Additionally, CNP operators were allowed to define local, and the amount of preference or credit awarded to products that met this criterion. However, CNP regulations did not permit the use of “local” as a product specification (i.e., the written description of a product or service that a vendor must meet to be considered responsive to a solicitation).

Summary of the Expanded Geographic Preference Option

To ease challenges related to buying local products and to promote CNPs as a market for local producers, the [Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans](#) final rule expands the geographic preference option to allow CNP operators to use “local” as a procurement specification for unprocessed agricultural products for CNPs. The updated regulations¹ for the geographic preference option are found

¹ FNS does not have regulations for FFVP procurement. When combining FFVP orders with those of other CNP operators should refer to the regulations of the program making the order. Per FFVP guidance, the geographic preference provision for FFVP applies only to the purchase of fresh fruits and vegetables. For general FFVP procurement guidance, see “Fresh Fruits and Vegetable Program – A Handbook for Schools”, (www.fns.usda.gov/ffvp/fresh-fruits-and-vegetable-program-handbook-schools)

in each program's regulation at 7 CFR 210.21(g)(1), 215.14a(e), 220.16(f)(1), 225.17(e)(1), and 226.22(c)(1).

CNP operators may now use local (e.g., "locally grown", "locally raised", or "locally caught") as a specification for local unprocessed agricultural products purchased for program meals, snacks, and milk. CNP operators can require that an unprocessed agricultural product be locally grown, raised, or caught to meet the solicitation requirements and remove products or bids that do not meet this standard from consideration.

CNP operators may also continue to apply a geographic preference through additional points or credit during evaluation for local unprocessed agricultural products. This memo will now refer to this strategy as a "defined scoring advantage," to help differentiate between the concept of a geographic preference option and the two strategies that may be used to implement it.

In summary, under the expanded geographic preference option, beginning July 1, 2024, CNP operators may choose to:

- Use local as a specification (i.e., the written description of a product or service that a vendor must meet to be considered responsive to a solicitation) for local unprocessed agricultural products;
- Use a defined scoring advantage (e.g., additional credit or points given to local unprocessed agricultural products during the evaluation of responses to a solicitation) for local unprocessed agricultural products;
- Adopt a mix of both strategies; or,
- Elect not to use any of these approaches.

This memorandum includes a detailed description of changes made under the final rule in Attachment A.

Considerations for Implementation

In accordance with Federal procurement regulations at 2 CFR 200.319, CNP operators must ensure full and open competition when procuring goods by planning solicitations that ensure an appropriate number of qualified firms are eligible to compete for the contract. Market research can help determine whether an adequate supply of local products exists in the marketplace before applying local as a specification and/or applying a defined scoring advantage to one or more local unprocessed agricultural products. Market research on unprocessed local agricultural products may include a range of activities such as visiting local farmers' markets, participating in local food vendor fairs, or issuing Requests for Information (RFIs), which are requests made by institutions for vendors to share information about the products and services they provide. Whether or not competition is adequately full and open is determined by the CNP operator and may be assessed as part of reviews of Program operations conducted by the State agency.

Tools and Technical Assistance

FNS is updating existing memoranda, guides, and fact sheets and developing a new fact sheet to help program operators procure local foods using the expanded geographic preference option. These resources will be available on the USDA Patrick Leahy Farm to School Program website at www.fns.usda.gov/f2s/farm-to-school.

FNS reminds State agencies to distribute this information to CNP operators immediately. CNP operators should direct any questions regarding this memorandum to the appropriate State agency. State agencies should direct questions to the appropriate FNS Regional Office.

**JULIE
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Julie Brewer

Director, Community Food Systems Division

Child Nutrition Programs

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ATTACHMENT A: Overview Chart– Geographic Preference Expansion: What is Changing and What is Not

The following chart provides a simplified overview of the changes resulting from the expansion of the geographic preference option in the regulations at 215.14a(e) (Special Milk Program); 220.16(f)(1) (School Breakfast Program); 225.17(e)(1) (Summer Food Service Program); 7 CFR 210.21(g)(1) (National School Lunch Program); and 226.22(c)(1) (Child and Adult Care Food Program).

KEY CONCEPTS	PREVIOUS REQUIREMENTS	NEW FINAL RULE – IMPLEMENTATION DATE July 1, 2024
Programs that may apply a geographic preference option	This provision applies to local unprocessed agriculture product purchases for any of the Child Nutrition Programs (CNPs), including the National School Lunch Program (NSLP), School Breakfast Program (SBP), Fresh Fruit and Vegetable Program (FFVP), Special Milk Program (SMP), Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), and Seamless Summer Option (SSO), and purchases made for CNPs by State agencies and the USDA Department of Defense Fresh Fruit and Vegetable Program (USDA DOD Fresh).	No change; already in effect.
Products eligible for geographic preference option	Unprocessed locally grown, raised, or caught agricultural products, meaning only agricultural products that retain their inherent character, are eligible for applying the optional geographic preference. Food handling and preservation techniques that do not change the inherent character of an agricultural product include cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; drying/dehydration; washing; applying high water pressure or “cold pasteurization”; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags); butchering livestock and poultry; cleaning fish; and pasteurizing of milk.	No change; already in effect.
Defining "local"	There is no singular definition of local at USDA. FNS does not define local foods for the CNPs but defers to CNP operators to define local. CNP operators may determine the specific local area associated with the geographic preference option for unprocessed agricultural products when buying food.	No change; already in effect.

KEY CONCEPTS	PREVIOUS REQUIREMENTS	NEW FINAL RULE – IMPLEMENTATION DATE July 1, 2024
Using local as a product specification	Not allowed.	Allowed. CNP operators may use local as a specification for unprocessed locally grown, raised, or caught agricultural products purchased for CNPs.
Using a defined scoring advantage	Allowed.	No change; already in effect. CNP operators may continue to use a defined scoring advantage under the new expanded geographic preference option.