

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 5

RIN 0560-AF08

#### Update of the Parity Price Regulations

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule revises the regulations regarding commodity definitions applicable to parity price determinations under the Agricultural Adjustment Act of 1938. The revisions update commodity definitions and incorporate recent reorganizational changes within USDA. This action is being taken as part of the National Performance Review.

**EFFECTIVE DATE:** February 25, 1997.

**FOR FURTHER INFORMATION CONTACT:** Kathryn A. Broussard, Agricultural Economist, Food Grains Analysis Division, Farm Service Agency, U.S. Department of Agriculture, STOP 0518, P.O. Box 2415, Washington, DC 20013-2415 or telephone 202-720-9222.

**SUPPLEMENTARY INFORMATION:**

Executive Order 12866

This final rule has been determined not to be significant under Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because the Secretary of Agriculture is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### Environmental Evaluation

This action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

#### Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, is: Agricultural Statistics Reports (Agricultural Estimates)—10.950.

#### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule do not preempt State laws, are not retroactive, and do not require the exhaustion of any administrative appeal remedies.

#### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

#### Paperwork Reduction Act

The amendments to 7 CFR Subtitle A Part 5 set forth in this rule do not contain information collections that require clearance by OMB under the provisions of 44 U.S.C. 3507.

#### Background

This final rule updates the definition of "Wool and Mohair" and "Sugar Crops" commodities for which a marketing season average price is determined; and revises the regulations to incorporate recent reorganizational changes within USDA.

#### List of Subjects in 7 CFR Part 5

Calendar year price, Marketing season average price, Parity index, Parity price.

For reasons set out in the preamble, 7 CFR part 5 is amended as follows:

## PART 5—DETERMINATION OF PARITY PRICES

1. The authority citation is revised to read as follows:

Authority: 7 U.S.C. 1301, 1375.

2. In 7 CFR part 5 all references to "Statistical Reporting Service" are revised to read "National Agricultural Statistics Service", all references to "Consumer and Marketing Service" are revised to read "Agricultural Marketing Service", all references to "Agricultural Stabilization and Conservation Service" are revised to read "Farm Service Agency", and all references to "Office of Hearing Examiners of the United States Department of Agriculture" are revised to read "Office of Administrative Law Judges."

### § 5.2 [Amended]

3. In § 5.2, the entry under the heading "Wool and Mohair" is revised to read "Wool and Mohair." and the entry under the heading "Sugar Crops" is revised to read "Sugar beets and sugarcane for sugar."

Signed at Washington, DC, on February 12, 1997.

Dan Glickman,

Secretary.

[FR Doc. 97-4599 Filed 2-24-97; 8:45 am]

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## Food and Consumer Service

### 7 CFR Part 250

RIN 0584-AB55

#### Food Assistance in Disaster and Distress Situations

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the provisions of the Food Distribution Program Regulations and Policies that relate to food assistance provided in response to Presidentially declared disasters and in situations of distress. The amendments contained in this rule address the simultaneous issuance of commodities and disaster food stamp benefits in a disaster, distribution of commodities to households in situations of distress, authorization for providing commodity assistance, reporting requirements, and the replacement of

commodities. In addition, revised definitions are included which encompass the definitions contained in the Robert T. Stafford Disaster Relief and Emergency Assistance Act. These revisions will help ensure that commodity assistance is made available to victims of disasters and to those in situations of distress in the most efficient and effective manner possible while maintaining the integrity of the program.

**EFFECTIVE DATE:** This final rule is effective April 28, 1997.

**FOR FURTHER INFORMATION CONTACT:** Lillie Ragan, Assistant Branch Chief, Household Programs Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, Park Office Center, Room 502, 3101 Park Center Drive, Alexandria, Virginia 22302-1594, or telephone (703) 305-2661.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

This final rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

**Regulatory Flexibility Act**

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The Administrator of the Food and Consumer Service (FCS) has certified that this action will not have a significant economic impact on a substantial number of small entities. The primary impact of the procedures in this rulemaking will be on FCS regional offices, State governments and individuals who might apply for disaster or distress commodity benefits. To the extent that county or other local governments assist in the distribution of commodities at a disaster or distress feeding site, they will also be affected.

**Executive Order 12372**

These programs are listed in the Catalog of Federal Domestic Assistance under 10.550 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, Subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22676, May 31, 1984).

**Executive Order 12778**

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is 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 implementation. This rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of the preamble. All available administrative procedures must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

**Background**

The Department of Agriculture (USDA or Department) makes commodities available for use in providing food assistance to victims of disasters and to those in situations of distress, in accordance with authority contained in several statutes. The regulations governing the Food Distribution Program (7 CFR Part 250) outline the responsibilities of FCS and distributing agencies with regard to the distribution of donated commodities during a disaster and in situations of distress.

On December 8, 1995, the Department published a proposed rule in the Federal Register at 60 FR 62999 which reflected amendments which have been made to the authorizing legislation, and also included regulatory changes recommended by the Task Force for Disaster Preparedness, established by the Department in response to issues which arose in the course of providing food assistance to victims of several disasters and other types of emergencies in the past several years. The Task Force was comprised of representatives from USDA, the Federal Emergency Management Agency (FEMA), private national organizations such as the Red Cross, and State and local agencies. One of the objectives of the Task Force was to identify current Federal disaster policies that are in need of revision. Regulatory amendments embodying Task Force recommendations were proposed under the discretionary authority granted to the Secretary and are part of the Department's effort to ensure that commodity assistance is made available to victims of disasters and situations of distress in the most efficient and effective manner possible while maintaining the integrity of the program. The proposed rule provided a 60-day comment period.

**Analysis of Comments Received**

The Department received a total of 6 comment letters. Comment letters were submitted by four State distributing agencies, one State food stamp agency, and one county social service agency. All but one of the commenters were substantially in favor of the rule.

Comments received are discussed in detail below.

**Definitions**

The definition of "Situation of Distress" contained in Section 250.3 of the proposed rule would provide distributing agencies with authority to make commodities available for use in congregate feeding in instances when the disaster or emergency is natural, e.g., hurricane, tornado, storm, or flood. One commenter expressed concern that use of the word "emergency" in the definition will cause confusion since that term was not defined in the rule. The commenter also recommended that the definitions of "Disaster" and "Situations of Distress" encompass the recovery time period that follows such conditions.

One of the purposes for revising existing definitions under the proposed rule was to provide clarity. Since elimination of the term "emergency" will have no effect on the definition, the term has been deleted from the definition of "Situation of Distress" contained in Section 250.3 of this final rule. With regard to recognizing a period of time for recovery, the distribution of commodities under the provisions contained in the rule is, by definition, limited to disasters and situations of distress since the delivery of assistance through traditional food assistance programs is not adequate in such instances. Once the situation is such that the needs of victims can be met through traditional food assistance programs, the distribution of commodities is no longer warranted.

*Simultaneous Distribution of Commodities and Disaster Food Stamp Benefits*

Sections 250.43 and 250.44 of the proposed rule would permit the simultaneous distribution of commodities and issuance of disaster food stamp benefits during Presidentially declared disasters and in situations of distress in instances in which such distributions are warranted.

One commenter strongly opposed the simultaneous distribution of such benefits for reasons such as the additional costs that would be incurred by the State, the inability of State and local agencies to transport commodities due to damaged infrastructure, the lack of refrigeration units, and in instances in which commodities are made available for use in situations of distress, the absence of a guarantee that the Department will replace the commodities used. Other commenters did not expressly oppose the authority provided under the proposed rule to

permit the simultaneous distribution of commodity and disaster food stamp benefits. However, comments regarding issues such as cost and the ability of distributing agencies and disaster organizations to provide such services indicate a basic misunderstanding of the approval process as described in the proposed rule.

Because the Department has determined that there are instances in which States may need to distribute commodities and issue disaster food stamp benefits simultaneously to ensure that some form of food assistance is available to all victims of disasters and situations of distress, Sections 250.43 and 250.44 of this final rule retain provisions which *permit* the simultaneous distribution and issuance of these benefits. However, further review of the provisions contained in the proposed rule relative to the submission and approval of requests to conduct such distributions suggests that the proposed language could be interpreted to *require* that distributing agencies forward all requests received from organizations for the receipt and distribution of commodities to FCS for approval. In fact, the proposal was not intended to remove the State's discretion to determine whether distribution of commodities to households is warranted. The proposed rule was intended only to clarify the approval process in instances in which the State has decided that such distribution would be appropriate. When States have so decided, distributing agencies would be required to submit applications to the Food and Consumer Service regional office (FCSRO), and such applications would be forwarded to FCS headquarters for approval. Sections 250.43 and 250.44 of this final rule have been revised to make it clear that States retain full discretion in determining whether a request to permit commodity distributions to households will be submitted to the FCSRO. In making such a determination, States will have to ascertain whether the necessary facilities and financial resources are available to support such distributions. In addition, language in the proposed rule has also been revised to clarify that only those organizations wishing to obtain donated foods for use in providing food assistance to victims of disasters and situations of distress are expected to submit applications for the receipt of such food to the distributing agency.

#### *Dual Participation*

Section 250.43(c)(2)(viii) of the proposed rule would require disaster

organizations to submit a statement of assurance that simultaneous food stamp and commodity assistance will not be provided to individual households; and, Section 250.43(c)(3)(iv)(D) would require that, before receiving commodities, each household sign a statement certifying that it is not receiving food stamp assistance. The proposed rule contained parallel requirements in Sections 250.44(c)(2)(vii) and 250.44(c)(3)(iv)(D) relative to the distribution of commodities during situations of distress.

Ambiguous references to food stamp benefits were the major focus of most of the comments received; 5 of the 6 commenters addressed the issue, and 4 of them recommended clarification. As pointed out by the commenters, the language as written in the proposed rule is unclear as to which aspect of the Food Stamp Program is being referenced, and could be easily interpreted to proscribe receipt of commodities by those who are regular and customary recipients of food stamps. This is obviously not the intent of the rule, for households which have been on the Food Stamp Program are likely to be just as hard-hit by a disaster as their non-food-stamp-receiving neighbors, perhaps having lost their entire food supply.

It is not the intent of the Department to prohibit the distribution of commodities to disaster victims who have been receiving assistance under the "conventional" Food Stamp Program. Therefore, Sections 250.43 and 250.44 are revised under this final rule to specifically prohibit only the distribution of commodities to households which have received *disaster* food stamp benefits since the issuance of both types of benefits would in fact be duplicative.

Three of the five respondents also made comments related to dual participation which were not attributable to the ambiguous language in the proposed rule. One commenter stated that it would be impossible to ensure that dual participation does not occur, and the other two expressed concern about the amount of time and cost associated with the collection and verification of information necessary to prevent the issuance of dual benefits. One commenter recommended waiving the prohibition against dual participation for a limited period of time, such as 30 days, while the other two recommended eliminating the prohibition entirely.

The nutritional needs of households during a disaster or situation of distress can be fully met through the provision

of either commodities or disaster food stamp benefits. Therefore, since the elimination of the prohibition against dual participation would significantly increase Federal outlays, and could result in a windfall to households in excess of their nutritional needs, the provisions relative to the prohibition against dual participation are being retained in this final rule.

#### *Responsibility for Establishing and Pursuing Claims*

Two of the six commenters addressed this provision, one pointing out that the preamble of the proposed rule does not state with sufficient clarity who will be responsible for establishing and pursuing claims against households for dual participation. The language in question reads as follows: "In instances when it is determined that claims action against a household is warranted due to the receipt of both food stamp and commodity assistance, the Department intends to pursue such action through establishment of a claim against the household for the value of the food stamps issued." (60 FR page 63002, middle column, first complete paragraph, first sentence).

Current regulations make State agencies responsible for establishing and pursuing such claims. The Department had intended no change from current regulations and practice. Therefore in instances when it is determined that claims action against a household is warranted due to the receipt of both disaster food stamp and commodity assistance, the State agency will be required to pursue such action through establishment of a claim against the household for the value of the food stamps issued.

Another commenter expressed concern about whether a State will have access to records showing that a household did in fact receive commodities and the amount of commodities provided. Section 250.16 requires that records be maintained by recipient agencies for a period of at least three years from the close of the fiscal year to which they pertain. However, in instances when claims action and/or audit findings have not been resolved, the records must be retained as long as required for the resolution of such action or findings. In addition, Sections 250.43(c)(3) and 250.44(c)(3) of the proposed rule would require that information obtained from households for the receipt of commodities be forwarded to the distributing agency and maintained by the distributing agency in accordance with the recordkeeping requirements as stated above. Distributing agencies may,

however, permit an organization that is an agency of the State government to retain such records. Based on these recordkeeping requirements, the State agency responsible for establishing and pursuing a claim should be able to access statements signed by all households which were provided commodities by contacting the distributing agency. With regard to information concerning the amount of commodities provided to a household not being recorded, this information is not necessary since households that received both commodities and disaster food stamp benefits will be expected to make restitution for the full value of disaster food stamp benefits issued without regard to the value of commodities provided.

#### *Information Collection Burden*

Sections 250.43(c) and 250.44(c) of the proposed rule would require several kinds of information collection at different levels. First, in requesting FCS approval for the distribution of commodities to households, the distributing agency would be required to submit the following information (plus additional information as outlined in the section) to the FCSRO: (1) An explanation as to why the distribution of commodities to households is warranted; (2) identification of the specific area(s) included in the request; (3) a statement of assurance that simultaneous food stamp and commodity assistance will not be provided to individual households; and (4) a description of the system that will be implemented to prevent dual participation. Second, minimal information would be required of each household applying for commodities in instances in which the Food Stamp Program is in operation, to include: (1) Name of one household member applying for assistance; (2) address; and (3) the number of persons in the household. In addition to providing the above information, organizations distributing donated foods to households would be required to obtain a signed statement of assurance from the household applying for benefits to the effect that the household: (1) Is in need of food assistance; (2) understands that misrepresentation of need and the sale or exchange of the donated food are prohibited and could result in a fine, imprisonment, or both; (3) is not residing in a shelter which provides food assistance; and (4) is not receiving disaster food stamp assistance.

Two of the six commenters addressed the information collection requirements contained in the proposed rule. One commenter stated that the burden on his

State agency, its subunits and recipients would be minor, as similar information collection requirements already exist elsewhere, but at the same time, he expressed concern that, due to the burden, FCS may not be able to provide authorization to distribute commodities in a timely manner. The other commenter stated that the information collection requirements contained in the proposed rule would require a complex data collection and control system which would be very difficult to manage during a disaster. It was further recommended that the Federal Government fully finance food assistance programs in emergency situations.

It is the opinion of the Department that the information collection requirements as proposed provide the minimum requirements that are needed to maintain program accountability, i.e., to ensure that commodity distributions are truly necessary and that systems are in place to prevent dual participation. These requirements present a minimal burden, especially when balanced against the greater flexibility which the proposed rule affords to States. Additionally, FCS has proven its ability to respond quickly to disasters through its network of regional offices. Therefore, this final rule retains the information collection requirements as originally proposed.

With regard to the recommendation that the Department pay all costs incurred in providing food assistance to victims of disasters or situations of distress, while funds are authorized and appropriated for use in procuring commodities for such occurrences, the Department is not authorized to use such funds for the purpose of paying costs associated with the distribution of the commodities once they are delivered to the State.

With respect to disaster food stamps, Section 16 of the Food Stamp Act of 1977, as amended (7 U.S.C. 2011 *et seq.*), (the Act), only permits the Department to pay 50 percent of the administrative costs associated with issuing disaster food stamps, although the benefits are fully funded. Section 5(h) of the Act authorizes the Secretary, in response to a disaster, to establish temporary eligibility criteria and to adjust reporting and other application requirements as appropriate. Although it could have done so, Congress did not authorize the Secretary to depart from the provisions of the Act that allow the Department to pay 50 percent of State agencies' administrative costs. The Department, therefore, does not have the statutory authority to pay more than 50 percent of the administrative costs

incurred to issue disaster food stamp benefits.

#### *Types of Foods Authorized for Donation*

Sections 250.43(e) and 250.44(e) of the proposed rule identified the various legislative authorities under which the Secretary is afforded discretionary authority to authorize the use of commodities during disasters and situations of distress. One commenter was confused as to what commodities can be used from each of the food distribution programs to provide food assistance during situations of distress.

Commodities being held in State and local inventories for any food distribution program can be used to provide food assistance in such situations. However, in making decisions as to what types and amounts of commodities to make available, distributing agencies should keep in mind that, while there is a USDA replacement guarantee for commodities used in disasters, there is no such guarantee for commodities used in situations of distress.

#### *Summary Report*

Sections 250.43(f) and 250.44(f) of the proposed rule would have required the distributing agency to provide a summary report (Form FCS-292, Report of Coupon Issuance and Commodity Distribution for Disaster Relief) to the appropriate FCSRO within 30 days following termination of the disaster/distress assistance.

One commenter recommended that the 30-day requirement for the submission of such reports be extended to 45 days, based on past experience of 30 days being too short. The commenter cautioned against lengthening the time period beyond 45 days, because agencies and personnel disband following disasters and information thus becomes difficult to trace. FCS has decided to implement this suggestion, in deference to the experience of local agencies and in the interest of program flexibility. Therefore, this final rule extends the time limits in Sections 250.43(f) and 250.44(f) from 30 days to 45 days.

#### *Replacement of Foods Made Available*

When the distribution of commodities has been authorized for disasters or situations of distress, Sections 250.43(g) and 250.44(g) of the proposed rule would require that the distributing agency request replacement of foods used from State and/or local inventories, in writing to the FCSRO, within 30 days following termination of the assistance. In the case of disasters, the proposed rule provided for a waiver

of the 30-day requirement in instances when sufficient justification is provided, and guaranteed replacement of foods used from State and/or local inventories. In the case of situations of distress, no such waiver of the 30-day limit would be provided, and foods would be replaced only to the extent that they are available.

Two of the six commenters addressed the replacement provisions. One recommended that the replacement policy used for disasters be applied to situations of distress, and the other recommended that choice of foods made available in situations of distress be limited to those acquired through commodity loans and surplus-removal activities.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) specifically authorizes the Secretary to use funds appropriated under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to purchase commodities for use in providing food assistance to victims of Presidentially declared disasters. There is no specified limit as to the amount of funds that can be used for this purpose. In contrast, funds authorized for use in purchasing commodities for situations of distress are provided annually as part of the Department's appropriation and cannot exceed the level specified in the appropriations legislation. Therefore, while commodities used from State or local warehouses to provide food assistance for situations of distress will be replaced to the degree possible, the Department cannot guarantee replacement. With regard to the choice of food to be made available in situations of distress, the purpose of the proposed rule was merely to provide States with discretionary authority to make commodities available for distribution to households in situations of distress once FCS approval for such distributions is obtained. States will identify the types and amounts of commodities they wish to make available depending upon their inventories, immediate needs for other purposes, and additional factors unique to the situation. It would not be appropriate for the Department to impose limitations on foods which the State can make available. Therefore, the provisions contained in Sections 250.43(g) and 250.44(g) are retained in this final rule as proposed, except however, that the language contained in these sections has been revised to clarify that requests for replacement must be submitted only in instances when the distributing agency is seeking replacement of foods used from State and/or local inventories.

#### List of Subjects in 7 CFR Part 250

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Food processing, Grant programs-social programs, Indians, Infants and children, Commodity loan programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

Accordingly, 7 CFR Part 250 is amended as follows:

#### **PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION**

1. The authority citation for part 250 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 612c, 612c note, 1431, 1431b, 1431e, 1431 note, 1446a-1, 1859, 2014, 2025; 15 U.S.C. 713c; 22 U.S.C. 1922; 42 U.S.C. 1751, 1755, 1758, 1760, 1761, 1762a, 1766, 3030a, 5179, 5180.

2. In § 250.3:

- a. The definitions of *Emergency* and *Major disaster* are removed; and
- b. Definitions of *Disaster* and *Situation of distress* are added in alphabetical order.

The additions read as follows:

#### **§ 250.3 Definitions.**

\* \* \* \* \*

*Disaster* means:

(a) Any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) (Stafford Act) to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby; or

(b) Any other occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

\* \* \* \* \*

*Situation of distress* means:

(a) A hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other natural catastrophe not declared by the President to be a disaster, but which, in the judgment of the distributing agency, warrants the use of USDA commodities for congregate feeding; and

(b) Any other situation not declared by the President to be a disaster, but which, in the judgment of FCS, warrants the use of USDA commodities for congregate feeding or household distribution.

\* \* \* \* \*

3. Section 250.43 is revised to read as follows:

#### **§ 250.43 Disaster food assistance.**

(a) *Organizational eligibility.* In instances in which the President has declared a disaster and FCS has determined that, as a result of the disaster, low-income households are unable to purchase adequate amounts of nutritious food, disaster organizations (including agencies of State and Federal government) may be eligible to receive donated foods for congregate meal service or household distribution to disaster victims. Applications submitted by disaster organizations to the distributing agency for the receipt and distribution of donated foods in accordance with paragraphs (b)(2) and (c)(2) of this section shall be initially submitted in writing if circumstances permit and, if not, confirmed in writing in a timely manner. Both the applications and the written approval for the use of USDA commodities shall be maintained in accordance with the recordkeeping requirements of this part.

(b) *Congregate meal service—(1) Approval authority and duration.* Distributing agencies may review and approve applications submitted by disaster organizations for the donation of foods for use in preparing congregate meals for disaster victims. Distributing agencies also shall determine the length of such donations, taking into consideration the magnitude of the situation, and may extend the duration of such donations as developing circumstances dictate. Following approval of a request for donated foods, the distributing agency shall make appropriate donated foods available from any source within the State to the disaster organization(s) and within 24 hours of approving the application shall report the information listed in paragraph (b)(2) of this section to the appropriate FCSRO.

(2) *Applications.* (i) Disaster organizations wishing to receive donated foods for use in preparing meals for disaster victims shall submit applications to the distributing agency. Applications shall, to the extent possible, include the following information:

- (A) Description of disaster situation;
- (B) Number of people requiring meals;
- (C) Period of time for which commodities are requested; and
- (D) Quantity and types of food needed for congregate meal service.

(ii) In addition, organizations shall report to the distributing agency the number and location of sites providing congregate meal service as such sites are established.

(c) *Household distribution—(1) Approval authority and duration.* In instances in which the distributing agency has determined that the distribution of donated foods to households is appropriate, the distributing agency shall submit applications requesting approval for such distributions to the appropriate FCSRO for submission to FCS for prior approval. FCS will determine the length of time such donations will be made, taking into consideration the magnitude of the situation, and may extend the duration of such donations as developing circumstances dictate.

(2) *Applications.* (i) Disaster organizations wishing to receive and distribute donated foods to households shall submit applications to the distributing agency. Applications shall, to the extent possible, include the following information:

- (A) Description of disaster situation;
- (B) Identification of the specific area(s) included in the request;
- (C) Number of households affected;
- (D) Explanation as to why the distribution of commodities to households is warranted;
- (E) Anticipated distribution period;
- (F) Method(s) of distribution available;
- (G) Quantity and types of food needed for distribution;
- (H) Statement of assurance that simultaneous disaster food stamp benefits and commodity assistance will not be provided to individual households; and
- (I) Description of the system that will be implemented to prevent dual participation.

(ii) In addition, information on the number and location of sites where commodities are to be distributed shall be provided to the distributing agency as such sites are established.

(3) *Collection of household information.* In instances in which the

issuance of disaster food stamp benefits has been approved, any entity (i.e., Federal, State, or local) distributing donated foods to households shall, at a minimum, collect the information listed below in a format prescribed by the distributing agency. Such information shall be forwarded to the distributing agency and maintained by the distributing agency in accordance with the recordkeeping requirements contained in this part, except that such information may, at the discretion of the distributing agency, be maintained by the organization distributing commodities if such organization is an agency of the State government.

- (i) Name of household member applying for assistance;
- (ii) Address;
- (iii) Number of household members; and
- (iv) Statement signed by the household certifying that the household:
  - (A) Is in need of food assistance;
  - (B) Understands that misrepresentation of need, and the sale or exchange of the donated food, are prohibited and could result in a fine, imprisonment, or both;
  - (C) Is not residing in a shelter which provides food assistance; and
  - (D) Is not receiving disaster food stamp benefits.

(d) *Quantities and value of donated foods.* The distributing agency shall make donated foods available to approved disaster organizations based on the caseload factor information provided by the disaster organizations.

(e) *Types of donated foods authorized for donation.* Disaster organizations providing food assistance under this Section are eligible to receive donated foods under section 416, section 32, section 709, section 4(a), and sections 412 and 413 of the Stafford Act.

(f) *Summary report.* Within 45 days following termination of the disaster assistance, the distributing agency shall provide a summary report to the appropriate FCSRO using Form FCS-292, Report of Coupon Issuance and Commodity Distribution for Disaster Relief.

(g) *Replacement.* Distributing agencies which decide to seek replacement of foods used from State and/or local inventories for disaster assistance shall file their request in writing to the FCSRO within 30 days following termination of the assistance. FCS will replace such foods in instances when a request for replacement is submitted within the required 30 days or sufficient justification exists to waive the 30-day requirement.

4. Section 250.44 is revised to read as follows:

**§ 250.44 Food assistance in situations of distress.**

(a) *Organizational eligibility.* In situations of distress in which needs for food assistance cannot be met under other provisions of this Part, organizations (including agencies of State and Federal government) may be eligible to receive donated foods for congregate meal service or household distribution to victims of the situation of distress. Applications submitted to the distributing agency for the receipt and distribution of donated foods in accordance with paragraphs (b)(2) and (c)(2) of this section shall be initially submitted in writing if circumstances permit and, if not, confirmed in writing in a timely manner. Both the applications and the written approval for the use of USDA commodities shall be maintained in accordance with the recordkeeping requirements of this Part.

(b) *Congregate meal service. (1) Approval authority and duration.* Distributing agencies may review and approve applications for the donation of foods for use in preparing congregate meals for a period not to exceed 30 days for victims of situations of distress in instances in which the need for such assistance meets the conditions of paragraph (a) of the definition of *situation of distress* in § 250.3.

Following approval of a request, distributing agencies shall report the information listed in paragraph (b)(2) of this section to the appropriate FCSRO within 24 hours. In instances when the distributing agency extends the originally approved distribution period from less than 30 days to the 30-day limit, it shall notify the FCSRO of such extensions. Distributing agencies shall request approval from FCS, via the appropriate FCSRO, for donations to exceed 30 days. Upon determining that there is a need for the donation of foods for congregate meals in instances other than those that meet the criteria in paragraph (a) of the definition of *situation of distress* in § 250.3, the distributing agency shall forward applications to the appropriate FCSRO for submission to FCS for prior approval. FCS will determine the duration of such donations, taking into consideration the magnitude of the situation. Determinations as to the length of donations may be revised as developing circumstances dictate.

(2) *Applications.* (i) Organizations wishing to receive donated foods for use in preparing meals shall submit applications to the distributing agency. Applications shall, to the extent possible, include the following information:

(A) Description of the situation of distress;

(B) Number of people requiring meals and congregate meal service period; and

(C) Quantity and types of food needed.

(ii) In addition, information on the number and location of sites providing meals shall be submitted to the distributing agency as such sites are established.

(c) *Household distribution.*—(1) *Approval authority and duration.* In instances in which the distributing agency has determined that the distribution of donated foods to households is appropriate, the distributing agency shall submit applications requesting approval for such distributions to the appropriate FCSRO for submission to FCS for approval. FCS will determine the duration of the donations, taking into consideration the magnitude of the situation. Such determinations may be revised as developing circumstances dictate.

(2) *Applications.* (i) Organizations wishing to receive and distribute donated foods to households shall submit applications to the distributing agency. Applications shall, to the extent possible, include the following information:

(A) Description of the situation of distress;

(B) Explanation as to why the distribution of commodities to households is warranted;

(C) Identification of the specific area(s) included in the request;

(D) Anticipated distribution period;

(E) Number of households expected to participate;

(F) Quantity and types of food needed for distribution;

(G) Statement of assurance that simultaneous disaster food stamp benefits and commodity assistance will not be provided to individual households; and

(H) Description of the system that will be implemented to prevent dual participation.

(ii) In addition, information on the number and location of sites shall be provided to the distributing agency as such sites are established.

(3) *Collection of household information.* In a format prescribed by the distributing agency, any entity (i.e.,

Federal, State, or local) distributing donated foods to households in an area where the issuance of disaster food stamp benefits has been approved shall, at a minimum, collect the information listed below. Such information shall be forwarded to the distributing agency and maintained by the distributing agency in accordance with the recordkeeping requirements contained in this part, except that such information may, at the discretion of the distributing agency, be maintained by the organization distributing commodities if such organization is an agency of the State government.

(i) Name of household member applying for assistance;

(ii) Address;

(iii) Number of household members; and

(iv) Statement signed by the household certifying that the household:

(A) Is in need of food assistance;

(B) Understands that misrepresentation of need, and the sale or exchange of the donated food are prohibited and could result in a fine, imprisonment, or both;

(C) Is not residing in a shelter which provides food assistance; and

(D) Is not receiving disaster food stamp benefits.

(d) *Quantities and value of donated foods.* The distributing agency shall make donated foods available to eligible organizations based on the caseload factor information provided by the organizations.

(e) *Types of donated foods authorized for donation.* Organizations providing food assistance in situations of distress are eligible to receive donated foods under section 416, section 32, section 709, and section 4(a).

(f) *Summary report.* Within 45 days following termination of the assistance, the distributing agency shall provide a summary report to the appropriate FCSRO using Form FCS-292, Report of Coupon Issuance and Commodity Distribution for Disaster Relief.

(g) *Replacement.* Distributing agencies which decide to seek replacement of foods used from State and/or local inventories for situations of distress shall file their request in writing to the FCSRO within 30 days following termination of the assistance. FCS will replace such foods to the extent that foods are available.

Dated: February 14, 1997.  
 William E. Ludwig,  
*Administrator.*  
 [FR Doc. 97-4536 Filed 2-24-97; 8:45 am]  
 BILLING CODE 3410-30-U

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 95-NM-223-AD; Amendment 39-9894; AD 97-02-09]

RIN 2120-AA64

**Airworthiness Directives; Boeing Model 727 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects information in an existing airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, that currently requires inspections to detect cracking of the actuator rib fitting of the inboard door of the main landing gear (MLG); and various follow-on actions. This action corrects a reference to the amendment number of a previously-issued AD, which was superseded by AD 97-02-09.

**DATES:** Effective March 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 7, 1997 (62 FR 3988, January 28, 1997).

**SUPPLEMENTARY INFORMATION:** On January 14, 1997, the FAA issued AD 97-02-09, amendment 39-9894 (62 FR 3988, January 28, 1997), which is applicable to all Boeing Model 727 series airplanes. That AD requires inspections to detect cracking of the actuator rib fitting of the inboard door of the main landing gear (MLG); and various follow-on actions. It was prompted by a report of a fractured rib fitting that had been reworked in accordance with one of two existing AD's. The actions specified by that AD are intended to prevent damage to the airplane caused by a failure of the landing gear to extend due to a fractured rib fitting.

AD No.	Amendment No.	Federal Register citation
AD 90-02-19 .....	39-6433	(55 FR 601, January 8, 1990)
AD 93-01-14 .....	39-8468	(58 FR 5574, January 22, 1993)