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PART 251—THE EMERGENCY FOOD ASSISTANCE PROGRAM

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§251.1 General purpose and scope.

This part announces the policies and prescribes the regulations necessary to carry out certain provisions of the Temporary Emergency Food Assistance Act of 1983, (7 U.S.C. 612c *note*).

§251.2 Administration.

(a) Within the United States Department of Agriculture (the “Department”), the Food and Nutrition Service (FNS) shall have responsibility for the distribution of food commodities and allocation of funds under the part.

(b) Within the States, distribution to emergency feeding organizations and receipt of payments for storage and distribution shall be the responsibility of the State agency which has: (1) Been designated for such responsibility by the Governor or other appropriate State executive authority; and (2) entered into an agreement with the Department for such distribution and re-

ceipt in accordance with paragraph (c) of this section.

(c) Each State agency that distributes donated foods to emergency feeding organizations or receives payments for storage and distribution costs in accordance with §251.8 shall perform those functions pursuant to an agreement entered into with the Department. This agreement shall be considered permanent, with amendments initiated by distributing agencies, or submitted by them at the Department’s request, all of which shall be subject to approval by the Department. Such State agencies shall enter into a written agreement with eligible emergency feeding organizations. This agreement shall provide that emergency feeding organizations agree to operate the program in accordance with the requirements of this part, and, as applicable, part 250 of this chapter. The agreement shall be considered permanent, with amendments to be made as necessary. State agencies shall ensure that emergency feeding organizations provide, on a timely basis, by amendment to the agreement, any information on changes in program administration, including, but not limited to, any changes resulting from amendments to Federal regulations or policy.

[51 FR 12823, Apr. 16, 1986, as amended at 51 FR 17933, May 13, 1987; 59 FR 16974, Apr. 11, 1994; 62 FR 53731, Oct. 16, 1997]

§251.3 Definitions.

For the purposes of this part:

(a) The terms used in this part that are defined in part 250 of this chapter shall have the meanings ascribed to them therein.

(b) *Distribution site* means the location(s) where the emergency feeding organization actually distributes commodities to needy persons under this part.

(c) *Emergency feeding organization* means any public or nonprofit private organization which has entered into an agreement with the designated State agency to provide nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons, and which receives commodities under agreements

pursuant to §251.2(c). Emergency feeding organizations include charitable institutions, food banks, hunger centers, soup kitchens, and similar public or private nonprofit eligible recipient agencies.

(d) *Formula* means the formula used by the Department to allocate among States the commodities and funding available under this part. The amount of such commodities and funds to be provided to each State will be based on each State's population of low-income and unemployed persons, as compared to national statistics. Each State's share of commodities and funds shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State. The surplus commodities will be allocated to States on the basis of their weight (pounds), and the commodities purchased under section 214 of the Emergency Food Assistance Act of 1983 will be allocated on the basis of their value (dollars). In instances in which a State determines that it will not accept the full amount of its allocation of commodities purchased under section 214 of the Emergency Food Assistance Act of 1983, the Department will reallocate the commodities to other States on the basis of the same formula used for the initial allocation.

(e) *State agency* means the State government unit designated by the Governor or other appropriate State executive authority which has entered into an agreement with the United States Department of Agriculture under §251.2(c).

(f) *Value of commodities distributed* means the Department's cost of acquiring commodities for distribution under this part.

[51 FR 12823, Apr. 16, 1986, as amended at 59 FR 16974, Apr. 11, 1994]

§251.4 Availability of commodities.

(a) *General.* The Department shall make commodities available for distribution and use in accordance with the provisions of this part and also in accordance with the terms and conditions of part 250 of this chapter to the extent that the part 250 terms and con-

ditions are not inconsistent with this part.

(b) *Displacement.* State agencies shall require that emergency feeding organizations receiving commodities under this part shall not diminish their normal expenditures for food because of receipt of commodities. Additionally, the Secretary shall withhold commodities from distribution if it is determined that the commodities would substitute for the same or a similar product that would otherwise be purchased in the market.

(c) *Allocations.* (1) Allocations of commodities shall be made to State agencies on the basis of the formula defined in §251.3(d).

(2) FNS shall promptly notify State agencies regarding their allocation of commodities to be made available under this part.

(3) State agencies shall notify the appropriate FNSRO of the amount of the commodities they will accept not later than 30 days prior to the beginning of the shipping period.

(d) *Quantities requested.* State agencies shall:

(1) Request commodities only in quantities which can be utilized without waste in providing food assistance to needy persons under this part;

(2) Ensure that no emergency feeding organization receives commodities in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities; and

(3) Establish distribution rates, based on household size, to be used by emergency feeding organizations which provide commodities to needy persons in households.

(e) *Initial processing and packaging.* The Department will furnish commodities to be distributed to institutions and to needy persons in households in forms and units suitable for institutional and home use.

(f) *Bulk processing by States.* Commodities may be made available to a State agency or, at the direction of the State agency, directly to private companies for processing bulk commodities for use by emergency feeding organizations.