

§ 250.57

(b) *Types of donated foods distributed.* The Department purchases a wide variety of foods for distribution in NSLP each school year. A list of available foods is posted on the FNS Web site, for access by distributing agencies and school food authorities. In addition to Section 6 foods (42 U.S.C. 1755) as described in paragraph (c) of this section, the distributing agency may also receive Section 14 donated foods (42 U.S.C. 1762(a)), and donated foods under Section 32 (7 U.S.C. 612c), Section 416 (7 U.S.C. 1431), or Section 709 (7 U.S.C. 1446a-1), as available.

(c) *National per-meal value of donated foods.* For each school year, the distributing agency receives, at a minimum, the national per-meal value of donated foods, as established by Section 6(c) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)), multiplied by the number of reimbursable lunches served in the State in the previous school year. The donated foods provided in this manner are referred to as Section 6 foods, or entitlement foods. The national per-meal value is adjusted each year to reflect changes in the Bureau of Labor Statistic's Producer Price Index for Foods Used in Schools and Institutions, in accordance with the Richard B. Russell National School Lunch Act. The adjusted value is published in a notice in the FEDERAL REGISTER in July of each year. Reimbursable lunches are those that meet the nutritional standards established in 7 CFR part 210, and that are reported to FNS, in accordance with the requirements in that part.

(d) *Donated food values used to credit distributing agency entitlement levels.* FNS uses the average price (cost per pound) for USDA purchases of donated food made in a contract period to credit distributing agency entitlement levels.

(e) *Cash in lieu of donated foods.* States that phased out their food distribution facilities prior to July 1, 1974, are permitted to choose to receive cash in lieu of the donated foods to which they would be entitled in NSLP, in accordance with the Richard B. Russell National School Lunch Act (42 U.S.C. 1765) and with 7 CFR part 240.

7 CFR Ch. II (1-1-15 Edition)

§ 250.57 Commodity schools.

(a) *Categorization of commodity schools.* Commodity schools are schools that operate a nonprofit school food service in accordance with 7 CFR part 210, but receive additional donated food assistance rather than the general cash payment available to them under Section 4 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753). In addition to requirements in this part relating to donated foods, commodity schools must adhere to Federal regulations in 7 CFR part 210, as applicable.

(b) *Value of donated foods for commodity schools.* For participating commodity schools, the distributing agency receives donated foods valued at the sum of the national per-meal value and the value of the general cash payment available to it under Section 4 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753), multiplied by the number of reimbursable lunches served by commodity schools in the previous school year. From the total value of donated food assistance for which it is eligible, a commodity school may elect to receive up to 5 cents per meal in cash to cover processing and handling expenses related to the use of donated foods. In addition to Section 6 and Section 14 foods under the Richard B. Russell National School Lunch Act (42 U.S.C. 1755 and 1762(a)), the distributing agency may also receive donated foods under Section 32 (7 U.S.C. 612c), Section 416 (7 U.S.C. 1431), or Section 709 (7 U.S.C. 1446a-1), as available, for commodity schools.

§ 250.58 Ordering donated foods and their provision to school food authorities.

(a) *Ordering and distribution of donated foods.* The distributing agency orders donated foods through a Web-based system called the Electronic Commodity Ordering System (ECOS). Through ECOS, the distributing agency places orders directly into a centralized computer system. Before submitting orders for donated foods to FNS, the distributing agency must ensure that all school food authorities are aware of the full list of available donated foods, and have the opportunity to provide input at least annually in

determining the donated foods from the full list that are made available to them for ordering or selection. The distributing agency must ensure distribution to school food authorities of all such selected donated foods that may be cost-effectively distributed to them, and may not prohibit the use of split shipments in determining such cost-effectiveness.

(b) *Value of donated foods offered to school food authorities.* In accordance with Section 6(c) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)), the distributing agency must offer the school food authority, at a minimum, the national per-meal value of donated food assistance multiplied by the number of reimbursable lunches served by the school food authority in the previous school year. This is referred to as the commodity offer value. For a commodity school, the distributing agency must offer the sum of the national per-meal value of donated foods and the value of the general cash payment available to it under Section 4 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753), multiplied by the number of reimbursable lunches served by the school in the previous school year. The school food authority may also receive bonus foods, as available, in addition to the Section 6 foods.

(c) *Receipt of less donated foods than the commodity offer value.* In certain cases, the school food authority may receive less donated foods than the commodity offer value in a school year. This “adjusted” value of donated foods is referred to as the adjusted assistance level. For example, the school food authority may receive an adjusted assistance level if:

(1) The distributing agency, in consultation with the school food authority, determines that the school food authority cannot efficiently utilize the commodity offer value of donated foods; or

(2) The school food authority does not order, or select, donated foods equal to the commodity offer value that can be cost-effectively distributed to it.

(d) *Receipt of more donated foods than the commodity offer value.* The school food authority may receive more do-

nated foods than the commodity offer value if the distributing agency, in consultation with the school food authority, determines that the school food authority may efficiently utilize more donated foods than the commodity offer value, and more donated foods are available for distribution. This may occur, for example, if other school food authorities receive less than the commodity offer value of donated foods for one of the reasons described in paragraph (c) of this section.

(e) *Donated food values required in crediting school food authorities.* The distributing agency must use one of the following values for donated foods in crediting the school food authority for its commodity offer value or adjusted assistance level:

(1) The USDA purchase price (cost per pound), which may be an average price for purchases made for the duration of the contract with the food vendor;

(2) Estimated cost-per-pound data provided by the Department, as included in commodity survey memoranda; or

(3) The USDA commodity file cost as of a date specified by the distributing agency.

§ 250.59 Storage and inventory management of donated foods.

(a) *General requirements.* Distributing agencies, subdistributing agencies, and school food authorities must meet the requirements for storage and inventory of donated foods in § 250.14, in addition to the requirements in this section.

(b) *Storage at distributing agency level.* The distributing or subdistributing agency, or storage facilities with which they have contracts, must store donated foods in a manner that permits them to be distinguished from commercially purchased foods or other foods, in order to ensure compliance with the requirements for the distribution and control of donated foods in this part.

(c) *Storage by school food authorities.* The school food authority may store and inventory donated foods together with commercially purchased foods and other foods, under a single inventory management system, as defined in this