

subject to the penalties described in section 7484(i)(3)(C)(ii) of this title.

(Pub. L. 104-127, title V, §576, Apr. 4, 1996, 110 Stat. 1081.)

### § 7486. Petition and review

#### (a) Petition

##### (1) In general

A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or obligation or an exemption from the order or obligation.

##### (2) Statute of limitations

A petition under paragraph (1) concerning an obligation may be filed not later than 2 years after the date of imposition of the obligation.

##### (3) Hearings

The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

##### (4) Ruling

After a hearing under paragraph (3), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

#### (b) Review

##### (1) Commencement of action

The district court of the United States for any district in which a person who is a petitioner under subsection (a) of this section resides or carries on business shall have jurisdiction to review a ruling on the petition, if the person files a complaint not later than 20 days after the date of issuance of the ruling under subsection (a)(4) of this section.

##### (2) Process

Service of process in a proceeding under paragraph (1) may be made on the Secretary by delivering a copy of the complaint to the Secretary.

##### (3) Remands

If the court determines, under paragraph (1), that a ruling issued under subsection (a)(4) of this section is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

#### (c) Enforcement

The pendency of proceedings instituted under subsection (a) of this section may not impede, hinder, or delay the Secretary or the Attorney General from taking action under section 7487 of this title.

(Pub. L. 104-127, title V, §577, Apr. 4, 1996, 110 Stat. 1082.)

### § 7487. Enforcement

#### (a) In general

The Secretary may issue an enforcement order to restrain or prevent any person from violating an order or regulation issued under this subchapter and may assess a civil penalty of not more than \$1,000 for each violation of the enforcement order, after an opportunity for an administrative hearing, if the Secretary determines that the administration and enforcement of the order and this subchapter would be adequately served by such a procedure.

#### (b) Jurisdiction

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation issued under this subchapter.

#### (c) Referral to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

(Pub. L. 104-127, title V, §578, Apr. 4, 1996, 110 Stat. 1082.)

### § 7488. Investigations and power to subpoena

#### (a) Investigations

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subchapter; and

(2) to determine whether any person subject to this subchapter has engaged, or is about to engage, in an act that constitutes or will constitute a violation of this subchapter or of an order or regulation issued under this subchapter.

#### (b) Oaths, affirmations, and subpoenas

For the purpose of an investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

#### (c) Aid of courts

##### (1) Request

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of the person and the production of records.

##### (2) Enforcement order of the court

The court may issue an enforcement order requiring the person to appear before the Secretary to produce records or to give testimony concerning the matter under investigation.

##### (3) Contempt

A failure to obey an enforcement order of the court under paragraph (2) may be punished by the court as a contempt of the court.

**(4) Process**

Process in a case under this subsection may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(Pub. L. 104-127, title V, §579, Apr. 4, 1996, 110 Stat. 1083.)

**§ 7489. Relation to other programs**

Nothing in this subchapter preempts or supercedes any other program relating to popcorn promotion organized and operated under the laws of the United States or any State.

(Pub. L. 104-127, title V, §580, Apr. 4, 1996, 110 Stat. 1083.)

**§ 7490. Regulations**

The Secretary may issue such regulations as are necessary to carry out this subchapter.

(Pub. L. 104-127, title V, §581, Apr. 4, 1996, 110 Stat. 1083.)

**§ 7491. Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out this subchapter. Amounts made available under this section or otherwise made available to the Department, and amounts made available under any other marketing or promotion order, may not be used to pay any administrative expense of the Board.

(Pub. L. 104-127, title V, §582, Apr. 4, 1996, 110 Stat. 1083.)

**CHAPTER 102—EMERGENCY FOOD ASSISTANCE**

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**CODIFICATION**

This chapter is comprised principally of title II (§§ 201-215) of Pub. L. 98-8, Mar. 24, 1983, 97 Stat. 35, as amended. Title II of Pub. L. 98-8 was formerly set out as a note under section 612c of this title. Section 203 of title II of Pub. L. 98-8, which related to processing agreements, was repealed by Pub. L. 99-198, title XV, §1567(c), Dec. 23, 1985, 99 Stat. 1592. Section 207 of title II of Pub. L. 98-8 amended section 4(c) of the Agriculture and Consumer Protection Act of 1973, Pub. L. 93-86, set out as a note under section 612c of this title. Section 209 of title II of Pub. L. 98-8, which related to commodity supplemental food program administrative expenses, was repealed by Pub. L. 99-198, title XV, §1562(e)(1), Dec. 23, 1985, 99 Stat. 1590. Section 212 of title II of Pub. L. 98-8, which provided for termination of title II of Pub. L. 98-8 on Sept. 30, 2002, was repealed by Pub. L. 104-193, title VIII, §871(e)(4), Aug. 22, 1996, 110 Stat. 2345.

**§ 7501. Definitions**

In this chapter:

**(1) Additional commodities**

The term “additional commodities” means commodities made available under section 7515 of this title in addition to the commodities made available under sections 7502 and 7507 of this title.

**(2) Average monthly number of unemployed persons**

The term “average monthly number of unemployed persons” means the average monthly number of unemployed persons in each State during the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.

**(3) Eligible recipient agency**

The term “eligible recipient agency” means a public or nonprofit organization that—

- (A) administers—
  - (i) an emergency feeding organization;
  - (ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;
  - (iii) a summer camp for children, or a child nutrition program providing food service;
  - (iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C.

3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or

(v) a disaster relief program;

(B) has been designated by the appropriate State agency, or by the Secretary; and

(C) has been approved by the Secretary for participation in the program established under this chapter.

#### (4) Emergency feeding organization

The term “emergency feeding organization” means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

#### (5) Food bank

The term “food bank” means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

#### (6) Food pantry

The term “food pantry” means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

#### (7) Poverty line

The term “poverty line” has the meaning provided in section 9902(2) of title 42.

#### (8) Soup kitchen

The term “soup kitchen” means a public or charitable institution that, as an integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

#### (9) Total value of additional commodities

The term “total value of additional commodities” means the actual cost of all additional commodities that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

#### (10) Value of additional commodities allocated to each State

The term “value of additional commodities allocated to each State” means the actual cost of additional commodities allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

(Pub. L. 98-8, title II, §201A, as added Pub. L. 98-92, §2(2), Sept. 2, 1983, 97 Stat. 608; amended

Pub. L. 99-198, title XV, §1563, Dec. 23, 1985, 99 Stat. 1590; Pub. L. 104-193, title VIII, §871(a), Aug. 22, 1996, 110 Stat. 2343.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning the Emergency Food Assistance Act of 1983, title II of Pub. L. 98-8, Mar. 24, 1983, 97 Stat. 35, as amended, which enacted this chapter and amended provisions set out as a note under section 612c of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Older Americans Act of 1965, referred to in par. (3)(A)(iv), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

#### AMENDMENTS

1996—Pub. L. 104-193 amended section generally, substituting provisions containing an opening provision and pars. (1) to (10) defining “additional commodities”, “average monthly number of unemployed persons”, “eligible recipient agency”, “emergency feeding organization”, “food bank”, “food pantry”, “poverty line”, “soup kitchen”, “total value of additional commodities”, and “value of additional commodities allocated to each state” for an opening provision and pars. (1) to (6) defining “eligible recipient agencies”.

1985—Par. (1). Pub. L. 99-198 inserted before semicolon at end “(including the activities and projects of charitable institutions, food banks, hunger centers, soup kitchens, and similar public or private nonprofit eligible recipient agencies) hereinafter in this chapter referred to as ‘emergency feeding organizations’”.

#### EFFECTIVE DATE

Section 2 of Pub. L. 98-92 provided in part that the amendments made by that section [enacting this section and sections 7504 to 7506 and 7513 of this title and amending sections 7502, 7508, 7509, and 7512] are effective Oct. 1, 1983.

#### SHORT TITLE

Section 201 of title II of Pub. L. 98-8, as amended by Pub. L. 98-92, §2(1), Sept. 2, 1983, 97 Stat. 608; Pub. L. 101-624, title XVII, §1772(a)(2), Nov. 28, 1990, 104 Stat. 3808, provided that: “This title [enacting this chapter and amending provisions set out as a note under section 612c of this title] may be cited as the ‘Emergency Food Assistance Act of 1983’, and is hereinafter in this title referred to as ‘this Act’.”

### § 7502. Availability of CCC commodities

#### (a) In general

Notwithstanding any other provision of law, in order to complement the domestic nutrition programs, make maximum use of the Nation’s agricultural abundance, and expand and improve the domestic distribution of price-supported commodities, commodities acquired by the Commodity Credit Corporation that the Secretary of Agriculture (hereinafter referred to as the “Secretary”) determines, in his discretion, are in excess of quantities needed to—

(1) carry out other domestic donation programs,

(2) meet other domestic obligations (including quantities needed to carry out a payment-in-kind acreage diversion program),

(3) meet international market development and food aid commitments, and

(4) carry out the farm price and income stabilization purposes of the Agricultural Adjust-

ment Act of 1938 [7 U.S.C. 1281 et seq.], the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], and the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.],

shall be made available by the Secretary, without charge or credit for such commodities, for use by eligible recipient agencies for food assistance.

**(b) Repealed. Pub. L. 99-198, title XV, § 1565(a)(2), Dec. 23, 1985, 99 Stat. 1591**

**(c) Additional commodities**

In addition to any commodities described in subsection (a) of this section, in carrying out this chapter, the Secretary may use agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 612c of this title.

**(d) Varieties of commodities**

Commodities made available under this chapter shall include a variety of commodities and products thereof that are most useful to eligible recipient agencies, including, but not be<sup>1</sup> limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal.

**(e) Report to Congress**

Effective April 1, 1986, the Secretary shall submit semiannually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the types and amounts of commodities made available for distribution under this chapter.

**(f) Relation to other programs**

Notwithstanding any other provision of law, the programs authorized by section 713a-14 of title 15 and section 1163 of the Food Security Act of 1985 shall not be operated in a manner that will, in any way, reduce the quantities of dairy products that traditionally are made available to carry out this chapter or any other domestic feeding program.

**(g) Donations to emergency feeding organizations**

(1) Whenever commodities acquired by the Commodity Credit Corporation are made available for donation to domestic food programs in quantities that exceed Federal obligations, the Secretary shall give equal consideration to making donations of such commodities to emergency feeding organizations participating in the program authorized by this chapter as is given to other commodity recipient agencies, taking into account the types and amounts of commodities available and appropriate for distribution to these organizations.

(2) In determining the commodities that will be made available to emergency feeding organizations under this chapter, the Secretary may distribute commodities that become available on a seasonal or irregular basis.

(Pub. L. 98-8, title II, §202, Mar. 24, 1983, 97 Stat. 35; Pub. L. 98-92, §2(3), (4), Sept. 2, 1983, 97 Stat. 609; Pub. L. 99-198, title XV, §§1564(a), 1565(a), Dec. 23, 1985, 99 Stat. 1591; Pub. L. 100-77, title

VIII, §811, July 22, 1987, 101 Stat. 536; Pub. L. 100-435, title I, §101, Sept. 19, 1988, 102 Stat. 1647; Pub. L. 101-624, title XVII, §1772(b), Nov. 28, 1990, 104 Stat. 3808.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, referred to in subsec. (a)(4), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Agricultural Act of 1949, referred to in subsec. (a)(4), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (a)(4), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

Section 1163 of the Food Security Act of 1985, referred to in subsec. (f), is section 1163 of Pub. L. 99-198, which is set out as a note under section 1731 of this title.

AMENDMENTS

1990—Subsec. (g). Pub. L. 101-624 added subsec. (g).

1988—Subsec. (f). Pub. L. 100-435 added subsec. (f).

1987—Subsec. (a). Pub. L. 100-77, §811(b), inserted subsec. (a) designation.

Subsec. (d). Pub. L. 100-77, §811(a), inserted “a variety of commodities and products thereof that are most useful to eligible recipient agencies, including” after “shall include”.

1985—Pub. L. 99-198, §1565(a), struck out subsec. (a) designation and struck out subsec. (b) which read as follows: “Notwithstanding any other provision of law, if wheat stocks acquired by the Commodity Credit Corporation are not available for the purposes of this chapter, up to 300,000 metric tons of wheat designated under section 1736f-1(b)(1) of this title may be used for the purposes of this chapter. Any amount of wheat used from the Food Security Wheat Reserve under this chapter shall be replenished by an equivalent quantity of wheat under the provisions of section 1736f-1(b) of this title as soon as practicable, but before October 1, 1985.”

Subsecs. (c) to (e). Pub. L. 99-198, §1564(a), added subsecs. (c) to (e).

1983—Subsec. (a). Pub. L. 98-92, §2(3), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Notwithstanding any other provision of law, commodities acquired by the Commodity Credit Corporation that are in excess of quantities needed for the fiscal year to carry out a payment-in-kind acreage diversion program, maintain U.S. share of world markets, and meet international market development and food aid commitments, shall be made available by the Secretary of Agriculture (hereinafter in this chapter referred to as the ‘Secretary’) without charge or credit in such fiscal year for use by eligible recipient agencies. Upon request, commodities provided by the CCC shall be provided in a form suitable for individual household or institutional use.”

Subsec. (b). Pub. L. 98-92, §2(4), substituted “may be used” for “shall be used” and directed the substitution of “October 1, 1985” for “December 1, 1983”, which was executed by making the substitution for “December 31, 1983” to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-435 to be effective and implemented on Sept. 19, 1988, see section 701(b)(1) of Pub. L. 100-435, set out as a note under section 2012 of this title.

<sup>1</sup> So in original. The word “be” probably should not appear.

## EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98-92 provided in part that the amendment made by that section is effective Oct. 1, 1983.

**§ 7503. State plan****(a) In general**

To receive commodities under this chapter, a State shall submit a plan of operation and administration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

**(b) Requirements**

Each plan shall—

(1) designate the State agency responsible for distributing the commodities received under this chapter;

(2) set forth a plan of operation and administration to expeditiously distribute commodities under this chapter;

(3) set forth the standards of eligibility for recipient agencies; and

(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—

(A) individuals or households to be comprised of needy persons; and

(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance.

**(c) State advisory board**

The Secretary shall encourage each State receiving commodities under this chapter to establish a State advisory board consisting of representatives of all entities in the State, both public and private, interested in the distribution of commodities received under this chapter.

(Pub. L. 98-8, title II, §202A, as added Pub. L. 100-77, title VIII, §812, July 22, 1987, 101 Stat. 537; amended Pub. L. 104-193, title VIII, §871(b), Aug. 22, 1996, 110 Stat. 2344.)

## AMENDMENTS

1996—Pub. L. 104-193 amended section generally, substituting present provisions for provisions relating to availability of flour, cornmeal, and cheese acquired by the Commodity Credit Corporation.

**§ 7504. Initial processing costs**

The Secretary may use funds of the Commodity Credit Corporation to pay costs of initial processing and packaging of commodities to be distributed under the program established under this chapter into forms, and in quantities, suitable, as determined by the Secretary, for use in individual households when such commodities are to be consumed by individual households or for institutional use, as applicable. The Secretary may pay such costs in the form of Corporation-owned commodities equal in value to such costs. The Secretary shall ensure that any such payments in kind will not displace commercial sales of such commodities.

(Pub. L. 98-8, title II, §203A, as added Pub. L. 98-92, §2(5), Sept. 2, 1983, 97 Stat. 609; amended Pub. L. 99-198, title XV, §1565(b), Dec. 23, 1985, 99 Stat. 1591.)

## AMENDMENTS

1985—Pub. L. 99-198 struck out “, except that wheat from the Food Security Wheat Reserve may not be used to pay such costs” after “equal in value to such costs”.

## EFFECTIVE DATE

Section 2 of Pub. L. 98-92 provided in part that this section is effective Oct. 1, 1983.

**§ 7505. Federal and State responsibilities****(a) Federal responsibility; optional State priority**

The Secretary shall, as expeditiously as possible, provide the commodities made available under this chapter in such quantities as can be used without waste to State agencies designated by the Governor or other appropriate State official for distribution to eligible recipient agencies, except that the Secretary may provide such commodities directly to eligible recipient agencies and to private companies that process such commodities for eligible recipient agencies under sections<sup>1</sup> 7504 of this title. Notwithstanding any other provision of this chapter, in the distribution of commodities under this chapter, each State agency shall have the option to give priority to existing food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households, including food from sources other than the Department of Agriculture.

**(b) Distribution by State agencies; priority; rural areas**

State agencies receiving commodities under this chapter shall, as expeditiously as possible, distribute such commodities, in the quantities requested (to the extent practicable), to eligible recipient agencies within their respective States. However, if a State agency cannot meet all requests for a particular commodity under this chapter, the State agency shall give priority in the distribution of such commodity to eligible recipient agencies providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons. Each State agency shall encourage distribution of such commodities in rural areas.

**(c) Distribution to needy persons**

Each State agency receiving commodities for individual household use under this chapter shall distribute such commodities to eligible recipient agencies in the State that serve needy persons, and shall, with the approval of the Secretary, determine those persons in the State that shall qualify as needy persons eligible for such commodities.

**(d) Cooperative agreements with adjoining States**

Each State agency receiving commodities under this chapter may—

(1) enter into cooperative agreements with State agencies of other States for joint provision of such commodities to an emergency feeding organization that serves needy persons

<sup>1</sup> So in original. Probably should be “section”.

in a single geographical area part of which is situated in each of such States; or

(2) transfer such commodities to any such emergency feeding organization in the other State under such agreement.

(Pub. L. 98-8, title II, §203B, as added Pub. L. 98-92, §2(5), Sept. 2, 1983, 97 Stat. 610; amended Pub. L. 99-198, title XV, §1568, Dec. 23, 1985, 99 Stat. 1592; Pub. L. 100-435, title I, §105(c), Sept. 19, 1988, 102 Stat. 1651; Pub. L. 104-193, title VIII, §871(e)(1), Aug. 22, 1996, 110 Stat. 2345.)

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-193 substituted “203A”, which was translated as “section 7504 of this title”, for “203 and 203A of this Act”.

1988—Subsec. (a). Pub. L. 100-435 inserted at end “Notwithstanding any other provision of this chapter, in the distribution of commodities under this chapter, each State agency shall have the option to give priority to existing food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households, including food from sources other than the Department of Agriculture.”

1985—Subsec. (b). Pub. L. 99-198, §1568(a), inserted at end “Each State agency shall encourage distribution of such commodities in rural areas.”

Subsec. (d). Pub. L. 99-198, §1568(b), added subsec. (d).

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-435 to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100-435, set out as a note under section 2012 of this title.

#### EFFECTIVE DATE

Section 2 of Pub. L. 98-92 provided in part that this section is effective Oct. 1, 1983.

#### § 7506. Assurances; anticipated use

(a) The Secretary shall take such precautions as the Secretary deems necessary to assure that any eligible recipient agency receiving commodities under this chapter will provide such commodities to persons served by the eligible recipient agency and will not diminish its normal expenditures for food by reason of the receipt of such commodities. The Secretary shall also take such precautions as the Secretary deems necessary to assure that commodities made available under this chapter will not displace commercial sales of such commodities or the products thereof. The Secretary shall not make commodities available for donation in any quantity or manner that the Secretary, in the Secretary’s discretion, determines may, substitute for the same or any other agricultural produce that would otherwise be purchased in the market.

(b) Commodities provided under this chapter shall be distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this chapter in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

(Pub. L. 98-8, title II, §203C, as added Pub. L. 98-92, §2(5), Sept. 2, 1983, 97 Stat. 610; amended Pub. L. 99-198, title XV, §1566, Dec. 23, 1985, 99 Stat. 1591; Pub. L. 104-66, title I, §1011(k), Dec. 21, 1995, 109 Stat. 710.)

#### AMENDMENTS

1995—Subsec. (a). Pub. L. 104-66 struck out at end “The Secretary shall submit to Congress each year a

report as to whether and to what extent such displacements or substitutions are occurring.”

1985—Subsec. (a). Pub. L. 99-198 inserted at end “The Secretary shall submit to Congress each year a report as to whether and to what extent such displacements or substitutions are occurring.”

#### EFFECTIVE DATE

Section 2 of Pub. L. 98-92 provided in part that this section is effective Oct. 1, 1983.

#### § 7507. State and local supplementation of commodities

##### (a) Authorization

The Secretary shall establish procedures under which State and local agencies, charitable institutions, or any other persons may supplement the commodities distributed under the program authorized by this chapter for use by emergency feeding organizations with nutritious and wholesome commodities that such entities or persons donate to State agencies and emergency feeding organizations for distribution, in all or part of the State, in addition to the commodities otherwise made available under this chapter.

##### (b) Use of funds and facilities

States and emergency feeding organizations may use the funds appropriated under this chapter and equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this chapter, and the personnel, both paid or volunteer, involved in such storage, handling, or distribution, to store, handle or distribute commodities donated for the use of emergency feeding organizations under subsection (a) of this section.

##### (c) Volunteer workers

State and emergency feeding organizations shall continue, to the maximum extent practicable, to use volunteer workers and commodities and other foodstuffs donated by charitable and other organizations in the operation of the program authorized by this section.

(Pub. L. 98-8, title II, §203D, as added Pub. L. 100-435, title I, §102, Sept. 19, 1988, 102 Stat. 1647.)

#### EFFECTIVE DATE

Section to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100-435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.

#### § 7508. Authorization and appropriations

(a)(1) There are authorized to be appropriated \$60,000,000 for each of the fiscal years 2003 through 2007 for the Secretary to make available to the States to pay for the direct and indirect costs of the States related to the processing, storage, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this chapter and commodities secured from other sources, including commodities secured by gleaning (as defined in section 111(a) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note; Public Law 100-435)). Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis, dividing such funds among the

situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons, provided that in no case shall such payments exceed five per centum of the value of commodities distributed by any such agency.”

Subsec. (a)(1). Pub. L. 101-624, §1772(c)(3), substituted “1991 through 1995” for “ending September 30, 1986, through September 30, 1990.”

Subsec. (a)(2). Pub. L. 101-624, §1772(d), inserted “re-packaging, processing,” after “handling,” in second sentence.

Subsec. (b). Pub. L. 101-624, §1772(c)(1), (2), redesignated subsec. (d) as (b) and struck out former subsec. (b) which read as follows: “There are hereby authorized to be appropriated \$50,000,000 for each of the fiscal years ending September 30, 1984, and September 30, 1985, for the Secretary to make available to the States for storage and distribution costs of which not less than twenty per centum of the amount appropriated under this subsection in any fiscal year shall be made available for paying or providing advance payments to cover the actual costs incurred by charitable institutions, food banks, hunger centers, soup kitchens, and similar non-profit eligible recipient agencies providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons: *Provided*, That in no case shall such payments exceed five per centum of the value of commodities distributed by any such agency.”

Subsecs. (c), (d). Pub. L. 101-624, §1772(c)(2), redesignated subsecs. (c) and (d) as (a) and (b), respectively.

1988—Subsec. (c)(1). Pub. L. 100-435, §105(a), inserted at end “States may also use funds provided under this paragraph to pay for the costs associated with the distribution of commodities under the program authorized under section 110 of the Hunger Prevention Act of 1988, and to pay for the costs associated with the distribution of additional commodities provided pursuant to section 7515 of this title.”

Pub. L. 100-435, §103(a), substituted “through September 30, 1990” for “through September 30, 1988” in first sentence.

Subsec. (c)(2). Pub. L. 100-435, §103(b), (c), in first sentence, substituted “40” for “20” and, in second sentence, inserted “costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities;” after “documentation;”.

1987—Subsec. (c)(1). Pub. L. 100-77 substituted “through September 30, 1988” for “and September 30, 1987” in first sentence.

1985—Subsecs. (c), (d). Pub. L. 99-198 added subsec. (c) and redesignated former subsec. (c) as (d).

1983—Subsecs. (b), (c). Pub. L. 98-92 added subsec. (b), designated former last sentence of subsec. (a) as (c), and substituted therein “appropriations made or authorized under this section” for “this appropriation”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-171 effective Oct. 1, 2002, except as otherwise provided, see section 4405 of Pub. L. 107-171, set out as an Effective Date note under section 1161 of Title 2, The Congress.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1772(c) of Pub. L. 101-624 effective Oct. 1, 1990, and amendment by section 1772(d) of Pub. L. 101-624 effective Nov. 28, 1990, see section 1781(b)(1), (2) of Pub. L. 101-624, set out as a note under section 2012 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 103(a)-(c) of Pub. L. 100-435 to be effective and implemented on Sept. 19, 1988, and amendment by section 105(a) of Pub. L. 100-435 to be effective and implemented on Oct. 1, 1988, see section 701(a), (b)(1) of Pub. L. 100-435, set out as a note under section 2012 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98-92 provided in part that the amendment made by that section is effective Oct. 1, 1983.

### § 7509. Relationship to other programs

(a) Section 2013(b) of this title shall not apply with respect to the distribution of commodities under this chapter.

(b) Except as otherwise provided in section 7504 of this title, none of the commodities distributed under this chapter shall be sold or otherwise disposed of in commercial channels in any form.

(Pub. L. 98-8, title II, §205, Mar. 24, 1983, 97 Stat. 36; Pub. L. 98-92, §2(7), Sept. 2, 1983, 97 Stat. 611.)

#### AMENDMENTS

1983—Pub. L. 98-92 substituted “Relationship to other programs” for “Relationships to food stamps” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98-92 provided in part that the amendment made by that section is effective Oct. 1, 1983.

### § 7510. Commodities not income

Notwithstanding any other provision of law, commodities distributed under this chapter shall not be considered income or resources for any purposes under any Federal, State, or local law.

(Pub. L. 98-8, title II, §206, Mar. 24, 1983, 97 Stat. 36.)

### § 7511. Prohibition against certain State charges

Whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary for distribution within the States to eligible recipient agencies, the State may not charge recipient agencies any amount that is in excess of the State’s direct costs of storing and transporting the commodities to recipient agencies minus any amount the Secretary provides the State for the costs of storing and transporting such commodities.

(Pub. L. 98-8, title II, §208, Mar. 24, 1983, 97 Stat. 36.)

### § 7512. Regulations

#### (a) Issuance

The Secretary shall issue regulations within 30 days to implement this chapter.

#### (b) Minimization of regulatory requirements

In administering this chapter, the Secretary shall minimize, to the maximum extent practicable, the regulatory, recordkeeping, and paperwork requirements imposed on eligible recipient agencies.

#### (c) Publication in Federal Register

(1) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register an estimate of the types and quantities of commodities that

the Secretary anticipates are likely to be made available under the commodity distribution program under this chapter during the fiscal year.

(2) The actual types and quantities of commodities made available by the Secretary under this chapter may differ from the estimates made under paragraph (1).

**(d) Standards of liability for commodity losses**

The regulations issued by the Secretary under this section shall include provisions that set standards with respect to liability for commodity losses under the program under this chapter in situations in which there is no evidence of negligence or fraud, and conditions for payment to cover such losses. Such provisions shall take into consideration the special needs and circumstances of emergency feeding organizations<sup>1</sup>

**(e) Final regulations**

The Secretary is authorized to issue final regulations without first issuing proposed regulations for public comment in order to carry out the provisions of sections 7514 and 7515 of this title. If final regulations are issued without such prior public comment the Secretary shall permit public comment on such regulations, consider pertinent comments, and make modifications of such regulations as appropriate not later than 1 year after September 19, 1988. Such final and modified regulations shall be accompanied by a statement of the basis and purpose for such regulations.

(Pub. L. 98-8, title II, §210, Mar. 24, 1983, 97 Stat. 36; Pub. L. 98-92, §2(9), Sept. 2, 1983, 97 Stat. 611; Pub. L. 99-198, title XV, §1570, Dec. 23, 1985, 99 Stat. 1594; Pub. L. 100-77, title VIII, §814(b), July 22, 1987, 101 Stat. 538; Pub. L. 100-435, title I, §§103(d), 105(b), Sept. 19, 1988, 102 Stat. 1648, 1651; Pub. L. 101-624, title XVII, §1772(e), Nov. 28, 1990, 104 Stat. 3809; Pub. L. 104-193, title VIII, §871(e)(3), Aug. 22, 1996, 110 Stat. 2345.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-193 struck out “(except as otherwise provided for in section 7515(j) of this title)” before “for public comment” in first sentence.

1990—Subsec. (c). Pub. L. 101-624 added subsec. (c) and struck out former subsec. (c) which contained provisions similar to the current provisions for specific fiscal years.

1988—Subsec. (c). Pub. L. 100-435, §103(d), substituted “each of the fiscal years 1989 and 1990” for “the fiscal year ending September 30, 1988”.

Subsec. (e). Pub. L. 100-435, §105(b), added subsec. (e).

1987—Subsec. (c). Pub. L. 100-77 substituted provisions relating to period ending on date specified in former section 212 of Pub. L. 98-8 for provisions relating to period beginning October 1, 1983 and ending September 30, 1987, and substituted “fiscal year ending September 30, 1988” for “fiscal year ending September 30, 1987”.

1985—Subsec. (c). Pub. L. 99-198, §1570(1), substituted “the period beginning October 1, 1983, and ending September 30, 1987” for “the fiscal years ending September 30, 1984, and September 30, 1985”, “as early as feasible but not later than the beginning of the fiscal year ending September 30, 1987” for “prior to the beginning of the fiscal year ending September 30, 1985”, and “such fiscal year” for “second twelve months”.

Subsec. (d). Pub. L. 99-198, §1570(2), added subsec. (d).

1983—Pub. L. 98-92 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

<sup>1</sup> So in original.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a) of Pub. L. 101-624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 103(d) of Pub. L. 100-435 to be effective and implemented on Sept. 19, 1988, and amendment by section 105(b) of Pub. L. 100-435 to be effective and implemented on Oct. 1, 1988, see section 701(a), (b)(1) of Pub. L. 100-435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98-92 provided in part that the amendment made by that section is effective Oct. 1, 1983.

**§ 7513. Finality of determinations**

Determinations made by the Secretary of Agriculture under this chapter and the facts constituting the basis for any donation of commodities under this chapter, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

(Pub. L. 98-8, title II, §211, as added Pub. L. 98-92, §2(10), Sept. 2, 1983, 97 Stat. 612.)

EFFECTIVE DATE

Section 2 of Pub. L. 98-92 provided in part that this section is effective Oct. 1, 1983.

**§ 7514. Incorporation of additional commodities**

**(a) In general**

The Secretary shall administer the program authorized under this chapter in a manner that incorporates into the program additional commodities purchased by the Secretary under section 7515 of this title to be distributed to States for use in such States by emergency feeding organizations, as defined in section 7501(1)<sup>1</sup> of this title. Such additional commodities, to the extent practicable and appropriate, shall include commodities purchased within a given State for distribution within such State.

**(b) Supplement commodities available**

The Secretary shall supplement the commodities made available to emergency feeding organizations under sections 7502 and 7507(a) of this title with nutritious and useful commodities purchased by the Secretary under section 7515 of this title.

(Pub. L. 98-8, title II, §213, as added Pub. L. 100-435, title I, §104, Sept. 19, 1988, 102 Stat. 1648.)

REFERENCES IN TEXT

Section 7501 of this title, referred to in subsec. (a), was subsequently amended, and section 7501(1) no longer defines the term “emergency feeding organization”. However, such term is defined elsewhere in that section.

EFFECTIVE DATE

Section to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100-435, set out as an

<sup>1</sup> See References in Text note below.

Effective Date of 1988 Amendment note under section 2012 of this title.

### § 7515. Allotment and delivery of commodities

#### (a) Mandatory allotments

In each fiscal year, the Secretary shall allot—

(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

#### (b) Reallocation

The Secretary shall notify each State of the amount of the additional commodities that such State is allotted to receive under subsection (a) of this section, and each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute the amount the State was allocated to receive under the formula prescribed in subsection (a) of this section but declined to accept. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year as the State determines is appropriate and the Secretary shall reallocate and distribute such allocation. In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities to which each such unaffected State is entitled to States containing areas adversely affected by the disaster.

#### (c) Administration

##### (1) In general

Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a) of this section, or reallocated under subsection (b) of this section, before December 31 of the following fiscal year.

##### (2) Entitlement

Each State shall be entitled to receive the value of additional commodities determined under subsection (a) of this section.

#### (d) Maintenance of effort

If a State uses its own funds to provide commodities or services to organizations receiving funds or services under this section, such State shall not diminish the level of support it provides to such organizations.

(Pub. L. 98-8, title II, §214, as added Pub. L. 100-435, title I, §104, Sept. 19, 1988, 102 Stat. 1648; amended Pub. L. 101-624, title XVII, §1772(g), (h)(1), Nov. 28, 1990, 104 Stat. 3809; Pub. L. 104-127, title IV, §403(c), Apr. 4, 1996, 110 Stat. 1029; Pub. L. 104-193, title VIII, §871(d), Aug. 22, 1996, 110 Stat. 2345.)

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-193, §871(d)(1), (2), redesignated subsec. (f) as (a) and struck out former subsec. (a) which provided for purpose of section.

Pub. L. 104-127, §403(c)(1), substituted “2002” for “1995”.

Subsec. (b). Pub. L. 104-193, §871(d)(1)–(3), redesignated subsec. (g) as (b), substituted “subsection (a) of this section,” for “subsection (f) of this section or subsection (j) of this section if applicable,” and “subsection (a) of this section” for “subsection (f) of this section”, and struck out former subsec. (b) which provided definitions for section.

Subsec. (c). Pub. L. 104-193, §871(d)(4), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: “Subject to subsections (e) and (f) of this section, or subsection (j) of this section if applicable, purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All such commodities purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allotments calculated under subsection (f) of this section, or reallocated under subsection (g) of this section, or calculated under subsection (j) of this section if applicable, before the end of such fiscal year. Each State shall be entitled to receive that value of additional commodities that results from the application of the formula set forth in this section to the total value of additional commodities.”

Pub. L. 104-193, §871(d)(1), (2), redesignated subsec. (h) as (c) and struck out former subsec. (c) which authorized Secretary to purchase additional commodities to supplement commodities otherwise provided under program authorized by this chapter.

Subsec. (d). Pub. L. 104-193, §871(d)(5), struck out “or reduce the amount of funds available for other nutrition programs in the State in each fiscal year” after “such organizations”.

Pub. L. 104-193, §871(d)(1), (2), redesignated subsec. (i) as (d) and struck out former subsec. (d) which provided for types and varieties of commodities which could be purchased under this section.

Subsec. (e). Pub. L. 104-193, §871(d)(1), struck out subsec. (e) which appropriated amounts through fiscal year 2002 for purchase of additional commodities under this section.

Pub. L. 104-127, §403(c)(2), substituted “2002” for “1995” in two places.

Subsecs. (f) to (i). Pub. L. 104-193, §871(d)(2), redesignated subsecs. (f) to (i) as (a) to (d), respectively.

Subsec. (j). Pub. L. 104-193, §871(d)(1), struck out subsec. (j) which authorized Secretary to promulgate new formula for allocation of additional commodities to States.

1990—Subsec. (a). Pub. L. 101-624, §1772(g)(1), substituted “fiscal years 1991 through 1995” for “fiscal years 1989 and 1990”.

Subsec. (e). Pub. L. 101-624, §1772(g)(2), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: “During each of the fiscal years 1989 and 1990, the Secretary shall spend

\$120,000,000 to purchase, process, and distribute additional commodities under this section.”

Subsec. (k). Pub. L. 101-624, §1772(h)(1), struck out heading and text of subsec. (k). Text read as follows: “There are authorized to be appropriated such sums as may be necessary to carry out this section.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 871(h) of Pub. L. 104-193 provided that: “The amendments made by subsection (d) [amending this section] shall become effective on October 1, 1996.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1772(g) of Pub. L. 101-624 effective Oct. 1, 1990, and amendment by section 1772(h)(1) of Pub. L. 101-624 effective Nov. 28, 1990, see section 1781(b)(1), (2) of Pub. L. 101-624, set out as a note under section 2012 of this title.

#### EFFECTIVE DATE

Section to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100-435, set out as an Effective Date of 1988 Amendment note under section 2012 of this title.

### § 7516. Settlement and adjustment of claims

#### (a) In general

The Secretary or a designee of the Secretary shall have the authority to—

- (1) determine the amount of, settle, and adjust any claim arising under this chapter; and
- (2) waive such a claim if the Secretary determines that to do so will serve the purposes of this chapter.

#### (b) Litigation

Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28 to conduct litigation on behalf of the United States.

(Pub. L. 98-8, title II, §215, as added Pub. L. 102-237, title IX, §922(b), Dec. 13, 1991, 105 Stat. 1888.)

#### EFFECTIVE DATE

Section effective and to be implemented no later than Feb. 1, 1992, see section 1101(d)(1) of Pub. L. 102-237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.

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