

EMERGENCY FOOD ASSISTANCE ACT OF 1983
 [As Amended Through P.L. 110–246, Effective October 1, 2008]

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Bracketed material and footnotes did *not* appear in Acts.

AN ACT

Making appropriations to provide productive employment for hundreds of thousands of jobless Americans, to hasten or initiate Federal projects and construction of lasting value to the Nation and its citizens, and to provide humanitarian assistance to the indigent for fiscal year 1983, and for other purposes

EMERGENCY JOBS APPROPRIATION ACT, FY 1983²⁰¹⁻¹

* * *

TITLE II—EMERGENCY FOOD ASSISTANCE ACT OF 1983

SEC. 201. [7 U.S.C. 7501 note] This title may be cited as the “Emergency Food Assistance Act of 1983”, and is hereinafter in this title referred to as “this Act”.

SEC. 201A. [7 U.S.C. 7501] DEFINITIONS.

In this Act:

(1) **ADDITIONAL COMMODITIES.**—The term “additional commodities” means commodities made available under section 214 in addition to the commodities made available under sections 202 and 203D.

(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 Act.

(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

²⁰¹⁻¹ P.L. 98-8, 97 Stat. 13, March 24, 1983.

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 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(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).

AVAILABILITY OF CCC COMMODITIES

SEC. 202. [7 U.S.C. 7502] (a) 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 Adjustment Act of 1938, the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act,

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

[(b) ²⁰²⁻¹ * * *]

(c) In addition to any commodities described in subsection (a), in carrying out this Act, the Secretary may use agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c).

(d) Commodities made available under this Act shall include a variety of commodities and products thereof that are most useful to eligible recipient agencies, including but not limited to, dairy products, wheat or the products thereof, rice, honey and cornmeal.

(e) Effective April 1, 1986, the Secretary shall submit semi-annually 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 Act.

(f) Notwithstanding any other provision of law, the programs authorized by sections 153 and 1163 of the Food Security Act of 1985 (15 U.S.C. 713a-14 and 7 U.S.C. 1731 note) 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 Act or any other domestic feeding program.

(g)(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 Act 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 Act, the Secretary may distribute commodities that become available on a seasonal or irregular basis.

SEC. 202A. [7 U.S.C. 7503] STATE PLAN.

(a) PLANS.—

(1) IN GENERAL.—To receive commodities under this Act, a State shall submit to the Secretary an operation and administration plan for the provision of benefits under this Act.

(2) UPDATES.—A State shall submit to the Secretary for approval any amendment to a plan submitted under paragraph (1) in any case in which the State proposes to make a change to the operation or administration of a program described in the plan.

(b) REQUIREMENTS.—Each plan shall—

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

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

(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—

²⁰²⁻¹ Sec. 1565 of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1591, Dec. 23, 1985, amended this sec. by striking out "a" and by striking out subsec. (b).

(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 Act 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 Act.

[PROCESSING AGREEMENTS]

[SEC. 203.²⁰³⁻¹]

INITIAL PROCESSING COSTS

SEC. 203A. [7 U.S.C. 7504] 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 Act 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.

FEDERAL AND STATE RESPONSIBILITIES

SEC. 203B. [7 U.S.C. 7505] (a) The Secretary shall, as expeditiously as possible, provide the commodities made available under this Act 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 section 203A. Notwithstanding any other provision of this Act, in the distribution of commodities under this Act, 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) State agencies receiving commodities under this Act 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 Act, 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) Each State agency receiving commodities for individual household use under this Act shall distribute such commodities to

²⁰³⁻¹ Sec. 203 was repealed by sec. 1567(c) of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1592, Dec. 23, 1985.

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) Each State agency receiving commodities under this title 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 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.

ASSURANCES; ANTICIPATED USE

SEC. 203C. [7 U.S.C. 7506] (a) The Secretary shall take precautions as the Secretary deems necessary to assure that any eligible recipient agency receiving commodities under this Act 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 Act 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 Act shall be distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this Act in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

SEC. 203D. [7 U.S.C. 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 person may supplement the commodities distributed under the program authorized by this Act 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 Act.

(b) **USE OF FUNDS AND FACILITIES.**—States and emergency feeding organizations may use the funds appropriated under this Act and equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this Act, 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).

(c) **VOLUNTEER WORKERS.**—State and emergency feeding organizations shall continue, to the maximum extent practical, 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.

AUTHORIZATION AND APPROPRIATIONS

SEC. 204. [7 U.S.C. 7508] (a)(1) There are authorized to be appropriated \$100,000,000 for fiscal year 2008 and each fiscal year thereafter, 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 Act 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)) and donated wild game. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis, dividing such funds among the States in the same proportions as the commodities distributed under this Act for such fiscal year are divided among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States.

(2) Each State shall make available to emergency feeding organizations in the State not less than 40 per centum of the funds provided as authorized in paragraph (1) that it has been allocated for a fiscal year, as necessary to pay for, or provide advance payments to cover, the direct expenses of the emergency feeding organizations for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such organizations. As used in this paragraph, the term "direct expenses" includes costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after they are received by the organization; costs associated with determinations of eligibility, verification, and documentation; costs of providing information to persons receiving commodities under this Act concerning the appropriate storage and preparation of such commodities; and costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this Act. If a State makes a payment, using State funds, to cover direct expenses of emergency feeding organizations, the amount of such payment shall be counted toward the amount a State must make available for direct expenses of emergency feeding organizations under this paragraph.

(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or emergency feeding organizations for costs other than those involved in covering the expenses related to the distribution of commodities by emergency feeding organizations.

(4)(A) Except as provided in subparagraph (B), effective January 1, 1987, to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

- (i) the amount of such funds so received; and
- (ii) any part of the amount allocated to the State and paid by the State—
 - (I) to emergency feeding organizations; or
 - (II) for the direct expenses of such organizations; for use in carrying out this Act.

(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to States beginning on January 1, 1987.

(ii) If the legislature of a State does not convene in regular session before January 1, 1987, paragraph (1) shall apply to such State beginning on October 1, 1987.

(C) Funds allocated to a State under this section may, upon State request, be allocated before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

(5) States may not charge for commodities made available to emergency feeding organizations, and may not pass on to such organizations the cost of any matching requirements, under this Act.

(b) The value of the commodities made available under this Act and the funds of the Corporation used to pay the costs of initial processing, packaging (including forms suitable for home use), and delivering commodities to the States shall not be charged against appropriations made or authorized under this section.

RELATIONSHIP TO OTHER PROGRAMS

SEC. 205. [7 U.S.C. 7509] (a) Section 4(b) of the Food and Nutrition Act of 2008 shall not apply with respect to the distribution of commodities under this Act.

(b) Except as otherwise provided in section 203A of this Act, none of the commodities distributed under this Act shall be sold or otherwise disposed of in commercial channels in any form.

COMMODITIES NOT INCOME

SEC. 206. [7 U.S.C. 7510] Notwithstanding any other provision of law, commodities distributed under this Act shall not be considered income or resources for any purposes under any Federal, State, or local law.

PENALTIES

SEC. 207. ²⁰⁷⁻¹]

PROHIBITION AGAINST CERTAIN STATE CHARGES

SEC. 208. [7 U.S.C. 7511] 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.

SEC. 209. [7 U.S.C. 7511A] EMERGENCY FOOD PROGRAM INFRASTRUCTURE GRANTS.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term “eligible entity” means an emergency feeding organization.

(b) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall use funds made available under subsection (d) to make grants to eligible entities to pay the costs of an activity described in subsection (c).

²⁰⁷⁻¹ Sec. 207 amended sec. 4(c) of the Agriculture and Consumer Protection Act of 1973.

(2) RURAL PREFERENCE.—The Secretary shall use not less than 50 percent of the funds described in paragraph (1) for a fiscal year to make grants to eligible entities that serve predominantly rural communities for the purposes of—

(A) expanding the capacity and infrastructure of food banks, State-wide food bank associations, and food bank collaboratives that operate in rural areas; and

(B) improving the capacity of the food banks to procure, receive, store, distribute, track, and deliver time-sensitive or perishable food products.

(c) USE OF FUNDS.—An eligible entity shall use a grant received under this section for any fiscal year to carry out activities of the eligible entity, including—

(1) the development and maintenance of a computerized system for the tracking of time-sensitive food products;

(2) capital, infrastructure, and operating costs associated with the collection, storage, distribution, and transportation of time-sensitive and perishable food products;

(3) improving the security and diversity of the emergency food distribution and recovery systems of the United States through the support of small or mid-size farms and ranches, fisheries, and aquaculture, and donations from local food producers and manufacturers to persons in need;

(4) providing recovered foods to food banks and similar nonprofit emergency food providers to reduce hunger in the United States;

(5) improving the identification of—

(A) potential providers of donated foods;

(B) potential nonprofit emergency food providers; and

(C) persons in need of emergency food assistance in rural areas; and

(6) constructing, expanding, or repairing a facility or equipment to support hunger relief agencies in the community.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2008 through 2012.

REGULATIONS

SEC. 210. [7 U.S.C. 7512] (a) The Secretary shall issue regulations within 30 days to implement this Act.

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

(c)(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 Act during the fiscal year.

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

(d) 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 title 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.

(e) 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 213 and 214. 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 the date of enactment of this subsection. Such final and modified regulations shall be accompanied by a statement of the basis and purpose for such regulations.

FINALITY OF DETERMINATIONS

SEC. 211. [7 U.S.C. 7513] Determinations made by the Secretary of Agriculture under this Act and the facts constituting the basis for any donation of commodities under this Act, 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.

[PROGRAM TERMINATION]

[SEC. 212. ²¹²⁻¹]

SEC. 213. [7 U.S.C. 7514] INCORPORATION OF ADDITIONAL COMMODITIES.

(a) IN GENERAL.—The Secretary shall administer the program authorized under this Act in a manner that incorporates into the program additional commodities purchased by the Secretary under section 214 to be distributed to States for use in such States by emergency feeding organizations, as defined in section 201A(1). 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 202 and 203D(a) with nutritious and useful commodities purchased by the Secretary under section 214.

SEC. 214. [7 U.S.C. 7515] REQUIRED PURCHASES 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

²¹²⁻¹ Sec. 212 was struck by sec. 871(e)(4) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, 110 Stat. 2345, Aug. 22, 1996.

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), 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) but declines 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), or reallocated under subsection (b), 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).

(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.

SEC. 215. [7 U.S.C. 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 Act; and

(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this Act.

(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, United States Code, to conduct litigation on behalf of the United States.