

DISASTER MANUAL

FOOD & NUTRITION SERVICE

FOOD DISTRIBUTION DIVISION



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Food and Nutrition Service
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FOOD AND NUTRITION SERVICE (FNS) **COMMODITY PROGRAM DISASTER MANUAL**

PART I: AN OVERVIEW

This manual contains important information for persons in FNS Headquarters, FNS Regional Offices, and State Distributing Agencies who are charged with the responsibility of providing USDA donated commodities to disaster relief organizations in the event of a disaster or a situation of distress.



The manual provides practical steps for distributing USDA donated commodities in response to disasters and situations of distress. It does not address non-commodity food assistance, such as disaster food stamps and private donations, although it recognizes that coordination is needed between these types of assistance. Part I of this manual provides a general overview of the commodity response. Part II discusses preparing for this response ahead of time. Part III addresses the actual steps FNS takes when asked to donate commodities. Part IV addresses commodity replacement and reporting requirements.

The American Red Cross is the primary organization responsible for coordinating feeding in a State where a disaster occurs. Other recognized organizations equipped to prepare or serve meals to disaster victims, such as the Salvation Army, religious-based organizations, fraternal orders, etc., may also coordinate disaster feeding. All of these organizations are eligible to receive USDA-donated commodities. Depending on the severity of the disaster, and other food resources available to the responding agency, **FNS may or may not be asked to provide disaster assistance.**

A. Types of Disasters (Presidentially Declared vs. Situations of Distress)

There are two types of disasters that FNS may legally respond to: 1) Presidential declared disasters and 2) situations of distress.

- 1) **Presidentially Declared Disasters:** When the Governor of the affected State determines a need for Federal disaster assistance, a request for assistance is addressed to the President. When the President determines, based on the Federal Emergency Management Agency's (FEMA) evaluation and recommendation, that a State requires Federal assistance, a formal Presidential disaster declaration is made and resources of the entire Federal government become available.

When FEMA coordinates disaster relief efforts, FNS is the designated primary agency for Emergency Support Function 11 (ESF-11) (Food) as outlined in the National Response Plan. The details of how FNS fits into the National Response Plan are described in Attachment 3.

If FNS determines that low-income households are unable to purchase adequate amounts of nutritious food, FNS makes disaster food stamps available. If disaster food stamps are not practical, disaster organizations may be eligible to receive commodities for congregate meal service or household distribution in accordance with food distribution program regulations at 7 CFR 250.43 and 250.44 respectively.

In a Presidentially declared disaster, as outlined in Federal regulations, State Distributing Agencies have the authority to release commodities for congregate feeding for as long as they are needed and FNS guarantees replacement of commodities used.

- 2) **Situations of Distress:** FNS uses the term “situation of distress” when a natural catastrophe or other event has not been declared by the President to be a disaster but which, in the judgment of the State Distributing Agency or FNS, warrants the use of USDA-donated foods for congregate feeding or household distribution. A situation of distress could arise from a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other natural catastrophe. There are also situations, **other than natural catastrophes**, such as strikes, explosions, etc., that, in the judgement of FNS-Headquarters may warrant the use of donated foods. FNS has the authority to release donated foods for both congregate feeding and household distribution. Donated foods can be provided under this authorization to provide relief prior to a Presidential declaration, at which point the situation of distress is redefined as a disaster.

In accordance with 7 CFR 250.44, FNS will replace commodities from State Distributing Agency and local recipient agency inventories that are used to assist in situations of distress, **to the extent that funds for replacement are available**. State Distributing Agencies must submit requests to FNS for replacement of donated foods used in these emergencies within 30 days of the termination of assistance. However, since funds for replacement of donated foods used in situations of distress are limited, State Distributing Agencies that intend to submit a request for replacement of such foods are encouraged to do so as soon as possible. It is recommended they do so upon notifying the FNS Regional Office within 24 hours of approving an application for assistance.

In addition, State Distributing Agencies may approve the use of commodities for congregate feeding in situations of distress **only** if the situation is a **natural event**, and for **only up to 30 days**. State Distributing Agencies must request approval from FNS Headquarters, through the Regional Office, to exceed 30 days.

A comparison of some key regulatory differences between Presidentially declared disasters and situations of distress follows:

Key Regulatory Differences Between Disasters and Situations of Distress

Disasters	Situations of Distress
<ul style="list-style-type: none"> Requires a Presidential declaration that federal assistance is warranted. 	<ul style="list-style-type: none"> No Presidential declaration is required.
<ul style="list-style-type: none"> Guaranteed replacement of commodities by FNS. * 	<ul style="list-style-type: none"> Replacement of commodities by FNS to the extent that funds for replacement are available.*
<ul style="list-style-type: none"> State Distributing Agency has authority to release commodities for congregate feeding for as long as they are needed. 	<ul style="list-style-type: none"> State Distributing Agency has the authority to release commodities for congregate feeding, but only if the situation is a natural event, and only for up to 30 days. If not a natural event, FNS Headquarters must approve and determine duration of assistance.

* Replacement may be made through entitlement credit to the applicable program.

B. FNS Provides Only Food Support

FNS provides only food during situations of distress and disasters. In disasters, when FEMA coordinates relief efforts, FNS is the designated primary agency in the National Response Plan for ESF-11 (Food). The question occasionally arises as to whether FNS has responsibility to supply water under its function. Although certainly related and vital, water is an ESF-3 function (Public Works and Engineering). In a disaster, therefore, requests for water should be directed to the representative of the agency designated under ESF-3. More detail about FEMA and the National Response Plan is outlined in the Attachments.

C. FNS' Primary Response—Disaster Food Stamps

When a disaster strikes, FNS is often called upon to provide immediate food assistance in the form of USDA commodities. This is especially true when people have relocated to local shelters and/or the retail food system is disrupted by flooding or electrical outages. However, the primary food assistance response is setting up a Disaster Food Stamp Program to handle the increased number of households needing food assistance.

Even if a disaster does not disrupt the retail food system, FNS may be asked to donate USDA commodities. State Distributing Agencies are responsible for oversight of the distribution of commodities to disaster organizations and their use. Most disaster organizations prefer commodities in larger pack sizes to facilitate congregate feeding. Occasionally however, smaller sized packages of commodities are requested when the disaster organization intends to distribute food to households for preparation and consumption at home. All requests for household distribution require FNS Headquarters approval prior to State Distributing Agencies releasing commodities for this purpose.

D. Laws and Regulations Governing Commodity Donations

The following laws and regulations govern the use of commodities during disasters:

- ❖ Sections 412 and 413(b) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* authorize the Secretary of Agriculture to distribute surplus commodities and to use Section 32 funds from the *Act of August 24, 1935* to purchase food necessary to provide adequate supplies for use in any area of the United States in the event of a disaster or situation of distress.
 - ❖ Section 416 of the *Agricultural Act of 1949* also authorizes the Secretary of Agriculture to donate surplus commodities to disaster victims, subject to certain requirements.
 - ❖ Section 4(a) of the *Agriculture and Consumer Protection Act of 1973* also authorizes the Secretary of Agriculture to donate surplus commodities to disaster victims, subject to certain requirements.
 - ❖ Food Distribution Program regulations at 7 CFR 250.43 (disasters) and 250.44 (situations of distress) contain language implementing the above statutory authorities.
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E. Funding Sources for Commodity Donations

Commodity replacements and emergency purchases are funded from the following sources:

Section 4(a): A limited amount of funds appropriated under Section 4(a) of the *Agriculture and Consumer Protection Act of 1973* are allocated yearly to FNS for disaster assistance. The Food and Nutrition Service Disaster Coordinator authorizes use of these funds in emergencies and situations of distress.

Section 32: The Secretary of Agriculture may also authorize Section 32, contingency funds, for the purchase of commodities to be used for disaster/emergency feeding.

F. FNS Programs From Which Commodities May Be Used

Federal, State, and local inventories of commodities from any of the following USDA domestic nutrition assistance programs may be used in a Presidentially declared disaster or situation of distress:

Program Sources of Commodities for Disasters and Situations of Distress	
• National School Lunch Program	• Summer Camps
• Child and Adult Care Food Program	• Food Distribution Program on Indian Reservations
• Summer Food Service Program	• Commodity Supplemental Food Program
• Nutrition Services Incentive Program	• The Emergency Food Assistance Program
• Charitable Institutions	

The specific program from which commodities are taken will depend on the needs of the disaster organization, the scale of the disaster, accessible inventories, and available funding. **If available, State Distributing Agencies should try to use commodities provided through the National School Lunch Program whenever possible. These are easier for disaster feeding organizations to use in preparing congregate meals, and they are easier for FNS to replace or reimburse.** FNS will do its best to make timely replacements in order to prevent disruption in ongoing service to the programs from which commodities are taken. It should be remembered that, while replacement is guaranteed in a Presidentially declared disaster, replacement is not guaranteed in situations of distress.

G. Sources of Existing Commodity Inventories

Commodities may be taken from local, state, and federal inventories.



- ❖ **Local Inventories:** These are usually the first sources that disaster organizations turn to when they want donations of USDA commodities. Inventories from school kitchens and school district warehouses located close to the emergency are most often used for congregate feeding. Other local inventories include food purchased for TEFAP and CSFP and are more appropriate when household distribution is approved by FNS.
 - ❖ **State Inventories:** If sufficient food is not available locally, State Distributing Agencies sometimes provide inventories from their State-level warehouses to the affected area for use by disaster organizations. If the State Distributing Agency does not have adequate inventories, it sometimes requests commodities from the inventories of other States. When two State agencies involved are in the same FNS Region, the Regional Office acts as the liaison between the two. If food must be transported between States in different FNS Regions, then the FNS Regional Office in which the emergency occurred, or FNS Headquarters, may act as liaison.
 - ❖ **Federal (USDA) Inventories:** Federal inventories of commodities purchased for the Commodity Supplemental Food Program and Food Distribution Program on Indian Reservations are maintained by USDA in Carthage, Missouri and Albuquerque, New Mexico. Items such as canned meats, fruits, juices, and vegetables are stored there. In addition, food purchased for the National School Lunch Program is sometimes placed in Federal storage for later distribution. Depending on inventory levels and program needs, some food from these Federal inventories may be immediately available for disaster feeding.
 - ❖ **Rapid Food Response System:** This new initiative, sponsored by FNS, is being established through a Memoranda of Understanding (MOU). The goal of the initiative is to supplement, not replace, existing disaster feeding efforts by making a nutritionally balanced commodity offering available for congregate feeding during Presidentially declared disasters. The offering contains five basic categories of USDA commodity foods that can be used to supplement existing disaster feeding efforts. Under the terms of the MOU, seven States (NY, PA, NC, OH, OK, CO, and CA) will make their currently existing inventory available to any State nationwide. The FNS Regional Office in which the disaster occurs will act as gatekeeper to approve requests from State Distributing Agencies within its region to activate the Rapid Food Response System.
(See Attachment 6 for additional background)
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H. Emergency Procurements

The Federal government may make emergency procurements of product when existing commodity inventories at the local, State, or Federal level are inadequate:

- ❖ USDA Procurement: If the scope of a disaster creates a need for food relief in excess of what can be provided by existing inventories, FNS Headquarters works with FNS Regional Offices and State agencies to authorize emergency purchases of commodities and ships them into affected areas in a timely manner. Emergency purchases are most often made when *infant formula* is needed. FNS authorizes the Agricultural Marketing Service or the Farm Service Agency (the two agencies responsible for procuring all of FNS' commodities on an ongoing basis) to make the purchases using FNS funds.
- ❖ Procurement by Other Federal Agencies: The General Services Agency and the Department of Defense, Defense Supply Center Philadelphia also coordinate purchases for FNS.
 - The General Services Agency is authorized to coordinate purchases of food for off shore disaster feeding. Quantities are usually limited and are often purchased locally.
 - The Department of Defense has the authority to negotiate emergency purchases for direct shipment to disaster areas through its Defense Supply Center Philadelphia.

These purchases are not common, and are only made with approval of FNS Headquarters, and with the concurrence of the Agricultural Marketing Service and/or Farm Service Agency contracting offices.

Part II: PREPARING FOR A PRESIDENTIALLY DECLARED DISASTER OR A SITUATION OF DISTRESS

It is important for FNS Headquarters (Food Distribution Division), FNS Regional Offices, and State Distributing Agencies to plan for a disaster, or situation of distress, well before it occurs. Preparation is critical to make the actual response process flow smoothly in the stressful climate of an actual disaster or situation of distress. This preparation encompasses both long term and short term planning. Long term planning refers to more generic and theoretical preparation, before an emergency ever arises. Short term planning refers to situations where there is notice that an emergency is impending, such as a reliable prediction of a hurricane's landfall several days in advance. Plans should be reviewed and updated for accuracy at least annually.

Below are the steps that FNS Headquarters, FNS Regional Offices, and State Distributing Agencies should follow to effectively prepare for a disaster.

A. FNS Headquarters Preparation

- 1) Identify and establish a relationship with the FNS Agency Disaster Coordinator.
- 2) Establish and maintain an Emergency Contact List with back-up contacts for key USDA commodity staff at FNS Headquarters, FNS Regional Offices, the Agricultural Marketing Service, and the Kansas City Commodity Office. The list must include Continuity of Operations Plan (COOP) coordinators, as well as disaster coordinators and media coordinators. Contacts and backups must have the authority to make quick decisions that expedite requests for commodity food and transportation. Contact information should include work, home, cell phone and fax numbers. The list should be updated annually. This list, which will be available to key USDA staff via the FNS Intranet, should be printed out in hard copy each time it is updated so that its information is available 24 hours a day, even during power outages.
- 3) Establish and periodically update the procedures for internal reporting within FNS. In doing so, disaster coordinators and key contacts for media inquiries at the FNS Headquarters and Regional Office levels must be consulted.
- 4) When a disaster or situation of distress occurs, or can be anticipated, require the affected Regional Offices to survey their State Distributing Agencies to determine the types, quantities, and location of commodities that disaster organizations are likely to be able to use or distribute. This will facilitate responding to requests for food when they are received.
- 5) Stay familiar with the necessary regulations, policies, and procedures related to commodity feeding during disasters and situations of distress.

B. FNS Regional Office Preparation

- 1) Identify and establish a relationship with the FNS Regional Office Disaster Coordinator.
 - 2) Maintain a current list of your Regional Office Emergency Contacts and provide to FNS Headquarters. Keep copies of the Emergency Contact List received from the Food Distribution Division in FNS Headquarters readily available.
 - 3) Provide your State Distributing Agency staffs with updated copies of your Regional Office Emergency Contacts that includes work, home, cell phone, and fax numbers and e-mail addresses to ensure contact availability 24 hours a day. This information should be updated annually.
 - 4) Establish internal reporting procedures. Coordinate the procedures with your Regional Disaster Coordinator and Regional contact person for media inquiries.
 - 5) Maintain a current Regional list of essential State Distributing Agency personnel and keep them apprised of the procedures, policies, and regulations for handling disasters.
 - 6) When a situation of distress or disaster occurs or is anticipated, contact your State Distributing Agencies to determine the types, quantities and location of commodities that disaster organizations are likely to be able to use or distribute. This will facilitate responding to requests for food when they are received.
 - 7) Stay familiar with the regulations, policies, and procedures related to commodity feeding during disasters and situations of distress.
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C. State Distributing Agency Preparation

- 1) Develop a relationship with your State Emergency Management Agency.
- 2) Identify the primary disaster organization responsible for coordinating congregate feeding in your State and how to contact them. This will likely be the Red Cross. The Salvation Army and other local organizations may also be called on in a disaster situation. Those agencies need to know who to contact in the State Distributing Agency and what types of assistance, food, etc., are available. Advise them of what you can and cannot do and of the reporting requirements once commodities are provided.

- 3) Establish and maintain a list of Emergency Contacts at disaster organizations, TEFAP and government emergency agencies at the State level and school district officials at the local level. The list should include work, home, cell phone numbers, fax numbers as well as e-mail addresses so contacts can be reached 24 hours a day.
- 4) Provide the list to the Regional Office, State Distributing Agency disaster coordinator and other essential State personnel as necessary. This information should be updated annually.
- 5) Establish internal reporting procedures. Coordinate procedures with State Disaster Coordinator and Information Office. Determine who will be the contact person for media inquiries.
- 6) Stay familiar with the regulations, policies, and procedures regarding disasters and situations of distress.
- 7) Periodically remind your local agencies of the regulatory requirements to: 1) maintain meal counts during the emergency, 2) keep a list of USDA commodities distributed to disaster relief organizations and, 3) report this information as soon as possible to the State Distributing Agency, which must follow post-disaster reporting requirements to FNS (submitting the *FNS 292 Report* to the Regional Office within 45 days of termination of the emergency assistance).
- 8) Consider past history and determine what types of disasters are more likely to occur within the State (i.e. floods, snow storms, tornados, earthquakes). Obtain information from the State Emergency Management Agency about the likely assistance requirements that each type of disaster may create.



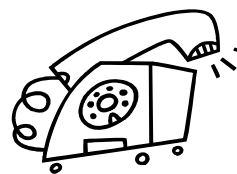
PART III: THE COMMODITY PROGRAM DISASTER RESPONSE

This section describes the process FNS follows once a request is made by a disaster organization, through its State Distributing Agency, to utilize donated commodities in a situation of distress or Presidentially declared disaster.

A. Responding to Information Requests from the Media/Public

A situation of distress or Presidentially declared disaster generates interest and requests for information from parties and individuals aside from those involved in the response.

All such requests for information must be referred to the Regional Office of Public Affairs. The role of the Regional



Office of Public Affairs is to provide accurate, consistent, timely, and easy-to-understand information to the public about emergency food assistance. The Public Affairs staff works together with State and/or local public information offices to coordinate the release of information to the public, and also serves as the liaison with the Federal Emergency Management Agency (FEMA) Public Information staff. Unless prior authorization has been obtained otherwise, all media inquiries must be referred to the Regional Office of Public Affairs.

B. Congregate Feeding vs. Household Distribution—An Overview

Disaster organizations use two primary methods to feed people in response to a disaster or situation of distress: congregate feeding and household distribution of food.

- ❖ **Congregate Feeding:** Congregate feeding is the most common form of food assistance provided during disasters or situations of distress. In congregate feeding, the disaster organization prepares meals in large quantities and serves them cafeteria-style in a central location. To expedite preparation, disaster organizations generally prefer foods in institutional size packages, such as #10 cans. Such commodities are usually available from existing State/local agency inventories of USDA food purchased for child nutrition programs, such as the National School Lunch Program. School food inventory levels vary by time of year (lower as the end of the school year approaches), which may have an effect on what types of commodities are available.

If congregate feeding is being provided as a result of a Presidentially declared disaster, the State Distributing Agency has authority to immediately make State/local agency stocks of USDA-donated commodities available **without prior FNS approval**.

For situations of distress caused by a **natural** event, the State Distributing Agency has authority to make commodities available for congregate feeding for a period of up to 30 days without prior FNS approval. The State Distributing Agency must request approval from FNS Headquarters, through the Regional Office, to exceed 30 days.

When a situation of distress is **not** caused by a natural event, **FNS Headquarters must approve** initiation of commodity assistance and its duration.

- ❖ **Household Distribution:** When conditions warrant, the disaster organization may distribute commodities in smaller packages, such as #300 cans, in limited quantities to individual households to take home for preparation and consumption. Such commodities are usually available from existing State/local agency inventories of food purchased for the Emergency Food Assistance Program, the Commodity Supplemental Food Program, or the Food Distribution Program on Indian Reservations.

Household distribution of commodities is seldom invoked because FNS primarily addresses household food needs during disasters by issuing food stamps. Commodities and disaster food stamps may be distributed in a given disaster area simultaneously. However, the same household may not benefit from both forms of assistance. Therefore, **FNS Headquarters must provide prior approval** for household distribution of commodities and determine the duration. This is true for both a Presidentially declared disaster and a situation of distress.

A comparison of the key differences between congregate feeding and household distribution is addressed in the table below:

**Differences Between Congregate Feeding and Household Distribution
for both Disasters and Situations of Distress**

Congregate Feeding	Household Distribution
In Presidentially Declared Disasters:	
<ul style="list-style-type: none"> • State Distributing Agency approves and determines the duration of feeding. • FNS guarantees replacement. 	<ul style="list-style-type: none"> • FNS approves and determines duration. • FNS guarantees replacement.
In Situations of Distress:	
<ul style="list-style-type: none"> • State Distributing Agency can approve for up to 30 days duration only if the emergency results from a natural event. If not the result of a natural event, FNS approves and determines duration. • FNS replaces only to the extent that funds for replacement are available. 	<ul style="list-style-type: none"> • FNS approves and determines duration. • FNS replaces only to the extent that funds for replacement are available.

C. Congregate Feeding During Disasters and Situations of Distress

When a disaster organization wishes to use USDA commodities for congregate feeding, it must submit an application to the State Distributing Agency for review. As noted in the previous table, whether the State Distributing Agency, or FNS, is responsible for approving the application will depend on whether there is a Presidentially declared disaster or a situation of distress.



- ❖ **Applications for Congregate Feeding Submitted to State Distributing Agencies By Disaster Organizations:** The initial application by a disaster organization for the receipt and use of commodities for congregate feeding, as a result of a Presidentially declared disaster or situation of distress, is addressed at 250.43(b)(2) and 250.44(b)(2). Applications for the receipt and distribution of donated foods are submitted by the disaster organization to the State Distributing Agency in writing if circumstances permit or, if not, confirmed in writing in a timely manner. Applications must, to the extent possible, include the following:

❖ Required Disaster Application Information
<ul style="list-style-type: none"> • A description of the disaster or situation of distress. • The number of people requiring meals. • The period of time for which meals are being requested • The quantity and types of food needed.

Additionally, disaster organizations must report to the State Distributing Agency the number and location of sites providing congregate meal services as such sites are established. Therefore, it is suggested that the application reference this requirement.

- ❖ **Approval of Congregate Feeding—Presidentially Declared Disasters:** When a disaster is Presidentially declared, the State Distributing Agency is responsible for reviewing and approving the application, and determining the duration of commodity donations for congregate feeding. In doing so, the State Distributing Agency must take into consideration the magnitude of the situation. Within 24 hours of approving an application for congregate feeding, the State Distributing Agency must report the information contained in the application to the FNS Regional Office.
- ❖ **Approval of Congregate Feeding—Situations of Distress:** In a situation of distress, the State Distributing Agency may decide to approve commodity donations for congregate feeding for a maximum of 30 days. Within 24 hours of approving an

application for congregate feeding, the State Distributing Agency must report the information contained in the application to the FNS Regional Office. The FNS Regional Office does not need to forward this to FNS Headquarters, but it will maintain the information forwarded to it on file.

When the initial request for congregate feeding is for less than 30 days and then is extended to the 30 day limit, the State Distributing Agency will notify the FNS Regional Office of this extension. The State Distributing Agency shall request approval from FNS Headquarters, through the FNS Regional Office, to exceed 30 days. FNS Headquarters will determine the duration of such donations, taking into consideration the magnitude of the situation. The FNS Regional Office will notify the State Distributing Agency of the request's approval and duration, or its denial.

In a situation of distress that is **not** the result of a natural event, as described in Section 250.3(a) of the Federal Regulations, the State Distributing Agency will send the disaster relief organization's application to the FNS Regional Office to forward to FNS Headquarters. FNS Headquarters will determine the initial duration of the donation, up to the 30 day limit, as well as any extension beyond 30 days. All parties shall be notified of the decision. The initial determination about the duration of commodity donations may be revised as developing circumstances dictate.

All transactions related to these requests, notifications and approvals shall be documented and the documents maintained in each respective office. The relief organization must maintain a copy of the application that it submits to the State Distributing Agency, plus the written approval it receives, for 3 years plus the current year as required by Food Distribution Program regulations at 7 CFR 250.16(b).

D. Household Distribution During Disasters and Situations of Distress

When a disaster organization determines it needs to distribute USDA commodities to households in response to a disaster or situation of distress, it must submit an application to the State Distributing Agency for review.

- ❖ **Applications for Household Distribution Submitted to State Distributing Agencies by Disaster Organizations:** The initial application by disaster relief organizations for the receipt and distribution of foods to households is addressed at 250.43(c)(2) and 250.44(c)(2) respectively.



Applications for the receipt and distribution of USDA commodities to households are submitted by the disaster organization to the State Distributing Agency in writing if circumstances permit or, if not, confirmed in writing in a timely manner. Applications must, to the extent possible, include the information outlined in the table below. The information required is the same for Presidentially declared disasters and situations of

distress except that, information on the method(s) of distribution available in the affected area is required for a disaster but not for a situation of distress.

**Application Information Requirements For Household Distribution
During Disasters and Situations of Distress**

- A description of the disaster or situation of distress
- Identification of specific areas which would be served
- Number of households affected who are expected to participate
- An explanation as to why household distribution is warranted
- The anticipated distribution period
- The quantity and types of food needed
- Assurance household will not receive both donated foods and disaster food stamps
- A description of the system to prevent dual participation
- Method(s) of distribution available (*required for Presidentially declared disaster only*)
- Additionally, disaster organizations must report to the State Distributing Agency the number and location of sites providing congregate meal services as such sites are established. Therefore, it is suggested that the application include this information to the extent possible.

- ❖ **Approval of Household Distribution—For Both Presidentially Declared Disasters and Situations of Distress:** The State Distributing Agency must submit the application to the appropriate FNS Regional Office. The Regional Office will, in turn, **submit the application to FNS Headquarters for approval**. If approved, FNS Headquarters will determine the duration of the donation, taking into consideration the magnitude of the situation and other appropriate factors. FNS Headquarters will relay its decision to the FNS Regional Office which will, in turn, inform the State Distributing Agency of the decision.
- ❖ **Collection of Household Information by Disaster Organizations in Areas Receiving Disaster Food Stamps:** If a disaster relief organization is distributing commodities to households in an area where **disaster food stamps** are also being issued, the organization must collect certain additional information, as itemized at 7 CFR 250.43(c)(3) and 250.44(c)(3) from each household receiving the commodities. The information that must be collected is as follows:
 - Name of household member applying for assistance
 - Address
 - Number of household members
 - A statement signed by the household certifying that the household:

- Is in need of food assistance
- Understands that misrepresentation of need, and the sale or exchange of donated food are prohibited and could result in a fine, imprisonment, or both
- Is not residing in a shelter which provides food assistance, and
- Is not receiving disaster food stamp benefits.

The State Distributing Agency will prescribe the format that the relief organization will follow when compiling and submitting this information to the State. The State Distributing Agency does not need to forward this information to the FNS Regional Office, but will maintain the information on file for three years plus the current year as required by Food Distribution Program regulations at 7 CFR 250.16(b).

If the disaster relief organization is an agency of the State government, the State Distributing Agency has the discretion to direct that this information be maintained by the organization distributing the commodities, as provided in Food Distribution Program regulations at 7 CFR 250.44(c)(3).

E. Rapid Food Response System

The Rapid Food Response System (RFRS) is designed to ensure the availability of a more nutritionally balanced offering of commodities to support congregate feeding during disasters. The RFRS provides selected commodities that are normally available from the inventories of seven large states. These commodities are consistent with Federal nutrition guidance based on the Dietary Guidelines for Americans and the Food Guide Pyramid.

Should a disaster occur, the State Distributing Agency would first use its own inventory of commodities. If it is unable to meet all requests for commodity assistance, it should seek additional commodities through the FNS Regional Office from neighboring states.

To activate the Rapid Food Response System, the State Distributing Agency should contact its FNS Regional Office, which will approve such requests. The Regional Office will contact its participating Rapid Food Response State to obtain the needed commodities, and work with FNS Headquarters and the State Distributing Agency requesting the commodities to transport them to the disaster area.

(See Attachment 6 for additional background)

PART IV: AFTER THE DISASTER OR SITUATION OF DISTRESS...

A. Replacement of Donated Food

State Distributing Agencies must submit requests for replacement of commodities used in disasters or situations of distress in writing to FNS Headquarters, via the FNS Regional Office, within 30 days of the termination of the assistance. Because funds for replacement of commodities used in situations of distress are limited, State Distributing Agencies are encouraged to notify FNS of their intent to request replacement as soon as possible.

FNS will replace commodities used by State Distributing Agencies and Recipient Agencies for disaster feeding purposes with special funds made available following a Presidential declaration of disaster. FNS will also replace commodities used by State Distributing Agencies and recipient agencies for feeding purposes in situations of distress, as long as its annual appropriation of funds for emergency situations lasts. However, FNS has no authority to replace commodities for State Distributing Agencies or Recipient Agencies that are lost, destroyed, contaminated, or otherwise rendered unusable in a disaster due to flooding, fire, wind, power outage, or other cause.

The Federal Emergency Management Agency (FEMA) is responsible for overall disaster relief. FEMA's coverage provides funds to State and local government agencies, as well as to private businesses and citizens, for the recovery and/or replacement of lost or damaged property and other assets. Accordingly, commodity losses experienced at the State or local level must be incorporated into any claims files with FEMA for financial assistance.

(Remember that a request for commodity replacement is required before the final summary report is due to FNS as indicated below.)

B. Final Summary Report to FNS

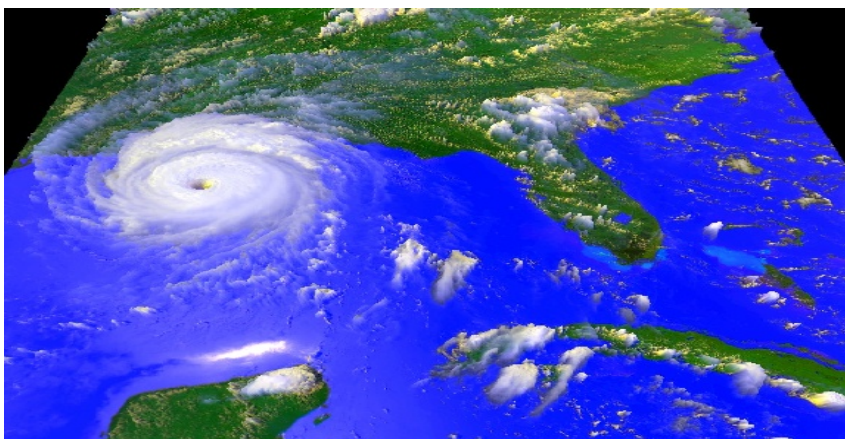
The State Distributing Agency must provide a summary report to the FNS Regional Office within 45 days of the termination of relief operations following a disaster or situation of distress. The State Distributing Agency must complete and submit Form FNS-292, *Report of Coupon Issuance and Commodity Distribution for Disaster Relief*.

C. State Distributing Agency Record Keeping Requirements

All applications, extension requests and approvals from relief organizations, distributing agencies and FNS must be initially submitted or responded to in writing if circumstances permit, or confirmed in writing in a timely manner. All such records must be maintained

in the appropriate offices for 3 years plus the current year, as required by Food Distribution Program regulations at 7 CFR 250.16(b).

- ❖ **The FNS-292:** State Distributing Agencies will provide a summary report to the FNS Regional Office using Form FNS-292, *Report of Food Stamp Benefit Issuance and Commodity Distribution for Disaster Relief*.
- ❖ In order to receive commodity replacement, the State Distributing Agency must report accurate amounts and values of commodities distributed during a disaster or situation of distress. To do this, the State Distributing Agency will need to identify the commodities taken from the State or contracted warehouse each time they are withdrawn and document the quantity and value of these commodities.
- ❖ In addition, the State Distributing Agency must gather the quantity and values of commodities taken from all local agencies, combine those with the amounts and values withdrawn from State or contracted warehouses, and record the information as a summary attached to the Form FNS-292.
- ❖ **Recordkeeping in “Single Inventory” Management Systems:**
- ❖ Special documentation is required when a Recipient Agency which practices “single inventory” management (commingling of purchased and commodity foods) uses foods for disaster feeding, and the Recipient Agency requests commodity replacement.
- ❖ The State Distributing Agency must acquire documentation that either:
 - Confirms that the foods used for the disaster were donated commodities or
 - Confirms the receipt of the same types of commodities (through consignee receipts or other records) by the Recipient Agency, during the year preceding the onset of the disaster feeding, as those foods used for disaster feeding.



Attachment 1 Disaster Questions and Answers

1. What role does USDA/FNS play in response to disaster situations?

There is a National Response Plan (NRP) that outlines the process for coordinating delivery of Federal assistance and resources to assist states and localities overwhelmed by a major disaster or emergency. The NRP supports implementation of the Robert T. Stafford Disaster Relief and Emergency Assistance Act as well as individual agency statutory authorities.

USDA/FNS is the primary federal agency tasked with providing food relief (Emergency Support Function 11) under the NRP. When a disaster strikes, FNS is often called upon to provide immediate food assistance in the form of USDA commodities. However, the primary disaster relief response by FNS is the issuance of **Disaster Food Stamp Benefits** to disaster victims.

FNS may also provide **infant formula and baby food** when requested to do so by the State Distributing Agency. Such requests may originate from the Red Cross, state health agencies, or other agencies. All such requests should be made to the State Distributing Agency for submission through its FNS Regional Office to Headquarters.

7 CFR 250.43 and 250.44 contain the regulations authorizing the Secretary of Agriculture to make commodities available to victims of disasters and situations of distress.

2. Is there any difference in the response that the State Distributing Agency may make regarding a disaster as opposed to a situation of distress?

When the President issues a disaster declaration, the State Distributing Agency may authorize the use of commodities for congregate feeding for the duration, with notice to the FNS Regional Office within 24 hours of doing so.

When there is no presidential declaration, and a situation of distress arises from a natural catastrophe, the State Distributing Agency may authorize the use of commodities for up to 30 days, with notice to the FNS Regional Office within 24 hours of doing so. FNS Headquarters approval is required to exceed 30 days.

If a situation of distress arises from circumstances other than a natural catastrophe, or should the State Distributing Agency want to release commodities for distribution to households for home preparation, the State Distributing Agency must receive prior approval from FNS Headquarters.

3. What is the role of the State Distributing Agency in response to disasters?

The State Distributing Agency receives and responds to requests for food assistance from non-profit disaster relief agencies such as the American Red Cross or the Salvation Army, and forwards pertinent information to the FNS Regional Office. This information

includes projections of the number of persons and meals expected to be served, length of time, types of commodities needed, etc. The State Distributing Agency also coordinates the release of commodities from its warehouses or from recipient agency inventories to meet the immediate need for food in the area affected by the disaster or situation of distress.

4. What preparations should a State Distributing Agency make to respond to a request for disaster relief?

The State Distributing Agency should become familiar with the Emergency Operations Plan in its state. Often, another individual within the State Agency is the liaison with the state's Emergency Operations Center. In addition to being familiar with the people in that communication chain, the State Distributing Agency should maintain emergency phone numbers of individuals with physical control of commodity inventories to expedite their release and use in the event of a disaster or situation of distress.

The State Distributing Agency should also incorporate instructions about the required protocols regarding the use of commodities for disaster feeding when conducting program training for its recipient agencies.

5. When is prior FNS approval required for the State Distributing Agency to release commodities for disaster feeding purposes?

FNS Headquarters approval is required for the distribution of commodities to households in both disasters and situations of distress. When FNS approves issuance of disaster food stamps, assurances must be made that individual households do not simultaneously receive food stamps and commodities for home preparation.

Should a situation of distress arise from circumstances other than a natural catastrophe, FNS Headquarters approval is also required to use commodities for congregate feeding.

6. What commodities may be used for disaster feeding purposes?

Commodities purchased for all FNS feeding programs may be used for a disaster or situation of distress. The most practical commodities to use for congregate feeding are those provided for the National School Lunch Program simply because the packaging, such as #10 cans, is designed for mass feeding. Commodities packaged in smaller sizes, such as #300 cans, are more appropriate for household distribution. Small cans may complicate congregate feeding efforts, but they may be utilized.

7. What is congregate feeding and where are such feeding sites set up?

Congregate feeding involves feeding groups of people often staying in locally designated shelters. Congregate feeding may occur in schools, churches, community centers, and soup kitchens. It also involves meal service from mobile kitchens set up by non-profit

disaster response organizations, such as the American Red Cross, in designated service centers in the immediate disaster area.

8. May disaster relief workers be served meals containing commodity foods? Is there any limit as to their numbers or length of time they may be served?

Once congregate feeding is approved for an area, disaster relief workers may also be served if such persons:

- 1) have a reasonable need to be in the area, i.e. providing disaster relief; and
- 2) they are unable to reasonably procure food on their own, because:
 - a. the disaster has destroyed or disrupted normal commercial food channels; or,
 - b. they are unable to reasonably and conveniently leave their duties to access food through whatever normal commercial channels may be available.

There are no limits to the number of relief workers who may be served, and they may receive meals as long as the congregate feeding is in effect.

9. Does USDA replace commodities used in a disaster or distress situation? How does use of “single inventory” management by schools affect commodity replacement?

FNS will replace commodities used under a disaster declaration if the State Distributing Agency provides appropriate documentation with the commodity replacement request.

When a school that uses “single inventory” management (commingling of commercial and commodity foods) requests commodity replacement, the State Distributing Agency must provide documentation to FNS that:

- 1) Confirms that the foods used for the disaster were donated commodities, or
- 2) Confirms the receipt of the same types of commodities (through consignee receipts or other records) by the school, during the year preceding the onset of the disaster feeding, as those foods used for the disaster feeding.

Funds are limited to replace commodities used in a situation of distress. Therefore, it is very important that the State Distributing Agency notify the FNS Regional Office as soon as possible of its intention to request commodity replacement. The FNS Regional Office will notify FNS Headquarters of the request for replacement, which in turn will determine whether sufficient funds are available.

10. Does USDA reimburse the State Distributing Agency for any expenses incurred transporting commodities for emergency feeding?

USDA will reimburse transportation expenses of a State Distributing Agency that arranges shipment of commodities to other States (interstate movement). The State Distributing Agency must bear any costs incurred in transporting commodities within its own borders.

11. Does USDA reimburse the State Distributing Agency or Recipient Agencies for processing fees paid for further processed commodities used for disaster feeding?

No. USDA may reimburse only the value of the raw commodity contained in further processed items. The State Distributing Agency should consider this when evaluating whether it should release any further processed items in its control for disaster feeding purposes.

12. What is the Rapid Food Response System? How does a State Distributing Agency receive assistance through the Rapid Food Response System?

The Rapid Food Response System (RFRS) is designed to ensure the availability of a more nutritionally balanced offering of commodities to support congregate feeding during disasters. The RFRS provides selected commodities that are normally available from the inventories of seven large States. These commodities are consistent with Federal nutrition guidance based on the Dietary Guidelines for Americans and the Food Guide Pyramid.

In the event of a disaster, the State Distributing Agency would first use its own inventory of commodities. If it is unable to meet all requests for commodity assistance, it should seek additional commodities through the FNS Regional Office from neighboring states.

To activate the Rapid Food Response System, the State Distributing Agency should contact the FNS Regional Office, which will approve such requests. The Regional Office will contact its participating Rapid Food Response State to obtain the needed commodities, and work with the State Distributing Agency requesting the commodities to transport them to the disaster area.

Attachment 2 Food Distribution Programs Disaster Flowchart (1 of 2)

Event	Type of Assistance	Application Channels	Application Contents to extent possible – (initially in writing if possible) otherwise confirmed in writing in timely manner	Approval Authority	Notification Requirement	Duration
DISASTER Presidential Declaration that, in U.S.: 1. catastrophe of natural or other causes, warrants assistance under the Stafford Act 2. any other instance warrants Federal assistance to lessen or avert threat of catastrophe	Congregate Meal Service (central site(s) serving prepared meals	Disaster Organization (DO) applies to State Distributing Agency (SDA)	1. Description of disaster 2. Number of persons needing meals 3. Anticipated duration of feeding 4. Quantity / types of food needed 5. Number / location of sites (as established)	SDA may approve	SDA informs FNSRO of approval with copy of application(s) within 24 hours	SDA may initially determine and extend duration
	Household Distribution (central site(s) distributing USDA commodities to households for them to prepare meals at home)	Disaster Organization (DO) applies to State Distributing Agency (SDA), which if it approves, seeks (via FNSRO) FNSHQ approval.	1. Description of disaster 2. Identify specific geographic area(s) 3. Number of households affected 4. Why household distribution warranted 5. Anticipated duration of feeding 6. Method(s) of distribution available 7. Quantity / types of food needed 8. Assurance households won't get commodities and disaster food stamps 9. System to prevent dual participation 10. Number / location of sites (as established)	FNSHQ must approve	N/A	FNSHQ will initially determine and may extend duration
SITUATION OF DISTRESS No Presidential Declaration, but: 1. if natural catastrophe, in judgment of SDA warrants use of USDA commodities for congregating feeding, or 2. if non-natural event , in judgment of FNS warrants use of USDA commodities for congregating feeding or household distribution	Congregate Meal Service (central site(s) serving prepared meals	Disaster Organization (DO) applies to State Distributing Agency (SDA)	1. Description of situation of distress 2. Number of persons needing meals 3. Anticipated duration of feeding 4. Quantity / types of food needed 5. Number / location of sites (as established)	SDA may approve for up to 30 days if situation is a natural event	SDA informs FNSRO of approval with copy of application(s) within 24 hours and if it extends duration of initial approval up to 30 day limit	Extension beyond 30 days requires FNSHQ approval
				If not a natural event, SDA must seek (via FNSRO) FNSHQ approval	N/A	FNSHQ will initially determine and may extend duration
	Household Distribution (central site(s) distributing USDA commodities to households for them to prepare meals at home)	Disaster Organization (DO) applies to State Distributing Agency (SDA), which if it approves, seeks (via FNSRO) FNSHQ approval.	1. Description of situation of distress 2. Identify specific geographic area(s) 3. Number of households affected 4. Why household distribution warranted 5. Anticipated duration of feeding 6. Quantity / types of food needed 7. Assurance households won't get commodities and disaster food stamps 8. System to prevent dual participation 9. Number / location of sites (as established)	FNSHQ must approve.	N/A	

Attachment 2 Food Distribution Programs Disaster Flowchart (2 of 2)

Foods to Use	Collection of written household information by DO to include:	Record keeping Requirement	Replacement	Reporting Requirement
Foods from ALL FNS Programs	N/A	(1) Applications/ approvals to be kept according to requirements of Part 250	All foods used from State and local inventories replaced	
	1. Name of applicant 2. Address 3. Number in household 4. Signed statement that household is/will not: A. lying about need B. sell/trade commodities C. residing in a shelter serving meals D. getting disaster food stamps	See (1) above; Also DO must forward household information to SDA; SDA may allow DO to keep these records if DO is an agency of State govt.	State must request replacement within 30 days of end of assistance FNS may waive 30 day deadline with justification	
Foods from ALL FNS Programs	N/A	See (1) above	N/A	Within 45 days of end of assistance SDA files form FNS-292 (Report of Coupon Issuance and Commodity Distribution for Disaster Relief) with FNSRO
	N/A	See (1) above	State must request replacement of foods used from State and local inventories within 30 days of end of assistance	
	1. Name of applicant 2. Address 3. Number in household 4. Signed statement that household is/will not: A. lying about need B. sell/trade commodities C. residing in a shelter serving meals D. getting disaster food stamps	See (1) above; Also DO must forward household information to SDA; SDA may allow DO to keep these records if DO is an agency of State govt.	FNS will replace such foods only to the extent that funding is available Replacement cannot therefore be guaranteed	

Attachment 3 The National Response Plan

The Department of Homeland Security is responsible for the National Response Plan to ensure that all levels of government work together in response to disasters of all kinds. Copied below is a brief fact sheet on the plan. For additional details access the website at www.dhs.gov

THE NATIONAL RESPONSE PLAN

What it does for America

The [National Response Plan](#) establishes a comprehensive all-hazards approach to enhance the ability of the United States to manage domestic incidents. The Plan incorporates best practices and procedures from incident management disciplines—homeland security, emergency management, law enforcement, firefighting, public works, public health, responder and recovery worker health and safety, emergency medical services, and the private sector—and integrates them into a unified structure. It forms the basis of how federal departments and agencies will work together and how the federal government will coordinate with state, local, and tribal governments and the private sector during incidents. It establishes protocols to help protect the nation from terrorist attacks and other natural and manmade hazards; save lives; protect public health, safety, property, and the environment; and reduces adverse psychological consequences and disruptions to the American way of life.

Plan Organization

Base Plan: Concept of Operations, Coordinating Structures, Roles and Responsibilities, Definitions, etc.

Appendixes: Glossary, Acronyms, Authorities, and Compendium of National Interagency Plans

Emergency Support Function Annexes: Groups capabilities & resources into functions that are most likely needed during an incident (e.g., Transportation, Firefighting, Mass Care, etc.)

Support Annexes: Describes common processes and specific administrative requirements (e.g., Public Affairs, Financial Management, Worker Safety & Health, etc.)

Incident Annexes: Outlines core procedures, roles and responsibilities for specific contingencies (e.g., Bio, Radiological, Cyber, HAZMAT Spills)

National Response Plan Incident Management Priorities

- Save lives and protect the health and safety of the public, responders, and recovery workers.
- Ensure security of the homeland.
- Prevent an imminent incident, including acts of terrorism, from occurring.
- Protect and restore critical infrastructure and key resources.
- Conduct law enforcement investigations to resolve the incident, apprehend the perpetrators, and collect and preserve evidence for prosecution and/or attribution.
- Protect property and mitigate damages and impacts to individuals, communities, and the environment.
- Facilitate recovery of individuals, families, businesses, governments, and the environment.

Emphasis on Local Response

- The Plan identifies police, fire, public health and medical, emergency management, and other personnel as responsible for incident management at the local level.
- The Plan enables incident response to be handled at the lowest possible organizational and jurisdictional level.
- The Plan ensures the seamless integration of the federal government when an incident exceeds local or state capabilities.
- Timely Federal Response to Catastrophic Incidents
- The Plan identifies catastrophic incidents as high-impact, low-probability incidents, including natural disasters and terrorist attacks that result in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions. The Plan provides the means to swiftly deliver federal support in response to catastrophic incidents.

Multi-agency Coordination Structure

- The Plan identifies police, fire, public health and medical, emergency management, and other personnel as responsible for incident management at the local level.
- The Plan enables incident response to be handled at the lowest possible organizational and jurisdictional level.
- The Plan ensures the seamless integration of the federal government when an incident exceeds local or state capabilities.

New Coordinating Features in the National Response Plan

Homeland Security Operations Center (HSOC): The HSOC serves as the primary national level multi-agency hub for domestic situational awareness and operational coordination.

The HSOC also includes DHS components, such as the National Infrastructure Coordinating Center (NICC), which has primary responsibility for coordinating communications with the Nation's critical infrastructure during an incident.

National Response Coordination Center (NRCC): The NRCC, a functional component of the HSOC, is a multi-agency center that provides overall federal response coordination.

Regional Response Coordination Center (RRCC): At the regional level, the RRCC coordinates regional response efforts and implements local federal program support until a Joint Field Office is established.

Interagency Incident Management Group (IIMG): A tailored group of senior federal interagency experts who provide strategic advice to the Secretary of Homeland Security during an actual or potential Incident of National Significance.

Joint Field Office (JFO): A temporary federal facility established locally to provide a central point to coordinate resources in support of state, local, and tribal authorities.

Principal Federal Official (PFO): A PFO may be designated by the Secretary of Homeland Security during a potential or actual Incident of National Significance. While individual federal officials retain their authorities pertaining to specific aspects of incident management, the PFO works in conjunction with these officials to coordinate overall federal incident management efforts.

Maintaining the National Response Plan

- The Department of Homeland Security/Emergency Preparedness and Response (EP&R)/Federal Emergency Management Agency (FEMA), in close coordination with the DHS Office of the Secretary, will maintain the National Response Plan.
- The Plan will be updated to incorporate new Presidential directives, legislative changes, and procedural changes based on lessons learned from exercises and actual events.

Attachment 4 Regulations: 7CFR 250.3, 250.42, 250.44

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shall not apply to distribution to households on all or part of an Indian reservation which is participating in the Food Distribution Program under part 253 and part 254 of this chapter. The distributing agency shall provide guidance to subdistributing agencies and recipient agencies on all aspects of program operations.

(c) *Personnel*. Each distributing agency shall provide adequate personnel, to administer the program in accordance with this part.

§ 250.3 Definitions.

Charitable institutions means:

(a) A nonpenal, noneducational public (Federal, State or local) institution,

(b) A nonprofit, tax exempt, private hospital, or

(c) Any other nonprofit, noneducational, tax exempt private institution, including hospitals and facilities caring for needy infants and children, organized to provide charitable or public welfare services in the same place without marked changes and, at the Department's option, approved by a public welfare agency as meeting a definite need in the community by administering to needy persons, and provides a meal service on a regular basis. Charitable institutions include any institution defined as "service institution"; "nonresidential child care institution"; or "school" which is not a commodity school or does not participate in a child nutrition program. For purposes of this paragraph, tax exempt shall mean exempt from income tax under the Internal Revenue Code, as amended, and a charitable institution shall be considered "noneducational" even though educational courses are given, where such courses are incidental to the primary purpose of the charitable institution.

Child nutrition program means the National School Lunch Program, the School Breakfast Program, the Summer Food Service Program for Children, or the Child Care Food Program (parts 210, 220, 225, and 226, respectively of this chapter).

Commodities means foods donated, or available for donation, by the Department under any of the legislation referred to in this part (see "Donated Foods").

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Commodity school means a school that does not participate in the National School Lunch Program under part 210 of this chapter but which operates a nonprofit school food service under agreement with the State educational agency or FNSRO as provided for under part 210 of this chapter and receives donated foods, or donated foods and cash or services of a value of up to 5 cents per lunch in lieu of donated foods under part 240 of this chapter for processing and handling of the donated foods.

Contract value of the donated foods means the price assigned by the Department to a donated food which shall reflect the Department's current acquisition price, transportation and, if applicable, processing costs related to the food.

Contracting agency means the distributing agency, subdistributing agency, or recipient agency which enters into a processing contract.

Department means the United States Department of Agriculture or the Commodity Credit Corporation, whichever is the donor under the pertinent legislation.

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

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

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Disaster organizations means organizations authorized by appropriate Federal or State officials to assist disaster victims.

Disaster victims means persons who, because of acts of God or manmade disasters, are in need of food assistance, whether or not they are victims of a major disaster or an emergency as defined in this section.

Discount system means a system whereby a recipient agency purchases end products directly from a processor at an established wholesale price minus the contract value of the donated foods contained in the end products.

Distributing agency means a State, Federal or private agency, or Indian Tribal Organization (ITO) which enters into an agreement with the Department for the distribution of donated foods to eligible recipient agencies and recipients and the Food and Nutrition Service of the Department when it accepts title to commodities from the Commodity Credit Corporation (CCC) for distribution to eligible recipient agencies pursuant to the National Commodity Processing System. A distributing agency may also be a recipient agency.

Distributor means a commercial food purveyor or handler who is independent of a processor and both sells and bills for the end products delivered to recipient agencies.

Donated foods means foods donated, or available for donation, by the Department under any of the legislation referred to in this part (see "Commodities").

End product means a product containing any amount of donated foods which have been processed.

Federal acceptance service means the acceptance service provided by:

- (a) The applicable grading branches of the Department's Agricultural Marketing Service (AMS),
- (b) The Department's Federal Grain Inspection Service, and
- (c) The National Marine Fisheries Service of the U.S. Department of Commerce.

Fee-for-service means the price by pound or by case representing a processor's cost of ingredients (other than donated foods), labor, packaging, overhead, and other costs incurred in the

conversion of the donated food into the specified end product.

Fiscal year means the period of 12 months beginning October 1 of any calendar year and ending September 30 of the following year.

FNS means the Food and Nutrition Service of the Department of Agriculture.

FNSRO means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Service of the Department of Agriculture.

Food service management company means a commercial enterprise or a nonprofit organization which is or may be contracted with by a recipient agency to manage any aspect of its food service in accordance with § 250.12(d) of this part or in accordance with part 210, 220, 225, or 226 of this chapter.

Household means a group of related or non-related individuals, exclusive of boarders, who are not residents of an institution, but who are living as one economic unit and for whom food is customarily purchased and prepared in common. It also means a single individual living alone.

In-kind replacement means replacement of lost donated foods with a quantity of the same foods of U.S. origin that are of equal or better quality than the lost foods and that are of at least equal monetary value to the Department's cost of replacing the lost foods.

Multi-State processor means:

- (a) A processor which has entered into a processing contract with contracting agencies in more than one State, or
- (b) A processor which has entered into a processing contract with one or more contracting agencies located in a State other than the one in which either the processor's plant or business office is located.

Needy persons means:

- (a) Persons provided service by charitable institutions, who, because of their economic status, are in need of food assistance,
- (b) All the members of a household who are certified as in need of food assistance, and
- (c) Disaster victims.

Nonprofit school food service means all food service operations conducted by the school food authority principally

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for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food services.

Nonprofit summer camps for children means nonprofit camps which do not participate in the Summer Food Service Program for Children authorized under section 13 of the National School Lunch Act, as amended (42 U.S.C. 1761), and in which, during the months of May through September, meal services are conducted for children of high school grade and under.

Nonresidential child or adult care institution means any child or adult care institution (as defined in part 226 of this chapter) which participates in the Child and Adult Care Food Program authorized under section 17 of the National School Lunch Act, as amended (42 U.S.C. 1766).

Nutrition program for the elderly means a project conducted by a recipient of a grant or contract under title III or title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a).

Offer-and-acceptance system means a procedure whereby a school food authority is given the opportunity to order only the amounts and varieties of donated foods it desires for its school lunch program on the basis of advance notification by the distributing agency.

Performance supply and surety bond means a written instrument issued by a surety company which guarantees performance and supply of end products by a processor under the terms of a processing contract.

Processing means:

(a) The conversion of a donated food or donated foods into a different end product or

(b) The repackaging of a donated food or donated foods.

Processor means any commercial facility which processes or repackages donated foods. However, commercial enterprises which handle, prepare and/or serve products or meals containing donated foods on-site solely for the individual recipient agency under contract are exempt under this definition. Notwithstanding this definition, a recipient agency which prepares products or meals containing donated foods for more than one recipient agency under

more than one contract in the same facility or prepares products or meals for any one recipient agency off-site shall not be a processor if the recipient agency preparing products or meals provides: (1) accountability for any donated foods received from another recipient agency consistent with § 250.16 of this part and (2) any funds received as payment for preparing products or meals shall be deposited in the nonprofit meal account of the recipient agency preparing products or meals.

Program means the Food Distribution Program.

Recipient agencies means nonprofit summer camps for children, charitable institutions, nutrition programs for the elderly, disaster organizations, school food authorities, schools, non-residential child care institutions, service institutions, and welfare agencies receiving foods for their own use or for distribution to eligible recipients.

Recipients means the needy persons receiving commodities for household consumption.

Refund means (a) a credit or check issued to a distributor in an amount equal to the contract value of donated foods contained in an end product sold by the distributor to a recipient agency at a discounted price and (b) a check issued to a recipient agency in an amount equal to the contract value of donated foods contained in an end product sold to the recipient agency under a refund system.

Refund application means an application by a recipient agency in any form acceptable to the processor which certifies purchase of end products and requests a refund of the contract value of the donated foods contained in the end products purchased.

Refund system means a system whereby a recipient agency purchases a processor's end products and receives from the processor a payment equivalent to the contract value of the donated foods contained in the end products.

School means (a) An educational unit of high school grade or under, recognized as part of the educational system in the State and operating under public or nonprofit private ownership in a single building or complex of buildings. The term "high school grade or under"

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includes classes of preprimary grade when recognized as part of the education system of the States:

(b) Any public or nonprofit private classes of preprimary grade when they are conducted in those schools defined in paragraph (a) of this definition having classes of primary or of higher grade;

(c) Any public or nonprofit private residential child care institution, or distinct part of such institution, which operates principally for the care of children, and if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government, *except for* residential summer camps which participate in the Summer Food Service Program for Children, Job Corps centers funded by the Department of Labor and private foster homes. The term "residential child care institutions" includes, but is not limited to: homes for the mentally, emotionally or physically impaired, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers. A long-term care facility is a hospital, skilled nursing facility, intermediate care facility, or distinct part thereof, which is intended for the care of children confined for 30 days or more; or

(d) With respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico.

School food authority means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a nonprofit school food service therein or otherwise approved by FNS to operate the NSLP.

School year means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

Secretary means the Secretary of Agriculture.

Section 4(a) means section 4(a) of the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c note). Section 4(a) authorizes the pur-

chase of foods for distribution to maintain the traditional level of assistance for food assistance programs as are authorized by law, including institutions, supplemental feeding programs, disaster areas, summer camps for children, the Trust Territory of the Pacific Islands, and Indians whenever a tribal organization requests distribution of federally-donated foods under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)).

Section 6 means section 6 of the National School Lunch Act, as amended (42 U.S.C. 1755). Section 6 authorizes the purchase of foods for distribution to schools and institutions participating in child nutrition programs under the National School Lunch Act and specifies the level of assistance which is to be provided.

Section 14 means section 14 of the National School Lunch Act, as amended (42 U.S.C. 1762a). Section 14 authorizes the purchase of foods for distribution to maintain the annually programmed level of assistance for programs carried on under the National School Lunch Act, the Child Nutrition Act of 1966, and title III of the Older Americans Act of 1965.

Section 32 means section 32 of Pub. L. 74-320, as amended (7 U.S.C. 612c). Section 32 authorizes the Department to purchase nonbasic perishable foods available under surplus-removal operations, for the purpose of encouraging the domestic consumption of such foods by diverting them from the normal channels of trade or commerce.

Section 311 means section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a). Section 311 authorizes the purchase of commodities for nutrition programs for the elderly.

Section 416 means section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431). Section 416 authorizes the Department to donate basic nonperishable foods acquired through Federal price-support operations for use by needy persons, for use in nonprofit school lunch programs and nonprofit summer camps for children, and for use in charitable institutions to the extent that needy persons are served.

Section 709 means section 709 of the Food and Agricultural Act of 1965, as amended (7 U.S.C. 1446a-1). Section 709

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authorizes the purchase of adequate supplies of dairy products to meet the requirements of schools, domestic relief distribution, and other programs authorized by law when the stocks of the Commodity Credit Corporation are insufficient to meet those requirements.

Service institutions means camps or sponsors (as those terms are defined in part 225 of this chapter) which participate in the Summer Food Service program authorized under section 13 of the National School Lunch Act, as amended (42 U.S.C. 1761).

Similar replacement means replacement of lost donated foods with a quantity of similar foods of U.S. origin of the same types as those normally donated by the Department and of at least equal monetary value to the Department's cost of replacing the lost foods. Such replacement shall be subject to the approval of the FNSRO.

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

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

State and United States means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

State Agency on Aging means:

(a) The State agency that has been designated by the Governor and approved by the United States Department of Health and Human Services (DHHS) to administer nutrition programs for the elderly under title III of the Older Americans Act of 1965, as amended or

(b) The Indian tribal organization which has been approved by DHHS to

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administer nutrition programs for the elderly under title VI of such act.

Storage facility means an operation that provides warehousing services, or provides both warehousing and delivery services.

Students in home economics means students in regular classes wherein they are taught general home economics including food preparation, cooking, serving, nutrition, food purchasing, child care and health.

Subdistributing agency means an agency performing one or more distribution functions for a distributing agency other than, or in addition to, functions normally performed by common carriers or warehousemen. A subdistributing agency may also be a recipient agency. State and local agencies, and Indian Tribal Organizations administering the Emergency Food Assistance Program, the Food Distribution Program on Indian Reservations, or the Commodity Supplemental Food Program, are subdistributing agencies subject to all provisions relative to subdistributing agencies contained in this part, unless specifically exempt under part 251, part 253, part 254, or part 247 of this chapter.

Substituted food means domestically produced food that is purchased or manufactured by a processor and is substituted for donated food.

Substitution means:

(a) The replacement of donated foods with like quantities of domestically produced commercial foods of the same generic identity and of equal or better quality (i.e. cheddar cheese for cheddar cheese, nonfat dry milk for nonfat dry milk, etc.).

(b) In the case of donated nonfat dry milk, substitution as defined under (a) of this definition or replacement with an equivalent amount, based on milk solids content, of domestically produced concentrated skim milk.

(c) A processor can substitute commercial product for donated commodity, as described in paragraph (a) of this section, without restrictions under full substitution. The processor must return to the contracting agency, in finished end products, the same number of pounds of commodity that the

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adjustment, any remaining funds (up to the level of assistance specified in paragraph (b)(2)(i) of this section) will be disbursed so that each State will receive an equal amount on a per meal basis.

(4) To be eligible for reimbursement by FNS, claims for cash payment for meals served by nutrition programs for the elderly shall be submitted by State Agencies on Aging and Indian Tribal Organizations no later than 90 days following the close of the Federal fiscal quarter for which payment is claimed.

(5) The State Agency on Aging desiring to receive funds under this paragraph shall enter into a written agreement with FNS pursuant to §250.12(a) to:

(i) Promptly and equitably disburse any cash it receives in lieu of donated foods to nutrition programs for the elderly after consideration of the needs of such programs and the availability of other resources, including any donated foods available under paragraph (b) of this section;

(ii) Establish such procedures as may be necessary to ensure that the cash disbursements are used by nutrition programs for the elderly solely for the purpose of purchasing U.S. agricultural commodities and other foods of U.S. origin for their food service operations;

(iii) Maintain and retain for 3 years from the close of the Federal fiscal year to which they pertain complete and accurate records of:

(A) All amounts received and disbursed under paragraph (c) of this section and

(B) The manner in which consideration was given to the needs and resources as required by paragraph (c)(5)(i) of this section; and

(iv) Permit representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy such records at any reasonable time.

(6) Funds provided under paragraph (c) of this section shall be subject to the Department's Uniform Federal Assistance Regulations (7 CFR part 3015).

(d) *Types of donated foods authorized for donation.* Nutrition programs for the elderly are eligible to receive donated foods under section 416, section

32, section 311, section 709, and section 14.

[53 FR 20426, June 3, 1988, as amended at 62 FR 53729, Oct. 16, 1997]

§250.43 Disaster food assistance.

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

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

(2) *Applications.* (1) Disaster organizations wishing to receive donated foods for use in preparing meals for disaster victims shall submit applications to the distributing agency. Applications shall, to the extent possible, include the following information:

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(A) Description of disaster situation;
 (B) Number of people requiring meals;

(C) Period of time for which commodities are requested; and

(D) Quantity and types of food needed for congregate meal service.

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

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

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

(A) Description of disaster situation;
 (B) Identification of the specific area(s) included in the request;

(C) Number of households affected;
 (D) Explanation as to why the distribution of commodities to households is warranted;

(E) Anticipated distribution period;
 (F) Method(s) of distribution available;

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

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

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

(ii) In addition, information on the number and location of sites where commodities are to be distributed shall

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be provided to the distributing agency as such sites are established.

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

(i) Name of household member applying for assistance;

(ii) Address;

(iii) Number of household members; and

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

(A) Is in need of food assistance;

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

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

(D) Is not receiving disaster food stamp benefits.

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

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

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

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

[62 FR 8365, Feb. 25, 1997]

§ 250.44 Food assistance in situations of distress.

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

(b) *Congregate meal service.* (1) *Approval authority and duration.* Distributing agencies may review and approve applications for the donation of foods for use in preparing congregate meals for a period not to exceed 30 days for victims of situations of distress in instances in which the need for such assistance meets the conditions of paragraph (a) of the definition of *situation of distress* in §250.3. Following approval of a request, distributing agencies shall report the information listed in paragraph (b)(2) of this section to the appropriate FNSRO within 24 hours. In instances when the distributing agency extends the originally approved distribution period from less than 30 days to the 30-day limit, it shall notify the FNSRO of such extensions. Distributing agencies shall request approval from FNS, via the appropriate FNSRO,

for donations to exceed 30 days. Upon determining that there is a need for the donation of foods for congregate meals in instances other than those that meet the criteria in paragraph (a) of the definition of *situation of distress* in §250.3, the distributing agency shall forward applications to the appropriate FNSRO for submission to FNS for prior approval. FNS will determine the duration of such donations, taking into consideration the magnitude of the situation. Determinations as to the length of donations may be revised as developing circumstances dictate.

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

(A) Description of the situation of distress;

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

(C) Quantity and types of food needed.

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

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

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

(A) Description of the situation of distress;

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

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

(D) Anticipated distribution period;

(E) Number of households expected to participate;

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

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

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

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

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

(i) Name of household member applying for assistance;

(ii) Address;

(iii) Number of household members; and

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

(A) Is in need of food assistance;

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

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

(D) Is not receiving disaster food stamp benefits.

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

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

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

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

[62 FR 8366, Feb. 25, 1997]

§ 250.45 Commodity Supplemental Food Program.

(a) *Distribution.* The distributing agency shall distribute donated foods to the State agency which is designated by the State to administer the Commodity Supplemental Food Program for that State and which has entered into a written agreement with the Department for the administration of that program in accordance with 7 CFR part 247, the regulations for that program. The State agency administering the Commodity Supplemental Food Program shall distribute donated foods to local agencies for use by eligible recipients in accordance with the provisions of 7 CFR part 247 and with the provisions of this part, and may enter into an agreement with the distributing agency for use of the distributing agency's facilities for distribution.

(b) *Quantities of donated foods.* Distribution of donated foods to the designated State agencies for the Commodity Supplemental Food Program shall be made on the basis of each

Attachment 5 Clarification of Commodity Replacement...



NOV -4 2004

United States
Department of
AgricultureFood and
Nutrition
Service3101 Park
Center DriveAlexandria, VA
22302-1500

SUBJECT: Clarification of Commodity Replacement for State Distributing Agencies Following Disasters and Situations of Distress

TO: Program Regional Director
All Regions

As we approach the end of an exceptionally active hurricane season, which has included FNS response to requests for food assistance from affected State agencies, we need to clarify the FNS/FDD policy about replacement of commodities. Please provide this clarification to all State Distributing Agencies.

As you are aware, the Robert T. Stafford Disaster Relief and Emergency Assistance Act provides statutory authority for various federal agencies to act in response to State requests for assistance in a disaster. USDA/FNS is the primary federal agency assigned to provide food relief consisting primarily of emergency food stamps and commodity food donations.

Our program regulations, 7 CFR 250.43 and 250.44, also authorize the Secretary of Agriculture to make commodities available to victims of disasters and situations of distress. The protocol for providing commodities to disaster feeding agencies during and after such emergencies is specifically outlined in the recently updated FNS/FDD Disaster Manual, now available on the FDD website.

FNS will replace commodities *used by State Distributing Agencies and recipient agencies for disaster feeding purposes* with special funds made available following a Presidential declaration of disaster. FNS will also replace commodities *used by State Distributing Agencies and recipient agencies for feeding purposes in situations of distress*, as long as its annual appropriation of funds for emergency situations lasts. However, FNS has no authority to *replace commodities for State Distributing Agencies or recipient agencies that are lost, destroyed, contaminated or otherwise rendered unusable* in a disaster due to flooding, fire, wind, power outage or other cause.

The Federal Emergency Management Agency (FEMA) is responsible for overall disaster relief. FEMA's coverage provides funds to State and local government agencies, as well as to private businesses and citizens, for the recovery and/or replacement of lost or damaged property and other assets. Accordingly, commodity losses experienced at the State or local level must be incorporated into any claims filed with FEMA for financial assistance.

Cathie McCullough
Director
Food Distribution Division

AN EQUAL OPPORTUNITY EMPLOYER

Attachment 6 Rapid Food Response System (background)



SEP 28 2004

SUBJECT: Food Distribution Program Rapid Food Response

United States
Department of
Agriculture

TO: State Distributing Agencies


Food and
Nutrition
Service3101 Park
Center DriveAlexandria, VA
22302-1500

In an effort to refine our commodity response during **Presidentially-declared disasters**, we have established a national "Rapid Food Response System." The system uses currently existing Federal, State, and local commodities, and commodity distribution systems, to supplement – not replace – the congregate disaster feeding efforts already existing in the public and private sectors.

Seven geographically strategic States – New York, Pennsylvania, North Carolina, Ohio, Colorado, Oklahoma, and California – have signed a Memorandum of Understanding, agreeing to make their inventories available nationally for this effort. Each State would typically be in a position to feed up to 10,000 people for seven days from existing stocks of commodities in their warehouses. These States would make a specific group of commodities available (if they have them in their inventory) in a combination that supports a more nutritionally balanced food offering consistent with Federal nutrition guidelines. If inventories in the State were low, the State could make substitutions based on USDA's recommendations, or based on whatever it determines is reasonable. USDA could also make its inventories of household program commodities available if needed.

States in which a disaster occurred would be expected to look within their own borders for the necessary commodities, then to an immediate neighbor, before activating the Rapid Food Response System. To activate the System, a State in need would first contact its FNS Regional Office, which will act as the gatekeeper for approving such requests. The Regional Office will, in turn, contact its participating Rapid Food Response State to obtain the needed commodities, and work with the State in need to transfer them to the disaster area.

We have included a background paper explaining the Rapid Food Response System and a copy of the Memorandum of Understanding that the seven participating States signed. We also intend to explain the system at future training sessions and meetings. If, in the meantime, you have any questions, please feel free to call Rosalind Cleveland or Mike Buckley of my staff at 703-305-2885 or 703-305-2880 respectively.


Cathie McCullough
Director
Food Distribution Division

Attachments

AN EQUAL OPPORTUNITY EMPLOYER

Background Paper

Refining the Commodity Programs' Response To Disasters and Situations of Distress

BACKGROUND

The Food Distribution Division (FDD) was looking for a way to provide a nutritionally balanced offering of commodities to support congregate feeding during times of disaster.

In pursuing this goal, FDD's Food and Nutrition Service (FNS) operated under the following:

- No additional money is available from the Agency or Department to implement this plan.
- The disaster commodity offerings in our rapid food response system are not meant to replace the disaster feeding system currently provided by the public and private sector. The Red Cross will remain the primary organization responding to the food assistance needs of disaster victims; our disaster package is merely a **supplement** to these feeding efforts. The commodities utilized in this disaster package must be shelf-stable, easy to prepare and, to the greatest extent possible, available in large pack sizes. This restricts the type of products we can include. These criteria limit our ability to provide all the components required for a complete meal. However, the commodities in this disaster package represent all five major food groups of the Food Guide Pyramid in quantities that provide approximately 2200 calories per day. These items can be effectively combined with additional foods supplied by the Red Cross and other emergency agencies to provide complete, nutritious meals.
- Power sources for cooking as well as supplies such as cooking equipment, plates, utensils, and a safe water supply will already be available on site, or will have been brought into the disaster area. Our plan is not meant to address extreme situations where basic food preparation equipment cannot be made available or where food must be delivered to areas that are experiencing chemical, biological, or radiation risks.
- This plan must operate within the Federal, State, and local agency commodity distribution systems already in place, and their supporting laws and regulations.

FDD proposes the following system:

Disaster Commodity Offerings

At present, no formalized system exists to ensure that commodity foods provided during times of disaster are consistent with Federal nutrition guidance based on the Dietary Guidelines for Americans (DGA) and the Food Guide Pyramid (FGP). To address this issue, FDD designed a disaster commodity offering that can help victims meet these requirements (see Attachment 1). The offering contains five basic categories of foods (Bread, Cereal, Rice, and Pasta Group; Meat, Poultry, Fish, Dry Beans, Eggs, and Nuts Group; Milk, Yogurt, and Cheese Group; Vegetables; and Fruit) with several commodities listed as examples in each category. The commodities in each of the five categories would provide an offering consistent with recommendations of the DGA and FGP. Because this proposal works within the existing inventory limitations of the seven States selected to participate in the initiative, flexibility is built into which commodities go into the offering. In each basic category of food there are preferred menu items, as well as acceptable substitutions (Attachment 2). If the preferred commodities are not available, the State may provide one of the substitute commodities on the list, or an appropriate replacement of their own choosing.

The plan primarily utilizes commodities for schools, because they are packaged in institutional sizes, which are generally considered more desirable for disaster feeding in congregate settings. The plan also uses several commodities only available from household programs. They represent the best nutritional alternative in a particular category. We envision obtaining most of these household sized commodities from participating State agencies' inventories for the Emergency Food Assistance Program (TEFAP). When necessary, household commodities could also be obtained from the USDA contract warehouses for the Food Distribution Program on Indian Reservations (FDPIR) and the Commodity Supplemental Food Program (CSFP).

The commodities used in the disaster commodity offering for adults and children were chosen based on practical as well as nutritional considerations including:

- The foods are commonly available in States' warehouses and commonly accepted by current recipients of USDA's nutrition assistance programs.
- The foods are adequate to feed the general population including children and the elderly.
- The foods are relatively easy to prepare and serve.

Rapid Food Response System (RFRS)

FNS has calculated commodity requirements to feed approximately 10,000 children and adults for seven days. FDD has contacted seven States—**California, Colorado, New York, North Carolina, Ohio, Oklahoma, and Pennsylvania**—located in geographically central areas with relatively large warehouses and good transportation systems, to determine their interest in participating in this initiative as suppliers of food. All seven have confirmed that they are interested in participating. These States will not be required to keep minimum inventories of the specific categories and quantities of the desired commodities in stock, nor will they be asked to order additional foods.

Each State participating in the initiative would typically be in a position to meet FNS' requirements for commodities to feed 10,000 people for seven days as listed in Attachment 2. If inventories are low at the time of the disaster, a State could provide appropriate replacements. Another alternative is that one or more of the other participating States could be asked to supply all or part of the commodity offering. Inventories of commodities for household distribution stored in warehouses under contract with USDA may also be used if State inventories are low. (See "Using USDA's Household Commodities as a Back-Up.")

The advantages of this system are:

- The commodity offerings of food would originate from already existing commodity inventories, so there is no additional cost associated with purchase and storage.
- The commodities are rotated through the State's inventory system to ensure use before quality begins to diminish.

Infant Formula

States and local agencies do not normally have large inventories of commodity infant formula for use during disasters because infant formula is only offered through one small USDA program, CSFP, which does not operate in every State. USDA has established pre-purchase and pre-transportation contracts with formula manufacturers that allow product to be quickly purchased and shipped by the manufacturer to the

site of a disaster. One drawback to this system is that, under current interpretations of the *Stafford Act*, USDA cannot purchase product for a disaster until after the disaster has been declared.

Using USDA's Household Commodities as a Back-Up

As a back-up to using the commodities from the seven State warehouses, the Food and Nutrition Service will continue to access its Federal inventories of commodities provided under FDPIR and the CSFP. These inventories are maintained in commercial warehouses in Albuquerque, New Mexico and Carthage, Missouri under contracts administered by the Kansas City Commodity Office. USDA has prearranged transportation contracts in place to quickly ship needed product out of these warehouses to disaster sites anywhere in the nation. Household sized product is generally considered less desirable for disaster feeding because emergency feeding organizations usually prepare and distribute food in congregate meal settings. Nevertheless, these Federal inventories are readily available to back up State inventories, if needed.

Commodity Transportation

For purposes of this RFRS, the Food and Nutrition Service will follow its established policy for dealing with transporting commodities to a disaster site. Under this policy, transportation of USDA's commodities from one State to another for disaster relief is usually arranged by the donating State which, in turn, receives reimbursement for transportation costs from the Food and Nutrition Service. Some States arrange for transportation using their own trucks, while others contract out with a trucking firm for delivery. When neither of these arrangements is feasible, FNS will make arrangements for commodity delivery through the United States Department of Transportation, USDA's Kansas City Commodity Office, or the Department of Defense.

Interested States

For this Rapid Food Initiative, the Food Distribution Division held discussions with seven State Agencies -- **California, Colorado, New York, North Carolina, Ohio, Oklahoma, and Pennsylvania**--on the feasibility of tapping into their inventories of USDA's commodities. All seven have agreed to participate. These States were contacted because:

- Their systems contain one or more large commodity warehouses.
- Together they would provide geographic coverage for the entire nation.
- They have logistics capabilities that might allow them to assist with commodity delivery as needed.
- They sustain relatively large inventories of a wide range of commodity products in the institutional sizes that are preferred by disaster feeding organizations.

Although only seven States have been initially contacted, the number of States involved could be expanded over time if necessary.

Memorandum of Understanding

FNS will enter into a Memorandum of Understanding (MOU) with each of the seven States. Without being unduly burdensome, the Memorandum provides clear guidance on how the system is to work, when it will go into effect, and the responsibilities of each of the signatory States and FNS. It identifies the method for transporting the commodities to a disaster, what kind of reporting systems will be needed between each of the signatory States and FNS, and how replacement of donated commodities will occur.

When To Activate the RFRS

The RFRS can be activated by FNS or by a State in need in consultation with FNS if the State contacts its FNS Regional Office (FNSRO) and that FNSRO determines the State to be in need of a nutritionally balanced offering of commodities to deal with the disaster. The State will first try to provide a nutritionally balanced offering using commodities from its own inventories. If unable to do so, the State can consult with its neighboring States to obtain the commodities it needs before activating the RFRS. In some instances, a State may request only a few types of commodities to balance out available commodity offerings.

Next Steps

- Approval for this initiative has been received from the FNS Deputy Administrator for Special Nutrition Programs. A draft MOU was submitted to the seven States and their FNS Regional Office counterparts. After receiving comments from the seven States and the regions, the MOU was finalized and cleared for legal sufficiency by USDA's Office of the General Counsel.
- A Memorandum of Understanding between each of the seven signatory States and FNS will be signed, and RFRS will be implemented.
- Each of the seven signatory States will be asked to be responsible for providing commodities through RFRS to States in need within its FNSRO.
- All States nationwide will be informed by FNS of the availability of the RFRS and provided with information on how it works.
- A reevaluation of the system will occur after its first use, and annually thereafter to make any necessary modifications.

Although it is unknown at this time how frequently this system will be used, we believe it will serve as a useful adjunct to the currently existing systems of emergency food relief during times of disaster.

Attachment 1

Nutritional Considerations for the Disaster Commodity Food Offering

Federal nutrition guidance (The Dietary Guidelines for Americans (DGA) and the Food Guide Pyramid (FGP)) was used to make decisions regarding the foods selected for the disaster commodity offering. Based on the DGAs, a 2,200 calorie diet was used as the reference diet. A 2,200 calorie diet represents the largest group of individuals including older children, teen girls, active women and most men. Table (1) outlines the contribution of the daily disaster commodity food offerings compared to the nutrient recommendations of a 2,200 calorie diet. Table (2) compares the disaster commodity food offerings to the FGP.

The selection of the items was based on nutrient density, soft consistency of food, ease of preparation during an emergency situation, availability, and recommendations by FDD staff and other stakeholders.

Daily Disaster Commodity Offering Per Person

(meal: B=breakfast, L=lunch, D=Dinner, S=snack)

- Cereal, ready-to-eat, oat circles 2 oz. (B)
- Orange juice, canned 6 oz. (B)
- Instant nonfat dry milk 4 oz. (dry) (1 ounce B, L, D, S)
- Chicken, canned, 3 oz. (L)
- Macaroni, dry, 2 oz. (L)
- Carrots, canned 4 oz. (L)
- Peaches, canned 4 oz. (L)
- Beef Stew, canned, 8 oz. (D)
- Rice, dry, 2 oz. (D)
- Green Beans, canned 4 oz. (D)
- Applesauce, canned 4 oz. (D)
- Cranapple juice, canned 12 oz. (6 ounces, 2 times per day at either L, D, or S)
- Peanut Butter, creamy, 2 oz. (S)

Why were some items chosen? Items selected for the disaster relief package must be shelf-stable and, to the greatest extent possible, be available in large pack sizes. Most of the items selected are available through schools and the Emergency Food Assistance Program and are stored in States' warehouses. Canned chicken and beef stew were chosen as the protein sources because of their versatility and ease of preparation. Peanut butter is a good source of protein and calories and well-liked by children but it will require supplemental bread/crackers from other sources in order to be most effectively utilized. Canned vegetables and canned fruit are readily available and easy to prepare. Oat cereal was selected due to its demand history, and ease of consumption with and without milk and utensils.

Nutrients that were above the % Daily Value include protein, vitamin C, vitamin A, iron, iron, calcium, and sodium. The percent daily value for protein is high due to three meat sources (chicken, beef stew, and peanut butter) plus 4 servings of milk. Milk is also responsible for the calcium content of the commodity offerings. Four servings of milk were included because reconstituted instant nonfat dried milk can be used in a variety of ways: as a beverage, consumed with cereal, or used in baked items. The vitamin A content can be attributed to the carrots and 4 servings of milk. The oat cereal supplies the majority of the iron. The sodium content is due to the number of canned products utilized and is unavoidable in this type of scenario where canned foods predominate.

The emergency commodity food offerings are not intended to provide all ingredients for a complete, optimal meal plan; additional foods will be required to supplement the commodities. The foods provided represent a sound framework from which to develop and prepare nutritious, satisfying meals.

TABLE 1
Contribution of Disaster Offering to Daily Nutrient Values

Nutrients	Daily Value*	Disaster Offering	%DV
Macronutrients			
Calories	2200	2136	97
Protein	55g	106g	193
Carbohydrate	330g	315g	95
Total Fat	73g	56g	77
Saturated Fat	22g	14g	64
Cholesterol	300mg	113mg	38
Dietary Fiber	25g	20g	80
Vitamins			
Vitamin C	75mg	110mg	147
Vitamin A	900RE	2753RE	300
Minerals			
Sodium	2400mg	3280mg	137
Iron	18mg	27mg	150
Calcium	1000mg	1723mg	172

*Based on 2200 kcal diet

TABLE 2
Contribution of Disaster Offering to Food Guide Pyramid

Food Group	Number of Servings*	Disaster Offering
Bread, Cereal, Rice, and Pasta	9	6
Vegetable	4	3
Fruit	3	5
Milk, Yogurt, and Cheese	2 to 3**	4
Meat, Poultry, Fish, Dry Beans, Eggs, and Nuts	2	3
Fats, Oils, and Sweets	Use Sparingly	Use Sparingly

*Based on recommendations from the Food Guide Pyramid for the category of older children, teen girls, active women, and most men (2,200 calories).

** Older children, teens (ages 9-18), adults over 50 need 3 servings; active women and men ages 19-49 need 2 servings.

Attachment 2

QUANTITIES REQUIRED FOR PRIMARY AND SECONDARY COMMODITIES
10,000 PEOPLE FOR 7 DAYS

CATEGORY	PRIMARY ITEM	COMMODITY CODE	QTY REQ.	SUBSTITUTION	COMMODITY CODE	QTY REQ.	
Bread, Cereal, Rice, and Pasta Group	Cereal, RTE Oat circles	B 853	778 cs	RTE corn cereal squares	B 851	625 cs	
				RTE corn cereal, flakes	B 846	834 cs	
				RTE crispy rice cereal	B 856	865 cs	
		Macaroni, dry	B 430 B 425		Spaghetti	B 840 B 835	438 cs 365 cs
		Rice, dry	B 522, 513 B 517, 518, 523	350 bgs 183 cs	Potatoes, canned	A 170	753 cs
		Chicken, canned	A 562	302 cs	Tuna, canned	A 742	527 cs
		Beef Stew, canned	A 590	973 cs	Beef, canned	A 743 A 610	730 cs 302 cs
		Peanut Butter	B 473	292 cs			
		B 470	183 cs				
Meat, Fish, Poultry, Dry Beans, Eggs, and Nut Group							
Milk, Yogurt, and Cheese Group	Instant Non-Fat Dry Milk	B 95	912 cs			973 cs	

CATEGORY	PRIMARY ITEM	COMODITY CODE	QTY REQ.	SUBSTITUTION	COMMODITY CODE	QTY REQ.
	Instant Non-Fat Dry Milk	B 90	730 cs			
		B 131	319 pkg			
Vegetable Group	Carrots, canned	A 100	449 cs	Corn, canned	A 110 A 115 A 116 A 119	449 cs 449 cs 623 cs 753 cs
	Green Beans, canned	A 61	449 cs	Peas, canned	A 140	449 cs
		A 59	753 cs		A 144	753 cs
Fruit Group	Peaches, canned	A 408, 409 A 411	487 cs 753 cs	Pears, canned	A 434, 431, 433 A 437	487 cs 753 cs
	Applesauce	A 350 A 351	487 cs 753 cs	Fruit Mix, canned	A 470	487 cs
	Orange juice, canned	A 300	761 cs	Pineapple juice, canned	A 286	761 cs
	Cranapple juice, canned	A 279	1522 cs	Apple juice, canned	A 282	1522 cs