

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES— FOOD DISTRIBUTION

PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSES- SIONS AND AREAS UNDER ITS JU- RISDICTION

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Subpart A—General

§ 250.1 General purpose and scope.

This part prescribes the terms and conditions under which donated foods may be obtained from the Department by Federal, State and private agencies for use in any State in child nutrition programs, nonprofit summer camps for children, charitable institutions, nutrition programs for the elderly, the Commodity Supplemental Food Program, the Special Supplemental Nutrition Program for Women, Infants, and Children, the Food Distribution Programs on Indian Reservations and the assistance of needy persons.

§ 250.2 Administration.

(a) *Delegation to FNS.* Within the Department, FNS shall act on behalf of the Department in the administration of the program. FNS will provide assistance to distributing agencies and evaluate all levels of program operations to assure that the goals of the program are achieved in the most effective and efficient manner possible.

(b) *Delegation to distributing agency.* The distributing agency is responsible for effective and efficient administration of program operations within its jurisdiction and shall administer the program in accordance with the requirements of this part and FNS guidelines and instructions. Distributing agencies may impose additional requirements for participation that are not inconsistent with the provisions of this part, except that this provision

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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").

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.