

FOOD ASSISTANCE IN DISASTER AND DISTRESS SITUATIONS DESCRIPTION OF RESPONDENT'S ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section 7 CFR part	Annual Number re- spondents	Annual fre- quency re- sponse	Average burden per hours	Annual burden
7 CFR 250.43:				
Previous	0	0	0	0
Proposed	1000	1	.020	20
7 CFR 250.44:				
Previous	0	0	0	0
Proposed	1000	1	.020	20

Total Previous Burden Hours: 0; Total Proposed Burden Hours: 66; Total Difference: +66.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" section of the preamble of the final rule. All available administrative procedures must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Background

On October 13, 1994, the President signed the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Pub. L. 103-354. One of the provisions of the Act eliminated the Food and Nutrition Service (FNS) and replaced it with the Food and Consumer Service (FCS). Therefore, references to FNS throughout this proposed rule have been changed to FCS. References to FNS in the remainder of 7 CFR Part 250 will be changed through rulemaking at a later date.

The Department makes commodities available for use in providing food assistance to victims of disasters and emergencies, and to those in situations of distress, in accordance with authority contained in several statutes. Donated commodities are made available for use in providing food assistance to victims of Presidentially declared disasters and emergencies in accordance with the provisions contained in sections 412 and 413 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (DREAA). DREAA was formerly known as "The Disaster Relief Act of 1974." It was amended and its title changed to DREAA by Public Law 100-707 (November 23, 1988), the Disaster Relief and Emergency Assistance Amendments of 1988.

Donated commodities are made available for use in non-Presidentially declared emergencies (i.e., situations of distress) in accordance with section 32 of the Act of August 24, 1935, section 416 of the Agricultural Act of 1949, and section 4(a) of the Agriculture and Consumer Protection Act of 1973.

The regulations governing the Food Distribution Program (7 CFR Part 250) outline the responsibilities of FCS and distributing agencies with regard to the distribution of donated commodities during a disaster or emergency, and in situations of distress.

As discussed in detail below, some proposals contained in this proposed rule reflect amendments which have been made to the authorizing legislation. This proposed rule also includes regulatory changes recommended by the Task Force for Disaster Preparedness established by the Department of Agriculture (USDA or Department) in response to issues which arose in the course of providing food assistance to victims of several disasters and other types of emergencies in the past several years. The Task Force was comprised of representatives from USDA, the Federal Emergency Management Agency (FEMA), private national organizations such as the Red Cross, and State and local agencies. One of the objectives of the Task Force was to identify current Federal disaster policies that are in need of revision. Regulatory amendments embodying Task Force recommendations are proposed in this rule under the discretionary authority granted to the Secretary by section 32 of the Act of August 24, 1935, section 416 of the Agricultural Act of 1949, and the DREAA. The discretionary changes are part of the Department's effort to ensure that commodity assistance is made available to victims of disasters, emergencies and situations of distress in the most efficient and effective manner possible while maintaining the integrity of the program.

Definitions

Section 250.3 of the current regulations contains definitions of "Emergency" and "Major Disaster" derived from the Disaster Relief Act of 1974 (now "DREAA"). Pub. L. 100-707 amended the Disaster Relief Act of 1974 to revise these definitions.

The DREAA defines "Emergency" as "any 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."

A "Major Disaster" is defined under the DREAA as "any natural catastrophe (including any hurricane, tornado, storm, flood, 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 DREAA 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."

The majority of the general public is not familiar with the specific terms contained in the DREAA (i.e. "Emergency" and "Major Disaster"). Furthermore, this rulemaking establishes no distinctions between the situations these terms represent regarding types of benefits or procedures for authorizing, utilizing, reporting on utilization of, or replacing commodities. Therefore, this rule proposes to: (1) add to Section 250.3 the term "Disaster," which would incorporate the definitions of "Emergency" and "Major Disaster" contained in the DREAA; and (2) delete the terms "Emergency" and "Major