Disaster" currently contained in Section 250.3. These proposed revisions would not impact on program operations or benefits in any way.

The key distinction between disasters and situations of distress with regard to food assistance is whether a Presidential declaration is made. However, there is no definition of "Situation of Distress" under Section 250.3 of the current regulations to make this distinction immediately clear.

Therefore, this rule also proposes to amend Section 250.3 to add a definition for "Situation of Distress." Under this proposal, a "Situation of Distress" is defined as "(1) 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 an emergency or disaster, but which, in the judgment of a State distributing agency, warrants the use of USDA commodities for congregate feeding; and (2) any other situation not declared by the President to be an emergency or disaster, but which, in the judgment of FCS, warrants the use of USDA commodities for congregate feeding or household distribution." This proposed definition will: (1) clarify that a situation of distress lacks a Presidential declaration; and (2) clearly identify those situations in which State distributing agencies can independently initiate USDA commodity assistance, on the one hand, and those in which prior approval by FCS is required.

Reference to the Disaster Relief Act of 1974

The Disaster Relief Act of 1974 is referenced in Sections 250.43(a) and 250.43(e) of the current regulations. Following publication of the regulations, the Disaster Relief Act of 1974 was amended and renamed the DREAA. Therefore, this rule proposes to amend Section 250.43(e) to remove the outdated reference and replace it with a reference to the DREAA, and proposes to remove all reference to any statutory authority in Section 250.43(a) since such reference is unnecessary.

Distribution of Commodities to Households in Presidentially Declared Disaster Areas

This section of the preamble addresses "disasters," the proposed definition for which encompasses only situations in which a Presidential declaration has been issued. "Situations of distress," proposed to be defined as situations lacking a Presidential declaration, are discussed later in this preamble.

On August 19, 1985, an overall revision of Part 250 was published as a proposed rule in the Federal Register (50 FR 33470). Section 250.43 of the proposed rule limited the distribution of commodities to households residing in areas served by the Food Stamp Program to those instances in which commercial channels of trade have been disrupted due to a major disaster or emergency.

Approval of requests to make commodities available for distribution to households was made contingent upon commercial channels of trade having been disrupted because it is in these circumstances that households would have no way of using food stamps. Thus, such a contingency would ensure that commodity and food stamp assistance would not be provided in any area simultaneously, thereby eliminating any possibility of households receiving dual benefits.

In general, commenters on the proposed rule of August 1985 opposed limiting the distribution of commodities to households in this manner. However, the interim rule published in the Federal Register on June 3, 1988, (53 FR 20416) retained the provision as proposed on the premise that in instances in which commercial channels of trade are intact, nutritional needs of disaster victims can be met through the Food Stamp Program.

Since implementation of the interim rule, several disasters have occurred in response to which the Department provided food assistance. This experience, and recommendations of the Task Force for Disaster Preparedness, have led the Department to reevaluate the current regulatory provisions. While the Department still believes that the Food Stamp Program should be the primary food assistance program for disaster victims whenever commercial channels of trade are intact. it also acknowledges that there are instances in which such facilities remain in operation yet are inaccessible to some disaster victims. For example, where roads have been heavily damaged or flooded, some individuals residing in households in that area may not be able to reach food stamp certification offices or local grocery stores. They may, however, have access to emergency commodity distribution sites strategically located in response to the specific situation.

Therefore, in accordance with the discretionary authority provided under the DREAA, to facilitate reasonable access to food assistance for all disaster victims, this rule proposes to amend Section 250.43 of the current regulations

to establish FCS's authority to permit distribution of commodities to households regardless of whether commercial channels of trade have been disrupted or the Food Stamp Program is in operation in instances in which such distributions are warranted. However, the Department believes that most disaster situations will not warrant the simultaneous operation of the Food Stamp Program and a household commodity distribution program in the same area.

Submission of Requests

Section 250.43(c) of the current regulations requires that distributing agencies submit requests to the appropriate FCS Regional Office (FCSRO) for approval prior to making commodities available for distribution to households. However, the process for approving such requests has not been clearly understood.

While the regulations require submission of such requests to the appropriate FCSRO, the requests are forwarded to FCS Headquarters for actual approval. In an effort to eliminate any confusion regarding the approval process, this rule proposes to revise Section 250.43(c) to require that requests be submitted to the FCSRO for forwarding to FCS for approval. Since the FCSRO is typically very close to or on the scene of a disaster, the FCSRO will be expected to submit a recommendation to FCS along with the application for use in making appropriate determinations. In addition, this rule proposes to revise this section to clarify the information currently required to be submitted as part of such requests.

This rule also proposes to apply information requirements established under current rules for approval to make household distributions in situations when commercial channels of trade have been disrupted to situations in which commercial channels are intact. The proposal would also establish additional requirements in both types of situations. In addition to the information distributing agencies are currently required to submit when requesting approval for the distribution of commodities to households, requests would be required to include, at a minimum, the following information: (1) An explanation as to why the distribution of commodities to households is warranted; (2) identification of the specific area(s) included in the request; (3) a statement of assurance that simultaneous food stamp and commodity assistance will not be provided to individual households; and (4) a description of the