

this rule proposes to revise Section 250.44 to reinstate the Department's authority to permit the distribution of commodities to households in situations of distress. This discretionary authority is afforded the Secretary under section 416 of the Agricultural Act of 1949, and section 32 of the Act of August 24, 1935.

Section 250.44 is being revised instead of Section 250.43, which sets forth provisions relative to disasters, in order to clarify and underscore the different treatment of Presidentially declared "disasters," on the one hand, and "situations of distress," on the other.

#### Submission of Requests

Section 250.44 of the current regulations requires that all requests for the donation of commodities for use in situations of distress be submitted for approval by the Secretary.

This rule proposes to revise Section 250.44 to delegate the authority for approving requests for the donation of commodities for use in congregate feeding to the distributing agency in instances in which the need for such assistance meets the conditions of paragraph (1) of the definition of "Situation of Distress" set forth in Section 250.3. Those instances include "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." This delegation of authority is consistent with the delegation of authority contained in Section 250.43 for the use of commodities for congregate feeding in Presidentially declared disasters. While the Department recognizes that instances other than those included above may warrant the donation of commodities for use in preparing congregate meals, such donations should be limited to those situations where it can be determined that other traditional Federal or State assistance programs cannot meet the needs of individuals who have been adversely affected by the situation. Thus, in an effort to ensure consistency in such determinations, Section 250.44 of this rule proposes to require that requests for the donation of commodities for use in preparing congregate meals in instances when the situation of distress does not fit the above criteria be submitted for approval by FCS. Approval by FCS, instead of by the Secretary, will facilitate expeditious handling of requests, while still maintaining an appropriate level of oversight.

Section 250.44(c)(2) of this rule also proposes to require that requests for the donation of commodities for distribution to households in situations of distress, regardless of the type of situation, be submitted for approval by FCS. The proposal would require this level of approval in an effort to ensure that: (1) Such distributions are limited to situations that warrant this type of assistance; and (2) households will not be receiving food stamp and commodity assistance simultaneously.

As discussed in the Definitions section earlier in this preamble, for purposes of clarification, this rule also proposes to specify the above-described approval authorities for congregate feeding and household distribution, respectively, in the definition of "Situation of Distress" contained in Section 250.3.

This rule also proposes to amend Section 250.44 to require that organizations requesting the donation of commodities for use in congregate meal service for victims of situations of distress provide the following information to the distributing agency:

(1) A description of the distress situation; (2) number of people requiring meals; (3) period of time for which the donations are being requested; and (4) quantity and types of food needed. In addition, information on the number and location of sites providing meals will be provided as sites are established.

It is imperative that this information be provided so that FCS and the distributing agency are able to determine if: (1) The donation of commodities is warranted; (2) the amount and types of commodities requested are appropriate for the situation; and (3) there is sufficient food in inventory within the State to meet the needs of the organizations. When the distributing agency has approved requests for the donation of commodities for congregate feeding in accordance with the delegation of authority prescribed above, it must forward this information to the appropriate FCSRO.

This rule proposes to revise Section 250.44 to require that requests to FCS for permission to distribute commodities to households contain, at a minimum, the following information: (1) A description of the situation; (2) an explanation as to why such distributions are warranted; (3) period of time for which the request is being made; (4) identification of the specific area(s) included in the request; (5) number of households expected to participate; (6) quantity and types of food needed; (7) a statement of

assurance that both food stamp and commodity assistance will not be provided to individual households simultaneously; and (8) a description of the system that will be implemented to prevent dual participation in the Food Stamp Program and the commodity household distribution program. In addition, information relative to the number and location of distribution sites must be provided to FCS as sites are established.

#### Collection of Household Information

Section 250.44 is also revised in this proposed rule to require that any entity, including Federal, State, and local agencies, involved in the distribution of USDA commodities comply with the requirements contained in Section 250.43(c) of this proposed rule regarding the collection and submission of information (i.e., household information, and statements of assurance). As with Presidentially declared disasters, this information will be used to ensure that such distributions are warranted and to enhance program accountability.

#### Submission of Form FNS-292

This rule proposes to incorporate in Section 250.44 a requirement that distributing agencies submit a summary report to the FCSRO using Form FNS-292, Report of Coupon Issuance and Commodity Distribution for Disaster Relief, within 30 days following termination of the distribution period. This requirement is being incorporated to ensure timely reporting, strengthen program accountability, and facilitate timely replacement of State inventories of USDA commodities in instances in which replacement commodities are available.

#### Thirty-Day Restriction

Section 250.44 of the current regulations limits the distribution of commodities in situations of distress to a period of 30 days. However, it is the opinion of the Department that some situations of distress may warrant a longer distribution period. Thus, this rule proposes to amend Section 250.44 to permit the distribution of commodities for longer periods of time when the situation warrants. In instances in which the distributing agency approves the distribution of commodities for use in preparing congregate meals, such approval may be granted for a period not to exceed 30 days. Should the distributing agency determine that the situation warrants a longer distribution period, the distributing agency must submit a request to justify an extension to FCS for