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**IDAPA 16
TITLE 04
Chapter 13**

16.04.13 - RULES GOVERNING THE EMERGENCY FOOD ASSISTANCE PROGRAM

000. LEGAL AUTHORITY.

This program is authorized by Sections 201 through 212 of Public Law 98-8 as amended and by the provisions of Sections 56-202 and 56-203, Idaho Code, which authorize the Department of Health and Welfare to enter into contracts with the federal government to provide assistance. (10-1-94)

001. TITLE AND SCOPE.

This chapter contains the rules for implementing provisions of Title II - Emergency Food Assistance Act of 1983 of Public Law 98-8 as amended. The rules are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16, Title 04, Chapter 13, "Rules Governing The Emergency Food Assistance Program." (10-1-94)

002. POLICY/PURPOSES.

01. Introduction. (12-31-91)
 - a. The Supplemental Unemployment Benefits - Temporary Emergency Act of 1983, Public Law 98-92, amended the Emergency Job Appropriation Act of 1983, Title II of Public Law 98-8. The result is to provide certain surplus and purchased commodities through state agencies to approved emergency feeding organizations to help relieve situations of emergency and distress to needy persons, including low-income, homeless, and unemployed persons. (10-1-94)
 - b. The Department of Health and Welfare through these rules is implementing the state's administration of The Emergency Food Assistance Program for Fiscal Year 1995 and succeeding years as authorized by the Hunger Prevention Act of 1988. (10-1-94)
 - c. Funds, which are appropriated by Congress are allocated to the states based on: (9-1-85)
 - i. The number of households with incomes below the poverty level (sixty percent (60%)), based on the most recent census data; and (10-1-94)
 - ii. The number of unemployed persons (forty percent (40%)) of the average monthly number of unemployed persons within the state as stated in 7 CFR 250, 251, TEFAP. (10-1-94)
02. Objective. The objective of The Idaho Emergency Food Assistance Program is to make available certain surplus and purchased commodities to help alleviate situations of emergency and distress among Idaho's low-income and homeless population. (10-1-94)

003. DEFINITIONS.

For the purpose of these rules the following terms are used, as defined herein: (9-1-85)

01. Agency Representative. The person, either volunteer or staff, who witnesses the income verification presented by the applicant. (9-1-85)
02. Allocation. The state of Idaho's share of The Emergency Food Assistance Program monies as determined by the funding formula contained in 7 CFR 250, 251, The Emergency Food Assistance Program. (10-1-94)
03. Applicant Household. A household which has made application to receive USDA surplus commodities and said household has not yet been determined as eligible recipient. (10-1-94)
04. Application. The action by which a household completes in writing an application form to be considered for receipt of USDA surplus commodities. (10-1-94)

05. Commodities. Surplus and purchased food items made available by the Commodity Credit Corporation for distribution to low-income households. (10-1-94)
06. Commodity Program. The Emergency Food Assistance Program (TEFAP). (10-1-94)
07. Community Action Agency. A private non-profit organization serving the low-income population in specified counties of the state with which the Department has entered into a contract for the provision of services for purposes of the TEFAP. (12-31-91)
08. Community Action Program. A program of services offered by an office or offices for the Community Action Agency. (9-1-85)
09. Damaged or Lost Commodities. Lost commodities are those which for any reason cannot be demonstrated by appropriate records or other satisfactory evidence to have been distributed to, or to be available in good condition for distribution to eligible households for whom they were donated by USDA. Commodities may be lost through theft, damage, spoilage, infestation, improper distribution, sale or exchange diversion to an improper use, or other similar causes. (9-1-85)
10. Department. The Idaho Department of Health and Welfare. (12-31-91)
11. Eligible Entities. Agencies eligible to administer the TEFAP at the local level must be Department approved and include the following: (9-1-85)
- a. Community Action Agencies; (9-1-85)
 - b. Community Action Programs operating programs funded under the Community Services Block Grant Act; (9-1-85)
 - c. Other incorporated non-profit agencies; or (9-1-85)
 - d. Government agencies. (9-1-85)
12. Eligible Household. A household which meets the standard of eligibility set forth in these rules. (9-1-85)
13. Emergency Feeding Organization. Eligible entities who have entered into contract with the Department for the purposes of distributing USDA Commodities. (9-1-85)
14. Household. A household is one of the following: (9-1-85)
- a. An individual living alone; or (9-1-85)
 - b. A group of individuals living together in common living quarters who share the cost and preparation of meals. (9-1-85)
15. Income. Total cash receipts from all sources before taxes and any other deductions. These include: (9-1-85)
- a. Money wages and salaries before any deductions, but not including food or rent in lieu of wages; (9-1-85)
 - b. Receipts for self-employment or from own farm or business after deductions for business or farm expenses; (9-1-85)
 - c. Regular payments from: (9-1-85)
 - i. Public assistance; (9-1-85)

- ii. Social Security, excluding Medicare payment; (10-1-94)
- iii. Unemployment and Workmen's Compensation; (9-1-85)
- iv. Strike benefits from union funds; (9-1-85)
- v. Veterans benefits; (9-1-85)
- vi. Alimony; (9-1-85)
- vii. Child support and military family allotments or other regular support from an absent family member or someone not living in the household; (9-1-85)
- viii. Government employee pensions; (9-1-85)
- ix. Private pensions and regular insurance or annuity payments and income from dividends; (9-1-85)
- x. Interest accrued on all savings accounts, certificates, etc.; and (9-1-85)
- xi. Royalties or income from estates and trusts. (9-1-85)
- d. For eligibility purposes, income does not refer to the following money or non-cash receipts; (9-1-85)
 - i. Any assets drawn down as withdrawals from a bank; (9-1-85)
 - ii. Sales of property, house or car; (9-1-85)
 - iii. Tax refunds; (9-1-85)
 - iv. Gifts; (9-1-85)
 - v. One (1) time insurance payments or compensation for injury; (9-1-85)
 - vi. Non-cash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner-occupied farm or non-farm housing; and (9-1-85)
 - vii. The value of other federal program benefits when required by federal law. (9-1-85)
- 16. Independent Distribution Site. A site used for distributing USDA commodities which is not affiliated with the eligible entity or staffed with personnel of the eligible entity during the distribution. (9-1-85)
- 17. Poverty Guideline. The official poverty guideline established by the Secretary of Health and Human Services in accordance with the Omnibus Reconciliation Act, Section 673(2). (10-1-94)
- 18. Program Year. October 1st through September 30th. (2-11-88)
- 19. Proof of Income. Documentary evidence used to establish the amount of a household's income pursuant to Section 041 of these rules. (10-1-94)
- 20. Redonation of Commodities. USDA commodities given to any outlet which is not engaged in distribution to low-income households as intended by the TEFAP. (9-1-85)
- 21. Self-Declaration of Income. Written documentation of a household which has no other method to verify its income pursuant to Subsection 041.02 of these rules. This may include: (10-1-94)

- a. Households which have zero monthly income. (9-1-85)
- b. Self-employed individuals who have no documentation of any kind of monthly income. (9-1-85)
- 22. Service Area. The state of Idaho is divided into the following seven (7) service areas for the purpose of fund distribution: (9-1-85)
 - a. Region I - Kootenai County, Shoshone County, Benewah County, Bonner County, and Boundary County. (9-1-85)
 - b. Region II - Nez Perce County, Clearwater County, Idaho County, Latah County, and Lewis County. (9-1-85)
 - c. Region III - Canyon County, Adams County, Gem County, Payette County, Washington County, Valley County, and Boise County. (9-1-85)
 - d. Region IV - Ada County, Elmore County, and Owyhee County. (9-1-85)
 - e. Region V - Twin Falls County, Blaine County, Cassia County, Gooding County, Camas County, Jerome County, Lincoln County, and Minidoka County. (9-1-85)
 - f. Region VI - Bannock County, Bear Lake County, Bingham County, Caribou County, Franklin County, Oneida County, and Power County. (9-1-85)
 - g. Region VII - Bonneville County, Butte County, Clark County, Fremont County, Jefferson County, Lemhi County, Madison County, and Teton County. (9-1-85)
- 23. State Distribution Rate. The amount of commodities an eligible household can receive based on the number of persons in their household. (9-1-85)
- 24. Volunteer. Person working in TEFAP who is not a salaried employee of the eligible entity. (9-1-85)
- 25. Willful Misstatement and Withholding of Information. Conduct by a household of knowingly and intentionally misstating or withholding information which affects or could affect the household's eligibility for the TEFAP or the amount of commodities received which may include the misstatement, understatement, or commission, orally or in writing made by a household in response to oral or written questions asked by representatives of the Community Action Agency or the Department. (10-1-94)
- 26. Units. One package of a specific commodity. (10-1-94)

004. ABBREVIATIONS.

- For the purpose of these rules, the following abbreviations are used: (9-1-85)
- 01. CAA. The Community Action Agency. (9-1-85)
 - 02. CAP. The Community Action Program. (9-1-85)
 - 03. CCC. The Commodity Credit Corporation. (9-1-85)
 - 04. DHW. The Idaho Department of Health and Welfare. (12-31-91)
 - 05. EFO. The Emergency Feeding Organization. (9-1-85)
 - 06. TEFAP. The Emergency Food Assistance Program. (10-1-94)
 - 07. USDA. The United States Department of Agriculture. (9-1-85)

005. (RESERVED).

006. CASE RECORD.

The CAA will maintain accurate and complete records on a households participation. This record must be kept in a permanent CAA file for a period of at least three (3) years. (10-1-94)

007. PROHIBITED ACTIVITIES.

The following activities may not be performed in connection with the TEFAP: (9-1-85)

01. Political Activities. There will be no association between TEFAP Commodity distribution and any candidate for public office or any political campaign. (9-1-85)

02. Lobbying. No TEFAP funds may be used for the purpose of influencing the passage or defeat of legislation. (9-1-85)

03. Requests for Donation. No eligible household shall be required to make any payments in money, material or services for, or in connection with, the receipt of donated foods, nor shall they be solicited in connection with the receipt of donated or voluntary contributions for any purpose. (9-1-85)

04. Commodities in Lieu of Wages. No volunteer or staff person is to be paid for his services with USDA Commodities in lieu of wages. Volunteers or staff are only eligible to receive commodities at the normal distribution rate if their household meets all income eligibility requirements and nonfinancial eligibility requirements. (9-1-85)

05. Tampering with Commodity Size. Commodities must be distributed to eligible households in the original USDA containers and cannot be cut or tampered with in any way. (9-1-85)

06. Sale of Commodities. Sale, exchange or misuse of USDA commodities is prohibited. (9-1-85)

008. APPLICANT RIGHTS.

Households applying for TEFAP surplus commodities have certain rights. These rights include, but are not limited to, the following: (9-1-85)

01. Right to Apply. Any household wishing to apply must be given the opportunity to apply for TEFAP surplus commodities. All applications must be in writing on forms prescribed by DHW. (9-1-85)

02. Civil Rights. The rights of applicant households must be respected under the U.S. and Idaho Constitutions, the Social Security Act, Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and all other relevant provisions of federal and state law, including the avoidance of practices which violate a persons privacy or subject him to harassment. (9-1-85)

009. -- 014. (RESERVED).

015. ALLOCATION FORMULA.

Section 103 (b) of the Hunger Prevention Act mandates that at least forty percent (40%) of TEFAP funds be available to or expended on behalf of Emergency Feeding Organizations (EFO's). Funds made available by the Department to eligible entities to distribute USDA commodities will be allocated based on a weighted formula utilizing low income population, sixty percent (60%), and unemployment, forty percent (40%), in each service area compared to the entire state. (10-1-94)

016. ALLOCATION OF TEFAP SHIPMENTS.

01. Acceptance by EFO's. Regular TEFAP shipments will be allocated to EFO's on a rotation basis by product. EFO's must accept all TEFAP shipments offered by the Department, unless one (1) of the following circumstances exist: (2-11-88)

a. The EFO has an adequate supply and an additional shipment would result in excessive on-hand

inventories; or (10-1-94)

b. Storage is not available to store a product properly. (2-11-88)

02. Bonus Shipments Exempt. Bonus shipments offered by USDA are exempt from the provisions of this section. (2-11-88)

017. TEFAP DISTRIBUTIONS.

EFO's will make TEFAP commodities available throughout the program year to eligible households through mass distributions or a food bank network. (10-1-94)

018. LOST, DAMAGED OR STOLEN COMMODITIES DUE TO NEGLIGENCE.

Eligible entities may be held responsible for the current USDA value of commodities which are lost, damaged, stolen or unaccounted for by adequate documentation due to negligence on the part of the eligible entity or any of its distributing sites, personnel, or volunteers. (10-1-94)

019. ELIGIBLE ACTIVITIES.

Eligible entities will use TEFAP funds to perform the following activities: (9-1-85)

01. Acceptance. Accept for distribution, commodities received by the state of Idaho. (12-31-91)

02. Storage. Store commodities adequately to prevent loss due to theft or damage. (9-1-85)

03. Distribution. Distribute commodities to eligible households at the state distribution rate according to Section 043, of these rules. (10-1-94)

04. Volunteers. Organize and coordinate volunteer efforts to ensure commodities, based on their availability, to all eligible households who wish to apply in their service area. (10-1-94)

020. (RESERVED).

021. APPLICATION RESPONSIBILITIES.

Each person applying for TEFAP surplus commodities must, to the extent permitted by his physical and mental condition, provide any necessary and reasonable verification to establish his eligibility and must otherwise cooperate in the eligibility determination process. (9-1-85)

022. RELATIONSHIP TO OTHER PROGRAMS.

Value of commodities received by eligible households under TEFAP must not be counted as income or resources for any purpose under any federal or state law, including any law relating to taxation, public assistance or welfare programs. (9-1-85)

023. REDONATION OF USDA COMMODITIES.

Prior approval from the Department is required if any eligible entity desires to redonate USDA commodities for any use other than the TEFAP. (2-11-88)

024. LIQUIDATION OF PRIOR FISCAL YEARS COMMODITIES.

Commodities should be liquidated by distribution within three (3) months following the close of the preceding fiscal year. In the event that the commodities are not distributed within the three (3) month period, the eligible entity is still responsible for the distribution of the commodities. (2-11-88)

025. STORAGE OF COMMODITIES.

Commodities accepted by eligible entities must be stored properly to prevent loss due to spoilage, damage, infestation or theft. (9-1-85)

026. EMERGENCY SITUATIONS.

The eligible entity must contact the Department in emergency situations which could result in USDA commodities going out of condition. The Department will review each emergency case by case and give appropriate instructions as

required. (10-1-94)

027. -- 030. (RESERVED).

031. DAMAGED OR LOST COMMODITIES.

Commodities damaged or lost will be dealt with by one of the following: (9-1-85)

01. Less Than Fifteen (15) Cases. If commodities are damaged and unfit for human consumption and the loss is less than fifteen (15) cases per month, the eligible entity will properly dispose of the damaged commodities and report the loss on the monthly inventory form with an explanation of the circumstances; or (10-1-94)

02. More Than Fifteen (15) Cases. If damaged commodities total fifteen (15) cases or more per month, the eligible entity must contact the Department and give a detailed written explanation. The Department shall give the appropriate instructions on disposal based on each situation. (9-1-85)

032. ACCEPTING COMMODITY SHIPMENTS WHICH ARE OVER, SHORT OR DAMAGED.

When accepting a truck shipment of commodities, the eligible entity will document any damaged, short or over shipment and have the truck driver sign the bill of lading or FNS-57 witnessing the irregular shipment. (10-1-94)

033. REJECTION OF ENTIRE COMMODITY SHIPMENT.

If an eligible entity receives an entire commodity shipment which is damaged or has some other irregularity, the eligible entity must contact the Department for instructions. (9-1-85)

034. STOLEN COMMODITIES.

If an eligible entity discovers that USDA commodities have been stolen, they must contact the Department for instructions. (9-1-85)

035. -- 039. (RESERVED).

040. ELIGIBILITY REQUIREMENTS.

All households assisted through TEFAP must meet both income eligibility requirements, Section 041 of these rules, and nonfinancial eligibility requirements as described in Section 042 of these rules. (10-1-94)

041. INCOME ELIGIBILITY REQUIREMENTS.

The TEFAP income eligibility requirements are as follows: (9-1-85)

01. Income Eligibility. (12-31-91)

a. Assistance under this program to households whose income is less than one hundred thirty percent (130%) of the current poverty guidelines. (10-1-94)

b. Poverty guidelines are subject to periodic change by the the Secretary of the U.S. Department of Health and Human Services. Current guidelines will be used as of their effective date. (10-1-94)

02. Income Verification. For purposes of TEFAP applicants applying for commodities, income which is not otherwise excluded must be verified and the household must provide proof of all income. Proof of income may include the following: (10-1-94)

a. Award letters from public or private agencies or institutions; (9-1-85)

b. Actual wage stubs from employment; (9-1-85)

c. Written statements provided by a wage earner's supervisor, employer, or his designee; (9-1-85)

d. Monetary determinations issued by the Department of Employment to show the dates and amounts of unemployment benefits; (9-1-85)

- e. Households with self-employed income must do one of the following: (9-1-85)
 - i. Voluntarily show previous years federal income tax returns so long as the self-employed household member is engaged in the same or similar self-employment; or (9-1-85)
 - ii. Sign a self-declaration statement explaining type of self-employment and average monthly income. (9-1-85)
- f. Other documentary evidence which can be relied upon to accurately reflect income. (9-1-85)
- 03. Households Claiming No Income. A household claiming no income can be certified eligible by self-declaration. (9-1-85)

042. NONFINANCIAL ELIGIBILITY REQUIREMENTS.

The TEFAP nonfinancial eligibility requirements are as follows: (9-1-85)

- 01. Residence. The household must reside in the state of Idaho at the time it makes application for commodities. There must be no duration residence requirements. (9-1-85)
- 02. Application. The household must make a written application on forms prescribed by DHW. (9-1-85)
- 03. Living Situation. Ineligible living situations include, but are not limited to: (9-1-85)
 - a. Hospital; (9-1-85)
 - b. Licensed nursing home; (9-1-85)
 - c. Shelter home; (9-1-85)
 - d. Commercial boarding house; (9-1-85)
 - e. Commercial alcohol or drug treatment and rehabilitation center; (9-1-85)
 - f. Licensed maternity home; (9-1-85)
 - g. Any other residence where food is included as part of service to be provided. (9-1-85)

043. STATE DISTRIBUTION RATE.

Depending upon the availability of commodities, the amount of commodities a household can receive will be based on the current distribution rate table. Adjustments to the table must receive written approval from DHW. (10-1-94)

044. -- 050. (RESERVED).

051. APPLICATION PROCESS.

An applicant household must be given ample opportunity to apply for the TEFAP. The applicant household must provide the information necessary to determine eligibility for the TEFAP program. (10-1-94)

052. ELIGIBLE ENTITIES USE OF INDEPENDENT DISTRIBUTION SITES.

Eligible entities using independent distribution sites must have written agreements with these sites to insure compliance with federal and state rules in regard to TEFAP. (10-1-94)

053. ELIGIBLE ENTITIES USE OF VOLUNTEERS TO DISTRIBUTE COMMODITIES.

Eligible entities using volunteers to help distribute USDA commodities must insure that volunteers are aware of and comply with federal and state rules. (10-1-94)

054. -- 070. (RESERVED).

071. CURTAILMENT OF PROGRAM ABUSE.

Each eligible entity will have a written procedure to help curtail possible program abuse and fraud by recipient households. (9-1-85)

072. SUSPENSION FROM TEFAP.

Households may be suspended from the TEFAP if they are willfully misstating income or nonfinancial eligibility requirements. (9-1-85)

073. DENIAL OF COMMODITIES TO ELIGIBLE HOUSEHOLDS.

Income eligible households may be denied present or future receipt of commodities if any member of that household displays abusive, threatening and/or violent behavior towards volunteers and/or staff involved in administering the TEFAP over and above that of a reasonably prudent person. (9-1-85)

074. REPORTING.

The following reports will be required of eligible entities receiving commodity funds. (9-1-85)

01. Fiscal. (9-1-85)
 - a. Financial Reimbursement Reports will be received no later than the 10th of each month and cover the financial transactions of the previous month. (10-1-94)
 - b. Eligible entities will only be reimbursed for actual documented costs directly related to storage and distribution of USDA commodities. (9-1-85)
 - c. The reports will reflect an accrual accounting system. (9-1-85)
02. Inventory. (9-1-85)
 - a. Inventory Reports will be received no later than the 10th of each month; and (10-1-94)
 - b. Show in units each commodity received; and (10-1-94)
 - c. Show in units each commodity distributed; and (10-1-94)
 - d. Show in units damage or loss of each commodity and include an explanation of cause of loss or damage; and (10-1-94)
 - e. Show in units remaining balance of each commodity; and (10-1-94)
 - f. Show number of households served. (9-1-85)
03. Delivery of USDA Commodity Shipment. A Delivery of Commodity Report must be submitted to the Department along with a copy of the bill of lading on each truckload of commodities received by the eligible entity. (10-1-94)
04. Household Participation Report. A household participation report indicating the number of households served by each distribution site must be submitted to the Department following each distribution. (10-1-94)

075. -- 081. (RESERVED).

082. STATE MONITORING REQUIREMENT.

In accordance with 7CFR Part 3016, Section 251.10(e)(2)(i) requires an annual review of at least twenty-five percent (25%) of all emergency feeding organizations and a review of all such emergency feeding organizations not less frequently than once every four (4) years. Section 251.10(e)(2)(ii) requires that one hundred fifty (150) or one third of

Idaho's distribution sites be reviewed annually and to the maximum extent feasible reviews be conducted simultaneously with actual distributions and or eligibility determinations. (10-1-94)

083. AUDIT.

Eligible entities receiving TEFAP funds shall be subject to an annual audit. The annual audit will be of such scope and as defined by the DHW. The DHW reserves the right to join with other interested parties to obtain a single audit of the eligible entity organization. (9-1-85)

084. TECHNICAL ASSISTANCE.

Technical assistance will be provided by the Department on a limited basis to those eligible entities requiring such assistance as determined by the Department to be in the best interest of the project's low-income beneficiaries. (9-1-85)

085. CONTRACT COMPLIANCE.

Funds may be withheld and/or the contract terminated if the terms of the contract are not complied with. (9-1-85)

086. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Section 000, et seq., "Rules Governing Contested Cases and Declaratory Rulings." (12-31-91)

997. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 01, "Rules Governing the Protection and Disclosure of Department Records." (12-31-91)

998. INCLUSIVE GENDER.

For the purposes of these rules, words used in the masculine gender included the feminine and vice-versa where appropriate. (9-1-85)

999. SEVERABILITY.

The rules of IDAPA 16, Title 04, Chapter 13, are severable. If any rule or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (9-1-85)