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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 16.04.13, "Rules Governing The Emergency Food Assistance Program". (10-1-94)

002. ADMINISTRATIVE APPEAL.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Section 000, et seq., "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (11-1-98)T

003. PURPOSES.

The purpose 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. (11-1-98)T

004. DEFINITIONS.

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

01. 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)

02. Applicant Household. A household which has made application to receive USDA surplus commodities and has not been determined an eligible recipient. (11-1-98)T

03. 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)

04. Commodities. Surplus and purchased food items made available by the Commodity Credit Corporation for distribution to low-income households. (10-1-94)

05. 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 TEFAP. (11-1-98)T

06. Community Action Program. A program of services offered by an office or offices for the Community Action Agency. (9-1-85)

07. Department. The Idaho Department of Health and Welfare. (12-31-91)

08. Eligible Entities. Agencies eligible to administer the TEFAP at the local level who have entered into a contract with the Department and include the following: (11-1-98)T

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; (11-1-98)T
- d. Government agencies; or (11-1-98)T
- e. Disaster Relief Programs. (11-1-98)T
- 09. Eligible Household. A household which meets the standard of eligibility set forth in these rules. (9-1-85)
- 10. Emergency Feeding Organization (EFO). Organizations who have entered into an agreement with an eligible entity for the purposes of distributing USDA Commodities. (11-1-98)T
- 11. Household. A household is one (1) of the following: (11-1-98)T
 - 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)
- 12. Income. Total household income. (11-1-98)T
- 13. Earnings From Self-Employment. Earnings from self-employment include net income plus any depreciation and depletion previously deducted as expenses. This includes farm or business income. (11-1-98)T
- 14. 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)
- 15. Program Year. October 1st through September 30th. (2-11-88)
- 16. Proof of Income. Written self-declaration of total household income. (11-1-98)T
- 17. 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)
- 18. State Distribution Rate. The amount of commodities an eligible household can receive based on the number of persons in their household. (9-1-85)

005. ABBREVIATIONS.

For the purpose of these rules, the following abbreviations are used: (9-1-85)

- 01. CAA. Community Action Agency. (11-1-98)T
- 02. CAP. Community Action Program. (11-1-98)T
- 03. CCC. Commodity Credit Corporation. (11-1-98)T
- 04. DHW. Idaho Department of Health and Welfare. (11-1-98)T
- 05. EFO. Emergency Feeding Organization. (11-1-98)T
- 06. TEFAP. The Emergency Food Assistance Program. (10-1-94)
- 07. USDA. United States Department of Agriculture. (11-1-98)T

006. CASE RECORD.

The CAA will maintain accurate and complete records on a household's participation. This record must be kept in a permanent CAA file for a period of at least three (3) years. (11-1-98)T

007. 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)

008. -- 014. (RESERVED).

015. ALLOCATION FORMULA.

At least forty percent (40%) of TEFAP administrative funds will be available to or expended on administrative activities. The Department will allocate these funds 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. (11-1-98)T

016. DISTRIBUTION OF TEFAP SHIPMENTS.

01. Regular TEFAP. Regular TEFAP shipments will be distributed to Emergency Feeding Organizations (EFOs) on a rotation basis by product. EFOs will distribute TEFAP to eligible households throughout the program year in all counties. Eligible entities must accept all TEFAP shipments offered by the Department, unless one (1) of the following circumstances exists: (11-1-98)T

- a. An adequate supply is on hand and an additional shipment would result in excessive inventories; or (11-1-98)T
 - 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. (RESERVED).

018. ELIGIBLE ACTIVITIES.

Eligible entities may use funds made available for administrative expenses for direct costs associated with the distribution of USDA commodities. (11-1-98)T

019. -- 020. (RESERVED).

021. APPLICATION RESPONSIBILITIES.

To be eligible for TEFAP surplus commodities, each applicant must, to the extent permitted by his physical and mental condition, provide any necessary and reasonable information to establish his eligibility and must otherwise cooperate in the eligibility determination process. (11-1-98)T

022. RELATIONSHIP TO OTHER PROGRAMS.

The 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. (11-1-98)T

023. REDONATION OF USDA COMMODITIES.

Prior approval from the Department is required if any eligible entity desires to redonate USDA commodities to another eligible entity. (11-1-98)T

024. -- 030. (RESERVED).

031. LOST, DAMAGED OR STOLEN COMMODITIES.

Commodities accepted by eligible entities must be stored to prevent damage or loss. (11-1-98)T

01. Eligible Entities Responsible. Eligible entities will be held responsible for the current USDA value of commodities lost, damaged, stolen or unaccounted for because of negligence on the part of the eligible entity or any of its distributing sites, personnel or volunteers. (11-1-98)T

02. Contact With Department. When damaged or stolen USDA commodities are discovered, eligible entities must contact the Department for appropriate instructions on disposal. (11-1-98)T

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. The eligible entity must contact the Department when an entire commodity shipment is damaged or has some other irregularity. (11-1-98)T

033. -- 041. (RESERVED).

042. ELIGIBILITY REQUIREMENTS.

All households assisted through TEFAP must meet the eligibility requirements listed in Subsections 042.01 through 042.03. (11-1-98)T

01. Application. A household must make written application on forms furnished by the Department. (11-1-98)T

02. Income. Income under this program is limited to households whose gross income is less than one hundred thirty-three percent (133%) of the current poverty guidelines. (11-1-98)T

03. Residence. The household must reside in the state of Idaho at the time it makes application for commodities. No durational residency requirements will be imposed. (11-1-98)T

043. -- 070. (RESERVED).

071. CURTAILMENT OF PROGRAM ABUSE.

Each eligible entity will have a written procedure to prevent program abuse and fraud by recipient households. (11-1-98)T

072. DENIAL OF COMMODITIES TO ELIGIBLE HOUSEHOLDS.

Eligible households may be denied present or future receipt of commodities if any member of the household displays abusive, threatening or violent behavior towards volunteers or staff, or willfully misstates income or residency. (11-1-98)T

073. -- 082. (RESERVED).

083. AUDIT.

In accordance with 7 CFR, Section 251.10, 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. (11-1-98)T

084. CONTRACT COMPLIANCE.

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

085. -- 997. (RESERVED).

998. 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 16.05.01, "Rules Governing the Protection and Disclosure of Department Records". (12-31-91)

999. SEVERABILITY.

The rules of IDAPA 16.04.13, 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)