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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 250 and 251

[FNS-2014-0040]

RIN 0584-AE29

**Requirements for the Distribution and Control of Donated Foods and
The Emergency Food Assistance Program: Implementation of the Agricultural Act
of 2014**

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule published in the Federal Register on April 19, 2016, “Requirements for the Distribution and Control of Donated Foods – The Emergency Food Assistance Program: Implementation of the Agricultural Act of 2014.”

DATES: This document is effective June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Carolyn Smalkowski, Program Analyst, Policy Branch, Food Distribution Division, Food and Nutrition Service, 3101

Park Center Drive, Room 500, Alexandria, Virginia 22302, or by telephone (703) 305-2680.

SUPPLEMENTARY INFORMATION: The Food and Nutrition Service published a final rule in the Federal Register, 81 FR 23086, on April 19, 2016, to amend Food Distribution regulations at 7 CFR part 250 and 7 CFR part 251 to revise and clarify requirements to ensure that USDA donated foods are distributed, stored, and managed in the safest, most efficient, and cost-effective manner, at State and recipient agency levels. The final rule misstated the title of the rule and misspelled the word “Territories” in the title of 7 CFR part 250 of the regulatory text. This final rule correction resolves these errors by providing the correct title and regulatory text for 7 CFR part 250. This final rule correction also makes a technical correction in 7 CFR 250.30(c)(1)(vi) by removing parts (A) and (B) and combining these sections to ensure readers clearly understand the requirements for processing contracts set forth in this section. All other information in the final rule remains unchanged.

Corrections

1. In the final rule title:

a. On page 23086, in the first column, revise the final rule subject heading.

The revision reads as follows:

**Requirements for the Distribution and Control of Donated Foods and The
Emergency Food Assistance Program: Implementation of the Agricultural Act of
2014**

2. In 7 CFR part 250, on page 23100, in the second column, revise the part heading to read as follows:

**PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS
TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION**

3. In §250.30:

a. On page 23110, in the second and third columns, remove (c)(1)(vi)(A) and (B).

b. On page 23110, in the second column, add a new instruction d1 to read as follows:

“d1. Redesignate paragraphs (c)(2) through (c)(4) as (c)(3) through (c)(5).”

c. On page 23110, in the second column, add a new instruction d2 to read as follows:

“d2. In paragraph (c)(1), remove the words “(c)(3), (c)(4)(ii), and (c)(4)(viii)(B)” and add in their place “(c)(4), (c)(5)(ii), and (c)(5)(viii)(B).””

d. On page 23110, in the second column, add a new instruction d3 to read as follows:

“d3. In paragraph (c)(1), remove the words “(c)(4)(xi)” and add in their place “(c)(5)(xi).””

e. On page 23110, in the second column, revise instructions 4e, 4f ,and 4g to read as follows:

“e. Amend newly redesignated paragraphs (c)(5)(iii) and (f)(1) by removing the reference “§ 250.3” and adding in its place the reference “§ 250.2”.

f. Revise newly redesignated paragraphs (c)(5)(viii)(G) and (c)(4)(xi).

g. Remove newly redesignated paragraph (c)(5)(xiv) and redesignate newly redesignated paragraphs (c)(5)(xv) through (xviii) as paragraphs (c)(5)(xiv) through (xvii).”

f. On page 23110, in the third column, add new paragraph (c)(2).

g. On page 23110, in the second column, add a new instruction d4 to read as follows:

“d4. In newly redesignated paragraph (c)(5)(ii), remove the words “(c)(4)(iii)” and add in their place “(c)(5)(iii).”

The addition reads as follows:

§250.30 State processing of donated foods.

* * * * *

(c) * * *

(2) These criteria will be reviewed by the appropriate FNS Regional Office during the management evaluation review of the distributing agency. Distributing agencies and subdistributing agencies which enter into contracts on behalf of recipient agencies but which do not limit the types of end products which can be sold or the number of processors which can sell end products within the State are not required to follow the selection criteria. In addition to utilizing these selection criteria, when a contracting agency enters into a contract both for the processing of donated food and the purchase of the end products produced from the donated food, the procurement standards set forth in 2 CFR Part 200, Subpart D and Appendix II, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards and USDA implementing regulations at 2 CFR Part 400 and Part 416 must be followed. Recipient agencies which purchase end products produced under Statewide agreements are also required to comply with 2 CFR Part 200, Subpart D and USDA implementing regulations at 2 CFR Part 400 and Part 416. Contracting agencies shall not enter into contracts with processors which cannot demonstrate the ability to meet the terms and conditions of the regulations and the distributing agency agreements; furnish prior to the delivery of any donated foods for processing, a performance bond, an irrevocable letter of credit or an escrow account in an amount sufficient to protect the contract value of donated food on hand and on order;

demonstrate the ability to distribute end products to eligible recipient agencies; provide a satisfactory record of integrity, business ethics and performance and provide adequate storage.

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Telora T. Dean
Acting Administrator
Food and Nutrition Service

June 15, 2016
Date

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