



Food and
Nutrition
Service

DATE: June 18, 2019

Park Office
Center

SUBJECT: The Emergency Food Assistance Program (TEFAP) – Information on the Bill Emerson Good Samaritan Food Donation Act

3101 Park
Center Drive
Alexandria
VA 22302

TO: Regional Directors
Special Nutrition Programs
MARO, MPRO, MWRO
NERO, SERO, SWRO, and
WRO

State Directors
All TEFAP State Agencies

On December 20, 2018, the Agriculture Improvement Act of 2018 (Farm Bill) (P.L. 115-334) was signed into law. Section 4104 of the Farm Bill amends section 203D of the Emergency Food Assistance Act of 1983 (EFAA) and directs the U.S. Department of Agriculture (USDA) to issue guidance to promote awareness of donations of apparently wholesome food by qualified direct donors protected under section 22(c) of the Child Nutrition Act of 1966 (The Bill Emerson Good Samaritan Food Donation Act). **This guidance only applies to privately donated foods provided to TEFAP State agencies and eligible recipient agencies (ERAs) and is not applicable to USDA Foods provided through TEFAP.**

Pursuant to the Congressional Review Act (5 U.S.C. § 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not major, as defined by 5 U.S.C. § 804(2).

Definitions

Section 203D(f) of the EFAA includes the following definitions as they relate to this memorandum:

- **Apparently wholesome food:** As defined in the Bill Emerson Good Samaritan Food Donation Act, apparently wholesome food is food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.
- **Qualified direct donor:** A retail food store, wholesaler, agricultural producer, restaurant, caterer, school food authority, or institution of higher education.

Food Donation Standards

Under the Bill Emerson Good Samaritan Food Donation Act, the following food donation standards apply:

- **Persons and gleaners (including qualified direct donors):** Persons and gleaners, including qualified direct donors, shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.
- **Nonprofit organizations:** Nonprofit organizations shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food that the nonprofit organization received as a donation in good faith from a person or gleaner, including a qualified direct donor, for ultimate distribution to needy individuals.

Donations of apparently wholesome food by qualified direct donors must be made in compliance with applicable State and local health, food safety, and food handling laws (including regulations).

Please share this information with TEFAP ERAs. TEFAP State agencies and ERAs are also encouraged to share this guidance with qualified direct donors. TEFAP ERAs with questions should contact their TEFAP State agencies for more information about State and local requirements.

/s/ Original Signature on File

Laura Castro

Director

Food Distribution Division