



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Department of Community, Trade and Economic Development

Permanent Rule
 Emergency Rule

(1) Date of adoption: June 1, 1994 #94-01

(2) Purpose:
To establish an optional consolidated Emergency Food Assistance Program (EFAP) pilot project which will allow participants to apportion their EFAP funds in the most advantageous way to meet the particular needs of their communities.

(3) Citation of existing rules affected by this order:
Repealed:
Amended: 365-140 WAC
Suspended:

(4) Authority for adoption: RCW 43.63A.060
Statute: Section 222(5), Chapter 232, Laws of 1992
Other Authority:

(5.1) **PERMANENT RULE ONLY**
Pursuant to notice filed as WSR _____ on _____ (date).
Describe any changes other than editing from proposed to adopted version:

(5.2) **EMERGENCY RULE ONLY**
Pursuant to RCW 34.05.350 the agency for good cause finds:
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:
The agency wishes to pilot a change in model for EFAP effective 7/1/94. This rule will allow food banks and distribution centers greater flexibility in how EFAP funds are used, better meeting the needs of their communities. The agency expects that the pilot project will result in more food being available sooner, thereby feeding more people, and quicker, more efficient services to the hungry.

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If yes, explain:

(6) Effective date of rule:
Permanent Rules
 31 days after filing
 Other (specify) _____
*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)
Emergency Rules
 Immediately
 Later (specify) July 1, 1994

CODE REVISER USE ONLY
CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED
JUN 10 1994
TIME: 3:35
WSR 94-13-012

NAME (TYPE OR PRINT)
Mike Fitzgerald
SIGNATURE
Mike Fitzgerald
TITLE
Director
DATE
6/10/94

AMENDATORY SECTION (Amending Order 93-06, filed 8/25/93, effective 9/25/93)

WAC 365-140-030 Definitions. (1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Food bank" means an emergency food program that distributes food and other products on a regular basis without a charge.

(4) "Food distributor" means a food distribution agency that collects, warehouses, and distributes food and other products to emergency food programs and other charities on a county, regional, or state-wide basis.

(5) "Commodity program" means a program that primarily distributes USDA surplus commodities to clients (TEFAP).

(6) "Emergency food assistance program" means the multifaceted state-wide administrative activities carried out within the department (~~(of community development)~~) to allocate, award, and monitor state funds appropriated to assist local food banks and food distributors, tribes or tribal organizations, and other food programs.

(7) "Applicant" means a public or private nonprofit organization, tribe or tribal organization which applies for state emergency food assistance.

(8) "Contractor" means an applicant which has been awarded state funds under the emergency food assistance program, and which has entered into a contract with the department of community, trade, and economic development to provide emergency food assistance to individuals.

(9) "Lead agency contractor" means a contractor which may subcontract with one or more local organizations to provide emergency food assistance to individuals.

(10) "Tribal food voucher program" means the state-wide administrative activities carried out within the department (~~(of community development)~~) to allocate, award, and monitor state funds appropriated to assist tribes or tribal organizations in issuing food vouchers to clients.

(11) "Religious service" means any sectarian or nondenominational service, rite, or meeting that involves worship of a higher being.

(12) "Participating agency" means a local public or private nonprofit organization which enters into a subcontract with a contractor to provide emergency food program services.

NEW SECTION

WAC 365-140-045 Pilot project for consolidated emergency food assistance program. The department has established an optional consolidated emergency food assistance program pilot project for counties or multicounty regions. The following conditions shall apply to pilot project participants:

(1) A county or multicounty region which requests to participate in the pilot project must be approved by the department to do so. Approval shall be granted if all existing participating food banks and contractors in the county or multicounty region agree to participate in the pilot project.

(2) WAC 365-140-040 (1), (2) and (6) and the criteria found in WAC 365-140-050(6) for food distributors shall not apply to participants in the pilot project.

(3) A public or nonprofit agency selected as the emergency food assistance program lead agency contractor for a county or multicounty region shall contract with the department for that county's or region's entire emergency food assistance program allocation.

(4) Except for the additional funds specifically allocated for food banks in timber-dependent communities, funds shall be allocated between food distributors, food banks and special dietary needs foods based on a two-thirds vote of all participating food banks.

(5) The additional funds specifically allocated for food banks in timber-dependent communities shall remain in the amounts identified by the timber task force.

(6) If a lead agency contractor and the participating food banks designate funds for food distribution, a food distributor will be chosen by a two-thirds vote of the participating food banks and the lead agency contractor. The lead agency contractor shall be responsible for subcontracting with the food distributor. The lead agency contractor and the participating food banks will, by a two-thirds vote, determine the criteria the food distributor must meet, and shall ensure that the requirements of WAC 365-140-050(1) are met.

AMENDATORY SECTION (Amending Order 93-06, filed 8/25/93, effective 9/25/93)

WAC 365-140-050 Applicant eligibility criteria. (1) The applicant must have a certified form from the IRS stating nonprofit status under section 501(c)3, (~~have a sponsor providing 501(c)3 status,~~) or be a public nonprofit agency, be a recognized tribe, a tribal organization with 501(c)3 status, or an unrecognized tribe with 501(c)3 status.

(2) The applicant must not require participation in a religious service as a condition of receiving emergency food or a food voucher.

(3) The applicant must provide food or food vouchers to individuals in an emergency, regardless of residency.

(4) The applicant must practice nondiscrimination in providing services and employment.

(5) The applicant must not deny food or food vouchers to an individual because of his or her inability to pay.

(6) Applicants for funding as participating agency or food distributor must have had a food bank program or food distribution center in operation for one year prior to the beginning date of the contract year.

(7) The applicant for food bank lead agency contractor may or may not actually provide emergency food program services.