

FSIS Guideline to Assist with the Donation of Eligible Meat, Poultry & Egg Products to Non-Profit Organizations May 2024

This guideline provides information to meat, poultry, and egg products establishments interested in donating products to non-profit organizations.

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Preface

This is the revised version of the ***FSIS Guideline to Assist with the Donation of Eligible Meat & Poultry Products to Non-Profit Organizations***. It has been updated in response to comments, to include recommendations received on the previous

version, and to provide new updates based on up-to-date science. The guideline also includes changes to improve its readability.

The information in this guideline is provided to assist meat, poultry, and egg products establishments and non-profit organizations in meeting the Food Safety and Inspection Service's (FSIS) regulatory requirements. The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to industry regarding existing requirements under FSIS' regulations. Under the regulations, meat, poultry, and egg products establishments and non-profit organizations may choose to implement different procedures than those outlined in this guideline, but they would need to validate and support how those procedures are effective. It is important to note that donations must also be made in compliance with applicable state and local health, food safety, and food handling laws and regulations.

FSIS regulates meat, poultry, and egg products. Egg products are liquid, frozen, or dried egg products. Cooked eggs are not an FSIS-regulated product unless the establishment is cooking egg products in lieu of pasteurization. Activities involving food products other than meat, poultry, and egg products fall under the jurisdiction of the U.S. Food and Drug Administration's (FDA) Center for Food Safety and Applied Nutrition or State or local governments.

Meat products amenable to the Federal Meat Inspection Act (FMIA) include those derived from carcasses and parts of cattle, sheep, swine, goat, and fish of the order Siluriformes. Poultry products amenable to the Poultry Products Inspection Act (PPIA) are prepared from any domesticated bird (chickens, turkeys, ducks, geese, ratites, or squabs, also termed young pigeons from 1 to about 30 days of age). Egg products amenable to the Egg Products Inspection Act (EPIA) are prepared from the shell eggs of the domesticated chicken, turkey, duck, goose, or guinea.

Purpose

This guideline contains information that will assist meat, poultry, and egg products establishments and non-profit organizations that donate and receive donated products comply with the FMIA, PPIA and EPIA, and FSIS regulations in [9 CFR Chapter III](#). This guideline includes information on:

- Products eligible for donation;
- Products ineligible for donation;
- Shipping donated products;
- Donating products produced under inspection exemptions; and
- Guidance for non-profit organizations.

Reason for Issuing the Guideline

FSIS developed this guideline to assist establishments and non-profit organizations that donate and receive donated meat, poultry, and egg products by addressing common

food donation questions. FSIS has received several questions from meat and poultry establishments and non-profit organizations on this subject and has addressed the major concerns associated with donation in this guideline (e.g., products eligible for donation and donating products produced under exemption). This guideline provides information that will help reduce food loss and waste and help battle food insecurity.

Changes from the Previous Version of the Guideline

This guideline, dated May 2024, is final. FSIS will update this guideline, as necessary, should new information become available.

FSIS made the following changes to this guideline to address the comments received on the previous version during the comment period.

This version incorporates the following changes:

- FSIS updated the “Preface” section to specify which products are covered under the guideline;
- FSIS added information on donating egg products to help official establishments and non-profit organizations better understand the relevant statutes, regulations, and FSIS policies;
- FSIS added a section to the guideline that addresses limited liability protection for donors, including information related to the Bill Emerson Good Samaritan Food Donation Act and the Food Donation Improvement Act;
- FSIS updated the text to reflect the updated and recommitted formal agreement between the U.S. Department of Agriculture (USDA), the U.S. Environmental Protection Agency (EPA), and the U.S. Food and Drug Administration (FDA);
- FSIS removed the “Donation Recipients” section to eliminate confusion;
- FSIS moved the “State-Inspected Products,” “Expired Products,” “Incorrect Standards of Identity,” and “Statement of Limited Use/Distribution” sections to under the “Products Eligible for Donation” heading to improve readability;
- FSIS ensured that all in-text citations are properly linked;
- FSIS revised the “Guidance for Organizations Receiving Donated Products” section of the guideline to alleviate confusion and improve readability;
- FSIS updated the donation flowchart to improve readability and include references to state-inspected products;
- FSIS added a reference to FDA’s Sanitary Transportation of Human and Animal Food Final Rule as an additional resource to assist stakeholders in keeping products safe during transport;¹
- FSIS modified the “Misbranded and Economically Adulterated Products” section of the guideline to clarify labeling requirements for products with ingredients of public health concern; and
- FSIS revised the “Misbranded and Economically Adulterated Products” section of the guideline to remove language that could have been misinterpreted as FSIS creating new policy.

¹ See: <https://www.govinfo.gov/content/pkg/FR-2016-04-06/pdf/2016-07330.pdf>.

How to Effectively Use the Guideline

This guideline is organized to provide users with recommendations for topics related to the donation of meat, poultry, and egg products to non-profit organizations. This guidance document includes recommendations for meat, poultry and egg products producers and non-profit organizations on how to donate and receive donated products in compliance with the [FMIA](#), [PPIA](#), [EPIA](#), and FSIS regulations in [9 CFR Chapter III](#).

Questions Regarding Topics in this Guideline

If you still have questions after reading this guideline, FSIS recommends searching the publicly posted Knowledge Articles (“Public Q&As”) in the [askFSIS](#) database. If you still have questions after searching the database, please contact the Office of Policy and Program Development through [askFSIS](#) and select **General Inspection Policy** as the Inquiry Type or by telephone at 1-800-233-3935.

Documenting these questions helps FSIS improve and refine present and future versions of the guideline and associated issuances.

FSIS Guideline to Assist with the Donation of Eligible Meat & Poultry Products to Non-Profit Organizations

Background

In the United States, food waste is estimated at 30-40 percent of the food supply. The lower end of this range is based on estimates from USDA’s Economic Research Service of a 31 percent food loss at the retail and consumer levels. This corresponds to approximately 133 billion pounds and \$161 billion worth of wasted food in 2010.² Wasted food is the single largest category of material placed in municipal landfills and represents nourishment that could have helped feed families in need. Additionally, water, energy, and labor used to produce wasted food could have been utilized for other purposes. Effectively reducing food waste will require cooperation among federal, state, tribal and local governments, faith-based institutions, environmental organizations, communities, and the entire supply chain.

In October 2018, USDA, EPA, and FDA launched the Winning on Reducing Food Waste Initiative in a [formal agreement](#). The three agencies renewed the formal agreement in December 2020. As part of the initiative, the agencies affirmed their

² <https://www.usda.gov/foodwaste/faqs>.

shared commitment to work towards the national goal of reducing food loss and waste by 50 percent by 2030. The agencies agreed to coordinate food loss and waste actions such as education and outreach, research, community investments, voluntary programs, public-private partnerships, tool development, technical assistance, event participation, and policy discussion on the impacts and importance of reducing food loss and waste. While there have been significant actions taken and commitments made through public-private partnerships to date, there is still much work to be done. See [USDA's Federal Interagency Collaboration to Reduce Food Loss and Waste](#) webpage for more information on USDA's commitment to this cause.

Meat, poultry, and egg products businesses can be a critical component of reducing food loss and waste. FSIS encourages establishments to donate meat, poultry, and egg products to non-profit organizations, when possible, to reduce food loss and waste.

Limited Liability Protection for Donors

[The Bill Emerson Good Samaritan Food Donation Act of 1996](#) and the [Food Donation Improvement Act \(2023\)](#), which amended the Bill Emerson Good Samaritan Food Donation Act, encourage the donation of food and grocery products to non-profit organizations for distribution to needy individuals or for donation directly to needy individuals. The Acts exempt "persons and gleaners" who make good faith donations of food to non-profit organizations that feed the hungry or make donations directly to needy individuals from liability for injuries arising from the consumption of the donated food. The Acts also protect persons and gleaners that sell food and grocery products to people in need at a good Samaritan reduced price.

Under the Bill Emerson Good Samaritan Food Donation Act and the Food Donation Improvement 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 non-profit organization for ultimate distribution to needy individuals.

Qualified Direct Donor: A retail grocer, wholesaler, agricultural producer, agricultural processor, agricultural distributor, restaurant, caterer, school food authority, or institution of higher education.

Non-profit organizations: Non-profit organizations shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food that the non-profit organization received as a donation in good faith from a person or gleaner, including a qualified direct donor, for ultimate distribution to needy individuals.

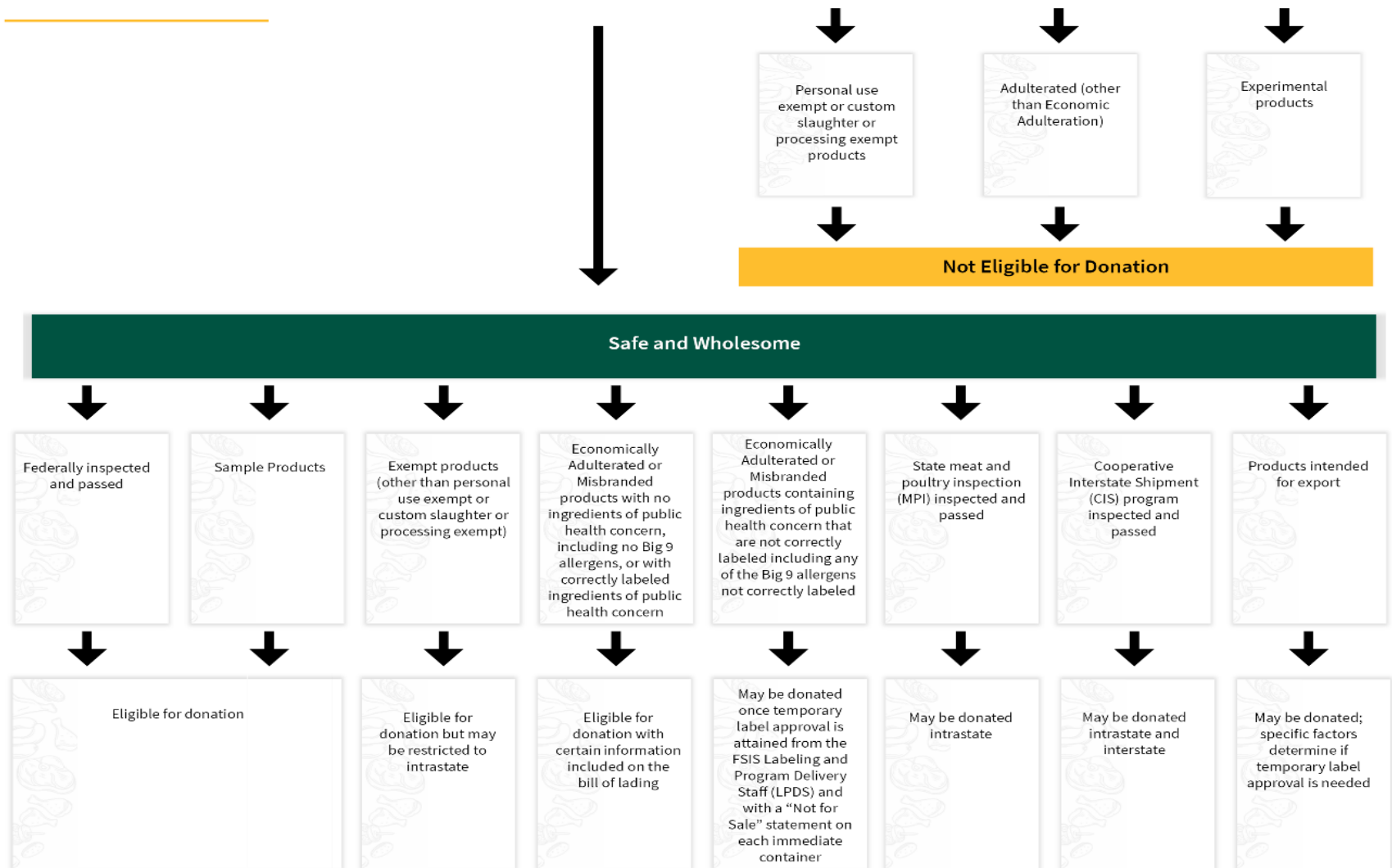
Good Samaritan reduced price: A price that is an amount not greater than the cost of handling, administering, harvesting, processing, packaging, transporting, and distributing the apparently wholesome food or apparently fit grocery product.

Direct Donations to Needy Individuals: A qualified direct donor shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the qualified direct donor donates in good faith to a needy individual at zero cost.

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.

Donation Flowchart

Your establishment wants to donate meat, poultry, or egg products to a non-profit organization, and the products are:



Guidance for Donating Establishments

Products Eligible for Donation

- **Federally Inspected and Passed Products**

Meat, poultry, and egg products establishments may always donate federally inspected meat, poultry, and egg products that are safe, wholesome, and not misbranded to non-profit organizations, such as charitable institutions, food banks, and government-supported facilities (e.g., correctional facilities, child welfare facilities, homes for senior populations, institutions for the physically or mentally ill, or similar qualifying institutions) (see [21 U.S.C. 673\(a\)\(5\)\(A\)](#) and [21 U.S.C. 467b\(a\)\(5\)\(A\)](#)).

- **Misbranded and Economically Adulterated Products**

For safe and wholesome misbranded and economically adulterated products, as described below, without ingredients of public health concern or for products with properly labeled ingredients of public health concern, FSIS allows official establishments to forego the temporary label approval and the marking of each immediate container with the “Not for Sale” statement if the FSIS inspection program personnel can verify that the bill of lading accompanying the products contains:

1. The quantity of the donated products;
2. A description of the donated products;
3. The reason products are diverted for donation (e.g., incorrect net weight); and
4. A statement that the products are “Not for Sale.”

Products are **economically adulterated** when any valuable constituent in whole or in part has been omitted or removed, when any less valuable substance has been substituted, when any substance is added or mixed, or when packaging misrepresents the weight or bulk making them appear to be of greater value ([21 U.S.C. 601\(m\)\(8\)](#), [21 U.S.C. 453\(g\)\(8\)](#), or [21 U.S.C. 1033\(a\)\(8\)](#)). In most cases of economic adulteration, a substance is added or intentionally substituted for the purpose of increasing the apparent value of the product. For example, a poultry carcass with added water that exceeds the maximum percentage of water that may be retained under [9 CFR part 441](#) would be economically adulterated because the added water increases the product’s net weight and makes it appear to be of greater value.

If the products are misbranded because they contain unlabeled or improperly labeled ingredients of public health concern, the official establishment will have to take additional steps before donating. FSIS requires a temporary label approval from FSIS’ Labeling and Program Delivery Staff (LPDS) ([9 CFR 412.1\(f\)\(1\)](#)), a “Not For Sale” statement on each immediate container of these products, along with identification of the ingredients. **Ingredients of public health concern** include the nine most common (“The Big 9”) food allergens. “The Big 9” allergens are: wheat, Crustacean shellfish (i.e.,

shrimp, crab, lobster), eggs, fish, peanuts, milk, tree nuts, soybeans, and sesame. Ingredients of public health concern also include ingredients that may cause food intolerance, such as sulfur-based preservatives (sulfites), lactose, Yellow 5 (tartrazine), gluten, and monosodium glutamate (MSG). The adverse reactions to these substances are caused by the ingredient itself or its chemical composition.

FSIS personnel will follow the instructions found in [FSIS Directive 7020.1, Verifying Donation of Misbranded and Economically Adulterated Meat and Poultry Products to Non-Profit Organizations](#), or [FSIS Directive 8410.1, Detention and Seizure](#), when verifying donations of misbranded or economically-adulterated meat, poultry, and egg products to non-profit organizations.

- **Products Intended for Export**

Meat, poultry, and egg products producers may be permitted to donate certain products intended for export to domestic non-profit organizations if the products are safe and wholesome. FSIS requires a temporary label approval ([9 CFR 412.1\(f\)\(1\)](#)) for donated products originally intended for export unless the label bears no deviations from domestic requirements other than being labeled “For Export Only.” If any language on the products’ labeling is not translated into English, the translation will need to accompany the application for temporary approval in order to provide LPDS with adequate information.

- **Sample Products**

Meat, poultry, and egg products producers may donate sample products to non-profit organizations. **Sample products** are products that are made available for pre-market consumer testing, are available to the general public, and are not for sale. Because sample products are produced for general public consumption, they must be produced and labeled in accordance with the meat, poultry, and egg products inspection regulations. More information about sample products can be found in [FSIS Directive 7000.2, Experimental and Sample Products Policy](#).

- **State-Inspected Products**

Under the [Cooperative Interstate Shipment](#) (CIS) program, certain state-inspected establishments operate the same as federally inspected facilities. These establishments can ship their products in interstate commerce. Therefore, products produced under the CIS program are eligible for donation. If a state-inspected establishment has not produced the product under the CIS program, it is limited to donating product within its own state borders according to state laws.

- **Expired Products**

Producers can donate products past the “best if used by” or “sell by” date. Manufacturers provide dating to help consumers and retailers decide when food is of best quality. Except for infant formula, product dates are not required by federal law. Product dates are generally not an indicator of a product’s safety, though FSIS recommends that certain ready-to-eat deli meats not be consumed past their use-by

dates.³ The quality of perishable products may deteriorate after the date passes, but most products should still be wholesome if not exhibiting signs of spoilage. Spoiled foods will develop an off odor, flavor, or texture due to naturally occurring spoilage bacteria, making the food unwholesome. If a food has developed such spoilage characteristics, it should not be eaten or donated. FSIS recommends that food banks, other charitable organizations, and consumers evaluate the quality of the products before their distribution and consumption to determine if there are noticeable changes in wholesomeness. More information on product dating can be found on [FSIS' Food Product Dating page](#).

- **Incorrect Standards of Identity**

An establishment can donate products that do not meet the standard of identity listed on the label (e.g., beef stew formulated with less than 25 percent beef) without having to contact LPDS. The reason the product does not meet the standard of identity must be mentioned in the bill of lading.

- **Statement of Limited Use/Distribution**

An official establishment can donate products bearing a statement of limited use or distribution (e.g., “for further processing,” “for institutional use only”) to a non-profit organization. A statement of limited distribution (i.e., “Not for Sale” or “For Charity Only”) is not required on unadulterated, properly labeled meat, poultry, or egg products that are being donated to non-profit organizations. However, FSIS recommends adding a statement of limited distribution to the products’ labeling to avoid further distribution of products by non-profit organizations. Such a statement may be generically-approved and added to the products per [9 CFR part 412](#). This statement can be applied to the immediate containers, shipping container, or the bill of lading accompanying the donated products to the non-profit organization.

Temporary label approval and the statement “Not for Sale” are required on each immediate container for the donation of misbranded meat and poultry products that contain improperly labeled Big 9 allergens or ingredients of public health concern. These products may have been retained or detained by FSIS and are eligible for voluntary donation to non-profit organizations per [21 U.S.C. 673 \(a\)\(5\)\(A\)\(ii\)](#) and [21 U.S.C. 467b\(a\)\(5\)\(A\)\(iii\)](#).

Products Ineligible for Donation

Below are two ineligible product types that industry frequently requests information on donating. Additional products that are ineligible for donation are discussed in other sections of this guideline.

- **Adulterated Products**

³ See: <https://www.fsis.usda.gov/guidelines/2023-0004>.

An official establishment cannot dispose of adulterated products by donating them to a non-profit organization, except when products are found to only be economically adulterated ([21 U.S.C. 601\(m\)\(8\)](#), [21 U.S.C. 453\(g\)\(8\)](#)), or [21 U.S.C 1033\(a\)\(8\)](#) as discussed above. Unwholesome, adulterated products may not be donated to non-profit organizations ([21 U.S.C. 601\(m\)\(3\)](#), [21 U.S.C. 453\(g\)\(3\)](#), or [21 U.S.C 1033\(a\)\(3\)](#)).

- **Experimental Products**

Official establishments are not eligible to donate experimental products to non-profit organizations. **Experimental products** are new or existing products that introduce a new formulation or flavor. They are limited to research and development under the control of the producing official establishment. Because experimental products are not inspected, they may not enter commerce. More information about experimental products can be found in [FSIS Directive 7000.2, Experimental and Sample Products Policy](#).

Shipping Donated Products

The donating establishment, the shipping firm, and the receiving non-profit organization all have a responsibility to maintain human food in an unadulterated state. More information on keeping products safe during transport can be found in [FDA's Sanitary Transportation of Human and Animal Food Final Rule](#). This FDA rule broadly covers food intended for consumption in the United States, including any meat, poultry, and egg products regulated by FSIS, that is transported via rail or motor vehicle in the United States. The rule also applies to food transported in both interstate and intrastate commerce.

Donating Products Produced Under Inspection Exemptions

- Can I Donate Meat Products Slaughtered and/or Processed under an Exemption from Federal Inspection (see [9 CFR 303.1](#))?

Exemption Type	Eligible to Donate?
Personal Use	No

Custom Slaughter and Custom Processing	No
Retail Store	Yes
Restaurant	Yes
Caterer	Yes
Restaurant Central Kitchen	Yes

Further explanation of each meat inspection exemption type and its eligibility to be donated is found in the [FSIS Guideline for Determining Whether a Livestock Slaughter or Processing Firm is Exempt from the Inspection Requirements of the Federal Meat Inspection Act](#).

- Can I Donate Poultry Products Slaughtered and/or Processed under an Exemption from Federal Inspection (See [9 CFR 381.10](#))?

Exemption Type	Eligible to Donate?
Personal Use	No
Custom Slaughter/Processing	No
Producer/Grower 1,000 Bird Limit	Yes, intrastate
Producer/Grower 20,000 Bird Limit	Yes, intrastate
Producer/Grower or Other Person (PGOP)	Yes, intrastate
Small Enterprise	Yes, intrastate
Retail Dealer	Yes
Retail Store	Yes

Further explanation of each poultry inspection exemption type and its eligibility to be donated is found in the [Guidance for Determining Whether a Poultry Slaughter or Processing Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act](#).

Can I Donate Egg Products Processed under an Exemption from Federal Inspection (See [9 CFR 590.100](#))?

Exemption Type	Eligible to Donate?
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Household Consumer	No
Processing in Non-Official Plants	Yes

The guidelines do not address exemption requirements where state laws may be different from those in the [FMIA](#), [PPIA](#), [EPIA](#), and FSIS/USDA regulations. States may have additional requirements and regulations, beyond FSIS' requirements, for donating products produced under the exemptions.

Guidance for Organizations Receiving Donated Products

A non-profit organization, such as a food bank, can receive federally inspected and passed products in bulk, break bulk, repackage, label, and distribute them to customers in need under the retail exemption from federal inspection (see [9 CFR 303.1\(d\)](#) and [9 CFR 381.10\(d\)](#)). If the non-profit organization receives state-inspected products, those products may be distributed within the state only. Retailers are still subject to the licensing requirements of state and local (county, city) authorities, and the FDA while producing products under the retail exemption from FSIS inspection. In accordance with [9 CFR 303.1\(f\)](#), [9 CFR 381.10\(a\)\(1\)](#), and [9 CFR 381.10\(d\)\(4\)](#), the adulteration and misbranding provisions of the [FMIA](#) and [PPIA](#) apply to articles that are exempted from inspection. A non-profit organization receiving federally inspected egg products, for use as an ingredient in donated products, needs to meet the requirements in 9 CFR 591.100(b)(2), which includes all of the requirements in [9 CFR part 590](#) and [9 CFR part 591](#).

The non-profit organization must ensure that the repackaged products meet all FSIS labeling requirements that apply at retail: the name of the product, the name and

address of the manufacturer, packer or distributor of the product (which can be the food bank), a list of ingredients if the product is made from two or more ingredients, a special handling statement (e.g., “Keep Refrigerated”) if the product is perishable, nutrition information (unless an exemption applies, such as that the product will not be sold), and safe-handling instructions if not ready-to-eat (see [9 CFR 317.2](#), [9 CFR 381 Subpart N](#), and [9 CFR 590.411](#)).

For a checklist of required label features, please visit [FSIS’ “Label Submission Checklist” page](#). For more information on labeling requirements, please visit [FSIS’ Labeling Policies page](#). Product exempt from FSIS inspection must not bear the FSIS inspection legend.

Non-profit organizations that repackage products need to ensure that the products they receive and distribute are properly labeled. This is especially important with raw products that may appear to be fully cooked (e.g., raw, breaded poultry products) because some consumers might not know how to properly handle and cook the products. Ensuring proper labeling can help consumers identify if the product must be stored refrigerated or frozen to maintain wholesomeness and can prevent inadequate cooking by consumers, reducing the risk of foodborne illness.

Additional Information



SMALL PLANT HELP DESK

A resource for small and very small plants
Est. 12-17-2010

Knowledgeable, USDA-FSIS specialists from the Outreach and Partnership Division are available weekdays 8:00 AM to 4:00 PM EST to give you personal assistance on matters relating to the regulation of meat, poultry, and processed egg products. We can also be reached by email at info@source@fsis.usda.gov.

Call Toll-Free 1-877-374-7435



<https://www.fsis.usda.gov/contact-us/askfsis>

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