



DONATED FOOD FROM A REGULATORY PERSPECTIVE

WSEHA AEC
May 2019

Today We Will Discuss

1. Quick Overview of Food Donation in Washington State

2. Food Donation Updates:

- a. WAC 246-215 Rule Revision
- b. CFP Food Recovery Committee
- c. HB 1114 – Food Waste Reduction

3. The Life & Times of Donated Food

- a. Prepared Food Rescue
- b. Share Tables

Brief History of Donated Food

First Food Bank

*St. Mary's Food Bank Alliance,
Arizona*

1967

Chapter 69.80 RCW

*Washington law regarding
food donation & distribution*

1983

Bill Emerson Good Samaritan Act

*Federal law to encourage food donation to
nonprofit organizations by minimizing liability*

1996

Good Samaritan Food Donation Act

*Update to WA law 69.80 RCW to encourage food donation
to nonprofit organizations by minimizing liability*

1994

Chapter 69.80 RCW Update

*Update to WA law that directed DOH to
develop rules and guidance for safety of
donated foods*

2002

Chapter 246-215 WAC Update

*Update to WA regulation to
include food safety for donated
food distribution organizations*

2005

Beginning 246-215 WAC Revision

*Committee work to investigate updates
to Part 9, Subpart D: Donated Food
Distributing Organizations*

2018

*Developed charity donation
guidance*

*Developed food rescue guide for food
establishments & food processors*

What's in the Food Code Now?

Donated Food Distributing Organization



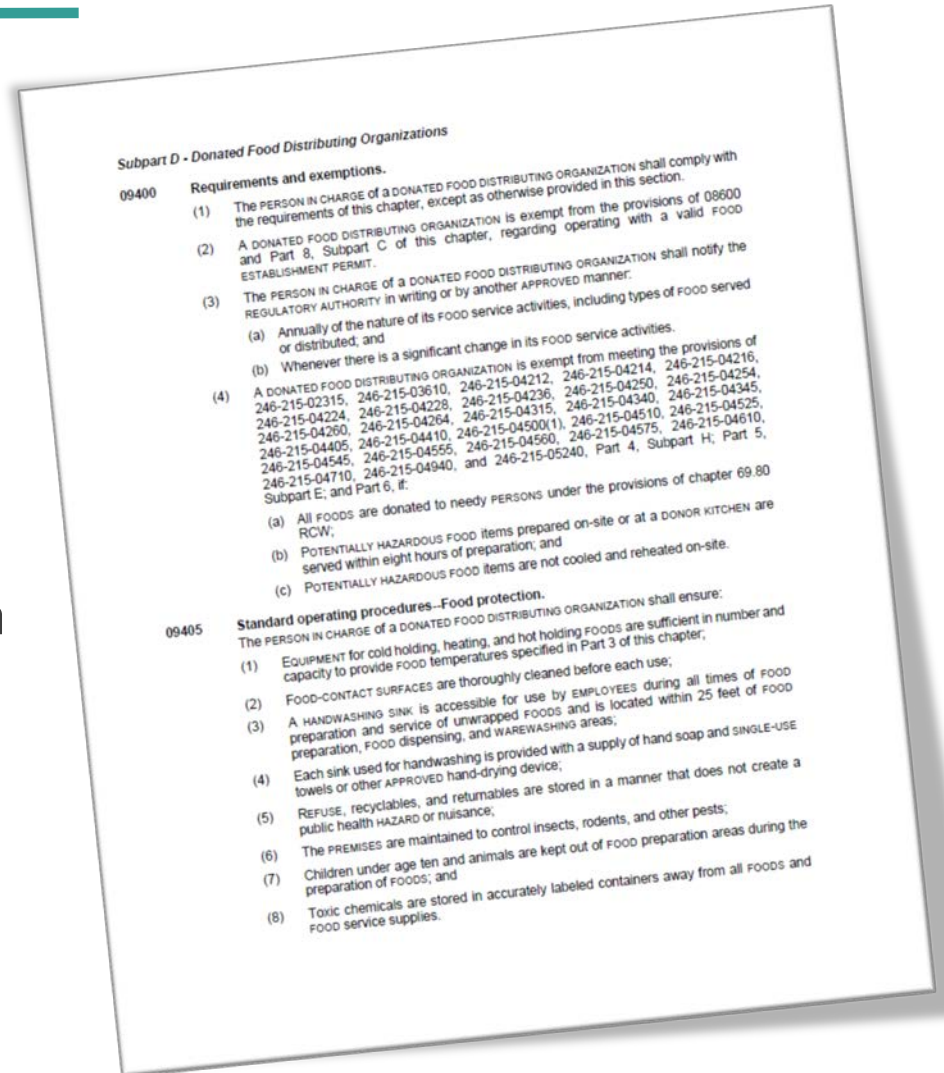
Photo modified from Ben Faulding –
<https://www.flickr.com/photos/bfauld1/4719865330/>

- A charitable nonprofit organization under Section 501(c) of the federal Internal Revenue Code
- Distributes food free of charge to the needy
- If meets the definition of a food establishment, is regulated by the local health jurisdiction

What's in the Food Code Now?

Donated Food Distributing Organization

- Must follow WAC 246-215
- Exempt from operating with a permit (section 08600)
- Not exempt from inspections (section 08400)
- Functionally exempt from plan review (section 08200)



What's in the Food Code Now?

Donated Food Distributing Organization



Exempt from certain sections of the code if:

1. All foods are donated to needy persons
2. PHFs prepared on-site or at a donor kitchen are served within 8 hours of preparation
3. PHFs are not cooled and reheated onsite.

What May Change in the 2020 Food Code?

Donated Food Distributing Organizations

- Draft One of Proposed WAC 246-215 language will be available to the public at the end of the month.
- Public meetings will occur in July 2019.
- All the proposed changes must be approved by the State Board of Health.
- We anticipate having a revised Food Code, WAC 246-215 in May 2020.

FSAC Donated Food Committee

Members Included:

5 Regulatory

Clallam County

Gray's Harbor

Seattle & King County

Tacoma-Pierce County

Thurston County

5 Donor Industry

Costco

Fred Meyer / QFC

Safeway

Starbucks

WSU Extension

5 DFDO Industry

Food Lifeline

Mary's Place

OSPI

Thurston County Food Bank

Washington Food Coalition

What May Change in the 2020 Food Code?

Updated Definitions:

Donated Food Distributing Organization

Means a **FOOD ESTABLISHMENT** that is a charitable nonprofit organization under Section 501(c) of the federal Internal Revenue Code that distributes FOOD free of charge to the needy.

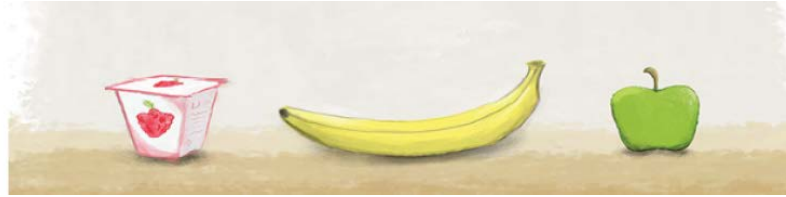
Reservice

Means the transfer of FOOD that is unused and returned by a CONSUMER after being served or sold and in the possession of the CONSUMER, to another PERSON.

RESERVICE does not include FOOD displayed on a self-service operation as described in 03369.

What May Change in the 2020 Food Code?

Section 03372 – Preventing Contamination by Consumers



- Allows for the reservice or donation of CERTAIN previously-served food:
 - Uncut produce
 - Unopened bags of sliced fruit
 - Unopened containers of TCS foods if immediately place in a proper temperature-controlled environment
 - Other approved foods
- Requires a plan to be approved by the regulatory authority.

What May Change in the 2020 Food Code?

Section 09400 – DFDO Requirements and Exemptions

- MAINTAIN permit exemption
- Add requirements to submit:
 - Initial application (section 08325) and
 - 501(c) 3 IRS determination letter OR a letter of sponsorship
- Requires annual written approval from the regulatory authority to operate

Exempt From WAC 246-215 Sections:

- 02315: Hands and arms – Where to wash
- 03610: Labeling – Food labels
- 04212: Cleanability – Can openers
- 04214: Cleanability – Nonfood contact surfaces
- 04216: Cleanability – Kick plates, removable
- 04224: Accuracy – Pressure measuring devices, mechanical warewashing equipment
- 04228: Functionality – Equipment openings, closures and deflectors
- 04236: Functionality – Beverage tubing, separation
- 04250: Functionality – Warewashing machines, data plate operating specifications
- 04254: Functionality – Warewashing machines, temperature measuring devices
- 04260: Functionality – Warewashing machines, flow pressure device
- 04264: Functionality – Equipment compartments, drainage
- 04340: Utensils, temperature measuring devices and testing devices – Temperature measuring devices, manual warewashing
- 04345: Utensils, temperature measuring devices and testing devices – Sanitizing solutions, testing devices
- 04405: Installation – Fixed equipment, spacing or sealing
- 04405: Installation – Fixed equipment, elevation or sealing
- 04500 (1): Equipment – Good repair and proper adjustment
- 04510: Equipment – Microwave ovens
- 04525: Equipment – Warewashing sinks, use limitation
- 04545: Equipment – Mechanical warewashing equipment, wash solution temperature
- 04555: Equipment – Mechanical warewashing equipment, hot water sanitization temperatures
- 04560: Equipment – Mechanical warewashing equipment, sanitization pressure
- 04575: Equipment – Warewashing equipment, determining chemical sanitizer concentration
- 04610: Objective – Cooking and baking equipment
- 04710: Methods – Hot water and chemical
- 04940: Preventing contamination – Preset tableware
- 05240: Service sink
- Part 4, Subpart H: Laundering
- Part 5, Subpart E: Refuse, Recyclables, and Returnables
- Part 6: Physical Facilities

What May Change in the 2020 Food Code?

Section 094XX – Sink & Equipment Requirements

Exempt DFDOs from all provisions that are currently listed in section 09400 (4) and add in specific requirements based on food handling practices.

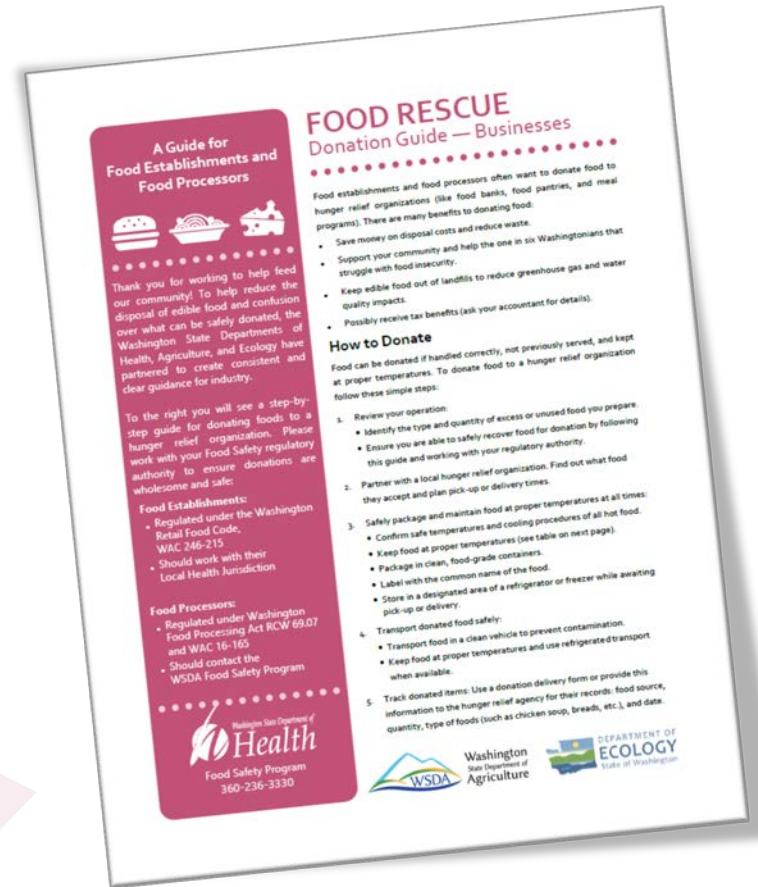
For example, proposed language for warewashing sinks:

If unpackaged food is handled onsite, the DONATED FOOD DISTRIBUTING ORGANIZATION shall have at least the following facilities available for cleaning FOOD-contact UTENSILS and EQUIPMENT:

1. A **three-compartment** sink;
2. A two-compartment sink as specified in 04305 (4) and (5);
3. A two-compartment sink plus a home-style dishwasher with a sanitizing cycle providing 155°F (68°C) or hotter water; or
4. As otherwise APPROVED.

To Compliment 2020 Food Code - Guidance Development

1. Annual report template
2. For Donors
 - How to donate from a donor kitchen
 - How to donate from a home kitchen
3. For DFDOs
 - How to operate safely & interpret the Food Code
4. For Regulatory Authority
 - How to work with DFDOs



Available online at:
www.doh.wa.gov > search for **Food Rescue**

CFP Food Recovery Committee Update

1. Developing factsheets for industry:
 - a. Food Establishments
 - b. Intermediary Organizations
 - c. Charitable Organizations
2. Proposing FDA Model Food Code language that will be presented at the Conference for Food Protection in 2020

HB 1114 Update

HB 1114 - 2019-20

Reducing the wasting of food in order to fight hunger and reduce environmental impacts.

Sponsors: **Doglio, Slatter, Fey, Peterson, Ryu, Fitzgibbon, Tharinger, Jinkins, Macri, Walen**

Bill Status-at-a-Glance ⓘ

See **Bill History** for complete details on the bill

As of Thursday, April 25, 2019 03:51 PM

Current Version: Engrossed 2nd Substitute - E2SHB 1114	Current Status: HSpkr Signed
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Where is it in the process?

	Introduced	In Committee	On Floor Calendar	Passed Chamber
In the House:	●	●	●	●
In the Senate:	●	●	●	●
After Passage:	●	○	○	○
	Passed Legislature	On Governor's Desk	Governor Acted	Session Law

WA Food Waste Goal: 50% Reduction by 2030



The Life & Times of Donated Food: Food Rescue



AT THE FOOD ESTABLISHMENT

```
graph LR; A[Handling] --> B[Packaging]; B --> C[Labeling]; C --> D[Storage]; D --> E[Transport]
```

Handling

Packaging

Labeling

Storage

Transport

Previously Served?



DEEP DIVE

All you can waste: How buffet-style food is causing donation hesitation

While donating such food is protected by the Bill Emerson Act, it is not supported by Feeding America. So what should be done?

<https://www.wastedive.com/news/all-you-can-waste-how-buffet-style-food-is-causing-donation-hesitation/432894/>

Handling

Packaging

Labeling

Storage

Transport

Safe Handling of Donated Food

- Proper cooling
- Temperature control



Handling

Packaging

Labeling

Storage

Transport

Safe Packaging of Donated Food

- Intact original container
- Clean, food-grade container





Labeling of Donated Food

DONOR NAME AND LOCATION	Ex: ABC Restaurant 1234 main St, Dallas, TX
FOOD CHARITY NAME AND LOCATION	Ex: XYZ Shelter 5678 Main St, Dallas, TX
FOOD DESCRIPTION (MENU DESCRIPTION):	Ex: Black Bean Burger
DATE OF DONATION:	Ex: 11/02/2015

WARNING! This container holds rescued food! This food may contain, have come into contact with, or have been produced in a facility which also produces milk, eggs, peanuts, tree nuts (walnuts, almonds, pecans, hazelnuts/filberts, pistachios, cashews, coconuts, pine nuts, macadamia nuts, and/or Brazil nuts), fish, shellfish (crab, crawfish, lobster, shrimp, mussels, and/or oysters), wheat, and / or soybeans.

Best Practices

- Name & contact info:
 - Where food was prepared
 - Recipient organization
- Common name of food
- Date prepared
- Ingredients (if known)
- Allergen disclaimer

Handling

Packaging

Labeling

Storage

Transport



Safe Storage of Donated Food

- Temperature control
- Protected from contamination

Handling

Packaging

Labeling

Storage

Transport

Safe Transport of Donated Food

- Temperature control
 - Refrigerated vehicle
 - Thermal blanket
 - Insulated cooler with ice packs
- Clean and sanitary vehicle condition
- May be an FE, DFDO, or intermediary organization!



The Life & Times of Donated Food: Food Rescue

AT THE DONATED FOOD DISTRIBUTING ORGANIZATION

```
graph LR; A[Receipt] --> B[Sort]; B --> C[Repack]; C --> D[Storage]; D --> E[Service]
```

Receipt

Sort

Repack

Storage

Service

Receipt

Sort

Repack

Storage

Service

Receipt of Donated Food

- Records are required in WAC 246-215-09435:
 - Source
 - Quantity
 - Type
 - Receiving Date of the Foods



APRIL 2019

DATE	Bakery	Dairy Juice	Meat	Non Food	Prepared	Produce	Canned	Coffee	Frozen
Circle One Donor:	Alt. Dairy	(Protient)	Perishable	Dry Goods	Kiosk	Foods			
St Peter's	Safeway	McDonald's	Little Debbie's	Pizza Hut	Capital Campus	Texaco	Bon App		

FOOD LIFELINE **GROCERY RESCUE**

Donor Store: 1464 SW 04 Agency: Salvation Army Date: 7-9-19

Product/Description	Total Weight
Bakery	147
Dairy/Juice/Alternative Dairy	55
Meat	24
Nonfood	
Prepared/Perishable	
Produce	245
Canned/Dry Goods	48
Coffee/Kiosk	
Frozen Foods	
Non-Meat Protein (eggs, tofu)	
TOTAL	534

Donor Signature: _____ Food Lifeline/Agency Signature: Salvation Army

Your decision to help hungry people in our community is greatly appreciated. We welcome your comments and suggestions.

www.FoodLifeline.org
Phone (206) 545-6600 • Fax (206) 545-6616
Food Lifeline 501033 • Tax ID #91-1090450

Circle One Donor: St Peter's Safeway McDonald's Little Debbie's Pizza Hut Capital Campus Texaco Bon A

Receipt

Sort

Repack

Storage

Service

Sorting of Donated Food

- Weigh different types of donations
 - Produce
 - Meats
 - Bakery
- Assess food condition & discard foods that do not meet safety standards
 - Temp assessment
 - Quality assessment



Receipt

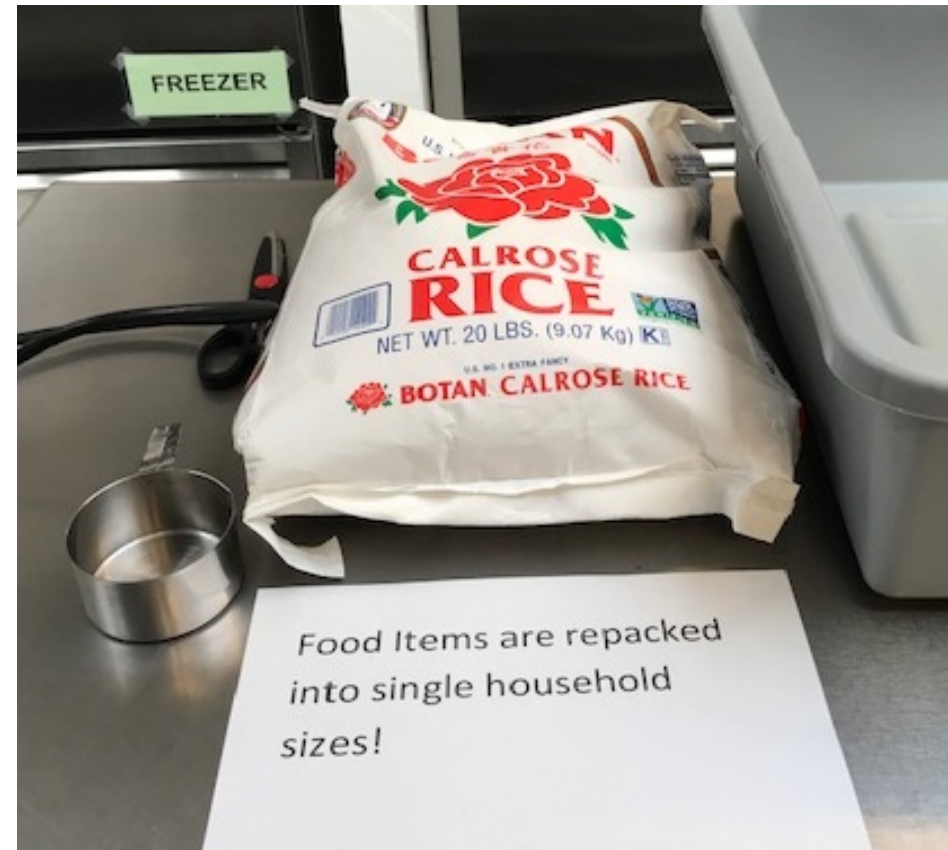
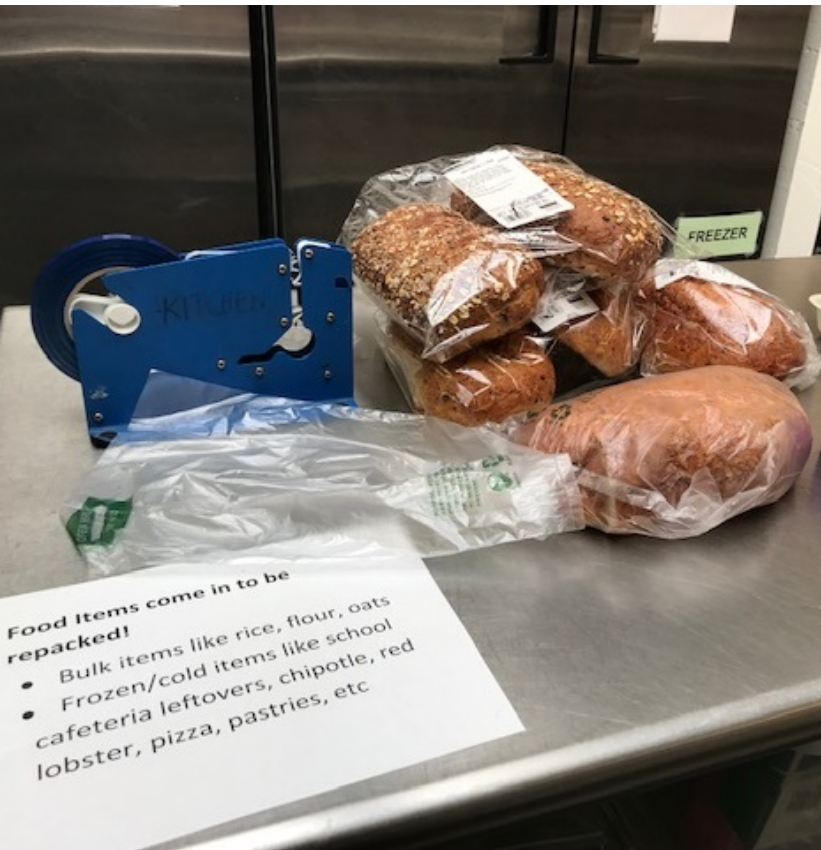
Sort

Repack

Storage

Service

Repacking of Donated Food



Receipt

Sort

Repack

Storage

Service

Repacking of Donated Food



Receipt

Sort

Repack

Storage

Service



Safe Storage of Donated Food

- Temperature control
- Protected from contamination



Receipt

Sort

Repack

Storage

Service

Service of Donated Food

- Food Pantry
- Hot Meal Service
- Temporary Feeding Event



Alternate Models – School Share Tables

1. Donation plans for the participating school **must be reviewed by the local health department**
2. Previously served foods may be donated with written approval from the health department
3. Potentially hazardous foods may be donated if maintained at appropriate temperatures

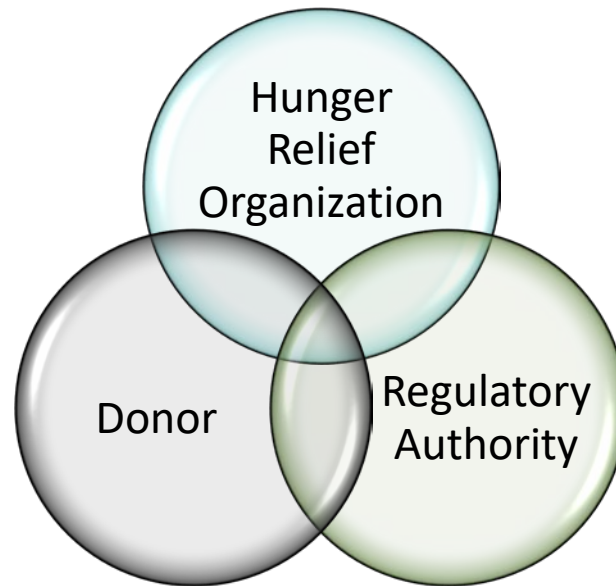


Graphic from Washington School Food Share Program Toolkit, March 2017 – www.epa.gov/sites/production/files/2017-07/documents/washingtonschoolfoodshare5087717_a.pdf

Final Thoughts

Food Donation can be Complicated!

It's important that we emphasize **partnerships** between:



Questions?



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