

Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Distribution Program: Substitution of Donated Beef and Pork With Commercial Beef and Pork

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Food and Nutrition Service's (FNS) intent to continue to provide processors with an opportunity to participate in a demonstration project to test program changes in the State processing program. In the demonstration project, selected processors will be allowed to substitute donated beef and pork supplied by the Department of Agriculture (the Department, or USDA) with commercial beef and pork. Commercial beef and pork used in the demonstration project must meet the same specifications required of USDA donated beef and pork. Currently, there are no processors in the demonstration project substituting donated beef and pork with commercial beef and pork. The demonstration project will continue through June 30, 2005; proposals for approval to participate must be submitted to FNS by April 30, 2004. Through the demonstration project, the Department hopes to determine if allowing this type of substitution will result in increased participation of processors, and provide a greater variety of processed end products to recipient agencies in a more timely manner and/or at lower costs.

DATES: The proposals described in this notice may be submitted to FNS through April 30, 2004. The demonstration project runs until June 30, 2005.

ADDRESSES: Proposals should be sent to Director, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Park Office

Center, Room 504, 3101 Park Center Drive, Alexandria, Virginia 22302-1594.

FOR FURTHER INFORMATION CONTACT: David Brothers, Schools and Institutions Branch, at (703) 305-2668.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This notice has been determined to be not significant and therefore was not reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance under 10.550 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22675, May 31, 1984).

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and is thus exempt from the provisions of that Act.

Background

Food Distribution Program regulations under 7 CFR 250.30 establish the terms and conditions under which distributing agencies, subdistributing agencies, and recipient agencies may enter into contracts with commercial firms for the processing of USDA donated foods under the State processing program, and prescribe the minimum requirements to be included in such contracts. Section 250.30(f)(1) allows for the full or limited substitution of certain donated food items with commercial foods, with the exception of beef and pork. Processors have stated that the regulations prohibiting the substitution of donated beef and pork reduce the quantity of donated beef and pork they are able to accept and process during a given period. Processors tend to schedule production around deliveries of the donated beef and pork, which decreases their flexibility in providing end products to recipients. Some processors must schedule production around deliveries of donated beef and pork for up to 30 States. Vendors do not always deliver donated beef and pork to the

processors as scheduled, causing delays in production. These delays may be alleviated if processors can replace donated beef and pork with their commercial beef and pork.

Demonstration Project

7 CFR 250.30(t) authorizes FNS to waive any of the requirements contained in food distribution regulations under 7 CFR part 250 for the purpose of conducting demonstration projects to test program changes designed to improve the State processing of donated foods. In accordance with this regulatory authority, the Department waived the regulatory restriction under 7 CFR 250.30(f)(1) to conduct a demonstration project from June 30, 2001 to June 30, 2003, that provided the opportunity for selected processors to substitute donated beef and pork with commercial beef and pork in the State processing program. Through the demonstration project, announced on May 30, 2001, at 66 FR 29282, FNS hoped to determine if the waiver of the regulations would increase the number of processors participating in the State processing program, and whether it would increase the quantity of donated beef and pork that each processor accepts for processing. Additionally, FNS sought to determine if the expected increases in competition, and in the quantities of donated beef and pork accepted for processing, would enable processors to function more efficiently, resulting in the production of a greater variety of processed end products more quickly and/or at lower costs. To date, no processors have taken the opportunity to substitute donated beef and pork with commercial beef and pork in the demonstration project.

Continuation of Demonstration Project

The Department has decided to continue to provide processors with the opportunity to participate in the demonstration project through June 30, 2005. Processors approved to participate would be allowed to substitute donated beef and pork with commercial beef and pork. With the exception of the waiver of the prohibition on substitution of donated beef and pork in Section 250.30(f)(1), all regulatory and contract requirements continue to apply, and must be met by processors participating in the demonstration project. Program