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DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 1599

RIN 0551-AA64

McGovern-Dole International Food for Education and Child Nutrition Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations govern the foreign donation of agricultural commodities, and the provision of financial and technical assistance to implement the McGovern-Dole International Food for Education and Child Nutrition Program. This program would provide agricultural commodities and financial and technical assistance to carry out preschool and school food for education programs and maternal, infant, and child nutrition programs, in foreign countries.

EFFECTIVE DATE: June 20, 2003.

FOR FURTHER INFORMATION CONTACT: William S. Hawkins, Director, Program Administration Division, Foreign Agricultural Service, United States Department of Agriculture, 1400 Independence Ave., SW., Stop 1031, Washington, DC 20250-1031; telephone (202) 720-3241. The USDA prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs and marital or familial status. Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc) should contact the USDA Office of Communications at (202) 820-5881 (voice) or (202) 720-7808 (TDD).

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule is issued in conformance with Executive Order 12866. It has been determined significant for purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule would have preemptive effect with respect to any State or local laws, regulations or policies which conflict with such provisions or which otherwise impede their full implementation; does not have retroactive effect; and does not require administrative proceedings before suit may be filed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (see the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115).

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because FAS is not required by any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. In any event, this rule deals primarily with requirements imposed upon foreign governments and non-profit entities distributing humanitarian grant food supplies overseas. Therefore, the rule does not have a significant impact upon a substantial number of small business entities.

Paperwork Reduction Act

The information collection requirements imposed by this final rule have been previously submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). OMB has assigned control number 0551-0039 for this information collection. This regulation does not change any of the information collection requirements from the proposed rule.

Government Paperwork Elimination Act

FAS is committed to compliance with the Government Paperwork Elimination

Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Background

Section 3107 of the Farm Security and Rural Investment Act of 2002, Pub. L. 107-171, authorized the President to establish a program to be known as the McGovern-Dole International Food for Education and Child Nutrition Program. This program would provide agricultural commodities and financial and technical assistance to carry out preschool and school food for education programs and maternal, infant, and child nutrition programs, in foreign countries. By Presidential Memorandum, March 11, 2003, the President delegated the responsibility for implementing this program to the Secretary of Agriculture and it has been further delegated, within the Department of Agriculture, to the Administrator, Foreign Agricultural Service. Congress directed that \$100 million of Commodity Credit Corporation (CCC) funds be used for this program in fiscal year 2003. Thereafter, the program is subject to annual appropriations.

The McGovern-Dole International Food for Education and Child Nutrition Program is implemented under the authorities of the Foreign Agricultural Service and, therefore, this new program will be subject to regulations that are separate from other foreign assistance commodity grant programs operated under the authority of the Commodity Credit Corporation (CCC), *i.e.*, section 416(b) and Food for Progress. However, because there are many similarities between these programs and it would be advisable to retain the same procedures and rules to the extent practical, this rule will adopt, and repeat in 7 CFR part 1599, most of the regulations currently in 7 CFR part 1499 that are applicable to the section 416(b) and Food for Progress programs. Sections 1599.7 and 1599.8, which cover procedures that apply to procuring ocean transportation, and arranging for entry and handling of commodities in the foreign country, are nearly identical to 7 CFR part 1499.

On March 26, 2003, the Foreign Agricultural Service (FAS) published a proposed rule (68 FR 14546) to govern