

Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average 4 hours per response.

*Respondents:* Nurseries.

*Estimated annual number of respondents:* 4.

*Estimated annual number of responses per respondent:* 2.

*Estimated annual number of responses:* 8.

*Estimated total annual burden on respondents:* 32 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 13th day of July 2004.

**W. Ron DeHaven,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 04-16281 Filed 7-16-04; 8:45 am]

**BILLING CODE 3410-34-P**

## 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 a demonstration project through June 30, 2007, that allows selected processors to substitute commercial beef and pork for donated beef and pork supplied by the Department of Agriculture (the Department, or USDA). Commercial beef and pork used in the demonstration

project must meet the same specifications required of donated beef and pork. Processors wishing to participate in the demonstration project must submit proposals for FNS approval by April 30, 2006. The Department hopes to determine if allowing substitution of donated beef and pork 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, 2006. The demonstration project runs until June 30, 2007.

**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 at 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. 7 CFR 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.

Since June 30, 2001, the Department has exercised its waiver authority in 7 CFR 250.30(t) to waive the regulatory restriction under 7 CFR 250.30(f)(1) and conduct a demonstration project that allows selected processors to substitute commercial beef and pork for donated beef and pork in the State processing program. Commercial beef and pork used in the demonstration project must meet the same specifications required of USDA donated beef and pork. Other regulatory and contract requirements under 7 CFR 250.30 must also continue to be met by processors participating in the demonstration project.

To date, only a few processors have taken the opportunity to participate. FNS hopes to determine through this continuation of the demonstration project if the waiver of the regulations would increase the number of processors participating in the State processing program, or would increase the quantity of donated beef and pork that each processor accepts for processing. Additionally, FNS hopes to determine if the expected increase 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.

##### **Continuation of Demonstration Project**

The demonstration project is scheduled to continue until June 30, 2005. However, FNS is further extending it through June 30, 2007, to continue to allow processors the opportunity to participate, and to determine if such an opportunity has an effect on the end products provided to schools and other recipients. All proposals to participate must be submitted by April 30, 2006. Except for the waiver of the prohibition on substitution of donated beef and pork in

7 CFR 250.30(f)(1), all regulatory and contract requirements will continue to apply, and must be met by processors participating in the demonstration project. This includes the requirement in 7 CFR 250.30(f)(1)(i) that all components of commercial foods substituted for any donated food must be of U.S. origin and identical or superior in every particular of the donated food specification.

7 CFR 250.30(g) requires that when donated meat or poultry products are processed, or when any commercial meat or poultry product is incorporated into an end product containing one or more donated foods, all of the processing must be performed in plants under continuous Federal meat or poultry inspection, or continuous State meat or poultry inspection in States certified to have programs at least equal to the Federal inspection programs. In addition to Food Safety and Inspection Service (FSIS) inspection, all donated meat and poultry processing must be performed under Agricultural Marketing Service (AMS) acceptance service grading. The following basic requirements will apply to the demonstration project:

- As with the processing of donated beef and pork into end products, AMS graders must monitor the process of substituting commercial beef and pork to ensure program integrity is maintained.

- Only bulk beef and pork delivered by USDA vendors to the processor will be eligible for substitution. No backhauled product will be eligible. (Backhauled product is typically frozen beef and pork in 10 pound chubs delivered to schools that may be sent to processors for further processing at a later time.)

- Commercial beef and pork substituted for donated beef and pork must be certified by an AMS grader as complying with the same product specifications as the donated beef and pork. USDA specifications relative to acceptable tolerance levels for specific microorganisms must be met. The age of any commercial product that is used in substitution for donated food may not exceed six months.

- Substitution of commercial beef and pork may occur in advance of the actual receipt of the donated beef and pork by the processor. Should a processor choose to use the substitution option prior to the purchase of the product by USDA, the processor must assume all risks. Any variation between the amount of commercial beef and pork substituted and the amount of donated beef and pork received by the processor will be

adjusted according to guidelines furnished by USDA.

- Any donated beef and pork not used in end products because of substitution must only be used by the processor in other commercial processed products and cannot be sold as an intact unit. However, it may be used to fulfill other USDA contracts provided all terms of the other contract are met.

- The only regulatory provision or State processing contract term affected by the demonstration project is the prohibition on substitution of beef and pork (7 CFR 250.30(f)(1) of the regulations). All other regulatory and contract requirements remain unchanged and must still be met by processors participating in the demonstration project.

Processors must submit proposals to obtain approval for participation in the demonstration project by April 30, 2006. The written proposals must describe how processors plan to carry out the substitution while complying with the above conditions. Proposals must include:

- (1) A step-by-step description of how production will be monitored; and,

- (2) A complete description of the records that will be maintained for (a) the commercial beef and pork substituted for the donated beef and pork and (b) the disposition of the donated beef and pork delivered by USDA.

All proposals will be reviewed by representatives of FNS' Food Distribution Division and AMS' Livestock Division, Commodity Procurement Branch and Grading Branch. Processors approved for participation in the demonstration project will be required to enter into an agreement with FNS and AMS that authorizes the substitution of donated beef and pork with commercial bulk beef and pork in fulfilling any current or future State processing contracts during the demonstration project period. However, participation in the demonstration project will not ensure that processors will be awarded any State processing contracts.

Dated: July 13, 2004.

**Roberto Salazar,**

*Administrator, Food and Nutrition Service.*  
[FR Doc. 04-16332 Filed 7-16-04; 8:45 am]

**BILLING CODE 3410-30-P**

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Food Distribution Program: Value of Donated Foods From July 1, 2004 Through June 30, 2005

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces the national average value of donated foods or, where applicable, cash in lieu of donated foods, to be provided in school year 2005 (July 1, 2004 through June 30, 2005) for each lunch served by schools participating in the National School Lunch Program (NSLP), and for each lunch and supper served by institutions participating in the Child and Adult Care Food Program (CACFP). It also announces the national average value of donated foods to be provided in school year 2005 for each lunch served by commodity only schools.

**EFFECTIVE DATE:** July 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Dave Tuckwiller, Chief, Schools and Institutions Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302 or telephone (703) 305-2254.

**SUPPLEMENTARY INFORMATION:** These programs are listed in the Catalog of Federal Domestic Assistance under Nos. 10.550, 10.555, and 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and thus is exempt from the provisions of that Act. This notice has been determined to be exempt under Executive Order 12866.

#### National Average Minimum Value of Donated Foods for the Period July 1, 2004 Through June 30, 2005

This notice implements mandatory provisions of sections 6(c), 14(f) and 17(h)(1)(B) of the National School Lunch Act (the Act) (42 U.S.C. 1755(c), 1762a(f), and 1766(h)(1)(B)). Section 6(c)(1)(A) of the Act establishes the national average value of donated food assistance to be given to States for each