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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

regulations relating to the processing of donated meat products apply to the substituted beef and pork in the demonstration project. Section 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 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 which 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 (Section 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, 2004. 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 of the AMS Livestock Division's Commodity Procurement Branch and Grading Branch. Companies approved for participation in the demonstration project will be required to enter into an agreement with FNS and AMS that authorizes the processor to substitute 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: January 13, 2003.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 03-1253 Filed 1-17-03; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

West Fork Kickapoo River Watershed, Vernon County, Wisconsin

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy

Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the West Fork Kickapoo River Watershed, Vernon County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Tom Krapf, Water Resources Staff Leader, Natural Resources Conservation Service, 6515 Watts Road, Suite 200, Madison, Wisconsin, 53719. Telephone (608) 276-8732, extension 232.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Patricia S. Leavenworth, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project. The project purpose is flood prevention. The planned work of improvement includes the upgrade of the dam to meet class (c) high hazard criteria.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Tom Krapf.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: January 4, 2003.

Patricia S. Leavenworth,

State Conservationist.

Finding of No Significant Impact for West Fork Kickapoo River Watershed-Supplement, Vernon County, Wisconsin

Introduction

The West Fork Kickapoo River Watershed is a federally assisted action authorized for planning under Public Law 83-566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of the watershed plan-supplement. This assessment was conducted in consultation with local, state, and federal agencies as well as