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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revisions of Delegations of Authority

AGENCY: Office of the Secretary, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department of Agriculture (USDA) to reflect an internal reorganization of the pollution prevention, control, and abatement program within USDA.

EFFECTIVE DATE: Effective March 9, 2000.

FOR FURTHER INFORMATION CONTACT: Terry Harwood, Executive Director, USDA Hazardous Materials Policy Council, United States Department of Agriculture, Washington, D.C. 20250, telephone (202) 401-4747.

SUPPLEMENTARY INFORMATION: On January 15, 1999, the Secretary of Agriculture established the USDA Hazardous Materials Policy Council (Council) to direct and coordinate pollution prevention, control, and abatement within USDA. The Council is chaired by an appointee of the Secretary and consists of senior policy representatives of the affected USDA mission areas and agencies and USDA's Office of the General Counsel. By memorandum dated April 14, 1999, the Secretary assigned to the Council lead responsibility for USDA hazardous materials management and Federal facilities compliance activities, with the Council Chairman coordinating program direction with the assistance of an Executive Director. The director of the USDA Hazardous Materials Management Group (HMMG) serves as the Council's Executive Director. The HMMG, which serves as staff to the

Council, was placed organizationally in Departmental Administration for administrative support. The Council's Executive Director/HMMG Director reports to the Council Chairman for both management and policy direction. The Assistant Secretary for Administration and the Council Chairman are responsible for presenting the USDA Hazardous Waste Management appropriation budget request to the Office of Management and Budget (OMB) and Congress. The Council Chairman is responsible for reporting on hazardous materials management and Federal facilities compliance program accomplishments to Congress, OMB, and the United States Environmental Protection Agency. Decisions on the allocation of funds to USDA agencies from the USDA central hazardous waste management account are the responsibility of the Council. Finally, the Secretary directed that Departmental Manual (DM) 5600-1, Environmental Pollution Prevention, Control, and Abatement Manual, be revised to reflect these changes in organization and responsibilities. The revisions to DM 5600-1 were issued June 25, 1999. This final rule revises the delegations of authority from the Secretary of Agriculture and general officers of USDA to incorporate the provisions of the Secretary's memoranda and the June 25, 1999, amendments to DM-5600-1.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order Nos. 12866 and 12988. In addition, this action is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and, thus, is exempt from the provisions of that Act. Accordingly, as authorized by section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, this rule may be made effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

Accordingly, 7 CFR Part 2 is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

Authority: 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR, 1949-1953 Comp., p. 1024.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretaries and Assistant Secretaries

2. In § 2.16, paragraph (a)(9) is added to read as follows:

§ 2.16 Under Secretary for Farm and Foreign Agricultural Services.

(a) * * *

(9) *Related to hazardous materials management.* (i) Serve on the USDA Hazardous Materials Policy Council.

(ii) Recommend actions and policies that enable USDA agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement.

(iii) Consult with the United States Environmental Protection Agency and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority.

(iv) Recommend actions and policies of the loan and grant programs under his or her authority concerning compliance with the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996, Subtitle E of Public Law No. 104-208.

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3. In § 2.17, the section heading is revised and paragraph (a)(23) is added to read as follows:

§ 2.17 Under Secretary for Rural Development.

(a) * * *

(23) *Related to hazardous materials management.* (i) Serve on the USDA Hazardous Materials Policy Council.

(ii) Recommend actions and policies that enable USDA agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement.

(iii) Consult with the United States Environmental Protection Agency and

other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority.

(iv) Recommend actions and policies of the loan and grant programs under his or her authority concerning compliance with the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996, Subtitle E of Public Law No. 104-208.

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4. In § 2.18, paragraph (a)(7) is added to read as follows:

§ 2.18 Under Secretary for Food Safety.

(a) * * *

(7) *Related to hazardous materials management.* (i) Serve on the USDA Hazardous Materials Policy Council.

(ii) Recommend actions and policies that enable the USDA agency under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement.

(iii) Consult with the United States Environmental Protection Agency and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority.

(iv) Exercise primary responsibility to regulate drug, pesticide, and environmental contaminants in food products as covered by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*), including the Food Quality Protection Act of 1996, Public Law 104-170, and the Toxic Substances Control Act, as amended (15 U.S.C. 2601 *et seq.*), as implemented by the Food Safety and Inspection Service through a Memorandum of Understanding with the United States Department of Health and Human Services, Food and Drug Administration, and the United States Environmental Protection Agency.

* * * * *

5. In § 2.20, paragraph (a)(1)(ii) is revised and paragraphs (a)(1)(ix), (x), and (xi) are added to read as follows:

§ 2.20 Under Secretary for Natural Resources and Environment.

(a) * * *

(1) * * *

(ii) Represent USDA on Regional Response Teams on hazardous spills and oil spills pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 *et seq.*), the Clean Water Act, as amended

(33 U.S.C. 1251 *et seq.*), the Oil Pollution Act (OPA), as amended (33 U.S.C. 2701 *et seq.*), Executive Order 12580, 3 CFR, 1987 Comp., p. 193, Executive Order 12777, 3 CFR, 1991 Comp., p. 351, and the National Contingency Plan, 40 CFR Part 300.

* * * * *

(ix) Serve on the USDA Hazardous Materials Policy Council.

(x) Recommend actions and policies that enable agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement.

(xi) Consult with the United States Environmental Protection Agency and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority.

* * * * *

6. In § 2.21, paragraph (a)(10) is added to read as follows:

§ 2.21 Under Secretary for Research, Education, and Economics.

(a) * * *

(10) *Related to hazardous materials management.* (i) Serve on the USDA Hazardous Materials Policy Council.

(ii) Recommend actions and policies that enable USDA agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement.

(iii) Consult with the United States Environmental Protection Agency and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority.

(iv) Serve as a USDA Environmental Executive responsible for coordinating waste prevention; recycling; and the procurement, acquisition, and use of recycled products and environmentally preferable products, including biobased products, and services pursuant to Executive Order 13101 (dual assignment with the Assistant Secretary for Administration).

* * * * *

7. In § 2.22, paragraph (a)(10) is added to read as follows:

§ 2.22 Under Secretary for Marketing and Regulatory Programs.

(a) * * *

(10) *Related to hazardous materials management.* (i) Serve on the USDA Hazardous Materials Policy Council.

(ii) Recommend actions and policies that enable USDA agencies under his or

her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement.

(iii) Consult with the United States Environmental Protection Agency and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority.

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8. In § 2.24:

a. Paragraph (a)(3)(i)(I) is removed and paragraphs (a)(3)(i)(J) and (a)(3)(i)(K) are re-designated paragraphs (a)(3)(i)(I) and (a)(3)(i)(J) respectively; and

b. Paragraphs (a)(3)(xi), (a)(3)(xii), and (a)(14) are added to read as follows:

§ 2.24 Assistant Secretary for Administration.

(a) * * *

(3) * * *

(xi) Serve as a USDA Environmental Executive responsible for coordinating waste prevention; recycling; and the procurement, acquisition, and use of recycled products and environmentally preferable products, including biobased products, and services pursuant to Executive Order 13101 (dual assignment with the Under Secretary for Research, Education, and Economics).

(xii) Provide administrative support to the USDA Hazardous Materials Management Group.

* * * * *

(14) *Related to hazardous materials management.* (i) Serve on the USDA Hazardous Materials Policy Council.

(ii) Recommend actions and policies that enable USDA agencies under his or her authority to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement.

(iii) Consult with the United States Environmental Protection Agency and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to agencies under his or her authority.

(iv) Present, in coordination with the Chairman of the USDA Hazardous Materials Policy Council, the USDA Hazardous Waste Management Appropriation budget request to the Office of Management and Budget and to Congress.

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Subpart D—Delegations of Authority to the Other General Officers and Agency Heads

9. In § 2.31, paragraph (p) is added to read as follows:

§ 2.31 General Counsel.

* * * * *

(p) Serve on the USDA Hazardous Materials Policy Council.

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Subpart J—Delegations of Authority By the Under Secretary for Natural Resources and Environment

10. In § 2.60, paragraph (a)(35) is revised to read as follows:

§ 2.60 Chief, Forest Service.

(a) * * *

(35) Represent USDA on Regional Response Teams on hazardous spills and oil spills pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 *et seq.*), the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*), the Oil Pollution Act (OPA), as amended (33 U.S.C. 2701 *et seq.*), Executive Order 12580, 3 CFR, 1987 Comp., p. 193, Executive Order 12777, 3 CFR, 1991 Comp., p. 351, and the National Contingency Plan, 40 CFR Part 300.

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Dated: March 1, 2000.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 00-5770 Filed 3-8-00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 215, 220, 225 and 226

RIN 0584-AC82

Modification of the “Vegetable Protein Products” Requirements for the National School Lunch Program, School Breakfast Program, Summer Food Service Program and Child and Adult Care Food Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule updates the requirements for using “Vegetable Protein Products” in the National School Lunch Program, School Breakfast Program, Summer Food Service Program, and Child and Adult Care Food Program (the Child Nutrition programs). The major changes are to: rename “Vegetable Protein Products” as “Alternate Protein Products;” remove the limit on the amount of these products that can be used; eliminate the requirement that alternate protein products be specially fortified; and

update the test used to determine protein quality. These changes provide menu planners with more flexibility to incorporate these products into their menus along with the traditional protein sources of meat, poultry and seafood.

EFFECTIVE DATE: April 10, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. William Wagoner or Ms. Janice Fabina, 3101 Park Center Drive, Room 1007, Alexandria, Virginia 22302 or by telephone at (703) 305-2590.

SUPPLEMENTARY INFORMATION:

Background

What Was Proposed?

On July 20, 1999, the U.S. Department of Agriculture (USDA) published a rule in the **Federal Register** (64 FR 38839) proposing to update the requirements for using vegetable protein products in the Child Nutrition Programs. Under the National School Lunch Act (NSLA) and the Child Nutrition Act of 1966 (CNA), the Secretary of Agriculture is authorized to establish minimum nutritional requirements for meals served in the various Child Nutrition Programs administered by FNS. One important element of establishing these nutritional requirements is determining how various foods, such as vegetable protein products, should be credited under the meals patterns established for the Child Nutrition Programs. Section 9(a) of the NSLA (42 U.S.C. 1758 (a)) requires the Secretary to establish minimum nutritional requirements for the National School Lunch Program (NSLP). Section 13(f) of the NSLA (42 U.S.C., 1761(f)) mandates this requirement for the Summer Food Service Program (SFSP), as does section 17(g)(1)(A) of the NSLA (42 U.S.C. 1766(g)(1)(A) for the Child and Adult Care Food Program (CACFP). Section 4(e) of the CNA incorporates this oversight requirement as a central feature of the School Breakfast Program (SBP).

The following were the major modifications that we proposed:

- (1) Change the name from vegetable protein products to alternate protein products and remove the requirement that alternate protein products only be of plant origin;
- (2) Remove the requirement that vegetable protein products could only constitute 30 percent (by weight) of the meat/meat alternate component of the food-based menu planning approaches;
- (3) Remove the fortification requirement; and
- (4) Update the protein quality test to the Protein Digestibility Corrected Amino Acid Score (PDCAAS) from the Protein Efficiency Ratio (PER) test.

We proposed to amend the requirements found in Appendix A, entitled “Alternate Foods for Meals-Vegetable Protein Products,” to the following Code of Federal Regulation (CFR) Parts: 7 CFR Part 210, for the NSLP; 7 CFR Part 225, for the SFSP; and 7 CFR Part 226, for the CACFP. Appendix A to Part 210 also applies to 7 CFR Part 220, the SBP. For additional background on the history of vegetable protein products in the Child Nutrition programs, please refer to the proposed rule.

How Long Was the Comment Period for the Proposed Rule?

We originally established a 60-day comment period which would have ended on September 20, 1999. However, potential commentors requested an extension of the comment period to allow them more time to review the proposed changes. We extended the comment period until November 19, 1999 in response to these requests. The extension notice was published in the **Federal Register** on August 25, 1999 (64 FR 46319).

How Many Comments Were Received?

We received 635 comment letters, including a number of e-mails. The following is a breakdown of the types of commentors:

| Commentor classification | Number |
|---|------------|
| General Public* | 573 |
| State and Local Food Service Including Child Care Providers | 17 |
| Food Industry | 26 |
| Advocates | 19 |
| Total | 635 |

*Includes unaffiliated health professionals.

The vast majority of commentors (619) approved of the proposed changes. The largest group of commentors that approved of the changes in their entirety (355) made the following points:

1. The changes would increase flexibility for menu planners;
2. The current requirements severely restricted the use of vegetable protein products (VPP) in the Child Nutrition programs; and
3. The changes will provide healthful alternatives to meat products. These commentors also noted that the changes are good for consumers, animals, the environment and those administering the Child Nutrition programs, especially child care providers.

Specific comments are discussed in detail below.