



Geographic Preference Option for the Procurement of Unprocessed Agricultural Products in Child Nutrition Programs

FINAL RULE SUMMARY

The 2008 Farm Bill amended the Richard B. Russell National School Lunch Act to allow institutions operating Child Nutrition Programs to purchase locally raised agricultural products. This provision, known as Geographic Preference, applies to institutions in all of the Child Nutrition programs, including: the National School Lunch Program, School Breakfast Program, Fresh Fruit and Vegetable Program, Special Milk Program for Children, Child and Adult Care Food Program and Summer Food Service Program, as well as to purchases made for these programs by the Department of Defense Fresh Program. The provision also applies to State agencies making purchases on behalf of any of the aforementioned Child Nutrition Programs.

The final rule was published in the Federal Register on April 22, 2011.
(<http://www.gpo.gov/fdsys/pkg/FR-2011-04-22/pdf/2011-9843.pdf>)

The department received 77 comments on the proposed rule (issued April 19, 2010), resulting in the following clarifications and changes.

Procurement Issues (p. 22603):

A geographic preference established for procurement is a tool that gives bidders in a specified geographic area a specific, defined advantage in the procurement process. In February 2011, USDA published a policy memorandum (SP_18-2011) for program operators instructing them how to apply a geographic preference in the procurement process. USDA will issue additional guidance on this subject as needed.

Geographic Area (p. 22604):

The final rule allows for each institution to determine how to define the geographic area. USDA received 47 comments in support of allowing the purchaser to define the local area in which the geographic preference options will be applied; no objections were received.

Definition of Unprocessed Agricultural Products (p. 22604):

In previously issued guidance, USDA proposed a definition of “unprocessed agricultural products,” which allowed for “de minimus handling and preparation such as may be necessary to present an agricultural product to a school food authority in a usable form.”

The definition in the proposed rule included a list of acceptable food handling and preservation techniques. A number of comments were received regarding these food handling and preservation techniques, resulting in the final definition of “unprocessed agricultural products”:

“Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties



without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.”

This definition replaces any previously issued definitions.

Further Clarifications on the Final Definition of “Unprocessed Agricultural Products”

A number of comments were received regarding the food handling and preservation techniques, resulting in the following clarifications and changes to the final rule:

- The definition of “unprocessed agricultural products” has been revised to include the combination of vegetables and fruits, as indicated in the Feb 2011 memo, (SP_18 – 2011) Procurement Geographic Preference Q&As (p. 22604).
- Canned, pickled, and pasteurized products are not considered to be subject to a geographic preference, as heat processing does not meet the “de minimus” standard of processing established by Congress and assessed by USDA (p. 22604).
- The definition of “unprocessed agricultural products” has been revised to include formed products that contain no additives or fillers. For example, a geographic preference can be applied to foods such as ground beef and other meat patties made with pure meat and containing no fillers or additives (p. 22605).
- USDA clarifies that ground products, such as the grinding of grain into flour, as well as cut products, such as cutting chicken into fajita strips or filleting fish, meet the proposed and final definition of unprocessed agricultural products (p. 22605).
- The addition of ascorbic acid and/or other preservatives that retain the color of a product or prevent oxidation has been added to the definition of “unprocessed agricultural products.” However, no other preservatives used for any other purposes are considered acceptable under this definition (p. 22605).
- Due to the concern that the term “high water pressure (cold pasteurization)” could be interpreted to mean irradiation (p. 22605), this term has been removed from the definition of “unprocessed agricultural products.” USDA’s original intent was to use this term in reference to a washing technique; since “washing” is already included in the definition of “unprocessed locally grown or locally raised agricultural products,” this is covered.

This final rule prohibits the application of the geographic preference procurement option for products subject to processing methods not included in the final definition of “unprocessed agricultural products.”

This final rule, effective May 23, 2011, amends 7 CFR Parts 210 (National School Lunch Program), 215 (Special Milk Program for Children), 220 (School Breakfast Program), 225 (Summer Food Service Program), and 226 (Child and Adult Care Food Program) to include a Geographic Preference option for the procurement of unprocessed agricultural products.