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DEPARTMENT OF AGRICULTURE

Food Distribution Program: Substitution of Donated Poultry With Commercial Poultry

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 to test program changes designed to improve the State processing of donated poultry by allowing the substitution of donated poultry supplied by the Department of Agriculture (the Department) with commercial poultry. The Department is currently operating a demonstration project that allows selected poultry processors to substitute commercial poultry for donated poultry in the State processing of donated poultry. Only bulk pack poultry and poultry parts are eligible for substitution under the current demonstration project. Notice of the project, which commenced operation on February 1, 1996, was published in the **Federal Register** at 61 FR 5373 on February 12, 1996. The project was expanded and extended through June 30, 2000 (64 FR 35582, July 1, 1999). The project was further extended through June 30, 2002 (65 FR 25296, May 1, 2000). Under the demonstration project, FNS invoked its authority under 7 CFR 250.30(t) to waive the current prohibition at 7 CFR 250.30 (f)(1)(i) against the substitution of poultry items and to establish the criteria under which substitution will be permitted.

The Department will continue to operate the demonstration project from July 1, 2002 through June 30, 2003. The Department has determined that this demonstration project is successful and is in the process of publishing a proposed rule to codify limited poultry substitution. The extension of the demonstration will allow the

Department to maintain continuity for all concerned parties while the proposed rule proceeds through the final rulemaking process.

DATES: The proposals described in this Notice may be submitted to FNS through June 30, 2002. Note that the demonstration project will continue until June 30, 2003 or until the final rule codifying limited poultry substitution is published in the **Federal Register**.

ADDRESSES: Proposals should be sent to Suzanne Rigby, Chief, Schools and Institutions Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Park Office Center, 3101 Park Center Drive, Alexandria, Virginia 22302-1594.

FOR FURTHER INFORMATION CONTACT: David Brothers, Schools and Institutions Branch, at (703) 305-2644.

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

Section 250.30 of the current Food Distribution Program regulations (7 CFR Part 250) sets forth the terms and conditions under which distributing agencies, subdistributing agencies, and recipient agencies may enter into contracts with commercial firms for processing donated foods and prescribes the minimum requirements to be included in such contracts. Section 250.30(t) authorizes FNS to waive any of the requirements contained in 7 CFR Part 250 for the purpose of conducting

demonstration projects to test program changes designed to improve the State processing of donated foods.

Current Program Requirements

The State processing regulations at Section 250.30(f)(1)(i) currently allow for the substitution of certain specified donated food items with commercial foods, with the exception of meat and poultry. Under the current regulations at Section 250.30(g), when donated meat or poultry products are processed or when any commercial meat or poultry products are incorporated into an end product containing one or more donated foods, all of the processing is required to 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.

Traditionally only a few companies have processed donated poultry. Those processors have stated that the policy prohibiting the substitution of donated poultry reduces the quantity of donated poultry they are able to accept and process during a given period. Poultry purchased by USDA for further processing is bulk chill packed. Processors must schedule production around deliveries of the donated poultry since it is a highly perishable product. Some of the processors must schedule production around deliveries of donated poultry for up to 30 individual States. Vendors do not always deliver donated poultry to the processors as scheduled, causing delays in production of end products. These delays may be alleviated if the processors can substitute their commercial poultry for donated poultry.

Demonstration Project

From July 1, 2002 to June 30, 2003, the Department will continue to operate a demonstration project under which it will permit approved processors to substitute commercial poultry for donated poultry in the State processing of donated poultry. FNS is invoking its authority under 7 CFR 250.30(t) to waive the current prohibition in 7 CFR 250.30(f)(1)(i) against the substitution of

poultry for purposes of this demonstration project.

The demonstration project will be limited to bulk pack chicken, chicken parts, and bulk pack turkey because the processing of such items can be readily evaluated. The definition of substitution in 7 CFR 250.3 requires the replacement of commercial product for donated food to be of the same generic identity and equal or better quality. With bulk pack chicken, chicken parts, and bulk pack turkey these requirements can be met easily and quickly. Bulk pack turkey was added to the original demonstration project that allowed for the substitution of bulk pack chicken and bulk pack chicken parts because USDA graders can easily determine if commercial turkey meets or exceeds the specifications for donated turkey.

FNS is inviting interested poultry processors to submit written proposals to participate in the demonstration project. The following basic requirements will apply to the demonstration project:

- As with the processing of donated poultry into end products, AMS graders must monitor the processing of any substituted commercial poultry to ensure program integrity is maintained.
- Only bulk pack chicken, chicken parts, and bulk pack turkey delivered by USDA vendors to the processor will be eligible for substitution. (Backhailed product will be eligible. (Backhailed product is typically cut-up frozen poultry parts delivered to schools which may be turned over to processors for further processing at a later time.)
- Substitution of commercial poultry may occur in advance of the actual receipt of the donated poultry by the processor. However, no substitution may occur before the product is purchased by USDA and the contract is awarded. Lead time between the purchase and delivery of donated poultry may be up to five weeks. Any variation between the amount of commercial poultry substituted and the amount of donated poultry received by the processor will be adjusted according to guidelines furnished by USDA.
- Any donated poultry not used in end products because of substitution must only be used by the processor at one of its facilities in other commercial processed products and cannot be sold as an intact unit. However, in lieu of processing the donated poultry, the processor may use the product to fulfill other contracts with USDA 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 poultry

(section 250.30(f)(1)(i) of the regulations). All other regulatory and contract requirements remain unchanged and must still be met by processors participating in the demonstration project.

The continuation of the demonstration project will allow FNS to complete the rulemaking process while the demonstration program continues to operate. This provides continuity of operations for both recipients and processors who are currently participating in the demonstration project.

Interested processors should submit a written proposal to FNS outlining how they plan to carry out the substitution while complying with the above conditions. Processors who are currently participating in the demonstration should apply to continue in the demonstration. The proposal must contain (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 poultry substituted for the donated poultry (b) the disposition of the donated poultry delivered. All proposals will be reviewed by representatives of the Food Distribution Division of FNS and by representatives of AMS Poultry Division's Grading Branch. Companies approved for participation in the demonstration project will be required to enter into an agreement with FNS and AMS which authorizes the processor to substitute commercial bulk pack chicken, chicken parts, and bulk pack turkey in fulfilling any current or future State processing contracts during the demonstration project period. Participation in the demonstration project will not ensure the processor will receive any State processing contracts.

Dated: March 6, 2002.

George Braley,

Acting Administrator, Food and Nutrition Service.

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DEPARTMENT OF AGRICULTURE

Forest Service

P-Pine Project, Coeur d'Alene River Ranger District, Idaho Panhandle National Forests, Kootenai and Shoshone Counties, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Coeur d'Alene River Ranger District of the Panhandle National Forest is proposing vegetation rehabilitation in the Deerfoot Ridge and Two Mile watersheds, identified as the Ponderosa Pine Restoration Area. The Deerfoot Ridge watershed area is located east of Hayden Lake, Idaho in Kootenai County, and Two-Mile watershed area is located north of Silverton, Idaho in Shoshone County. Only dry-site ecosystems within the watersheds are proposed for rehabilitation at this time. The USDA Forest Service will prepare an environmental impact statement (EIS) to disclose the potential environmental effects of implementing vegetative restoration activities under the project area.

DATES: Written comments and suggestions should be received on or before April 26, 2002.

ADDRESSES: Submit written comments and suggestions on the proposal, or requests to be placed on the project mailing list, to Sarah Jerome, Project Team Leader, Coeur d'Alene River Ranger District, 2502 E. Sherman Avenue, Coeur d'Alene, ID 83814.

FOR FURTHER INFORMATION CONTACT: Sarah Jerome, Project Team Leader, Coeur d'Alene River Ranger District, (208) 664-2318.

SUPPLEMENTARY INFORMATION: The purpose and need for this project is derived from the National Fire Plan, the Upper Columbia River Basin Ecosystem Management Project, and the Coeur d'Alene River Basin Geographic Assessment. Each of these provide documentation of the currently dense, fire-prone state of dry-site ecosystems across the Idaho Panhandle National Forests and in the Coeur d'Alene Basin, and the marked change these ecosystems have undergone over the past century. Site-specific information indicates that these same conditions are occurring on the stand level in the Deerfoot Ridge and Two Mile Watersheds. Objectives are to: (1) Restore historical conditions in ponderosa pine stands based on the fire ecology of these forest types; (2) trend vegetative species composition toward seral species more resistant to insects and disease; reduce the incidence of noxious weeds; (3) reduce the risk of wildfire in the urban interface, coordinate with state and local entities for urban/interface fuels management; maintain visual quality over the long-term; (4) reduce the overall risk of high-intensity, stand-replacing fires; and (5) reduce fragmentation and improve wildlife habitat.

The Forest Service will consider a range of alternatives. One of these will