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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

Food Distribution Program: Substitution of Donated Poultry with Commercial Poultry

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Food and Consumer Service's (FCS) intent to continue and expand a demonstration project to test program changes designed to improve the State processing of donated chicken by allowing the substitution of donated chicken supplied by the Department of Agriculture (the Department) with commercial chicken. The Department is currently operating a demonstration project that allows selected poultry processors to substitute commercial chicken for donated chicken in the State processing of donated chicken. Only bulk pack chicken and chicken parts are eligible for substitution under the current demonstration project. Notice of the project, which operates from February 1, 1996 through June 30, 1997, was published in the **Federal Register** at 61 FR 5373 on February 12, 1996. Under the demonstration project, FCS 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, 1997 through June 30, 1999 and will expand the project to include bulk pack turkey in addition to the bulk pack chicken and chicken parts. The Department will use the results of the demonstration project to further examine whether allowing the additional substitution will result in increased processor participation and

provide a greater variety of processed end products to recipient agencies in a more timely manner at lower costs.

DATES: The proposals described in this Notice may be submitted to FCS through June 30, 1998. Note that the demonstration project runs until June 30, 1999.

ADDRESSES: Proposals should be sent to Ellen Henigan, Chief, Schools and Institutions Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, Park Office Center, Room 501, 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 FCS 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 § 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 § 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, 1997 to June 30, 1999, 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. In addition, it intends to expand the project to include bulk pack turkey. Processors may submit proposals and be approved to participate in the demonstration project

during this time. FCS is invoking its authority under 7 CFR 250.30(f) 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. There are a number of reasons why poultry is preferable to meat for purposes of this demonstration project. The definition of substitution in § 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, but requirements for the substitution of meat would be more complicated. For example, the USDA specification for donated ground beef calls for quality assurance provisions and certification requirements including: (1) Checking fresh chilled beef for condition prior to grinding; (2) implementing a sampling program to determine if psychrotrophic plate count levels exceed 100,000 bacteria per gram; (3) assuring removal of bone and trimming defects; (4) complying with time and temperature requirements during processing and storing; and (5) complying with fat content requirements. These requirements cannot be duplicated by many processors. Additionally, donated ground beef is delivered frozen. Therefore, unlike bulk chilled poultry, immediate processing is not crucial. Bulk pack turkey has been 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.

FCS 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. No backhauled product will be eligible. (Backhauled 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.)

- Commercial poultry substituted for donated poultry must be certified by an AMS grader as complying with all product specifications for the donated poultry.
- 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 (§ 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 demonstration project will enable FCS to evaluate whether to amend program regulations to provide for the substitution of donated poultry with commercial poultry in the State processing program. Particular attention will be paid to whether such an amendment of the regulations would probably increase the number of processors participating, and whether it would probably increase the quantity of donated poultry that each processor accepts for processing. Further, FCS will attempt to determine whether the expected increase in competition and the expected increase in the quantity of donated poultry accepted for processing enables processors to function more efficiently, producing a greater variety of processed poultry end products in a more timely manner at lower costs.

FCS has determined that the current demonstration project did not allow sufficient time for the poultry industry to consider the ramifications and possible benefits of the demonstration. The initial, but limited, data gathered from recipient agencies, AMS graders,

and AMS procurement has been positive. USDA is convinced that given additional time, more chicken processors will decide to participate. Processors in the turkey industry, who are subject to the same inspection standards as the chicken industry, have expressed a strong desire to enter the demonstration. The limited participation in the demonstration, to date, has not provided FCS with sufficient data to make an informed decision regarding benefits that might accrue to State processing programs should the terms of the demonstration be made permanent. Interested processors should submit a written proposal to FCS 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 (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 FCS 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 FCS 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: May 5, 1997.

George A. Braley,
Associate Administrator, Food and Consumer Service.

[FR Doc. 97-12277 Filed 5-9-97; 8:45 am]

BILLING CODE 3410-30-U

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath Provincial Advisory Committee (PAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Klamath Provincial Advisory Committee will meet on May 29 and May 30, 1997 at the Six Rivers