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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

Nutrition Program for the Elderly; Adjusted Level of Assistance From October 1, 1993 to September 30, 1994 and Initial Level of Assistance From October 1, 1994 to September 30, 1995

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces both the final level of per-meal assistance for the Nutrition Program for the Elderly (NPE) for Fiscal Year 1994 and the initial level of per-meal assistance for Fiscal Year 1995. The Fiscal Year 1994 initial level of assistance of \$.6146 is adjusted to \$.6057 for all eligible meals served during the fiscal year in accordance with section 311(c)(2)(A) of the Older Americans Act of 1965, as amended by section 310 of the Older Americans Act Amendments of 1992 and preempted by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Act of 1993. Rates are subject to change because NPE receives a finite amount of annual appropriations, but meal service is a variable which cannot be accurately projected. Therefore, if meal service exceeds Department projections, the rate must be adjusted accordingly. The Fiscal Year 1995 initial level of assistance is set at \$.60 for each eligible meal in accordance with section 311(a)(4) of the Older Americans Act of 1965, as amended by section 310 of the Older Americans Act Amendments of 1992.

EFFECTIVE DATE: Fiscal Year 1994 Adjusted Level of Assistance: October 1, 1993. Fiscal Year 1995 Initial Level of Assistance: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Philip K. Cohen, Chief, Program Administration Branch, Food Distribution Division, Food and

Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302-1594 or telephone (703) 305-2662.

SUPPLEMENTARY INFORMATION: Executive Order 12866

This action is exempted from review 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 Nos. 10.550 and 10.570 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 22676, May 31, 1984.)

Paperwork Reduction Act

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and thus is exempt from the provisions of that Act.

Legislative Background

Section 310 of Pub. L. 102-375, the Older Americans Act Amendments of 1992, amended section 311(a)(4) of the Older Americans Act of 1965, 42 U.S.C. 3030a(a)(4), to require the Secretary of Agriculture to maintain an annually programmed level of assistance equal to the greater of: (1) The current appropriation divided by the number of meals served in the preceding fiscal year; or (2) 61 cents per meal adjusted annually beginning with Fiscal Year 1993 to reflect changes in the Consumer Price Index. Section 311(c)(2) of the Act (42 U.S.C. 3030a(c)(2)) was amended to provide that the final reimbursement claims must be adjusted so as to utilize the entire program appropriation for the fiscal year for per-meal support.

Notwithstanding the initial rates established by the Older Americans Act, the Department is required to comply with the spending clause of the U.S. Constitution and 31 U.S.C. 1341(a)(1)(A) (known as the Antideficiency Act), which prohibit the obligation or expenditure of funds in excess of the

available appropriation. Thus the Department is required to establish (and if necessary, adjust) rates in such a manner as to not exceed the program appropriation.

Fiscal Year 1994 Adjusted Level of Assistance

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Act of 1993 (Pub. L. 103-111), which appropriated NPE funding for Fiscal Year 1994, imposed different NPE rate management requirements for Fiscal Year 1994. Title IV, Domestic Food Programs, of the Act provides that “* * * a maximum rate of reimbursement to States will be established by the Secretary, subject to reduction if obligations would exceed the amount of available funds, with any unobligated funds to remain available for obligation in the fiscal year beginning October 1, 1994.”

Based on its projection of the number of meals to be claimed during the fiscal year, and in light of constitutional and statutory prohibitions on obligating or spending funds in excess of the available appropriation, the Department announced an initial per-meal reimbursement rate of \$.6146, the highest rate which it believed could be sustained throughout the fiscal year. This initial level of per-meal assistance was announced in the January 3, 1994 **Federal Register** (57 FR 59).

The Department's meal service projection for Fiscal Year 1994 assumed a .45 percent meal service increase over virtually complete Fiscal Year 1993 meal counts. This growth factor represented one-half of the highest rate of growth (.9 percent) the program had experienced in any one of the four previous fiscal years. However, meal service, which is the basis for rate setting, cannot always be accurately projected because it follows no discernible pattern from year to year. In some recent years, for example, meal service declined when the per-meal support level remained unchanged or increased.

Data for the first three quarters of Fiscal Year 1994 revealed that the program had experienced a .31 percent meal service increase over the number of meals served in the first three quarters in Fiscal Year 1993, well within the Department's projected .45 percent increase for the year. However, the program experienced an almost

unprecedented increase in meal service during the fourth quarter, resulting in a 1.18 percent increase over the number of meals served in Fiscal Year 1993, the highest annual increase in the program since 1989. The Department monitors meal service on a monthly basis by comparing data from each month of the current fiscal year to the corresponding month in the previous fiscal year. However, the increase experienced in the fourth quarter was unpredictable given that, as in past years, there has been no discernible pattern from month to month during the fiscal year.

Final Fiscal Year 1994 meal counts exceeded Departmental projections by little more than one-half of one percent. However, this marginal unanticipated program growth necessitated a retroactive per-meal rate reduction since the program appropriation was consequently insufficient to support all meals served at the initially announced level. Therefore, the Department announces a reduced Fiscal Year 1994 per-meal reimbursement rate of \$.6057. This final rate applies to all eligible meals served during Fiscal Year 1994 and claimed in a timely manner. The Department anticipates that a minimal amount of funds will remain unspent after close-out for the fiscal year has been completed. In accordance with the mandate of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Act of 1993, these funds will be carried over into Fiscal Year 1995 and expended in per-meal reimbursement for that year.

Fiscal Year 1995 Initial Level of Assistance

In the absence of overriding appropriations legislation such as was enacted for Fiscal Year 1994, the Department will for Fiscal Year 1995 be operating under the Older Americans Act of 1965, as amended. In Fiscal Year 1995, a situation exists similar to that at the beginning of Fiscal Years 1993 and 1994, i.e., the Fiscal Year 1995 appropriation will not sustain reimbursement at the mandated annually adjusted rate.

It is the Department's goal to establish the highest rate that can be sustained throughout the fiscal year so as to maximize the flow of program funds to States. Program operators would prefer to receive their per-meal support steadily throughout the year, rather than to operate at a lower rate during the year and receive a compensatory payment in connection with a rate increase after the year has ended. However, the Department wants also to minimize the possibility of a rate reduction and the

hardship that it could cause program operators. In order to guard against the need for a reduction, the Department has projected continued significant growth in the number of meals that will be served in Fiscal Year 1995. Based on such projections, the Department announces an initial per-meal support level of \$.60.

If this initial rate does not exhaust available funds per the mandate by the Older Americans Act of 1965, as amended, the rate will be increased to achieve compliance with this requirement. However, in the unlikely event that the number of meals served exceeds the Department's projection of significantly expanded participation, it will be necessary to reduce the rate. In either event, the rate will experience two adjustments: an intermediate and final per-meal level of support. The intermediate rate, based on final meal counts and available funds, will be announced in January 1996. A final rate exhausting any unspent funds, which are anticipated to be minimal, will be announced in March 1996 after close-out for the fiscal year has been completed. States will be notified directly of changes in the Fiscal Year 1995 rate.

Dated: January 27, 1995.

George A. Braley,

Acting Administrator.

[FR Doc. 95-2711 Filed 2-2-95; 8:45 am]

BILLING CODE 3410-30-U

Forest Service

Bull Lake Easement; Kootenai National Forest, Lincoln County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of the granting of a road easement and of road reconstruction needed to access a subdivision in the vicinity of Bull Lake. The area is located in the Kootenai National Forest, Three Rivers Ranger District, Lincoln County, Montana.

The proposal's actions to grant an easement to Lincoln County, Montana for a county easement over portions of roads #398 and #8019, and to reconstruct these roads to county standards, for public access to a subdivision of land located in Section 29, T29N, R33W, Principle Meridian, Montana, are being considered together because they represent either connected or cumulative actions as defined by the

Council on Environmental Quality (40 CFR 1508.25). This project-level EIS will tier to the Kootenai National Forest Land and Resource Management Plan (Forest Plan) and Final EIS (September 1987), which provides overall guidance of all land management activities on the Kootenai National Forest, including road management.

DATES: Written comments and suggestions should be received on or before March 20, 1995.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or a request to be placed on the project mailing list to Michael L. Balboni, District Ranger, Three Rivers Ranger District, Kootenai National Forest, 1437 N. Hwy 2, Troy, Montana, 59935.

FOR FURTHER INFORMATION CONTACT:

Mark Natale, EIS Team Leader, Three Rivers Ranger District, Kootenai National Forest, Phone (406) 295-4693.

SUPPLEMENTARY INFORMATION: A county easement is proposed on approximately 1.0 mile of road #398 and 2.0 miles of road #8019 to access a subdivision on private land that has received conditional approval from the county. If approved, the road would then be reconstructed to meet county standards.

The Kootenai Forest Plan provides guidance for management activities within the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. The area of the proposed easement would occur within Management Areas 6 and 11. Road reconstruction would occur in these two management areas. Below is a brief description of the applicable management direction.

Management Area 6—These are recreational areas (campgrounds, boat ramps, picnic areas, etc.). There is no restriction on easements within this management area.

Management Area 11—These are areas of big game winter range that allow for easements while including provisions for scheduling to prevent conflicts during periods of wildlife use.

The Forest Service has identified two alternatives. These are: (1) The "no action" alternative, in which the easement would not be granted and (2) to issue the requested easement.

The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest lands will be considered. The EIS will disclose the analysis of site-specific mitigation measures and their effectiveness.