

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

[Docket Number LS-02-06]

RIN 0581-AC13

Changes in Fees for Federal Meat Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to increase the hourly fees charged for voluntary Federal meat grading and certification services performed by the Meat Grading and Certification (MGC) Branch. The hourly fees would be adjusted by this action to reflect the increased cost of providing service and to ensure that the MGC Branch operates on a financially self-supporting basis.

DATES: Comments must be received on or before December 31, 2002.

ADDRESSES: Interested persons are invited to submit written comments to Larry R. Meadows, Chief; USDA, AMS, LS, MGC Branch, STOP 0248, Room 2628-S, 1400 Independence Avenue, SW., Washington, DC 20250-0248. Telephone number (202) 720-1246. Comments may also be submitted electronically to Larry.Meadows@usda.gov or faxed to (202) 690-4119.

All comments should reference docket number LS-02-06 and note the date and page number of this issue of the **Federal Register**.

Comments received may be inspected at the above address, between 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Larry R. Meadows, Chief, MGC Branch, (202) 720-1246.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Agriculture is authorized by the Agricultural Marketing Act of 1946 (AMA), as amended (7 U.S.C. 1621, *et seq.*), to provide voluntary Federal meat grading and certification services to facilitate the orderly marketing of meat and meat products and to enable consumers to obtain the quality of meat they desire. The AMA also provides for the collection of fees from users of the Federal meat grading and certification services that are approximately equal to the cost of providing these services. The hourly fees are established by equitably distributing the program's projected operating costs over the estimated hours of service—revenue hours—provided to users of the service on a yearly basis. Program operating costs include employee salaries and benefits, which account for nearly 80 percent of the operating costs, and travel, training, and administrative costs. Periodically, the fees must be adjusted to ensure that the program remains financially self-supporting.

AMS regularly reviews its user-fee-financed programs to determine if the fees are adequate. The most recent review determined that the existing fee schedule for the MGC Branch would not generate sufficient revenues to recover operating costs for current and near-term periods while maintaining an adequate reserve balance. The operating loss for fiscal year (FY) 2002 is projected to total \$1.6 million. Without a fee increase, the operating loss for FY 2003 is projected to reach \$2.9 million. These combined losses will deplete MGC Branch's operating reserve and place the MGC Branch in an unstable financial position that will adversely affect its ability to provide meat grading and certification services.

This proposal is necessary to offset decreased revenue hours and increased program operating expenses incurred since the last fee increase. The MGC Branch has lost revenue due to the implementation of more efficient audit-based and pilot certification programs and the continued consolidation within the livestock and meat industry. Audit-based and pilot certification programs employ fewer personnel and, therefore, generate fewer revenue hours as compared to traditional certification services.

MGC Branch operating expenses have increased due to (1) information system upgrades mandated by changes in information system technology; (2) congressionally mandated salary increases for all Federal Government employees in 2001, 2002, and 2003; (3) inflation of nonsalary operating costs; and (4) accumulated increases in continental United States (CONUS) per diem rates, mileage rates, and office maintenance costs. In the past 9 years, the MGC Branch has made efforts to control operating costs by closing 3 field offices, reducing mid-level supervisory staff by over 50 percent, and reducing the number of support staff by 38 percent. At the same time, the MGC Branch has utilized automated information management systems for data collection, retrieval, and dissemination, applicant billing, and disbursement of employee entitlements. The reduction in field offices, supervisory staff, and support personnel and the increased use of automated systems has enabled the MGC Branch to absorb a substantial portion of the operating costs and minimize hourly fee increases during these years.

Despite these cost reduction efforts and hourly fee increases in 1998 and 2000, the MGC Branch incurred a \$657,000 operating loss in FY 2001. Furthermore, AMS projects that without an hourly fee increase, the MGC Branch will lose approximately \$8.6 million from FY 2002 through FY 2004 and totally deplete program reserves to the point of deficit operations (*i.e.* FY 2002, \$1.6 million; FY 2003, \$2.9 million; and FY 2004, \$4.1 million).

In view of these increased costs, AMS proposes to increase the hourly fees. The base hourly fee for commitment applicants would increase from \$45 to \$55. A commitment applicant is a user of meat grading and certification services who agrees to pay for five continuous 8 hour days, Monday through Friday between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly fee for noncommitment applicants would increase from \$52 to \$64. A noncommitment applicant is a user of meat grading and certification services, who agrees to pay an hourly fee without committing to a certain number of service hours. The premium hourly fee would increase from \$57 to \$70. The premium hourly fee is charged to

applicants when meat grading and certification services (1) exceed 8 hours per day, (2) are performed before 6 a.m. and after 6 p.m. Monday through Friday, and (3) any time on Saturday or Sunday, except on legal holidays. The legal holiday fee would increase from \$90 to \$110 and is charged to applicants for meat grading and certification services provided on legal holidays.

Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866, and has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Administrator of AMS considered the economic impact of this proposed action on small entities and determined that it will not have a significant economic effect on a substantial number of small entities.

AMS, through its MGC Branch, provides voluntary Federal meat grading and certification services to 450 businesses, including 152 livestock slaughterers, 79 facilities that process federally donated products, 74 meat processors, 46 livestock producers and feeders, 28 brokers, 26 organic certifying companies, 25 trade associations, 17 State and Federal entities, and 3 distributors. Seventy-two percent of these businesses qualify as small entities, a company that employs less than 500 employees. Small entities generate approximately 17 percent of the MGC Branch's revenues and are under no obligation to use voluntary Federal meat grading and certification services provided under the authority of the AMA.

Federal meat grading and certification services facilitate the orderly marketing of meat and meat products and enable consumers to obtain the quality of meat they desire. Grading services consist of the evaluation of carcass beef, lamb, pork, veal, and calf for compliance with the grades of the appropriate official U.S. Standard. The MGC Branch grades approximately 21.1 billion pounds of meat each year. Certification services consist of the evaluation of meat and meat products for compliance with specification and contractual requirements. Certification services are regularly used by meat purchasers to ensure that the quality and yields of the products they purchase comply with their stated requirements. The MGC Branch certifies approximately 18.1 billion pounds of meat and meat products each year.

This action would raise the hourly fees charged to users of Federal meat grading and certification services. AMS estimates that this action would provide the MGC Branch an additional \$401,000 per month in FY 2003. Since small entities account for 17 percent of MGC Branch revenues, they would pay an average of \$212 per month per applicant. This action and the projected increase in revenue hours would increase revenues by \$4.8 million per year and replenish operating revenues for the projected losses of \$2.6 million in FY 2002 and \$2.3 million in FY 2003. Even with this action, the unit cost for MGC Branch service (revenue/total pounds graded and certified) would remain unchanged at approximately \$0.0006 per pound.

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Despite these cost reduction efforts and hourly fee increases in 1998 and 2000, the MGC Branch incurred a \$657,000 operating loss in FY 2001. Furthermore, AMS projects that without

an hourly fee increase; the MGC Branch would lose approximately \$8.6 million from FY 2002 through FY 2004 and totally deplete program reserves to the point of deficit operations.

In view of these increased costs, AMS proposes to increase the hourly fees for Federal meat grading and certification services. The base hourly fee for commitment applicants would increase from \$45 to \$55. A commitment applicant is a user of meat grading and certification services who agrees to pay for five continuous 8 hour days, Monday through Friday between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly fee for noncommitment applicants would increase from \$52 to \$64. A noncommitment applicant is a user of meat grading and certification services, who agrees to pay an hourly fee without committing to a certain number of service hours. The premium hourly fee would increase from \$57 to \$70. The premium hourly fee is charged to applicants when meat grading and certification services (1) exceed 8 hours per day, (2) are performed before 6 a.m. and after 6 p.m. Monday through Friday, and (3) any time on Saturday or Sunday, except on legal holidays. The legal holiday fee would increase from \$90 to \$110 and is charged to applicants for meat grading and certification services provided on legal holidays.

Civil Justice Reform

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect and would not pre-empt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This action would not impose any additional reporting or recordkeeping requirements on users of Federal meat grading and certification services.

List of Subjects in 7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 54 be amended as follows:

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for 7 CFR part 54 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 54.27 [Amended]

2. Section 54.27 is amended as follows:

a. In paragraph (a), remove “\$52” and add “\$64” in its place, remove “\$57” and add “\$70” in its place, remove “\$90” and add “\$110” in its place.

b. In paragraph (b), remove “\$45” and add “\$55” in its place, remove “\$57” and add “\$70” in its place, remove “\$90” and add “\$110” in its place.

Dated: October 28, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–27766 Filed 10–31–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Docket No. **FV02–956–1 PR**]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Reopening of Comment Period on Establishment of Grade and Inspection Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening of the comment period.

SUMMARY: Notice is hereby given that the comment period on the establishment of grade and inspection requirements for Walla Walla sweet onions is reopened.

DATES: Comments must be received by November 22, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20090–0237, Fax: (202) 720–8938, or e-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT: George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400

Independence Avenue SW., STOP 0237, Washington, DC 20090–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on compliance with this proposed regulation by contacting: Jay Guerber, Marketing Order Information Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20090–0237; Telephone: (202) 720–2491, Fax: (202) 720–5698, or e-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on July 22, 2002 (67 FR 47741). The proposed rule invited comments on the establishment of grade and inspection requirements for Walla Walla sweet onions. The rule would require that all Walla Walla sweet onions handled prior to June 10 of each marketing season be inspected and be at least U.S. Commercial grade. By establishing minimum standards early in the season, the rule is expected to improve producer returns by ensuring that early-season sweet onions are mature and marketable. The cost of the required inspection would be fully funded by the Walla Walla Sweet Onion Marketing Committee (Committee), the agency responsible for local administration of the marketing order regulating sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. The rule also proposed that there would be no minimum quantity exemption from inspection requirements prior to June 10. The comment period ended September 20, 2002.

One comment was received. After evaluating that comment, USDA determined that additional information could clarify certain aspects of the proposal and provide further guidance to USDA in making a final decision on the proposal. The commenter's primary objection with the proposal is that the June 10 date is too early. The commenter stated that inspections should be required on all sweet onions shipped prior to June 15, at the earliest, because, contrary to the proposal's premise, any earlier date would not prevent immature onions from being marketed.

The commenter noted that there were no shipments of Walla Walla sweet onions during the 2002 season prior to June 10, and that this indicates the proposal could be ineffective. Further analysis of the impact the proposed June 10 date would have on early-season immature onion shipments would be

useful to the USDA in making a final determination on this matter.

Further, regarding the higher potential cost of inspections to the Committee if a later date were to be used rather than June 10, the commenter suggested some alternatives, including not requiring all sweet onions shipped prior to an established date to be inspected. These alternatives were not discussed by the Committee prior to its submission of the proposed rule and further information regarding such alternatives also would be useful to USDA in making a final determination on this matter.

Although providing an additional period of time for comments would delay the final decision on this proposal, it would not delay the decision so as to negatively affect its effectiveness for the 2003 marketing season. Therefore, before proceeding further on the recommendation to establish grade and inspection requirements, USDA is reopening the comment period to allow the Committee, as well as other interested persons, more time to review the proposed rule and to submit additional information. Accordingly, the period in which to file written comments is reopened until November 22, 2002. This notice is issued pursuant to the Agricultural Marketing Agreement Act of 1937.

Authority: 7 U.S.C. 601–674.

Dated: October 28, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–27765 Filed 10–31–02; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AG48

Voluntary Fire Protection Requirements for Light Water Reactors; Adoption of NFPA 805 as a Risk-Informed, Performance-Based Alternative

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its fire protection requirements for nuclear power reactor licensees. The proposed rule would permit reactor licensees to voluntarily adopt a set of fire protection requirements contained in the National Fire Protection