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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 54

[No. LS-96-006]

RIN 0581-AB44

#### Changes in Fees for Federal Meat Grading and Certification Services

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is revising the hourly fee rates for voluntary Federal meat grading and certification services. The hourly fees will be adjusted by this final rule to reflect the increased cost of providing service, and ensure that the Federal meat grading program is operated on a financially self-supporting basis as required by law.

**EFFECTIVE DATE:** June 18, 1998.

**FOR FURTHER INFORMATION CONTACT:** Larry R. Meadows, Chief, Meat Grading and Certification (MGC) Branch, 202-720-1246.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Impact Analysis

This final rule was reviewed under the USDA procedures established to implement Executive Order 12866, and was determined to be not significant. Therefore, it has not been reviewed by the Office of Management and Budget.

##### Effect on Small Entities

This action will not require any additional or new recordkeeping. The final rule was reviewed under the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), wherein the Administrator of AMS determined that this final rule will not have a significant economic impact on a substantial number of small entities.

AMS provides meat grading and certification services to a total of 370 businesses of which 261 are small entities. Small entities are defined as those which employ less than 500 employees. The Agency provides meat grading and certification services to 93 meat processors, 90 livestock slaughterers, 52 reproducers of Federally donated products, 13 trade associations, 9 livestock feeders, 3 trucking companies, and 1 broker.

Small entities generate 38 percent of the Agency's meat grading and certification hourly revenues. In fiscal year (FY) 1998, the fee increase will cost small entities approximately \$336,840 or an average of \$1,290 per small entity. In FY 1999, small entities will pay approximately \$627,000 or an average of \$2,402 per small entity.

We have limited the impact fee increases have had on small entities during the more than 70 years that we have charged hourly fees. On numerous occasions, the Agency considered charging applicants based on production volume. This alternative has not been adopted because it would increase the documentation required by the applicant, the amount of time required for the AMS employee to complete the task, and the related nonproductive administrative costs of such a fee system. Each of these factors would increase the total cost of the service. Also considered was the fact that the Agency incurs direct employee costs by the hour. Based on all of the involved information, the Agency concluded that charging for service by the hour remains the most cost-effective and equitable method for basing fees.

This fee increase, the first since 1993, is necessary to offset increased program operating costs resulting from: (1) the congressionally-mandated, governmentwide salary increases for 1995, 1996, and 1997, (2) inflation of nonsalary operating costs since 1993, and (3) accumulated increases in CONUS per diem rates for the 4-year period from 1994 to 1997. Since 1993, costs increased an average of \$1,905,000 per year or a total of \$7,620,000.

Since the last fee increase, the MGC Branch has continued to develop more efficient grading and certification procedures and services. At the same time, applicants for service have become more efficient in their production techniques. These two factors working

in combination have resulted in the MGC Branch grading and certifying larger volumes of products and charging fewer revenue hours. Accordingly, fewer revenue dollars are available to offset increases in operating expenses. In FY 1993, MGC Branch employees graded or certified 23,445,219,703 pounds of meat at an average of 49,902 pounds per revenue hour. In FY 1997, MGC Branch employees graded or certified 33,029,179,286 pounds of meat at an average of 73,699 pounds per revenue hour. In FY 1997, the unit cost of program services (revenue/total pounds graded and certified) was approximately \$0.00055 per pound. In FY 1998, including the hourly rate increase, program services are projected to cost only \$0.000617 per pound as compared to the \$0.000766 per pound program services cost in FY 1993. While the unit cost of program services decreased and the average number of pounds graded and certified per hour increased, the total number of revenue hours generated by Branch employees decreased from 469,819 in FY 1993 to 448,162 in FY 1997. These factors resulted in a loss of \$737,000 in FY 1997. If revenues remain constant and costs continue to increase, program operating costs are projected to exceed total revenue by \$1,519,000 in FY 1998 and \$2,124,000 in FY 1999.

Since 1993, in an effort to control overhead costs, the MGC Branch has closed three field offices, reduced mid-level supervisory staff by 43 percent, and reduced the number of support staff by 29 percent. At the same time, the MGC Branch has become more reliant on automated information management systems for data collection and dissemination, account billing, and disbursement of employee entitlements. The reduction of field offices, supervisory staff, and support personnel and the increased reliance on automated systems enabled the MGC Branch to absorb increased operating costs in 1994, 1995, 1996, and 1997.

Despite the cost reduction efforts, the decrease in revenue hours plus the increase in salaries, nonsalary operating costs, and CONUS per diem rates resulted in a net operating loss for FY 1997, and will result in a net operating loss for FY 1998. Such operating deficits can only be balanced by adjusting the hourly fee rate charged to users of the service. Any further reduction in

personnel, services, or management infrastructure beyond those already implemented would have a detrimental effect on the program's ability to provide meat grading and certification services and support the accurate and uniform application of such services. The hourly rate increase is necessary to recover the costs of providing voluntary Federal meat grading and certification services and for the program to continue serving the industry.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act do not apply to this rulemaking as it does not require the collection of any information or data.

#### Comments

On December 31, 1997, in the **Federal Register**, the Agency published the proposed rule to increase the fees and requested comments by March 2, 1998. The Agency received two comments. The first respondent requested additional information about the effect of the fee increase on small entities. Additional information has been provided in the Effect on Small Entities section of this final rule. Respondent # 1 also alleged that the program charges a minimum of 8 hours per day, and suggested that charges should be based on volume of production. As identified in 7 CFR 54.27 (a), noncommitment applicants, of which almost all are small entities, are charged to the nearest quarter hour, and the minimum charge is half an hour. For reasons cited in the Effect on Small Entities section, the Agency determined that the current hourly fee method of charging applicants provides the best alternative for businesses who need less than 8 hours of service.

Respondent # 2 asked the Agency to continue to find ways to reduce costs and to refrain from imposing higher grading costs on the industry. The Agency is continually seeking ways to reduce costs and increase efficiency. This fee increase amounts to an average annual increase of 2.2 percent since the last increase in 1993. Even though businesses will pay more for hourly services, the Agency has increased the amount of service provided by over 9,580,000,000 pounds per year in comparison to FY 1993. This amounts to a 48 percent per hour increase in efficiency which reduces the cost of services by 0.0149 cents per pound. As requested by the respondent, the Agency will continue seeking way to increase efficiency, quality, and timeliness of services.

#### Background

The Secretary of Agriculture is authorized by the Agricultural Marketing Act (AMA) of 1946, 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 Federal meat grading and certification services that are approximately equal to the cost of providing these services. The hourly fees for service are established by equitably distributing the projected annual program operating costs over the estimated hours of service—revenue hours—provided to users of the service. Program operating costs include salaries and fringe benefits of meat graders, supervision, travel, training, and all administrative costs of operating the program. Employee salaries and benefits account for approximately 80 percent of the total budget. Revenue hours include base hours, premium hours, and service performed on Federal legal holidays. As program operating costs change, the hourly fees must be adjusted to enable the program to remain financially self-supporting as required by law.

In view of these considerations, the Agency will increase the base hourly rate commitment applicants pay for voluntary Federal meat grading and certification services from \$36.60 to \$39.80. A commitment applicant is a user of the service who agrees, by commitment or agreement memorandum, to use meat grading and certification services for 8 consecutive hours per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly rate for noncommitment applicants for voluntary Federal meat grading and certification services will increase from \$39.00 to \$42.20, and will be charged to applicants who utilize the service for 8 consecutive hours or less per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The premium hourly rate for all applicants will increase from \$44.60 to \$47.80, and will be charged to users of the service for the hours worked in excess of 8 hours per day between the hours of 6 a.m. and 6 p.m.; for hours worked between 6 p.m. and 6 a.m., Monday through Friday; and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants will increase from \$73.20 to \$79.60, and will be charged to users of the service for all hours worked on legal holidays.

Pursuant to 5 U.S.C. 553, it is hereby found that since the program is operating at a loss, good cause exists for not delaying the effective action until 30 days after publication of this final rule in the **Federal Register**. Therefore, this final rule will be effective on June 18, 1998.

#### 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, 7 CFR part 54 is amended as follows:

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

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

**Authority:** 7 U.S.C. 1621–1627.

#### § 54.27 [Amended]

2. In § 54.27, paragraph (a), “\$39.00” is removed and “\$42.20” is added in its place, “\$44.60” is removed and “\$47.80” is added in its place, “\$73.20” is removed “\$79.60” is added in its place, and in paragraph (b), “\$36.60” is removed and “\$39.80” is added in its place, “\$44.60” is removed and “\$47.80” is added in its place, and “\$73.20” is removed and “\$79.60” is added in its place.

Dated: June 11, 1998.

**Robert L. Leverette,**

*Acting Deputy Administrator, Livestock and Seed Program.*

[FR Doc. 98–16010 Filed 6–16–98; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 953

[Docket No. FV98–953–1 IFR]

#### Irish Potatoes Grown in Southeastern States; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule increases the assessment rate established for the Southeastern Potato Committee (Committee) under Marketing Order No. 953 for the 1998–99 and subsequent fiscal periods from \$0.0075 to \$0.01 per hundredweight of potatoes handled. The Committee is responsible for local administration of the marketing order