

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

[No. LS-96-006]

RIN 0581-AB44

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 revising the hourly fee rates for voluntary Federal meat grading and certification services. The hourly fees would be adjusted by this proposed 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.

DATES: Comments must be received on or before March 2, 1998.

ADDRESSES: Written comments may be mailed to Larry R. Meadows, Chief; USDA, AMS, LS, MGC; STOP 0248, Room 2628-S; 1400 Independence Avenue, SW.; Washington, DC 20250-0248. (For further information regarding comments, see "Comments" under SUPPLEMENTARY INFORMATION.)

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

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This proposed 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 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 proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed 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. To forestall a rate increase while maintaining operating efficiency, the program has significantly increased the use of automated information management technologies and decreased the number of support personnel and field offices. These cost-saving measures have not provided the margin necessary to operate the program. Since 1993, program costs have increased by approximately \$7,620,000 or an average of \$1,905,000 per year, and the programs required capital reserves are decreasing.

The program is required to keep at least 4 months of operating reserve. If the reserves drop to 4 months, the program must cut services. To avoid an interruption in services to our customers, the program must maintain more than the minimum reserve. At the beginning of fiscal year (FY) 1997, the program had 7.7 months of operating reserve. At the end of FY 1997, the program had only 7.23 months of operating reserve. Assuming that the rate increase were to take effect in April 1998, the capital reserve is projected to fall to 5.87 months by the end of FY 98.

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 proposed hourly rate increase, program services are projected to cost only \$0.000617 per pound or \$0.000149 per pound less than the \$0.000766 per pound program services cost in FY 1993.

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

Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in duplicate to the Washington, D.C., Office, MGC Branch, and should bear a reference to the date and page

number of this issue of the **Federal Register**. Comments submitted in reference to this document will be made available for public inspection during regular business hours.

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.

This proposed 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. Together, these cost increases total an estimated \$7,620,000 since 1993.

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. While the average number of pounds graded and certified per hour have increased, the total number of revenue hours generated by Branch employees decreased from 469,819 in FY 1993 to 448,162 in FY 1997. In FY 1997, the program had a net operating loss of \$737,000. 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 disbursements 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 have already 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.

In view of these considerations, the Agency proposes to 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 noncommitment applicants would pay for voluntary Federal meat grading and certification services would increase from \$39.00 to \$42.20, and would 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 would increase from \$44.60 to \$47.80, and would 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 would increase from \$73.20 to \$79.60, and would be charged to users of the service for all hours worked on legal holidays.

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.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

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DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 246

RIN 0584–AC59

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): WIC Cereal Sugar Limit and Food Package Review

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice of Intent to propose rulemaking; withdrawal.

SUMMARY: The Department published a **Federal Register** Notice of Intent on March 18, 1996 soliciting public comments on whether the existing Federal 6-gram sugar limit for WIC-eligible adult cereals should be changed. The 90-day comment period ended on June 17, 1996. USDA received 731 letters from a total of 878 commenters, representing a wide range of interested parties. The majority—809 commenters—expressed support for the continuation of the 6-gram sugar limit unchanged. In addition, several commenters suggested that USDA conduct a comprehensive review of the WIC food packages rather than focus on the single issue of the sugar content of WIC-eligible adult cereals.

The purpose of this Notice of Intent is to summarize the public comments received in response to the earlier Notice of intent and to announce the Department's intent to review the WIC food packages and recommend refinements that would best serve WIC Program objectives. USDA's Center for Nutrition Policy and Promotion will be spearheading this effort in conjunction with the Food and Consumer Service. Until this review is completed, the Department will not make any decisions about whether to propose a regulatory change in the Federal sugar cap for WIC-eligible adult cereals. Therefore, the current requirement that WIC-eligible adult cereals made available to women and child participants must contain no more than 21.2 grams of sucrose and other sugars per 100 grams of dry cereal (i.e., 6 grams of sugar per dry ounce of cereal) remains in effect.

FOR FURTHER INFORMATION CONTACT:

Barbara Hallman, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Room 542, Alexandria, Virginia 22302, (703) 305–2730.