

§ 29.1135 Rule 29.

Any lot of tobacco containing 25 percent or more of an adjacent group, which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor "M" preceding the grademark.

4. In § 29.1181, the first sentence in the paragraph immediately following table "13 Grades on Nondescript", is revised to read as follows:

§ 29.1181 Summary of standard grades.

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Special factors "U" (unsound), "W" (doubtful-keeping order), "S" (strip), and "M" (mixed) may be applied to all grades. * * *

Dated: July 6, 1995.

Lon Hatamiya,

Administrator.

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Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN 0580-AA27

Fees for Beltsville Commodity Testing Laboratory Services

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS), a program of the Grain Inspection, Packers and Stockyards Administration (GIPSA), is increasing service fees charged by the FGIS Commodity Testing Laboratory at Beltsville, Maryland, under authority of the Agricultural Marketing Act (AMA) of 1946. FGIS is also establishing a test and unit fee for vomitoxin testing at the Laboratory

These revisions are necessary to cover, as nearly as practicable, the projected operating costs, including related supervisory and administrative costs, for commodity laboratory testing services.

EFFECTIVE DATE: September 11, 1995.

FOR FURTHER INFORMATION CONTACT:

George Wollam, USDA-GIPSA, Room 0623-South Building, 1400 Independence Avenue, SW, Washington, DC 20090-6454, telephone (202) 720-0292.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

This increase in the service fees is necessary to recover operating losses at the Beltsville Commodity Testing Laboratory. These fees were increased on August 1, 1984, (49 FR 26547) and due to increases in the operating costs, it is not being covered by revenue. The overall cost of operating the laboratory increased between FY 92 and 93 by more than 8 percent. This cost increase occurred simultaneously with a more than 17 percent downturn in revenue due to fewer service requests. Revenue of \$1,035,411 did not cover the operating cost of \$1,190,700 for FY 93, resulting in a 1-year operating loss of \$155,289. Given FY 93 volume, the fee increase will generate revenue of \$1,394,577 or an increase of \$359,166.

James R. Baker, Administrator, GIPSA, has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. This final rule will not pre-empt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to provisions of this rule.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the previously approved information collection and recordkeeping requirements concerning applications for inspection services, including official commodity laboratory testing services, have been approved by the Office of Management and Budget under control number 0580-0013.

Background

On November 3, 1994, FGIS proposed in the **Federal Register** (59 FR 55067) to increase fees charged for Beltsville Commodity Testing Laboratory Services and establish a test and unit fee for vomitoxin testing at the Laboratory.

The fees for commodity laboratory testing services were last increased August 1, 1984, (49 FR 26547). Subsequent adjustments were made on April 17, 1991, (56 FR 15483), adding several new laboratory test services and consolidating others for clarity and efficiency. Currently, these fees appear in section 868.90, Table 4 of the regulations (7 CFR 868.90, Table 4).

FGIS is adding a vomitoxin laboratory testing service to the current list of fees, 7 CFR 868.90, Table 4. The new test is required to accommodate frequent grain and food industry requests. In addition, changes are made to Table 4 concerning the *Tilletia controversa kuhn* (TCK) laboratory test services. Currently, section 868.90, Table 4 provides for a *Tilletia controversa kuhn* (TCK) test for \$25.20. While the proposed rule effected this test and fee in Table 4, it did not separate the TCK testing service to specify quantitative and qualitative testing. This final rule changes Table 4 to specify both a qualitative and quantitative TCK testing service. The qualitative test remains at \$25.20 while the quantitative test fee will be \$76.00. This will recover, as nearly as practicable, projected operating costs.

FGIS continually strives to contain operating costs through program efficiencies and streamlining. In fiscal year 1992, FGIS took specific action to reduce chemical disposal costs by implementing new technology. FGIS further enhanced laboratory procedures to improve overall efficiency. While these changes proved successful in reducing certain costs, the overall cost of operating the laboratory increased between FY 92 and 93 by more than 8 percentum. This cost increase occurred simultaneously with a more than 17 percentum downturn in revenue due to fewer service requests. Revenue of \$1,035,441 did not cover the operating cost of \$1,190,700 for fiscal year 1993, resulting in a 1-year operating loss of \$155,289.

Given fiscal year 1993 volume, the proposed fee increase will generate revenue of \$1,394,577 or an increase of \$359,166.

Comment Review

FGIS received one comment during the 30-day comment period. That comment was from a grain processing trade association. It recognized the need for a fee increase after 10 years without an increase and applauded initiatives taken to contain operating costs through program efficiencies and streamlining. It further suggested that the Beltsville Commodity Testing Laboratory be consolidated with and moved to the FGIS Technical Center (QARD) in