Proposed Rules

Federal Register

Vol. 60, No. 151

Monday, August 7, 1995

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 58

[DA-95-17]

RIN 0581-AB40

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Proposed Increase in Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to increase the fees charged for services provided under the dairy inspection and grading program. The program is a voluntary, user-fee program conducted under the authority of the Agricultural Marketing Act of 1946, as amended. The proposed increases would result in a fee of \$43.00 per hour for continuous resident services and \$48.00 per hour for nonresident services between the hours of 6:00 a.m. and 6:00 p.m. The fee for nonresident services between the hours of 6:00 p.m. and 6:00 a.m. would be \$52.80 per hour. These proposed fees represent an increase of 80 cents per hour.

The fees are being increased to cover the costs of recent salary increases and locality adjustments, the full funding for standardization activities, and normal inflationary pressures.

DATES: Comments should be mailed by September 6, 1995.

ADDRESSES: Comments should be sent to: Office of the Director, USDA/AMS/ Dairy Division, Room 2968-S, P.O. Box 96456, Washington, D.C. 20090-6456. Comments received will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Lynn G. Boerger, USDA/AMS/Dairy Division, Dairy Grading Branch, Room 2750-South Building, P.O. Box 96456, Washington, D.C. 20090-6456, (202)720 - 9381.

SUPPLEMENTARY INFORMATION: This rule has been determined not significant for purposes of Executive Order 12866, and has been reviewed by the Office of Management and Budget.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations or policies. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

The proposed rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Administrator, Agricultural Marketing Service, has determined that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. The proposed changes will not significantly affect the cost per unit for grading and inspection services. The Agricultural Marketing Service estimates that overall this rule will yield an additional \$87,000 during fiscal year 1996. The Agency does not believe the increases will affect competition. Furthermore, the dairy grading program is a voluntary program.

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide Federal dairy grading and inspection services that facilitate marketing and help consumers obtain the quality of dairy products they desire. The Act provides that reasonable fees be collected from the users of the services to cover, as nearly as practicable, the cost of maintaining the program.

Since the costs of the grading program are covered entirely by user fees, it is essential that fees be increased when necessary to cover the cost of maintaining a financially selfsupporting program. The last fee increase under this program became effective on February 9, 1994. Since that time, Congress increased the salaries of Federal employees by 2.6 percent as of January 8, 1995, which included locality pay. Also, there have been normal increases in other operating costs. In addition, recent congressional action

may result in additional salary increases of 2.4 percent in 1996. Although the program's operating reserves were adequate to cover the January 8, 1995, salary increase, this will not be the case for 1996 salary increases, and a fee increase is needed.

The grading program fees also need to be increased to cover the remaining costs related to the development of dairy product standards and other activities now performed by the Dairy Division's Standardization Branch. In FY 1994 Congress appropriated money for the development of standards by the Agricultural Marketing Service but at the same time stipulated that the program costs be recovered through user fees, with the fees being turned over to the U.S. Treasury. The fee increase which took effect on February 9, 1994, provided for 3/3 of the cost of that program. Since the dairy standardization program is an essential part of the dairy grading program, it is appropriate that all of the standardization program costs be recovered through the fees charged the users of the grading program. The projected cost of the dairy standardization program for FY 1996 is \$440,000.

Proposed Changes

This rule proposes the following changes in the regulations implementing the dairy inspection and grading program:

- 1. Increase the hourly fee for nonresident services from \$47.20 to \$48.00 for services performed between $6{:}00$ a.m. and $6{:}00$ p.m. The nonresident hourly rate is charged to users who request an inspector or grader for particular dates and amounts of time to perform specific grading and inspection activities. These users of nonresident services are charged for the amount of time required to perform the task and undertake related travel plus travel costs.
- 2. Increase the hourly fee for continuous resident services from \$42.20 to \$43.00. The resident hourly rate is charged to those who are using grading and inspection services performed by an inspector or grader assigned to a plant on a continuous, year-round resident basis.

Timing of Fee Increase

It is contemplated that the proposed fee increases would be implemented on