Rules and Regulations

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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: Revision of User Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is increasing the fees charged for services provided under the dairy grading program. This rule will yield an estimated \$87,000 of additional user fee revenue in FY 1996. The program is a voluntary, user-fee funded program conducted under the authority of the Agricultural Marketing Act of 1946, as amended. This action increases the hourly rate to \$43.00 per hour for continuous resident services and \$48.00 per hour for nonresident services between the hours of 6 a.m. and 6 p.m. These fees represent a \$0.80 per hour increase for both resident and nonresident services. The fee for nonresident services between the hours of 6 p.m. and 6 a.m. is \$52.80 per hour, which represents an increase of \$0.80 per hour.

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

EFFECTIVE DATE: October 1, 1995.

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 the purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget.

This final 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.

This final rule 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 rule will not have a significant economic impact on a substantial number of small entities. The changes will not significantly affect the cost per unit for grading and inspection services. The Agricultural Marketing Service estimates that this rule will yield an additional \$87,000 in user fee revenue during FY 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 the cost of maintaining the program.

Since the costs of the grading program are covered by user fees, it is essential that fees be increased 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, the salaries of Federal employees increased by 2.6 percent as of January 8, 1995. Also, there have been normal increases in other operating costs. In addition, recent congressional action may result in additional salary increases of varying amounts 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 2/3 of the cost of the program. Since the dairy standardization program is an essential part of the dairy grading program, it is appropriate that 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.

On August 7, 1995, the Agricultural Marketing Service published in the Federal Register (60 FR 40115) for public comment a document proposing an \$0.80 increase in the hourly fees for both the resident and nonresident programs. No comments were received.

Pursuant to 5 U.S.C. 553, it is hereby found that good cause exists for not delaying the effective date of this action until 30 days after publication of this final rule in the Federal Register. A revenue shortfall warrants putting the higher rates into effect as quickly as possible. The increase in fees is essential for effective management and operation of the program and to satisfy the intent of the Agricultural Marketing Act of 1946. A proposed rule setting forth proposed fee increases was published in the Federal Register on August 7, 1995 (60 FR 40115). Therefore, the provisions of this final rule are known to interested parties.

The supplemental information section of the proposed rule inadvertantly misstated, by one year, the approximate effective date of the fee increase. The approximate date read October 1, 1996, instead of October 1, 1995. We believe the effective date was understood by readers to be October 1, 1995 because the supplemental information referred to the implementation of the fee increase to be on an expedited basis,