

generate sufficient revenues to recover operating costs for current and near-term periods while maintaining an adequate reserve balance. In FY 2001, the MGC Branch incurred a \$657,000 operating loss; in FY 2002 operating losses were \$1.6 million and, without a fee increase, FY 2003 operating losses are projected to reach \$2.9 million. These combined losses will deplete MGC Branch's operating reserve and place the MGC Branch in an unstable financial position that will adversely affect its ability to provide the currently available meat grading and certification services.

Since 1993, the MGC Branch has controlled operating costs by closing three field offices, reducing mid-level supervisory staff by over 50 percent, and reducing the number of support staff by 38 percent. At the same time, the MGC Branch has utilized automated information management systems for data collection, retrieval, and dissemination, applicant billing, and disbursement of employee entitlements. The reduction in field offices, supervisory staff and support personnel and the increased use of automated systems has enabled the MGC Branch to absorb a substantial portion of the operating costs and minimize hourly fee increases over the past 9 years. However, the MGC Branch has continued to lose revenue due to the implementation of more cost-efficient audit-based and pilot certification programs. These programs, while providing an equal or higher level of assurance, require fewer personnel and generate fewer revenue hours when compared to traditional certification services. Accordingly, the overall cost of service to the industry is reduced. Consolidation within the livestock and meat industry has also contributed to a decline in MGC Branch revenue because there are fewer applicants and they are able to perform work more efficiently. Moreover, the MGC Branch operating costs increased due to expenses associated with: (1) Ongoing information system technology upgrades to remain compatible with customer and Agency systems; (2) congressionally mandated salary increases for all Federal Government employees in 2001, 2002, and 2003; (3) inflation of nonsalary operating expenses; and (4) accumulated increases in continental United States (CONUS) per diem rates, mileage rates, and office maintenance expenses.

This fee increase will raise the hourly fees charged to users of Federal meat grading and certification services. After implementation, AMS estimates that this action will provide the MGC Branch

an additional \$401,000 per month in FY 2003. Of this \$401,000, small businesses would pay an average of \$68,170 or an additional \$210 per month (\$2,520 per year) per applicant. This fee increase coupled with a projected increase in revenue hours will increase revenues by \$4.8 million per year and offset FY 2002 operating losses of \$1.6 million and projected FY 2003 losses of \$2.9 million. Even with this action, the unit cost for MGC Branch service (revenue/total pounds graded and certified) will remain unchanged at approximately \$0.0006 per pound.

AMS projects that, without an hourly fee increase, the MGC Branch will lose an additional \$8.6 million through FY 2004 and totally deplete program reserves to the point of deficit operations. Any further reduction in MGC Branch services has the potential to substantially harm small and limited resource firms that rely on grading and certification services to help distinguish and market their products in the global marketplace.

Civil Justice Reform

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect and will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict. There are no administrative procedures which must be exhausted prior to any judicial challenge to provision of this rule.

Paperwork Reduction Act

This action will not impose any additional reporting or recordkeeping requirements on users of Federal meat grading and certification services.

Comments and Responses

On November 1, 2002, AMS published a proposed rule in the **Federal Register** to increase the fees for Federal meat grading and certification services and requested comments by January 1, 2003. The Agency received three comments.

The first respondent understood that normal inflation and rising operating costs affect operating expenses. However, the respondent opposed the magnitude of the proposed fee increase and called the increase twice as large as needed; indicated that the new MGC Branch staffing guidelines coupled with the proposed fee increase would negatively impact virtually all sectors of the livestock and meat industry; and said the formula used to estimate the per pound cost of providing services was outdated. This respondent also urged the MGC Branch to further

streamline services by consolidating branch offices and reducing staff; explore alternative revenue sources; and focus on new technology that would decrease user costs to and improve the accuracy of the grading service.

(**Note:** In August 2002, the MGC Branch implemented recommended in-plant staffing guidelines for high volume, high speed beef grading operations. The recommended staffing guidelines were implemented to safeguard Federal meat graders from repetitive motion injuries.

The second respondent favored a standardized meat grading system with less staff and an automated grading system. The respondent felt that an automated grading system would result in higher grading accuracy and would provide more valuable information to cattle producers who make genetic selections based on yield and grade results.

The third respondent recognized the benefits of the recently implemented staffing guidelines, but failed to see how the proposed fee increase was justified and asked the MGC Branch to look for more ways to reduce costs rather than passing them on to customers.

The comments from all respondents can be summarized as follows: (1) Justify the necessity and magnitude of the fee increase; (2) consider the impact of total MGC Branch costs on the livestock and meat industry; (3) reevaluate the accuracy of the formula used to estimate the per pound cost of providing services; (4) streamline services through MGC Branch office consolidation and staff reduction; and (5) explore alternative revenue sources and new technology to decrease user costs and improve the accuracy and efficiency of meat grading and certification services. The Agency response to each comment is as follows:

(1) *Justify the necessity and magnitude of the fee increase:* The AMA provides for the collection of fees from users of the Federal meat grading and certification services that are approximately equal to the cost of providing service. The hourly fees are established by equitably distributing the program's projected operating costs over the estimated hours of service—revenue hours—provided to users of the service on a yearly basis. In FY 2001, the MGC Branch incurred a \$657,000 operating loss. Without an hourly fee increase, the MGC Branch is projected to lose an additional \$8.6 million through FY 2004 and totally deplete program reserves. By law, the program must recover the cost of providing grading and certification services. Since the Agency has implemented every reasonable measure to reduce expenses, a fee increase is the