

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 58

[Docket Number DA-03-03]

RIN 0581-AC32

Increase in Fees for Federal Dairy Grading and Inspection Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to increase the hourly fees charged under the Federal dairy grading and inspection program. Dairy grading and inspection services are voluntary and are financed through user-fees assessed to participants in the program. The hourly fees would be adjusted by 10.7 to 11.8 percent to reflect the increased costs of providing service and to ensure that the program operates on a financially self-supporting basis.

DATES: Comments must be received on or before November 3, 2003.

ADDRESSES: Interested persons are invited to submit written comments to Duane R. Spomer, Associate Deputy Administrator for Standards and Grading, USDA, AMS, Dairy Programs, STOP 0230, 1400 Independence Avenue, SW., Washington, DC 20250-0230. Comments may also be submitted electronically to Duane.Spomer@usda.gov or faxed to (202) 720-2643.

All comments should reference docket number DA-03-03 and note the date and page number of this issue of the **Federal Register**.

Comments received may be inspected at the above address between 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Duane R. Spomer, Dairy Programs, (202) 720-3171.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Agriculture is authorized by the Agricultural Marketing Act of 1946 (AMA), as amended (7 U.S.C. 1621, *et seq.*), to provide voluntary Federal dairy grading and inspection services to facilitate the orderly marketing of dairy products and to enable consumers to obtain the quality of dairy products they desire. The AMA also provides for the collection of reasonable fees from users of the Federal dairy grading and inspection services that cover the cost of providing these services. The hourly fees are established by 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. Program operating costs include employee salaries and benefits—which account for nearly 80 percent of the non-travel related operating costs—training, and administrative costs. Periodically, the fees must be adjusted to ensure that the program remains financially self-supporting.

AMS regularly reviews its user-fee-financed programs to determine if the fees are adequate. The most recent review determined that the existing fee schedule, effective January 4, 1998, would not generate sufficient revenues to recover operating costs for current and near-term periods while maintaining an adequate reserve balance. Costs in FY 2004 are projected at \$5.95 million. Without a fee increase, FY 2004 revenues are projected at \$5.71, and the trust fund balance would be \$2.09 million. With a fee increase, FY 2004 revenues are projected at \$6.14 million, and the trust fund balance would be \$2.52 million.

Employee salaries and benefits account for approximately 80.0 percent of the non-travel related operating budget. Travel costs are billed directly to the users of services provided by the Dairy Grading Branch on a cost-recovery basis. Since the January 4, 1998, fee increase, Federal salaries and location adjustments have increased annually. The average salary has increased approximately 17.4 percent during this 6-year period. As a result of these increases, annual salary and benefit costs to the program are approximately \$556 thousand more today than in 1998. Inflation has also increased the operational and administrative costs

associated with this program, and a fee increase is necessary to sustain the program. If the short fall is allowed to continue, it will place the Dairy Grading Branch in an unstable financial position that will adversely affect its ability to provide dairy grading and inspection services.

This proposal will also generate funds to automate current business practices of the Dairy Grading Branch. Automated business practices will also enhance customer services through improvements in office efficiency and timeliness of providing grading and inspection services and information to users of dairy grading and inspection services.

In view of these increased costs, AMS proposes to increase the hourly fees associated with Federal dairy grading and inspection services. Currently the fees are \$51.00 per hour for continuous resident services and \$56.00 per hour for non-resident services. The proposed increases would result in a fee of \$57.00 per hour for continuous resident services and \$62.00 per hour for nonresident services between the hours of 6 a.m. and 6 p.m. The fee for nonresident service between the hours of 6 p.m. and 6 a.m. would be \$68.20 per hour. The proposed fees represent increases of \$6.00 (11.8 percent) per hour for continuous resident and \$6.00 (10.7 percent) per hour for nonresident services. For services performed in excess of 8 hours per day and for services performed on Saturday, Sunday, and legal holidays, 1½ times the base fee would apply and as a result, the fee would increase from \$84.00 per hour to \$93.00 per hour.

Executive Order 12866

This proposed rule has been determined to be “not significant” for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the AMS has considered the economic impact of this proposed action on small entities. It has determined that its provisions would not have a significant economic effect on a substantial number of small entities.