

AMS provides voluntary Federal dairy product grading and inspection services to about 350 users of services provided by the Dairy Grading Branch. Manufacturing operations participating in the voluntary plant inspection program have their facility inspected against established construction and sanitation requirements. Dairy products manufactured in facilities complying with the USDA requirements are eligible to be inspected and graded against official quality standards and specifications established by AMS and certain contract provisions between buyer and seller. Products inspected or graded under the program have certificates issued attesting to the product's quality and condition. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). This rule will raise the fee charged to businesses for voluntary inspection and grading services for dairy and related products and the evaluation of food processing equipment. Even though the fee will be raised, the increase is 10.7 percent for nonresident service and 11.8 percent for resident service and will not significantly affect these entities. These businesses are under no obligation to use these voluntary user-fee based services, and any decision on their part to discontinue the use of the services would not prevent them from marketing their products. The AMS estimates that overall this rule would yield an additional \$522,000 annually. The proposed rule reflects certain fee increases needed to recover the cost of inspection and grading services rendered in accordance with the Agricultural Marketing Act of 1946, as amended.

The AMS regularly reviews its user-fee financed programs to determine if fees are adequate and if costs are reasonable. The existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance (four months of costs) as called for by Agency policy (AMS Directive 408.1). Without a fee increase, total revenue projections—including travel revenue—for Fiscal Year 2004 would be \$5.71 million. Total costs—including travel costs—for the same period of time are projected to increase to \$5.95 million. The shortfall, if allowed to continue, would translate into a trust fund balance of \$431 thousand or 0.8 months of operating reserve at the end of FY 2007.

This action would raise the hourly fees charged to users of Federal dairy inspection and grading services. AMS estimates this action would provide the

Dairy Grading Branch an additional \$522 thousand annually. This would generate revenue to recover program costs, automate business practices to minimize the extent of future fee increases, and enhance customer services through improvements in office efficiency and timeliness of providing grading and inspection information to users of these services.

Civil Justice Reform

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

Paperwork Reduction Act

This action would not impose any additional reporting or recordkeeping requirements on users of Federal dairy grading and inspection services.

A thirty-day comment period is provided for interested persons to comment on this proposed rule. This period is appropriate in order to implement, as early as possible in FY 2004, any fee changes adopted as a result of this rulemaking action.

List of Subjects in 7 CFR Part 58

Dairy Products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reason set forth in the preamble, it is proposed that 7 CFR part 58 be amended as follows:

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

1. The authority citation for 7 CFR part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

Subpart A—[Amended]

§ 58.43 [Amended]

2. In § 58.43, “\$56.00” is removed and “\$62.00” is added in its place, and “\$61.60” is removed and “\$68.20” is added in its place.

§ 58.45 [Amended]

3. In § 58.45, “\$51.00” is removed and “\$57.00” is added in its place.

Dated: September 30, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 52

[Docket No. PRM 52–1]

Nuclear Energy Institute; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM 52–1) submitted by the Nuclear Energy Institute (NEI or the petitioner). The petitioner requested that the NRC amend its regulations to allow applicants seeking an early site permit (ESP) and a combined license (COL) to use existing information from prior licensing actions as resolved information that has been approved by the NRC and has been subject to a public hearing. The Commission is denying the petition because most of the efficiencies, regulatory stability and predictability which are the object of the petitioner's proposal can be achieved under existing regulations and the guidance that the Commission has directed the NRC staff to prepare. In addition, several key aspects of the petition are based on a misapplication of the “current licensing basis” concept and the Backfit Rule, and the petition does not represent a viable approach for achieving the desired efficiencies.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and the NRC's letter of denial to the petitioner are available for public inspection, or copying for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. These documents are also available on the NRC's rulemaking web site at <http://ruleforum.llnl.gov>.

FOR FURTHER INFORMATION CONTACT: Stephen S. Koenick, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1239, e-mail: ssk2@nrc.gov.

SUPPLEMENTARY INFORMATION: