Proposed Rules

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

[Docket Number LS–98–12]

RIN No. 0581–AB66

Changes in Fees for Federal Meat Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes revising the hourly fee rates for voluntary Federal meat grading and certification services. The hourly fees would be adjusted by this proposed rule to reflect the increased cost of providing service, and ensure that the Federal meat grading and certification program is operated on a financially self-supporting basis as required by law.

DATES: Comments must be received on or before March 20, 2000.

ADDRESSES: Send written comments to Larry R. Meadows, Chief; USDA, AMS, LS, MGC, STOP 0248, Room 2628–S, 1400 Independence Avenue, SW., Washington, DC 20250–0248. Comments may be faxed to (202) 690–4119 or E-mailed to Larry.Meadows@–usda.gov.

State that your comments refer to Docket No. LS–98–12, and note the date and page number of this issue of the **Federal Register**.

Comments received may be inspected at the above location between 8 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except Holidays.

FOR FURTHER INFORMATION CONTACT: Larry R. Meadows, Chief, Meat Grading and Certification (MGC) Branch, 202–720–1246.

SUPPLEMENTARY INFORMATION:

A. Executive Order 12866

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

B. Regulatory Flexibility

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of AMS has considered the economic impact of this proposed action on small entities.

AMS, through its MGC Branch, provides voluntary meat grading and certification services to a total of 370 businesses of which 261 are small entities. Small entities, which account for approximately 38 percent of the MGC Branch's total revenues, are defined as those that employ less than 500 employees. AMS provides meat grading and certification services to 93 meat processors, 90 livestock slaughterers, 52 facilities that further process federally donated products, 13 trade associations, 9 livestock feeders, 3 trucking companies, and 4 brokers. These entities are under no obligation to use meat grading and certification services provided under the authority of the Agricultural Marketing Act of 1946 (AMA), as amended, 7 USC 1621 *et seq.*

Meat grading and certification services facilitate the orderly marketing of meat and meat products and enable consumers to obtain the quality of meat they desire. Grading services consist of the evaluation of carcass beef, lamb, pork, veal, and calf for conformance with the grades of an official U.S. Standard for each species. Approximately 21 billion pounds of meat are graded each year. Certification services consist of the evaluation of meat and meat products for compliance with specification and contractual requirements. Certification services are used most often by large-scale meat purchasers to ensure that the quality and yields of the products they purchase comply with their stated requirements. Approximately 17 billion pounds of meat and meat products are certified each year.

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 would not generate sufficient revenues to recover program costs for current and near-term periods while maintaining an adequate reserve balance. Without a fee increase, the projected operating losses for fiscal year (FY) 2000, FY 2001, and FY 2002 will be $1.9 million, $2.9 million, and $4.1 million respectively. Operating losses at these levels will deplete MGC Branch's operating reserve and place the Branch in an unstable financial position that will adversely affect its ability to provide the current level of grading and certification services. Any reduction in Branch services has the potential to substantially harm small and limited resource firms that rely on grading and certification services to market their products and compete in a global marketplace.

This proposed action would raise the fees charged to all users of grading and certification services. AMS estimates that overall, this proposed rule would yield an additional $175,000 in revenue per month for the balance of FY 2000. Of this $175,000, small businesses would pay approximately $66,500 or an average of $255 per month. In FY 2001 and 2002, small entities will pay approximately $798,000, an average of $255 per month or $3,058 per year. However, due to increased program and industry efficiencies, the FY 2000–2002 unit costs of program services (revenue/total pounds graded and certified) will remain virtually unchanged at approximately $0.0006 per pound for each fiscal year. Accordingly, the Administrator of AMS has determined that this proposal would not have a significant economic effect on a substantial number of small business entities.

This proposed fee increase, only the second since November 1993, is necessary to offset increased program operating costs resulting from: (1) The congressionally-mandated, governmentwide salary increases for 1998, 1999, and 2000; (2) inflation of nonsalary operating costs; (3) accumulated increases in CONUS per diem rates; (4) increased costs of servicing less than full-time applicants; and (5) costs associated with updating the MGC Branch's automated information management system to ensure compliance with year 2000 operating requirements.

Since 1993, in an ongoing effort to control operating costs, the MGC Branch has closed 3 field offices, reduced mid-level supervisory staff by over 50 percent, and reduced the number of support staff by 38 percent. At the same time, the MGC Branch has become more reliant on automated information management systems for data collection, retrieval, and dissemination, account billing, and disbursement of employee entitlements. The reduction in field offices, supervisory staff, support personnel, and the increased reliance on automated systems has enabled the MGC Branch to absorb a substantial portion of the increased operating costs and minimize increases in user-fees over the past 7 years.

Despite the MGC Branch's vigilant cost reduction efforts since 1993, the operating expenses projected for FY 2000 and beyond can only be balanced by adjusting the hourly fee rate charged to users of meat grading and certification services. Any further reduction in personnel, services, or management infrastructure beyond those already implemented would have a detrimental effect on the program's ability to provide meat grading and certification services and ensure the accurate and uniform application of such services. The hourly rate increase is necessary to recover the costs of providing voluntary Federal meat grading and certification services and for the program to continue serving all segments of the industry.

C. Civil Justice Reform

This proposed action has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not pre-empt 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.

D. Paperwork Reduction Act

This proposed action will not impose any additional reporting or recordkeeping requirements on either small or large meat slaughters, processors, and other applicants who use Federal meat grading and certification services.

Background

The Secretary of Agriculture is authorized by the AMA, 1946 as amended, 7 U.S.C. 1621 *et seq.*, to provide voluntary Federal meat grading and certification services to facilitate the orderly marketing of meat and meat products and to enable consumers to obtain the quality of meat they desire. The AMA also 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 these services. The hourly fees for service are established by equitably distributing the projected annual program operating costs over the estimated hours of service—revenue hours—provided to users of the service. Program operating costs include salaries and fringe benefits of meat graders, supervision, travel, training, and all administrative costs of operating the program. Employee salaries and benefits account for approximately 80 percent of the total budget. Revenue hours include base hours, premium hours, and service performed on Federal legal holidays. As program operating costs continue to rise, the hourly fees must be adjusted to enable the program to remain financially self-supporting as required by law.

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 for the meat grading and certification program would not generate sufficient revenues to recover operating costs for current and near-term periods while maintaining an adequate reserve balance. Without a fee increase, the projected operating losses for FY 2000, FY 2001, and FY 2002 will be $1.9 million, $2.9 million and $4.1 million respectively. These losses will totally deplete MGC Branch's operating reserve and place the Branch in an unstable financial position that will adversely affect its ability to provide the current level of grading and certification services.

This proposed fee increase is necessary to offset increased program operating costs resulting from: (1) Congressionally mandated salary increases for all Federal Government employees in 1998, 1999, and 2000; (2) inflation of nonsalary operating costs; (3) accumulated increases in CONUS per diem rates; (4) increased costs of servicing less than full-time applicants; and (5) costs associated with updating MGC Branch's automated information management system to ensure compliance with year 2000 requirements.

Since 1993, in an ongoing effort to control operating costs, the MGC Branch has closed three field offices, reduced mid-level supervisory staff by over 50 percent, and reduced the number of support staff by 38 percent. At the same time, the MGC Branch has become more reliant on automated information management systems for data collection, retrieval, and dissemination, account billing, and disbursement of employee entitlements. The reduction in field offices, supervisory staff and support personnel and the increased reliance on automated systems has enabled the MGC Branch to absorb a substantial portion of the increased operating costs and minimize increases in user-fees over the past 7 years.

In addition to increases in salary, nonsalary and employee entitlement costs, the MGC Branch can no longer absorb less than full cost recovery for providing service to noncommitment applicants. A noncommitment applicant is a less than full-time user of the meat grading and certification services who only pays for the actual time service is provided. Almost always, the cost of providing service to a noncommitment applicant is significantly more than providing service to a commitment applicant (full-time user of meat grading and certification services), and this difference has become more pronounced in the past several years. The cost of servicing noncommitment applicants is significantly increased by the nonrevenue and travel time of the meat graders assigned to provide service. Additionally, administrative and travel costs associated with supervising noncommitment applicants are significantly higher. This places an undue burden on commitment applicants and other users of the service. Under the current fee structure, these additional costs are not fully recovered and must be absorbed by the program. In addition to recovering all costs from commitment applicants, the proposed action will fully recover all costs associated with servicing less than full-time (noncommitment) applicants.

In FY 1999, the MGC Branch incurred significant unfunded costs in updating its automated information management system to ensure compliance with year 2000 requirements. These updates are complete and program managers do not anticipate any delays or lapses in service delivery as a result of non-compliance with year 2000 requirements. Additionally, automated administrative functions have been improved and are more efficient. Therefore, AMS can deliver services to customers in a more efficient and cost-effective manner which will help minimize future cost increases to applicants.

Despite the cost reduction efforts since 1993 and a user-fee increase in 1998, AMS has determined that the MGC Branch incurred a $852,000 operating loss in FY 1999. Further, AMS projects that without the proposed fee increase the MGC Branch will incur combined losses totaling over $9 million over the next three fiscal years and deplete program reserves. Such operating deficits can only be balanced by adjusting the hourly fee rate charged to users of the service. Any further reduction in personnel, services, or management infrastructure beyond those already implemented would have a detrimental effect on the program's ability to provide meat grading and certification services and support the accurate and uniform application of such services.

In view of these increases in costs, AMS is proposing to increase the base hourly rate charged to commitment applicants from $39.80 to $45. A commitment applicant is a user of meat grading and certification services who agrees to pay for five continuous 8 hour days, Monday through Friday between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly rate for noncommitment applicants will increase from $42.20 to $52. A noncommitment applicant is a user of meat grading and certification services for eight consecutive hours or less per day between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The hourly rate for premium hours would increase from $47.80 to $57, and will be charged to users of the service for hours worked in excess of 8 hours per day for each assigned official grader and for work performed before 6 a.m. and after 6 p.m., Monday through Friday, and any time on Saturday or Sunday, except on Federal legal holidays. The holiday rate for all applicants will increase from $79.60 to $90, and will be charged to users of the service for all hours worked on legal holidays.

List of Subjects in 7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 54 be amended as follows:

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for part 54 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 54.27 [Amended]

2. Section 54.27 is amended as follows:

a. In paragraph (a), ''$42.20'' is removed and ''$52'' is added in its place, ''$47.80'' is removed and ''$57'' is added in its place, ''$79.60'' is removed and ''$90'' is added in its place, and

b. In paragraph (b), ''$39.80'' is removed and ''$45'' is added in its place, ''$47.80'' is removed and ''$57'' is added in its place, and ''$79.60'' is removed and ''$90'' is added in its place.

Dated: January 13, 2000.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 00–1281 Filed 1–19–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 00–03]

RIN 1557–AB80

Financial Subsidiaries and Operating Subsidiaries

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend its regulations to implement section 121 of the Gramm-Leach-Bliley Act, which authorizes national banks to conduct expanded financial activities through financial subsidiaries. The OCC also is revising its operating subsidiary rule to make conforming changes and streamline procedures for banks that engage in activities through operating subsidiaries.

DATES: Comments must be received by February 14, 2000.

ADDRESSES: Please direct comments to: Docket No. 00–03, Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC, 20219. Comments are available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to FAX number (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities or Mitchell Plave, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background

Prior to the enactment of the Gramm-Leach-Bliley Act, Public Law 106–102, (GLBA or the Act), national banks generally conducted activities in the bank itself, in an operating subsidiary, or in a subsidiary authorized for national banks to own pursuant to a specific statute (*e.g.,* a bank service company authorized under 12 U.S.C. 1861 *et seq.*). Section 5.34 of the OCC's regulations governs national bank operating subsidiaries. Under § 5.34, an operating subsidiary may engage in activities that are part of, or incidental to, the business of banking as determined by the OCC. A national bank may acquire or establish an operating subsidiary, or commence a new activity in an existing operating subsidiary, by following specific filing procedures that vary depending upon the nature of the activity and whether the bank meets certain eligibility standards.

Section 5.34(f) also permits national banks to engage through a special type of operating subsidiary in activities that are part of, or incidental to, the business of banking but that are not permissible for the national bank to conduct directly, if the bank satisfies certain safety and soundness conditions. In addition, the bank must meet the definition of ''eligible bank'' in § 5.3(g) if the subsidiary is to engage in those activities as principal.

On November 12, 1999, the President signed the GLBA, which comprehensively restructures the statutory framework that governs the financial services industry. Section 121 of the Act adds a new section 5136A to the Revised Statutes that authorizes a national bank to acquire control of, or hold an interest in, a new type of subsidiary called a ''financial subsidiary.'' The GLBA defines a financial subsidiary as a company that is controlled by one or more insured depository institutions, other than a subsidiary that engages solely in activities that national banks may engage in directly (under the same terms and conditions that govern the conduct of these activities by national banks) or a subsidiary that a national bank is specifically authorized to control by the express terms of a Federal statute. A financial subsidiary may engage in specified activities that are financial in nature and in activities that are incidental to financial activities if the bank and the subsidiary meet certain requirements and comply with stated safeguards. A financial subsidiary also may combine these newly authorized activities with activities that are permissible for national banks to engage in directly.

The GLBA does not affect a national bank's authority to own and control an operating subsidiary that engages in activities that are part of, or incidental to, the business of banking and that are permissible for national banks to engage in directly. Thus, once the financial subsidiary provisions of the GLBA take