

(b) When a comparison is requested of any samples with a type or with other samples, the fees prescribed in paragraph (a) (1) (2) and (3) of this section shall apply to every sample involved, including each of the samples of which the type is composed.

(c) An additional fee of 30 cents per sample shall be assessed for services described in paragraphs (a) and (b) of this section unless the request for service is so worded that the samples become Government property immediately after classification.

5. Sections 28.117, 28.120, and 28.122 are revised to read as follows:

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder, thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of 10 cents per bale or a minimum fee of \$4.75 per sheet.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A or Form D determinations, the expenses of inspection and sampling, the preparation of the samples and delivery of such samples to the classification room or other place specifically designated for the purpose by the Director shall be borne by the party requesting classification. For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of \$21.00 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.122 Fee for practical classing examination.

The fee for the complete practical classing examination for cotton or cotton linters shall be \$140.00. Any applicant who passes both parts of the examination may be issued a certificate indicating this accomplishment. Any person who passes one part of the examination, either grade or staple, and fails to pass the other part, may be reexamined for that part that was failed. The fee for this practical reexamination is \$85.00.

6. Sections 28.148 and 28.149 are revised to read as follows:

§ 28.148 Fees and costs; classification; review; other.

The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these qualities shall be at the rate of \$1.35 for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable apply to services performed with respect to linters.

§ 28.149 Fees and costs; Form C determination.

For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of \$21.00 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of each request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

7. The authority citation of subpart B of part 28 continues to read as follows:

Authority: Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1624).

8. Section 28.184 is revised to read as follows:

§ 28.184 Cotton Linters; general.

Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Cotton Division. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be \$1.35 per sample.

9. The authority citation of subpart D of part 28 continues to read as follows:

Authority: Sec. 3a, 50 Stat. 62, as amended (7 U.S.C. 473a); Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c); unless otherwise noted.

10. Paragraph (b) of § 28.910 is amended by revising it to read as follows:

§ 28.910 Classification of samples and issuance of classification data.

(b) Upon request of an owner of cotton for which classification memoranda have been issued under this subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten

memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be 10 cents per bale or a minimum of \$4.75 per sheet.

11. The authority citation for subpart E of part 28 continues to read as follows:

Authority: Sec. 3c, 50 Stat. 62; 7 U.S.C. 473c; Sec. 3d, 55 Stat. 131 (7 U.S.C. 473d).

12. Section 28.956 is amended by revising the fee charged for item No. 5 to read as follows:

§ 28.956 Prescribed Fees.

Fees for fiber and processing tests shall be assessed as listed below:

Item No.	Kind of test	Fee per test
5.0	High Volume Instrument (HVI) measurement. Readings micronaire, length, length uniformity, 1/8-inch gage strength, color and trash content. Based on a 6 oz. (170 g) sample, per sample.	1.65

Dated: May 14, 1990.

[FR Doc. 90-11498 Filed 5-16-90; 8:45 am]

BILLING CODE 3410-02-M

**Agricultural Marketing Service
7 CFR Part 54**

[No. LS-90-101]

**Changes in Fees for Federal Meat
Grading and Certification Services**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends § 54.27 of the regulations governing the grading and certification of meats, prepared meats, and meat products by increasing the hourly fee rates for voluntary Federal meat grading and certification services. The hourly fees will be adjusted by this final rule to reflect the increased cost of providing service and to ensure that the Federal meat grading and certification program is operated on a financially self-supporting basis as required by law.

EFFECTIVE DATE: The final rule will be effective on May 20, 1990.

FOR FURTHER INFORMATION CONTACT: Eugene M. Martin, Chief, Meat Grading and Certification Branch, Livestock and Seed Division, AMS, USDA, Rm. 2638-S, P.O. Box 96456, Washington, DC 20090-6456 (202/382-1113).

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This action was reviewed under the USDA procedures established to implement E.O. 12291 and was classified as a nonmajor proposed rule pursuant to section 1(b) (1), (2), and (3) of that Order. Accordingly, a regulatory impact analysis is not required. This action was also reviewed under the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*) The Administrator of the Agricultural Marketing Service has determined that this rule will not have a significant economic impact on a substantial number of small entities. The changes in the hourly fee rates are necessary to recover the costs of providing voluntary Federal meat grading and certification services. The cost per unit of meat grading and certification services to the industry will continue to be approximately \$0.0015 per pound.

Background

The Secretary of Agriculture is authorized by the Agricultural Marketing Act (AMA) of 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 Federal meat grading and certification services that are approximately equal to the costs 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 salary and benefits account for approximately 80 percent of the total operating budget. Revenue hours include base hours, premium hours, and service performed on Federal legal holidays. As program operating costs and/or revenue hours change, the hourly fees must be adjusted to enable the program to remain financially self-supporting as required by law.

In fiscal year 1989, the program experienced an operating deficit of over \$400,000. In fiscal year 1990, the program is faced with the following increases in operating expenses: (1) A congressionally mandated, Governmentwide 3.6-percent salary increase for Federal employees,

effective January 14, 1990; (2) a 13.3-percent increase in the Agency's contribution to the Federal Employees Health Benefits Program (applicable to all government Agencies), effective January 14, 1990; and (3) a projected 4.2-percent inflation for nonsalary costs for fiscal year 1990. In conjunction with an increase in direct operating expenses in fiscal year 1990 due to the aforementioned factors, the program will experience a 2.5-percent reduction in revenue hours. The reduction in revenue hours is due to the ongoing consolidation of the meat industry which continues to result in the more efficient utilization of program personnel. The reduction in revenue hours significantly impacts on the hourly fee rate, since increases in direct operating expenses must be recouped through less revenue hours. In this regard, the Agency has determined that due to the increases in program operating costs and the reduction in revenue hours, the program will have an operating deficit of over \$1.06 million in fiscal year 1990, unless the hourly fee rates are appropriately adjusted.

In recent years, the Agency has significantly improved the operating efficiency of the program without adversely affecting the effectiveness, integrity, and credibility of nationwide grading and certification services. However, any further reductions in employee supervision, training, or travel at this time would affect the Agency's ability to ensure continued accurate and uniform application of the U.S. grade standards and specifications nationwide. Any reductions in the accuracy or uniformity of service would, most likely, have an adverse impact on the orderly marketing of red meat and on the uniform identification of meat and meat products available to consumers.

Comments

On February 6, 1990, the Agency published in the *Federal Register* (55 FR 3962) a proposed rule to increase the fees for Federal meat grading and certification services. This proposed rule was published with requests for comments as a means of providing full public participation in the rulemaking process. Comments on this proposed rule were requested by March 8, 1990. During the 30-day comment period, the Agency received five comments in response to the proposed rule. The organizations commenting on the proposed rule were as follows: two meat industry trade associations, two meat processors, and one beef slaughterer and fabricator.

Discussion of Comments

The comments reflected an overall dissatisfaction with the fee increase, expressed the view that any increase would only further burden the meat industry, and may render the use of meat grading and certification services cost prohibitive. The comments generally suggested the Agency reduce costs rather than implement the fee rate change, although one commenter cautioned against a decline in service because of reduced travel or an applicant's timely access to supervisory review.

The Agency acknowledges the importance of providing meat grading and certification services in an efficient and cost-effective manner. During recent years, the Agency has significantly improved the operating efficiency of the program without adversely affecting the integrity and credibility of nationwide grading and certification services. The Agency continues to search for opportunities to improve efficiency and reduce costs. However, the Agency is faced with the cost increases that are detailed in the background section above and must find ways to recover these costs as required by law.

Two commenters requested the Agency reduce overhead costs rather than increase the fees. The Agency continues to search for opportunities to improve operating efficiency and reduce costs.

In the past year, program overhead costs have been reduced by collocating three meat grading and certification offices with those of other Agency functions. Further consolidation of offices is currently being effected in a fourth location. Such collocation efforts result in cost-savings through more efficient utilization of clerical staff, office space, and related services. The Agency also continues to seek the full utilization of full-time meat grading and certification employees and strives to maximize the use of part-time and cross-utilized employees on less than full-time assignments.

Two commenters expressed concern over the reduction in revenue hours. One of these comments questioned whether these reductions were also accompanied by appropriate reductions in grading and supervisory staff. The other comment questioned whether a future increase in the number of revenue hours would result in a reduction in the fees. The number of grading positions is routinely adjusted to reflect changes in demand for service caused by plant closings, realignment of workload, etc. Supervisory requirements have not

changed significantly, since the number of grading positions eliminated in any particular geographic area do not justify a change in the supervisory staffing. However, the Agency does plan to reduce supervisory staffing through attrition, in those geographic areas where workload reductions and shifts make such changes feasible. An increase in revenue hours may result in a reduction or fees or, more likely, a partial offset to future cost increases.

One commenter expressed concern that the fees charged for premium and holiday hours were not proportionate to the Agency's actual cost of providing service during these periods. The Agency agrees that the fees charged during premium hours and on holidays may exceed the cost of providing such service. However, the structure of charges for meat grading and certification services was established to: (1) Recover the total cost of providing requested services and (2) promote efficiency in providing services by encouraging requests for service during the basic workweek. Any changes in the fee structure would require adjustments in all hourly rates and were not a part of this proposed rule.

One commenter requested the Agency consider alternatives to increasing the fee rate. The Agency has considered three alternatives to raising the fee rates. These alternatives were (1) financing a portion of the cost of providing service with appropriated money; (2) reducing overhead by reducing supervisory cost, travel, and training; and (3) reducing the number of services provided. However, these alternatives were not practical or feasible in that they would result in a reduction of the quality or amount of services available. The use of appropriated funds would be inconsistent with the Agricultural Marketing Act of 1946, as amended, which requires that the cost of providing such services be recovered by collecting fees approximately equal to the cost of providing the services. After these alternatives were considered, the decision was made to propose a change in the fees.

Two commenters stated that their service costs exceeded the \$0.0015 per pound cited in the Regulatory Impact Analysis section of the proposed rule. They also stated that they would have to pass along these higher costs to their customers. The Agency calculates the unit cost of meat grading and certification services by dividing program costs by the total tonnage of products graded and certified. The Agency realizes that the actual unit cost

of service for a particular establishment will depend on: (1) The establishment's relative operational efficiency and (2) the service requirements of specific processing operations. Meat grading and certification services add marketing value to the products graded or certified, and the costs of these services are routinely recovered in the value of the product or services marketed by the plant.

In view of the foregoing considerations, the Agency will increase the base hourly rate for commitment applicants for voluntary Federal meat grading and certification services for \$28.80 to \$30.80. A commitment applicant is a user of the service who agrees, by commitment or agreement memorandum, to the use of meat grading and certification services for 8 consecutive hours per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly rate for noncommitment applicants for voluntary Federal meat grading and certification services will increase from \$31.20 to \$33.20 and would be charged to applicants who utilize the services for 8 consecutive hours or less per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The premium hourly rate for all applicants will be increased from \$36.80 to \$38.80 and will be charged to users of the service for hours worked in excess of 8 hours per day between the hours of 6 a.m. and 6 p.m. and for hours worked from 6 p.m. to 6 a.m., Monday through Friday, and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants will be increased from \$57.60 to \$61.60 and will be charged to users of the service for all hours worked on legal holidays.

The Agricultural Marketing Act of 1946 requires that fees approximately cover the cost of services provided under the meat grading and certification program. The Agency is responsible for operating the meat grading and certification program in a prudent manner. Since January 14, 1990, when the Governmentwide salary and benefit increases became effective, the program's hourly fee rate has not been sufficient to recover the cost of providing such services. Therefore, the Agency must act to increase fees and reduce operating losses as soon as possible.

Pursuant to 5 U.S.C. 553, it is hereby found that good cause exists for not delaying the effective action until 30 days after publication of this final rule in the *Federal Register*. Therefore, this

final rule will be effective on May 20, 1990.

Accordingly, the section of the regulations appearing in 7 CFR part 54 relating to hourly fees for Federal meat grading and certification of meats, prepared meats, and meat products is amended as follows:

List of Subjects in 7 CFR Part 54

Meat and meat products, Grading and certification—beef, veal, lamb, and pork.

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: Agricultural Marketing Act of 1946, secs. 203, 205, as amended; 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622, 1624).

2. 7 CFR part 54 is amended as follows:

§ 54.27 [Amended]

(a) Section 54.27(a), sentence 3, change the following: \$31.20 to \$33.20; \$36.80 to \$38.80; and \$57.60 to \$61.60.

(b) Section 54.27(b), sentence 2, change the following: \$28.80 to \$30.80; \$36.80 to \$38.80; and \$57.60 to \$61.60.

Done at Washington, DC, on May 14, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90-11500 Filed 5-16-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1210

[WRPA Docket No. 1; FV-89-1, FV-90-104 FR]

Watermelon Research and Promotion Plan; Rules and Regulations Thereunder

AGENCY: Agricultural Marketing Service (AMS), Agriculture.

ACTION: Final rule; correction.

SUMMARY: AMS is correcting an error in rule document 90-8236, beginning on page 13253, in the *Federal Register* issue of Tuesday, April 10, 1990. In that issue make the following correction:

On page 13258, in the first column, § 1210.518(c)(2)(iv) "Total quantity of watermelons handled during the reporting period, pursuant to § 1210.518;" should read "Total quantity of watermelons handled during the reporting period".

FOR FURTHER INFORMATION CONTACT: Richard Matthews (202) 447-4140.

Dated: May 14, 1990.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable
Division.

[FR Doc. 90-11497 Filed 5-16-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1260

[No. LS-90-102]

Beef Promotion and Research

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Final rule.

SUMMARY: This rule makes final, with some changes, the provisions of a proposed rule which were published in the *Federal Register* on February 23, 1990 (55 FR 6400). This final rule adjusts representation on the Cattlemen's Beef Promotion and Research Board, established under the Beef Promotion and Research Act of 1985, to reflect changes in cattle inventories and cattle and beef imports which have occurred since the present Board was appointed. Such adjustments are required by the Beef Promotion and Research Order and will result in a decline in Board membership from 113 to 111 effective with the Secretary's 1990 appointments. Indiana, Oregon, and Tennessee will each lose one Board member while the importer unit will gain one member.

EFFECTIVE DATE: June 18, 1990.

ADDRESSES: Ralph L. Tapp, Chief, Marketing Programs Branch, Livestock and Seed Division, Agricultural Marketing Service, USDA, Room 2624-S, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT:

Ralph L. Tapp, Chief, Marketing Programs Branch, at 202/382-1115.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order No. 12291 and Departmental Regulations 1512-1 and has been designated as a "nonmajor" rule under the criteria contained therein. This action was also reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601, et seq.). The Administrator of the Agricultural Marketing Service has determined that this action will not have a significant impact on a substantial number of small entities as defined by the RFA since it only adjusts representation on the Cattlemen's Beef Promotion and Research Board (Board) to reflect changes in domestic cattle inventory and imports.

The Board was initially appointed August 4, 1986, pursuant to the provisions of the Beef Promotion and

Research Act of 1985 (7 U.S.C. 2901, et seq.) (Act), and the Order issued thereunder (7 CFR 1260.101, et seq.). Domestic representation on the Board is based on cattle inventory numbers and importer representation is based on the conversion of the volume of imported cattle, beef, or beef products into live animal equivalencies.

Section 1260.141(c) of the Order provides that, in accordance with regulations approved by the Secretary, at least every three (3) years, and not more than every two (2) years, the Board shall review the geographic distribution of cattle inventories throughout the United States and the volume of imported cattle, beef and beef products and, if warranted, reapportion units and/or modify the number of Board members from units in order to best reflect the geographic distribution of cattle production volume in the United States and the volume of cattle, beef, or beef products imported into the United States. This final rule amends § 1260.141(c) by deleting the phrase "in accordance with regulations approved by the Secretary." The reason for this is that the Act and Order currently contain the provisions necessary for the Board to review and to recommend the reapportionment of units and number of Board members.

Section 1260.141(d) of the Order authorizes the Board to recommend to the Secretary modification in the number of cattle per unit necessary for representation on the Board. Section 1260.141(e)(1) provides that each geographic unit or State that includes a cattle inventory equal to or greater than 500,000 head of cattle shall be entitled to one representative on the Board. Section 1260.141(e)(2) provides that States which do not have cattle inventories equal to or greater than 500,000 head shall be grouped, to the extent practicable, into geographically contiguous units each of which have a combined total inventory of not less than 500,000 head. Such grouped units are entitled to at least one representative on the Board. Each unit which has an additional one million head of cattle within a unit qualifies for additional representation on the Board as provided in § 1260.141(e)(4). As provided in § 1260.141(e)(3), importers are represented by a single unit with the number of Board members based upon a conversion of the total volume of imported cattle, beef, or beef products into live animal equivalencies.

To date, Board representation by States or units has been based on the January 1, 1986, inventory of cattle in the various States as reported by the National Agricultural Statistics Service of the USDA. Importer representation

has been based on the combined totals of 1985 live cattle imports as published in the February 1986 issue of the *Foreign Agriculture Circular*, "Dairy, Livestock, and Poultry," published by USDA, and the live animal equivalents for imported beef products contained in that publication.

Recommendations concerning Board reapportionment were approved by the Board at its July 9-11, 1989, meeting. In considering reapportionment, the Board reviewed cattle inventories as well as cattle, beef, and beef product import data for the period January 1, 1986 to January 1, 1989. While reviewing the January 1, 1987, January 1, 1988, and January 1, 1989, cattle inventory numbers published by USDA, the Board noted some fluctuations in cattle inventories from year to year. The Board determined that factors such as the drought had distorted the "normal" distribution of cattle by State in some years. The January 1, 1989, cattle inventory numbers confirmed the Board's determination. To best reflect a representative number of cattle in each State or unit since the initial Board apportionments, the Board recommended that a 3-year average of the USDA inventory numbers as of January 1, 1987, 1988, and 1989 be used.

The Board review to determine proper importer representation utilized official USDA import data for the years 1986, 1987, and 1988 published by USDA. Also, the calculations used to determine the total number of live cattle equivalents imported in 1986, 1987, and 1988 were the same as those used in establishing the original Board. The new importer representation is based on a 3-year average of 1986, 1987, and 1988 data to be consistent with the procedures used for domestic representation.

On February 23, 1990, the (Agricultural Marketing Service) AMS published in the *Federal Register* (55 FR 6400) a proposed rule providing for the adjustment in Board membership based on data reviewed by the Board. The proposed rule was published with a request for comments to be submitted by March 26, 1990. The Department of Agriculture received five written comments. Three commenters including the Board and two importer organizations supported the proposed rule. Two commenters representing producer organizations suggested modifications in the proposed adjustment of Board membership.

The Board comments specifically supported the use of the 3-year average of cattle inventories in determining Board membership and the amendment