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. 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 the industry.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act do not apply to this rulemaking as it does not require the collection of any information or data.

Comments

On December 31, 1997, in the **Federal Register**, the Agency published the proposed rule to increase the fees and requested comments by March 2, 1998. The Agency received two comments. The first respondent requested additional information about the effect of the fee increase on small entities. Additional information has been provided in the Effect on Small Entities section of this final rule. Respondent # 1 also alleged that the program charges a minimum of 8 hours per day, and suggested that charges should be based on volume of production. As identified in 7 CFR 54.27 (a), noncommitment applicants, of which almost all are small entities, are charged to the nearest quarter hour, and the minimum charge is half an hour. For reasons cited in the Effect on Small Entities section, the Agency determined that the current hourly fee method of charging applicants provides the best alternative for businesses who need less than 8 hours of service.

Respondent # 2 asked the Agency to continue to find ways to reduce costs and to refrain from imposing higher grading costs on the industry. The Agency is continually seeking ways to reduce costs and increase efficiency. This fee increase amounts to an average annual increase of 2.2 percent since the last increase in 1993. Even though businesses will pay more for hourly services, the Agency has increased the amount of service provided by over 9,580,000,000 pounds per year in comparison to FY 1993. This amounts to a 48 percent per hour increase in efficiency which reduces the cost of services by 0.0149 cents per pound. As requested by the respondent, the Agency will continue seeking way to increase efficiency, quality, and timeliness of services.

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 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 change, the hourly fees must be adjusted to enable the program to remain financially self-supporting as required by law.

In view of these considerations, the Agency will increase the base hourly rate commitment applicants pay for voluntary Federal meat grading and certification services from $36.60 to $39.80. A commitment applicant is a user of the service who agrees, by commitment or agreement memorandum, to use 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 $39.00 to $42.20, and will be charged to applicants who utilize the service 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 increase from $44.60 to $47.80, and will be charged to users of the service for the hours worked in excess of 8 hours per day between the hours of 6 a.m. and 6 p.m.; for hours worked between 6 p.m. and 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 increase from $73.20 to $79.60, and will be charged to users of the service for all hours worked on legal holidays.

Pursuant to 5 U.S.C. 553, it is hereby found that since the program is operating at a loss, 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 June 18, 1998.

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, 7 CFR part 54 is 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. In § 54.27, paragraph (a), ''$39.00'' is removed and ''$42.20'' is added in its place, ''$44.60'' is removed and ''$47.80'' is added in its place, ''$73.20'' is removed ''$79.60'' is added in its place, and in paragraph (b), ''$36.60'' is removed and ''$39.80'' is added in its place, ''$44.60'' is removed and ''$47.80'' is added in its place, and ''$73.20'' is removed and ''$79.60'' is added in its place.

Dated: June 11, 1998.

Robert L. Leverette,

Acting Deputy Administrator, Livestock and Seed Program.

[FR Doc. 98–16010 Filed 6–16–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 953

[Docket No. FV98–953–1 IFR]

Irish Potatoes Grown in Southeastern States; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule increases the assessment rate established for the Southeastern Potato Committee (Committee) under Marketing Order No. 953 for the 1998–99 and subsequent fiscal periods from $0.0075 to $0.01 per hundredweight of potatoes handled. The Committee is responsible for local administration of the marketing order

which regulates the handling of Irish potatoes grown in two southeastern States (Virginia and North Carolina). Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins June 1 and ends May 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective June 18, 1998. Comments received by July 17, 1998 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; Fax 202–205–6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Jim Wendland, DC Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: 202–720–2491, Fax: 202–205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, also at the above address, telephone, and Fax.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR part 953), regulating the handling of Irish potatoes grown in two southeastern States (Virginia and North Carolina), hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Virginia-North Carolina potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning June 1, 1998, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.0075 to $0.01 per hundredweight of potatoes handled.

The order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of seven producer members and five handler members, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were formulated and discussed in a public meeting. Thus, all directly affected persons had an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal periods the Committee recommended, and the Department approved, an assessment rate of $0.0075 per hundredweight of potatoes handled that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on April 16, 1998, and unanimously recommended 1998–99 expenditures of $12,000, the same as last year. The major expenditures include $7,700 for the manager's and secretarial salaries and $1,000 for travel expenses. These and all other expense items are budgeted at last year's amounts.

Regarding the assessment rate, after considering several options, the Committee concluded that the current $0.0075 per hundredweight would not be adequate for the 1998–99 fiscal period for the following reasons. The Committee's operating reserve is only $5,000 and is expected to be quickly exhausted. This reserve is the lowest ever for any of the Committee's fiscal periods except one. Also, wet fields caused delayed plantings and unfavorable growing conditions, resulting in potato plant stands estimated to be 20 percent below normal. As a result of this and other factors, the Committee projects that during the industry's brief, predominately June and July, shipping and assessing period, its total potato volume to be handled will be down at least 100,000 hundredweight. Therefore, the Committee unanimously recommended an assessment rate of $0.01 per hundredweight, $0.0025 higher than the rate currently in effect.

The assessment rate recommended by the Committee was based on projected shipments of 1,200,000 hundredweight of Southeastern potatoes, which should provide $12,000 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized operating reserve, will be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1997–98 fiscal period are estimated at only $5,000. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal period's expenses of $12,000 (§ 953.35).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment

rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 85 producers of Southeastern potatoes in the production area and approximately 40 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Southeastern potato producers and handlers may be classified as small entities.

This rule increases the assessment rate established for the Southeastern Potato Committee and collected from handlers for the 1998–99 and subsequent fiscal periods from $0.0075 per hundredweight to $0.01 per hundredweight of potatoes handled. Both the $0.01 assessment rate and the 1998–99 budget of $12,000 were unanimously recommended by the Committee at its April 16, 1998, meeting. The assessment rate established by this action is $0.0025 higher than the 1997–98 rate. The Committee recommended an increased assessment rate to help offset the smaller projected crop of assessable Southeastern potatoes in 1998. The anticipated crop of 1,200,000 hundredweight is approximately 100,000 hundredweight less than the 1997 crop. The $0.01 rate should provide $12,000 in assessment income which will be adequate to meet the 1998–99 fiscal period's budgeted expenses.

The Committee discussed leaving the assessment at the current $0.0075 rate but determined that since the crop is estimated to be only 1,200,000 hundredweight, which is 20 percent below normal, that this would not generate enough income to meet budgeted expenses without exhausting the $5,000 operating reserve.

The major expenditures recommended by the Committee for the 1998–99 fiscal period include $7,700 for the manager's and secretarial salaries and $1,000 for travel expenses. These and all other expense items are budgeted at last year's amounts.

A review of historical information and preliminary information pertaining to the upcoming season indicates that the grower price for the 1998–99 potato season could average $8.60 per hundredweight of potatoes. Shipments for 1998 are expected to be 1,200,000 hundredweight. Therefore, the estimated assessment revenue for the 1998–99 fiscal period ($12,000) as a percentage of the projected total crop value ($10,320,000) could be .1163 percent.

While assessments impose some additional costs on handlers, the assessment is minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Southeastern potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 16, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large Southeastern potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A 30-day comment period is provided to allow interested persons to submit written comments. Thirty days is deemed appropriate because a final decision on the assessment rate increase needs to be made as close as possible to the end of the 1998 shipping season.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. Its operating reserve funds are very low and are expected to be exhausted before sufficient assessments can be collected during the very brief, predominately June and July, shipping and assessing period to pay critical expenses; (2) the 1998–99 fiscal period began on June 1, 1998, and the order requires that the rate of assessment for each fiscal period apply to all assessable Irish potatoes handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 953

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 953 is amended as follows:

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

1. The authority citation for 7 CFR part 953 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 953.253 is revised to read as follows:

§ 953.253 Assessment rate.

On and after June 1, 1998, an assessment rate of $0.01 per hundredweight is established for Southeastern States potatoes.

Dated: June 12, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–16091 Filed 6–16–98; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 32

RIN 3150–AF76

License Applications for Certain Items Containing Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations that govern licensing requirements for persons who incorporate byproduct material into certain items or who initially transfer certain items containing byproduct material. This action is being taken in response to a petition for rulemaking submitted by mb-microtec, Inc. (PRM–32–4), to allow the distribution of timepieces that contain less than 25 mCi of gaseous tritium light sources (GTLS) to be regulated according to the same requirements that regulate timepieces containing tritium paint. This final rule simplifies the licensing process for distribution of certain timepieces containing tritium paint and accommodates the use of a new technology for self-illuminated timepieces.

EFFECTIVE DATE: August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Donald O. Nellis, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555, Telephone (301) 415–6257 (e-mail address don@nrc.gov).

SUPPLEMENTARY INFORMATION:

I. Background
II. Public Comments on the Proposed Rule
III. Response to Public Comments
IV. Agreement State Compatibility
V. Environmental Impact: Categorical Exclusion
VI. Paperwork Reduction Act Statement
VII. Regulatory Analysis
VIII. Regulatory Flexibility Certification
IX. Backfit Analysis
X. Small Business Regulatory Enforcement Fairness Act

I. Background

A petition for rulemaking was received from mb-microtec, Inc. (RPM–32–4), and noticed for public comment on October 29, 1993 (58 FR 53670). This petition requested that those timepieces having GTLS be placed on the same regulatory basis as timepieces with luminous tritium paint. No public comments were received on the notice.

NRC regulations that are relevant to this petition are the following:

1. Under 10 CFR 30.15(a)(1), persons who receive, possess, use, transfer, own, or acquire timepieces containing byproduct material are exempted from NRC's licensing requirements provided that not more than the following quantities of byproduct material are contained in the timepiece or hands or dials:

(I) 25 mCi of tritium per timepiece;

(ii) 5 mCi of tritium per hand;

(iii) 15 mCi of tritium per dial (bezels, when used, shall be considered part of the dial).

Quantity limits for timepieces containing promethium-147 are also included.

2. Broad general requirements in § 32.14(d)(1) are applicable to the method of containment or binding of the byproduct material incorporated into the products specified in 10 CFR 30.15. Specific prototype testing requirements for tritium-painted dials, watch hands, and pointers are also provided in § 32.14(d)(1). No prototype testing procedures are provided for timepieces containing GTLS.

3. An exemption from licensing requirements in § 30.19 is similar to that found in 10 CFR 30.15(a)(1) with respect to self-luminous products containing tritium, krypton-85, or promethium-147; but unlike § 30.15(a)(1), it does not limit the quantity of these radionuclides that may be incorporated into various parts of the product. However, It does require persons who manufacture, process, produce, or initially transfer such products to apply for a specific license under § 32.22.

4. An extensive list of requirements in § 32.22 must be met in order to obtain a specific license to distribute such products, and § 32.23 and § 32.24 provide safety criteria that must be demonstrated prior to issuance of a license to distribute such products.

The petitioner stated that current regulations were overburdensome and counterproductive, and that watch manufacturers do not want to become involved with the present licensing procedures required under § 32.22 concerning GTLS watches.

The NRC believes that the health and safety impact from using timepieces with GTLS would likely be positive because the radiation dose to the public from the use, storage, distribution, etc., of timepieces using GTLS is less than the dose to the public from timepieces containing tritium paint if the same amount of tritium is used in both types of timepieces. This is because the tritium leak rate from timepieces using GTLS is lower than from timepieces using tritium paint because of significantly lower tritium leak rates from sealed glass tubes than from timepieces containing the same amount of tritium as paint. Thus, allowing the exempt distribution of timepieces using GTLS under the same regulatory requirements as those used for timepieces containing tritium paint could result in a lower dose to an individual and a lower collective dose to the public. The distribution of timepieces containing larger quantities of gaseous tritium (up to 200 mCi) has been approved for use under § 32.22, ''Self-luminous products.'' These timepieces have been evaluated against the safety criteria specified in §§ 32.22, 32.23, and 32.24 and have been found acceptable.

The NRC believes that including GTLS in § 32.14(d) to allow their exempt distribution for use under § 30.15 would reduce unnecessary burdens for both the licensees and the NRC. Without the adoption of this alternative, licensees have to manufacture timepieces under the stringent criteria in §§ 32.22, 32.23, and 32.24. The NRC must also review product design against these requirements. Because these stringent requirements are not deemed necessary for smaller quantities of tritium, these burdens could be avoided without affecting public health and safety. Based upon the foregoing, the NRC has concluded that the distribution under § 30.15 and § 32.14 should be allowed.

On September 19, 1997 (62 FR 49173), the NRC published a proposed rule that incorporated the petition in part, by removing the existing specific testing procedures for tritium from the regulations and leaving only a modified first sentence in § 32.14(d)(1):

(1) The method of containment or binding of the byproduct material in the product is such that the radioactive material will be bound and will not become detached from the product under the most severe conditions which are likely to be encountered in normal use and handling.

This modification of § 32.14(d)(1) represented a performance-based approach by removing the existing specific testing procedures from the regulations and was expected to provide increased flexibility in the regulations and the accommodation of future developments in the technology of tritium illuminated timepieces, as well