

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 29

[Docket No. TB-95-08]

Tobacco Fees and Charges for Mandatory Inspection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Tobacco Inspection Act requires the Secretary to fix and collect fees and charges for inspection and certification, the establishment of standards, and other services, including administrative and supervisory costs, at designated tobacco auction markets in all tobacco producing areas. The fees collected must, as nearly as possible, cover the Department's costs of performing these services and also maintain a reserve sufficient to cover at least 4 months of operation. This proposed rule would increase the fee from \$.0070 to \$.0083 per pound to cover the increased cost of operating the tobacco inspection program and replenish the operating reserve. The last increase in the fee was in 1991.

DATES: Comments are due on or before June 12, 1995.

ADDRESSES: Send comments to John P. Duncan, III, Director, Tobacco Division, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502, Annex Building, P.O. Box 96456, Washington, DC 20090-6456. Comments will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: John P. Duncan, III, Director, Tobacco Division, AMS, USDA, Room 502, Annex Building, P.O. Box 96456, Washington, DC 20090-6456. Telephone (202) 205-0567.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department proposes to amend the regulations governing the mandatory inspection and

certification of producer tobacco sold at designated auction markets throughout the tobacco producing areas. The proposed amendment would increase the fees and charges assessed by the Department for providing inspection and certification of tobacco at designated auction markets, establishment of standards, and other services. The new fee would cover the increased cost of operating the program, including administrative and supervisory costs, and replenish the operating reserve which has been drawn down for several years to cover the difference between revenue and obligations and is now below the required level of 4 months. Authority for these regulations is contained in the Tobacco Inspection Act (7 U.S.C. 511-511q).

The current fee of \$.0070 per pound has been in effect since July 11, 1991, as published in the **Federal Register** (56 FR 31533-31534).

The Department conducts a yearly review of the financial status of this program to determine whether the fee is sufficient. Obligations incurred during the 1993-94 marketing season were \$13,468,000 while revenue, including investments, totaled \$13,112,000 resulting in a loss of \$356,000. However, there was still an operating reserve of almost 5 months available. With 3 months remaining in the 1994-95 marketing season, obligations are estimated at \$12,969,000 but revenues are expected to reach only \$11,647,000 resulting in a loss of \$1,322,000 and reducing the operating reserve to 3.8 months. At the current level of service and fee structure, obligations for the 1995-96 marketing season are estimated at \$13,754,000 with revenue of \$12,155,000 for a loss of \$1,599,000 and a further reduction in the operating reserve to 2.2 months. If the same level of service and fee structure continues for the 1996-97 season the estimated loss would exceed \$2,000,000 and the operating reserve would fall below 1 month.

The major items affecting obligations are increases in salaries, benefits, travel costs and overall administrative costs in each year since 1991. Revenue depends on the amount of tobacco sold on the designated auction markets. Production quotas for flue-cured and burley were relatively stable for the 1992 and 1993 crops; fell sharply in 1994 and were

unchanged for burley for 1995 but increased 16 percent for flue-cured. However, the cost of providing the service has continued to rise. An analysis of available data indicates that a fee of \$.0083 per pound effective for the 1995 crop would provide sufficient revenue to exceed obligations by \$560,000 for the 1995-96 marketing season and bring the operating reserve up to 4 months.

Information on program income and expenses was presented to the National Advisory Committee for Tobacco Inspection Services at a meeting on January 19, 1995, in Lexington, Kentucky, and again on April 6, 1995, in Raleigh, North Carolina. The National Advisory Committee, consisting of 14 members representing tobacco producers, and appointed by the Secretary of Agriculture, was established by law in 1981 to advise the Secretary on the level of services needed and the fees necessary to cover those services. The Committee recommended that the level of services remain unchanged and that the fee be increased to \$.0075 per pound.

In considering the Committee's recommendation the Department notes that while a fee of \$.0075 per pound will result in smaller losses for the 1995 and 1996 marketing years, the operating reserve will continue to fall and would be below 2 months at the end of the 1996 season.

Furthermore, the difference between \$.0075 and \$.0083 per pound is only \$.80 for every 1,000 pounds; \$8.00 for 10,000 pounds; and \$80 for 100,000 pounds so the additional yearly cost for an average producer would range between \$20.00 and \$40.00. Therefore, since the Committee does not recommend a reduction in the level of services, and the recommended fee will not cover the cost of the program, the Department is proposing a fee of \$.0083 per pound effective at the start of the 1995 marketing season.

The marketing season for tobacco does not coincide with the Federal fiscal year. Therefore, it is anticipated that any increased fee would be made effective on July 1, 1995.

This rule has been determined not significant for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This proposed rule has been reviewed under Executive Order 12778, Civil

Justice Reform. This action is not intended to have retroactive effect. This proposed 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.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*) full consideration has been given to the potential economic impact upon small business. Most of the firms which would be affected by the rule are small businesses. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having gross 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 Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. This proposed rule would not substantially affect the normal movement of the commodity in the marketplace. Compliance with this proposed rule would not impose substantial direct economic costs, recordkeeping, or personnel workload changes on small entities, and would not alter the market share or competitive positions of small entities relative to the large entities and would in no way affect normal competition in the marketplace. Furthermore, the Department is required by law to fix and collect fees and charges to cover the Department's cost in operating the tobacco inspection program.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal may file them with the Director, Tobacco Division, AMS, USDA, Room 502, Annex Building, P.O. Box 96456, Washington, DC 20090-6456, not later than June 12, 1995.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

Accordingly, the Department is proposing to amend the regulations under the Tobacco Inspection Act contained in 7 CFR Part 29 as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for Part 29, subpart B continues to read as follows:

Authority: 7 U.S.C. 511m and 511r.

§ 29.123 [Amended]

2. In § 29.123, paragraph (a) is amended by removing the words "\$.0070 per pound" and adding in its place "\$.0083 per pound".

Dated: May 5, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95-11743 Filed 5-11-95; 8:45 am]

BILLING CODE 3410-02-P

Food and Consumer Services

7 CFR Part 278

RIN 0584-AC00

Food Stamp Program: Revisions in Use and Disclosure Rules Involving the Sharing of Information Provided by Retail and Wholesale Food Concerns With Other Federal and State Agencies

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rulemaking proposes to implement certain provisions in two different laws which expand the authority of the United States Department of Agriculture's Food and Consumer Service (FCS) to share information provided by applicants and firms participating as authorized retail food stores or wholesale food concerns in the Food Stamp Program (FSP) with other government agencies. The Food Stamp Act of 1977, as amended, was amended by section 203 of the Food Stamp Program Improvements Act of 1994, and the Social Security Act and the Internal Revenue Code were amended by section 316 of the Social Security Independence and Program Improvements Act of 1994. This proposed rule also includes one technical change to correct an error in regulatory reference that does not change the substance of the affected provision.

The proposed rule would implement the authority for FCS to share such information, excluding employer identification numbers (EINs) and Social Security numbers (SSNs), with Federal and State law enforcement and investigative agencies for purposes of administering and enforcing the Food Stamp Act of 1977, as amended, or any other Federal or State law and regulations issued under this Act or any other Federal or State law. It also would

provide new criteria to govern the sharing of such information and criminal penalties for unauthorized use. Finally, this rule would implement the Secretary of Agriculture's new authority to share EIN and SSN information of applicants and firms participating in the FSP with other Federal agencies.

DATES: Comments on the provisions of this rule must be received no later than June 12, 1995, to be assured of consideration.

ADDRESSES: Comments should be addressed to Suzanne Fecteau, Food and Consumer Service, Chief, Coupon and Retailer Branch, 3101 Park Center Drive, Alexandria Virginia 22302-1594. All written comments will be open to public inspection at the office of the Food and Consumer Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) in room 706, 3101 Park Center Drive, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to Suzanne Fecteau at the above address or by telephone at (703) 305-2418.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This 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.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule and related Notice to 7 CFR part 3015 subpart V (48 FR 29115, June 24, 1983), this Program is excluded from the scope of the Executive Order 12372 which requires inter-governmental consultation with State and local officials.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612). William E. Ludwig, the Administrator of the Food and Consumer Service, has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. This action may have a significant effect on a limited number of small entities found to be in violation of State or Federal laws.