

# 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

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 800

RIN 0580-AA56

#### Fees for Official Inspection and Official Weighing Services

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing a 12.5 percent increase in the administrative service fee for official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. The fee adjustment is necessary to cover indirect field office and headquarters operational costs and to maintain a 3-month operational reserve. GIPSA is also proposing to delete from the fee schedule the unit fees for submitted samples and factor only analysis performed online at an applicant's facility.

**DATES:** Written comments must be submitted on or before August 18, 1997.

**ADDRESSES:** Written comments must be submitted to George Wollam, USDA, GIPSA, ART, Stop 3649, Washington, DC 20250-3649, or FAX them to (202) 720-4628. All comments received will be made available for public inspection during regular business hours in Room 0623, South Building, USDA, 1400 Independence Avenue, SW, Washington, DC 20250-3649 (7 CFR 1.27 (b)). Comments may also be sent by electronic mail or Internet to: gwollam@fgisdcd.usda.gov.

**FOR FURTHER INFORMATION CONTACT:** George Wollam at the above address or telephone (202) 720-0292.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This rule has been determined to be nonsignificant for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

##### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. The USGSA provides in section 87g that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this proposed rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this proposed rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to provisions of this proposed rule.

##### Effects on Small Entities

James R. Baker, Administrator, GIPSA, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Most users of the official inspection and weighing services do not meet the requirements for small entities. FGIS is required by statute to make services available and to recover costs of providing such services, as nearly as practicable.

The proposed fee revision applies to entities engaged in the export of grain. Under provisions of the USGSA, most grain exported from U.S. export port locations must be officially inspected and weighed. Mandatory inspection and weighing services are provided by FGIS on a fee basis at 37 export facilities. All of the export facilities are owned and managed by multi-national corporations, large cooperatives, or public entities that do not meet the criteria for small entities as defined under the Regulatory Flexibility Act and the regulations issued thereunder. A 3-percent increase in hourly and certain unit fees went into effect June 15, 1997, and will recover the increased operational costs caused by mandated cost-of-living increases to Federal

salaries. That increase is anticipated to generate \$218,100 in additional revenue, bringing to \$22.21 million the projected total revenue for fiscal year 1997. This proposed 12.5 percent increase in the administrative fee (which was not addressed in an earlier June 15, 1997, increase) is designed to generate sufficient revenue to cover indirect costs associated with field office and headquarters operations and to maintain the retained earnings at a 3-month operating reserve for the inspection and weighing program. Additional revenue estimated for fiscal year 1998 is projected to be \$440,000 at an 85.6 million metric ton level. The 12.5 percent increase will not have a significant economic impact on small entities.

#### Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the previously approved information collection and recordkeeping requirements have been approved by the Office of Management and Budget under control number 0580-0013.

#### Background

The USGSA requires GIPSA to charge and collect reasonable fees for performing official inspection and weighing services. The fees are to cover, as nearly as practicable, FGIS's costs for performing these services, including related administrative and supervisory costs.

Effective October 1, 1996, GIPSA changed the methodology it uses for fees charged for its inspection and weighing services. The current fee structure for these services consists of three basic components: (1) An hourly rate charged to recover the direct labor costs of providing service; (2) a unit test or service rate; and (3) a per metric ton administrative charge to recover the indirect costs, such as salaries and benefits for office management and support staff and rent, incurred both at field offices and headquarters. Fees charged in the first two components of the structure were increased by approximately 3 percent effective June 15, 1997 (62 FR 31701, June 11, 1997, corrected at 62 FR 34342, June 25, 1997), to cover increased costs due to mandated Federal cost-of-living increases. At that time, GIPSA noted

that a further adjustment of fees, including an adjustment to the administrative fee to recover the indirect costs of field offices and headquarters and to replenish the operating reserve, would be addressed in future rulemaking.

The current USGSA administrative fee was published in the August 22, 1996, **Federal Register** (61 FR 43301) and became effective on October 1, 1996. The per metric ton administrative charge recovers the indirect costs and administrative costs of FGIS field offices and headquarters such as the salaries and benefits for office management and support staff, Departmental charges, Animal and Plant Health Inspection Service and Agricultural Marketing Service charges, management of computers and software, utilities, and rent. The 3-percent increase that became effective June 15, 1997, was intended to recover only increases to the salaries of service personnel responsible for inspection and weighing of grain. The administrative fee is assessed on all outbound grain inspected and/or weighed at an applicant's facility.

Six levels of fees exist, ranging from 1 metric ton or less to over 7,000,001 metric tons, with fees decreasing as the number of metric tons inspected increases. The charge is assessed in addition to the hourly rate. At the beginning of each fiscal year (October 1), all applicants pay the same per metric-ton-fee. Once a level has been reached, the fee for additional metric tons is reduced until the maximum volume is reached.

#### COMPARISON OF CURRENT AND PROPOSED ADMINISTRATIVE FEES

Metric tons	Current fees	Proposed fees
1-1,000,000 .....	\$0.090	\$0.1013
1,000,001-1,500,000 ....	.082	.0923
1,500,001-2,000,000 ....	.042	.0473
2,000,001-5,000,000 ....	.032	.0360
5,000,001-7,000,000 ....	.017	.0192
7,000,001+ .....	.002	.0023

GIPSA is now proposing a 12.5 percent increase in the administrative fee. This increase is designed to generate additional revenue to cover the indirect costs associated with field office and headquarters operations and maintain the retained earnings at a 3-month operating reserve for the inspection and weighing program.

GIPSA estimates collecting \$22.2 million in revenue for fiscal year 1997 under the current fee schedule. This is \$1 million less than the \$23.2 million estimated cost of operations for fiscal

year 1997. Similar losses have occurred for the past 3 years, with \$753,000 in fiscal year 1994; \$630,000 in fiscal year 1995; and \$1,273,000 in fiscal year 1996. These losses resulted in a retained earning balance of only \$922,000 at the beginning of fiscal year 1997, significantly below a desired 3-month operating reserve of \$6 million.

Indirect costs for the inspection and weighing program are estimated at \$4.68 million, or 20 percent of the total \$23.2 obligation for the program. Because of a down-turn in metric tons exported, the current administrative fee will generate only an estimated \$3.5 million for fiscal year 1997, resulting in an estimated loss of \$1.18 million.

The administrative fee must be increased to ensure sufficient revenue is collected to recover indirect costs for an average export volume year. This will permit any excess revenue collected during high volume years, such as 89.9 million metric tons in FY 1996, to offset low volume years such as this year estimated at 76 million metric tons.

The current administrative fee generates an estimated \$4.09 million at the 5-year average export volume of 85.6 million metric tons. The proposed fee increase of 12.5 percent will generate an estimated \$4.53 million at the 85.6 million metric ton level, or increase actual revenue by \$440,000 or 10.75 percent.

It is further proposed that fees for submitted samples and factor only analysis performed online at an applicant's facility (7 CFR 800.71, Table 1 (3)(ii)) be deleted because these services are covered under the hourly rate and should not be charged as a separate test.

#### Proposed Action

The Agency proposes, effective October 1, 1997, to apply a 12.5 percent increase to Administrative Fees in 7 CFR 800.71, Table 1 (3), and to delete fees for Additional Service (assessed in addition to all other fees) in Table 1 (3)(ii).

#### List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Grain.

For the reasons set out in the preamble, 7 CFR part 800 is proposed to be amended as follows:

#### PART 800—GENERAL REGULATIONS

1. The authority citation for Part 800 continues to read as follows:

**Authority:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

2. Section 800.71 paragraph (a), Schedule A, is amended by revising Table 1 (3) to read as follows:

#### § 800.71 Fees assessed by the Service.

(a) \* \* \*

#### SCHEDULE A.—Fees for Official Inspection and Weighing Services Performed in the United States

TABLE 1.—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY<sup>1</sup>

*****	
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier).	
(i) All outbound carriers (per-metric-ton): <sup>4</sup>	
(a) 1—1,000,000 .....	\$0.1013
(b) 1,000,001—1,500,000 .....	0.0923
(c) 1,500,001—2,000,000 .....	0.0473
(d) 2,000,001—5,000,000 .....	0.0360
(e) 5,000,001—7,000,000 .....	0.0192
(f) 7,000,001— .....	0.0023

<sup>1</sup> Fees for original inspection and weighing, reinspection, and appeal inspection service include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72 (a).

<sup>4</sup> The administrative fee is assessed on an accumulated basis beginning at the start of the Service's fiscal year (October 1 each year).

\* \* \* \* \*

Dated: July 14, 1997.

**James R. Baker,**  
Administrator.

[FR Doc. 97-18943 Filed 7-17-97; 8:45 am]

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#### FEDERAL RESERVE SYSTEM

#### 12 CFR Part 226

[Regulation Z; Docket No. R-0979]

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### 24 CFR Part 3500

[Regulation X; Docket No. FR-4257-N-01]

#### Truth in Lending Act and Real Estate Settlement Procedures Act; Simplification and Improvement of Consumer Disclosures

**AGENCIES:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner (HUD); Board of