

13. Written Agreements

Terms of this policy which are specifically designated for the use of written agreements may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 13(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (if the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on May 7, 1997.

Kenneth D. Ackerman,
Manager, Federal Crop Insurance
Corporation.

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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580-AA52

Fees for Official Inspection and Official Weighing Services

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

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) of the Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing an approximate 3 percent increase in certain of its service fees for official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. The proposed increase covers hourly rates and certain unit rates on tests performed at other than an applicant's facility. The proposed increase is designed to generate additional revenue required to recover operational costs created by

mandated cost-of-living increases to Federal salaries in fiscal year 1997.

DATE: Written comments must be submitted on or before May 28, 1997.

ADDRESSES: Written comments must be submitted to George Wollam, USDA, GIPSA, ART, Stop 3649, Washington, D.C. 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, D.C. 20250-3649 (7 CFR 1.27 (b)). Comments may also be sent by electronic mail or Internet to: gwollam@fgis.usda.gov.

FOR FURTHER INFORMATION CONTACT: George Wollam at 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 § 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 is primarily applicable 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. Some users of the service who request non-mandatory official inspection and weighing services at other than export locations could be considered small entities. However, this fee increase merely reflects the cost-of-living increases in Federal salaries for hourly and certain unit fees. The approximate 3-percent proposed increase in fees would not have a significant impact on either small or large entities. Additional revenue estimated for fiscal year 1997 are projected to be \$218,100 for a total of \$22.218 million in revenue projected for fiscal year 1997.

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

The proposed approximate 3-percent increase in fees is designed to generate additional revenue required to recover operational costs created by mandated cost-of-living increases to Federal salaries for GIPSA employees in fiscal year 1997. The average salary increase for GIPSA employees in fiscal year 1997 is approximately 3 percent. The proposed action is being taken immediately to increase fiscal year 1997 revenue to cover, in part, projected fiscal year 1997 operational costs.

The current USGSA fees and were published in the **Federal Register** on August 22, 1996 (61 FR 43301), and became effective on October 1, 1996. They will appear in the 1997 edition of 7 CFR 800.71, Schedule A, Fees for Official Inspection and Weighing Services Performed in the United States. The current fee schedule is projected to

generate approximately \$22 million revenue for fiscal year 1997. This revenue is insufficient to recover operating expenses in fiscal year 1997. This is 5.2 percent below estimated fiscal year 1997 costs of \$23.2 million. Similar losses have occurred over 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 earnings balance of only \$922,000 at the beginning of fiscal year 1997, significantly below a desired 3-month operating reserve of \$6 million. With the fee increase, it is estimated that \$218,100 in additional revenue will be generated for fiscal year 1997. Total costs for fiscal year 1997 are projected to be \$23.2 million and revenues with the fee increase for the last period of fiscal year 1997 are projected to be \$22.218 million.

A further adjustment of fees, including an adjustment to the per metric ton administrative fee to recover the indirect costs of field offices and

headquarters and replenish the operating reserve, is being considered and would be addressed in future rulemaking.

A 15-day comment period is deemed appropriate because projected exports and the associated requests for official services for such grain are projected to decrease in the coming months due to seasonal and other adjustments. Accordingly, given the current level of the operating reserve, it would be necessary to implement any fee increase that may result from this rulemaking as soon as possible.

Proposed Action

GIPSA proposes to apply an approximate 3-percent increase to those hourly and certain unit rates in 7 CFR 800.71, Table 1—Fees for Official Services Performed at an Applicant’s Facility in an Onsite FGIS Laboratory; Table 2—Services Performed at Other Than an Applicant’s Facility in an FGIS Laboratory; and Table 3, Miscellaneous Services.

In reviewing the fee schedule to identify these fees that would require a 3-percent increase, FGIS has identified several fees that under the current fee schedule are at levels that would not require any change. Accordingly, these fees would remain the same at this time.

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 revised 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 is revised 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 ¹

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and Overtime ²	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative)				
1-year contract	\$23.80	\$25.60	\$33.40	\$40.20
6-month contract	25.80	27.60	35.40	46.20
3-month contract	29.60	30.80	38.60	48.00
Noncontract	34.00	36.00	44.20	54.20
(2) Additional Tests (cost per test, assessed in addition to the hourly rate) ³				
(i) Aflatoxin (other than Thin Layer Chromatography)	8.50
(ii) Aflatoxin (Thin Layer Chromatography method)	20.00
(iii) Soybean protein and oil (one or both)	1.50
(iv) Wheat protein (per test)	1.50
(v) Sunflower oil (per test)	1.50
(vi) Vomitoxin (qualitative)	7.50
(vii) Vomitoxin (quantitative)	12.50
(viii) Waxy corn (per test)	1.50
(ix) Fees for other tests not listed above will be based on the lowest noncontract hourly rate.
(x) Other services
(a) Class Y Weighing (per carrier)
(1) Truck/container30
(2) Railcar	1.25
(3) Barge	2.50
(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) ⁴
(a) 1–1,000,000	0.090
(b) 1,000,001–1,500,000	0.082
(c) 1,500,001–2,000,000	0.042
(d) 2,000,001–5,000,000	0.032
(e) 5,000,001–7,000,000	0.017
(f) 7,000,001–0002
(ii) Additional services (assessed in addition to all other fees) ³
(a) Submitted sample (per sample—grade and factor)	1.50

TABLE 1.—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY¹—Continued

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and Overtime ²	Holidays
(b) Submitted sample—Factor only (per factor)	0.70

¹ Fees apply 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).

² Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.

³ Appeal and reinspection services will be assessed the same fee as the original inspection service.

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

TABLE 2.—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY^{1 2}

(1) Original Inspection and Weighing (Class X) Services:	
(i) Sampling only (use hourly rates from Table 1):	
(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	\$17.80
(b) Railcar (per carrier)	27.25
(c) Barge (per carrier)	174.00
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.02
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	9.75
(b) Railcar (per carrier)	19.00
(c) Barge (per carrier)	108.00
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.02
(iv) Other services:	
(a) Submitted sample (per sample—grade and factor)	10.25
(b) Warehouseman inspection (per sample)	17.25
(c) Factor only (per factor—maximum 2 factors)	4.20
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.02
(e) Reinspection (grade and factor only. Sampling service additional, item (i) above)	11.25
(f) Class X Weighing (per hour per service representative)	45.00
(v) Additional tests (excludes sampling):	
(a) Aflatoxin (per test—other than TLC method)	25.25
(b) Aflatoxin (per test—TLC method)	100.75
(c) Soybean protein and oil (one or both)	7.85
(d) Wheat protein (per test)	7.85
(e) Sunflower oil (per test)	7.85
(f) Vomitoxin (qualitative)	25.25
(g) Vomitoxin (quantitative)	30.25
(h) Waxy corn (per test)	9.10
(i) Canola (per test—00 dip test)	9.10
(j) Pesticide Residue Testing ³ :	
(1) Routine Compounds (per sample)	200.00
(2) Special Compounds (per service representative)	100.00
(k) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service: ⁴	
(i) Board Appeals and Appeals (grade and factor)	74.85
(a) Factor only (per factor—max 2 factors)\$	38.25
(b) Sampling service for Appeals additional (hourly rates from Table 1).	
(ii) Additional tests (assessed in addition to all other applicable fees):	
(a) Aflatoxin (per test, other than TLC)	25.25
(b) Aflatoxin (TLC)	110.30
(c) Soybean protein and oil (one or both)	15.45
(d) Wheat protein (per test)	15.45
(e) Sunflower oil (per test)	15.45
(f) Vomitoxin (per test—qualitative)	35.25
(g) Vomitoxin (per test—quantitative)	40.25
(h) Vomitoxin (per test—HPLC Board Appeal)	126.00
(i) Pesticide Residue Testing ³ :	
(1) Routine Compounds (per sample)	200.00
(2) Special Compounds (per service representative)	100.00
(j) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	65.40
(3) Stowage examination (service-on-request): ³	
(i) Ship (per stowage space) (minimum \$250 per ship)	50.00
(ii) Subsequent ship examinations (same as original) (minimum \$150 per ship).	
(iii) Barge (per examination)	40.00

TABLE 2.—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY ^{1 2}—Continued

(iv) All other carriers (per examination)	15.00
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¹ Fees apply 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).
² An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(2).
³ If performed outside of normal business, 1½ times the applicable unit fee will be charged.
⁴ If, at the request of the Service, a file sample is located and forwarded by the Agency for an official agency, the Agency may, upon request, be reimbursed at the rate of \$2.50 per sample by the Service.

TABLE 3.—MISCELLANEOUS SERVICES ¹

(1) Grain grading seminars (per hour per \$45.00 service representative) ²	\$45.00
(2) Certification of diverter-type mechanical samplers (per hour per service representative) ²	45.00
(3) Special weighing services (per hour per service representative) ²	
(i) Scale testing and certification	45.00
(ii) Evaluation of weighing and material handling systems	45.00
(iii) NTEP Prototype evaluation (other than Railroad Track Scales)	45.00
(iv) NTEP Prototype evaluation of Railroad Track Scales (plus usage fee per day for test car)	100.00
(v) Mass standards calibration and reverification	45.00
(vi) Special projects	45.00
(4) Foreign travel (per day per service representative)	420.00
(5) Online customized data EGIS service:	
(i) One data file per week for 1 year	500.00
(ii) One data file per month for 1 year	300.00
(6) Samples provided to interested parties (per sample)	2.50
(7) Divided-lot certificates (per certificate)	1.50
(8) Extra copies of certificates (per certificate)	1.50
(9) Faxing (per page)	1.50
(10) Special mailing (actual cost)	
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

¹ Any requested service that is not listed will be performed at \$45.00 per hour.
² Regular business hours—Monday thru Friday—service provided at other than regular hours charged at the applicable overtime hourly rate.

Dated: May 7, 1997.
James R. Baker,
Administrator.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1126

[DA-97-06]

Milk in the Texas Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This document invites written comments on a proposal that would continue the suspension of segments of the pool plant and producer milk definitions of the Texas order for a two-year period. Associated Milk Producers, Inc., a cooperative association that represents producers who supply milk to the market, has requested the continuation of the suspension. The cooperative asserts that continuation of this suspension is necessary to ensure

that dairy farmers who have historically supplied the Texas market will continue to have their milk priced under the Texas order without incurring costly and inefficient movements of milk.

DATES: Comments are due no later than June 12, 1997.

ADDRESSES: Comments (two copies) should be sent to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-9368.

FOR FURTHER INFORMATION CONTACT: Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-9368, e-mail address: Clifford_M_Carman@usda.gov.

SUPPLEMENTARY INFORMATION: The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), 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 request modification or exemption from such order by filing 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. A handler is afforded the opportunity for a hearing on the petition. After a 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 its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a