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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: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) of the Grain Inspection, Packers and Stockyards Administration (GIPSA) is increasing by approximately 3 percent fees it charges for certain of its official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. The increase covers hourly rates and certain unit rates on tests performed at other than an applicant's facility. The 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.

EFFECTIVE DATE: June 15, 1997.

FOR FURTHER INFORMATION CONTACT: George Wollam, USDA-GIPSA-ART, Room 0623-South Building, STOP 3649, 1400 Independence Avenue, S.W., Washington, D.C., 20250-3649, Telephone (202) 720-0292, or FAX (202) 720-4628, or E-Mail—gwollam@fgisd.usda.gov.

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 final 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 final rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this final rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to provisions of this final rule.

Effects on Small Entities

James R. Baker, Administrator, GIPSA, has determined that this final 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 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 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 increase in fees will not have a significant impact on either small or large entities. Additional revenue estimated for fiscal year 1997 is projected to be \$218,100 for a total of \$22.21 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

On May 13, 1997, GIPSA published in the **Federal Register** (62 FR 26252) a proposal to increase by approximately 3 percent certain fees it charges for official inspection and weighing services. A correction docket was published in the **Federal Register** (62 FR 28922) on May 28, 1997, which made non substantive format and editorial changes to Table 1 of schedule A of section 800.71(a).

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 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 final 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 were published in the **Federal Register** on August 22, 1996 (61 FR 43301), and became effective on October 1, 1996. 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 \$22.21 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 will be addressed in future rulemaking.

Comment Review

FGIS received three comments from trade associations during the 15-day comment period. One commentor did not oppose the proposed increases to existing fees; one was neutral on the proposed fee increase; and one did not address the merits of the fee increase itself. All the commentors, however, encourage GIPSA to strengthen its efforts to trim overhead and improve operating efficiencies throughout the organization. GIPSA continuously monitors its costs and strives to lessen overhead and improve operating efficiencies.

One commentor also was of the view that the 15-day comment period did not allow enough time to notify its members of the proposed action. As stated in the proposal, a 15-day comment period was 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 was deemed necessary to implement any fee increase that may result from this rulemaking as soon as possible.

Final Action

GIPSA is applying 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 fees that require a 3-percent increase, FGIS identified several fees that under the current fee schedule are at levels that do not require any change. Accordingly, those fees will remain the same at this time.

It is found that good cause exists for not postponing the effective date of this

rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) 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; (2) given the current level of the operating reserve, the fee increase should be implemented as soon as possible; and the effective date coincides with beginning of a billing cycle.

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 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 amended by revising Schedule A 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 LABORATORY¹

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and Over- time 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

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 Over- time ²	Holidays
(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—	0.002
(ii) Additional services (assessed in addition to all other fees) ³				
(a) Submitted sample (per sample—grade and factor)	1.50
(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)	
(a) Factor only (per factor—max 2 factors)	74.85
(b) Sampling service for Appeals additional (hourly rates from Table 1).	38.25
(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

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

(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
(iv) All other carriers (per examination)	15.00

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 (b).

³ If performed outside of normal business, 1–1/2 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 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)
	45.00
(v) Mass standards calibration and reverification	100.00
(vi) Special projects	45.00
(4) Foreign travel (per day per service representative)	45.00
(5) Online customized data EGIS service	420.00
(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: June 6–5, 1997.

David R. Shipman,

Acting Administrator.

[FR Doc. 97–15267 Filed 6–10–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[FV96–985–3 FIR]

Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1996–97 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, an interim

final rule increasing the quantity of Class 3 (Native) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 1996–97 marketing year. This rule was recommended by the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West. The Committee recommended this rule to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the Far West spearmint oil market.

EFFECTIVE DATE: June 11, 1997.

FOR FURTHER INFORMATION CONTACT:

Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2043; Fax: (503) 326–7440; or Caroline C. Thorpe, Marketing Order

Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–8139; Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 985 (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, designated parts of Nevada, and Utah), hereinafter referred to as the “order.” This 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.”