

# 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-AA40

#### 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 a change in the way it collects user fees for official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. Currently, FGIS assesses fees on an hourly basis. The proposed fee structure establishes fees for specific services using hourly rates and/or unit fees. This structure will provide customers with information to better assess the cost of specific services and allow FGIS to pass savings (in the form of fewer billable hours) to customers who invest in operational efficiencies. The proposed fee structure does include a 4 percent increase to recover salary increases.

**DATE:** Comments must be received on or before January 29, 1996.

**ADDRESSES:** Written comments must be submitted to George Wollam, USDA, GIPSA, Room 0623 South Building, P.O. Box 96454, Washington, DC 20090-6454, 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 20090-6454 (7 CFR 1.27 (b)).

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

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined to be significant for the purposes of Executive Order 12866 and therefore has been reviewed by the Office of Management and Budget.

The proposed change in the way user fees are collected will provide customers with information to better assess the costs of specific inspection services because the fees will be more service specific than under the current hourly rate. Further, it will allow savings to be passed on to users of the service who invest in operational efficiencies. Currently, applicants choose only those services they want, but individual service costs are supported by the hourly rate without segregation. Fiscal year 1993 financial and volume data were used in developing the proposed fee structure. While certain fees are increased and new fees are established, the revenue generated using the fiscal year 1993 data is equivalent to the \$23,192,178 collected that year.

The proposed fee structure does include a 4 percent increase to recover salary increases since 1993 and would have generated sufficient revenue to cover costs for fiscal year 1994 and the anticipated costs for fiscal year 1995. For information, fiscal year 1994 revenues were \$20,662,062 with obligations of \$21,415,400. For the first half of fiscal year 1995, revenues were \$11,691,695 with obligations of \$12,027,624. Obligations include buy out costs, along with costs associated with office consolidations.

Presently, users of the inspection service are charged on an hourly basis. This hourly rate includes the salary and benefits for each service representative providing the service as well as a portion of overhead and program support costs. The overall cost of a wide variety of services, e.g., grading, weighing, wheat protein measurement, soybean protein and oil measurement, and aflatoxin detection, are averaged together and recovered through an hourly service rate. Under the proposed system, customers will be charged a lower base hourly rate plus a unit fee to cover the cost of the specific service they request such as wheat protein. Overhead and program support costs will be recovered through a per-metric-

ton volume fee assessed on all grain loaded from a facility.

This rule may have an economic impact on infrequent users of the service. FGIS incurs difficulty balancing costs and revenue in some locations where customers desire local FGIS service capability but use the service infrequently. The proposed fee schedule is designed to shift the cost of non-revenue producing time to those users responsible for incurring it. Consequently, infrequent users of the service may find the net effect of the proposed hourly fees and per-metric-ton administrative fee increases their total per-metric-ton cost for inspection service. Conversely, highly efficient and/or high-volume users of the service may realize a decrease in their per-metric-ton cost for inspection service, due to the reduced contract hourly rate, and the use of an administrative fee to cover overhead and program support expenses. Additional information provided in an impact assessment will be provided upon request.

James R. Baker, Administrator, GIPSA, has determined that this proposed action will not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, 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 rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to provisions of this rule.

#### Regulatory Flexibility Act Certification

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.*) because most users of the official inspection and weighing services do not meet the requirements for small entities. FGIS is required by