

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 868

[Docket No. FGIS-2000-002a]

RIN 0580-AA74

Fees for Commodity and Rice Inspection Services

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

ACTION: Proposed rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing an approximate 3.7 percent increase in fees for all hourly rates and certain unit rates for inspection services performed under the Agricultural Marketing Act (AMA) of 1946 in the commodity and rice inspection programs. These increases are needed to cover increased operational costs resulting from the mandated January 2001 Federal pay increase.

DATES: Written comments must be submitted on or before January 2, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Written comments must be submitted to Sharon Vassiliades, GIPSA, USDA, 1400 Independence Avenue, SW, Room 1647-S, Washington, DC 20250-3604, or faxed to (202) 690-2755. Comments may also be sent by E-mail to: comments@gipsadc.usda.gov. Please state that your comments refer to Docket No. FGIS-2000-002a. Comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT: David Orr, Director, Field Management Division, at his E-mail address: Dorr@gipsadc.usda.gov, or telephone him at (202) 720-0228.

SUPPLEMENTARY INFORMATION:

A. Executive Order 12866 the Regulatory Flexibility Act, and the Paperwork Reduction Act

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.

Also, pursuant to the requirements set forth in the Regulatory Flexibility Act, James R. Baker, Administrator, GIPSA, has determined that this 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.*).

GIPSA regularly reviews its user-fee programs to determine if the fees are adequate and continues to seek cost saving opportunities and implement appropriate changes to reduce costs. Such actions can provide alternatives to fee increases. Employee salaries and benefits are major program costs that account for approximately 84 percent of GIPSA's total operating budget. A January 2001 general and locality salary increase that averages 3.7 percent for all GIPSA employees will increase program costs in both the commodity and the rice inspection programs.

1. Commodity Inspection Program

The commodity inspection program consists of two different programs, *i.e.*, graded commodities and processed commodities. Fees for these programs are in Tables 1 and 2 of 7 CFR 868.90. These programs serve two different markets: The graded commodity market is made up of producers and processors of edible beans, peas, and lentils. The processed commodity market consists of processors and shippers of products such as wheat flour, soybean meal, vegetable oil, and corn meal. USDA's Farm Service Agency (FSA) implemented program changes during FY 2000 that eliminated requirements for end-item and vessel loading observation inspections for processed commodities. Program changes, including personnel adjustments, have been implemented to begin offsetting operating costs due to the loss of the FSA program inspections. Additional cost-cutting measures will continue in FY 2001. Even with these cost-saving measures, the commodity inspection program will continue to lose funds. In FY 1999, operating costs in the commodity inspection program were

\$5,951,852 with revenue of \$7,190,879 that resulted in a positive margin of \$1,239,027 and a positive reserve balance of \$1,764,140. As of August 31, 2000, FY 2000 operating costs were \$4,835,881 with revenue of \$5,065,643 that resulted in a positive margin of \$229,762 and a positive reserve of \$2,066,752. However, in the last two months, since all FSA program changes have been implemented, we have received \$579,274 in revenue and \$745,125 in costs that have resulted in a \$165,851 negative margin. The salary adjustment will increase GIPSA's costs in the commodity inspection program by approximately \$95,000. The current positive margin and reserve balance will not continue due to the loss of processed commodity inspection and the remaining programs in the commodity inspection program cannot absorb the 3.7 percent salary increase even with the planned cost-cutting measures.

The proposed fee increase for our graded commodities program applies primarily to GIPSA customers that produce, process, and market graded commodities for the domestic and international markets. There are approximately 156 such customers located primarily in the States of North Dakota, South Dakota, Oregon, Kansas, Colorado, Montana, Texas, Michigan, Nebraska, Minnesota, Washington, Idaho, and California. Many of these customers meet the criteria for small entities established by the Small Business Administration criteria for small businesses. Even though the fees are being increased, the increase will not be excessive (3.7 percent) and should not significantly affect those entities. Those entities are under no obligation to use our service and, therefore, any decision on their part to discontinue the use of our service should not prevent them from marketing their products.

2. Rice Inspection Program

The existing fee schedule for GIPSA's rice inspection program will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Fees for this program are in Tables 1 and 2 of 7 CFR 868.91. In FY 1999, GIPSA's operating costs in its Rice Inspection Program were \$4,105,564 with revenue of \$4,412,131 that resulted in a positive

margin of \$306,567 and a negative reserve balance of \$508,628. As of August 31, 2000, operating costs in the rice program were \$3,694,050 with revenue of \$4,421,869 that resulted in a positive margin of \$727,819 and a positive reserve of \$315,391. The current positive reserve balance is well below the desired 3-month reserve of approximately \$1 million.

We have reviewed the financial position of our rice inspection program based on the increased salary and benefit costs, along with the projected FY 2001 workload. Even though the financial status of the rice inspection program has improved, we have concluded that we cannot absorb the increased costs caused by the 3.7 percent salary increase with the small positive reserve balance. This proposed fee increase will collect an estimated \$155,500 in additional revenues in the rice program based on the projected FY 2001 work volume of 3.9 million metric tons.

This proposed fee increase applies primarily to GIPSA customers that produce, process, and market rice for the domestic and international markets. There are approximately 550 such customers located primarily in the States of Arkansas, Louisiana, and Texas. Many of these customers meet the criteria for small entities established by the Small Business Administration criteria for small businesses. Even though the fees are being increased, the increase will not be excessive (3.7 percent) and should not significantly affect those entities. Those entities are under no obligation to use our service and, therefore, any decision on their part to discontinue the use of our service should not prevent them from marketing their products.

There will be no additional reporting or record keeping requirements imposed by this action. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 35), the information collection and record keeping requirements in Part 868 have been previously approved by the Office of Management and Budget under control number 0580-0013. GIPSA has not identified any other Federal rules which may duplicate, overlap, or conflict with this rule.

B. 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. This action will not preempt any State or local laws, regulations, or policies

unless they present irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

C. Proposed Action

Under the provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621, *et seq.*), commodity and rice inspection services are provided upon request and GIPSA must collect a fee from the customer to cover the cost of providing such services. Section 203 (h) of the AMA (7 U.S.C. 1622 (h)) provides for the establishment and collection of fees that are reasonable and, as nearly as practicable, cover the costs of the services rendered. These fees cover the GIPSA administrative and supervisory costs for the performance of official services, including personnel compensation and benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment.

The commodity inspection fees were last amended on December 18, 1996, and became effective February 18, 1997 (61 FR 66533). The rice inspection fees were last amended on March 30, 2000, and became effective May 1, 2000 (65 FR 16787). These fees were to cover, as nearly as practicable, the level of operating costs as projected for FY 1997 and FY 2000, respectively. GIPSA continually monitors its cost, revenue, and operating reserve levels to ensure that there are sufficient resources for operations. During FY 1998, GIPSA implemented cost-saving measures in the rice program in an effort to provide more cost-effective services. The purpose of these measures was to reduce operating costs in order to reduce the negative retained earnings in this program. The cost containment measures included employee buyouts and better cross utilization of personnel between programs.

GIPSA regularly reviews its user-fee-financed programs to determine if the fees are adequate and continues to seek out cost-saving opportunities and implement appropriate changes to reduce costs. Such actions can provide alternatives to fee increases.

1. Commodity Inspection Program

The commodity inspection program consists of two different programs, graded and processed commodities. Fees for these programs can be found in 7 CFR 868.90 (a), Tables 1 and 2. These programs serve two different markets with different applicants. The graded commodity market is made up of producers and processors of edible

beans, peas, and lentils. The processed commodity market consists of processors and shippers of products such as wheat flour, soybean meal, vegetable oil, and corn meal. USDA's Farm Service Agency (FSA) implemented program changes during FY 2000 that has resulted in a 96 percent reduction in processed commodity inspections. The processed commodity inspection program represents approximately 86 percent of all revenue and 62 percent of the cost. Initial program changes, including personnel adjustments, have been implemented to begin offsetting the lost revenue and reduce operating costs. Additional cost-cutting measures will continue in FY 2001. Even with these cost-saving measures, the commodity inspection program will continue to lose funds. In FY 1999, operating costs in the commodity inspection program were \$5,951,852 with revenue of \$7,190,879 that resulted in a positive margin of \$1,239,027 and a positive reserve balance of \$1,764,140. As of August 31, 2000, FY 2000 operating costs were \$4,835,881 with revenue of \$5,065,643 that resulted in a positive margin of \$229,762 and a positive reserve of \$2,066,752. However, \$579,274 in revenue and \$745,125 in costs for the preceding two months since all FSA program changes have been implemented, has resulted in a \$165,851 negative margin. The salary adjustment will increase GIPSA's costs in the commodity inspection program by approximately \$95,000. The current positive margin and reserve balance will not continue due to the loss of processed commodity inspection and the remaining programs in the commodity inspection program cannot absorb the 3.7 percent salary increase even with the planned cost-cutting measures.

The costs associated with salaries and benefits are recovered by the hourly rates for personnel performing direct service. Other associated costs, including non-salary related overhead, are collected through other fees contained in the fee schedule and are at levels that do not require any change. GIPSA is proposing a 3.7 percent increase to the hourly rates and certain unit rates in 7 CFR 868.90, (a) Table 1—Hourly Rates (Fees for Inspection of Commodities Other Than Rice). Currently, the regular weekday hourly rate is \$33.00, while Saturday, Sunday, and Holidays are \$42.50. The other current unit rates are:

Miscellaneous Processed Commodities: (1) Additional Tests (cost per test, assessed in addition to the hourly rate):	
(i) Aflatoxin Test (Thin Layer Chromatography)	\$51.40
(ii) Falling Number	12.00
(iii) Aflatoxin Test Kit	7.50
Graded Commodities (Beans, Peas, Lentils, Hops, and Pulses):	
(1) Additional Tests—Unit Rates (Beans, Peas, Lentils):	
(i) Field run (per lot or sample)	22.70
(ii) Other than field run (per lot or sample)	13.50
(iii) Factor analysis (per factor)	5.50
(2) Additional Tests—Unit Rates (Hops):	
(i) Lot or sample (per lot or sample)	29.00
(3) Additional Tests—Unit Rates (Nongraded Nonprocessed Commodities):	
(i) Factor analysis (per factor)	5.50
(4) Stowage Examination (service—on-request)	
(i) Ship (per stowage space)	50.00
(minimum \$250 per ship)	
(ii) Subsequent ship examination (same as original)	
(minimum \$150 per ship)	
(iii) Barge (per examination) (minimum \$250 per ship)	40.00
(iv) All other carriers (per examination)	15.00

2. Rice Inspection Program

The existing fee schedule for GIPSA's rice inspection program will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Fees for this program are in 7 CFR 868.91, Tables 1 and 2. In FY 1999, GIPSA's operating costs in the rice program were \$4,105,564 with revenue of \$4,412,131 that resulted in a positive margin of \$306,567 and a negative reserve balance of \$508,628. As of August 31, 2000, operating costs in the rice program were \$3,694,050 with revenue of \$4,421,869 that resulted in a positive margin of

\$727,819 and a positive reserve of \$315,391. The current positive reserve balance is well below the desired 3-month reserve of approximately \$1 million.

We have reviewed the financial position of our rice inspection program based on the increased salary and benefit costs, along with the projected FY 2001 workload. Even though the financial status of our rice inspection program has improved, we have concluded that with the small positive reserve balance we cannot absorb the increased costs caused by the 3.7 percent salary increase. This proposed

fee increase will collect an estimated \$155,500 in additional revenues in the rice program based on the projected FY 2001 work volume of 3.9 million metric tons.

In 7 CFR 868.91, Table 1—Hourly Rates/Unit Rate Per CWT and Table 2—Unit Rates, currently the regular workday contract and noncontract fees are \$42.80 and \$52.40, respectively, while the nonregular workday contract and noncontract fees are \$59.60 and \$72.40, respectively. The unit rate per hundredweight for export port services is currently \$0.052 per hundredweight. The rice current unit rates are:

Service	Rough rice	Brown rice for Processing	Milled rice
Inspection for quality (per lot, subplot, or sample inspection)	\$34.50	\$29.80	\$21.20
Factor analysis for any single factor (per factor):			
(a) Milling yield (per sample)	26.75	26.75	.....
(b) All other factors (per factor)	12.70	12.70	12.70
Total oil and free fatty acid		42.00	42.00
Interpretive line samples:			
(a) Milling degree (per set)			89.20
(b) Parboiled light (per sample)			22.35
Extra copies of certificates (per copy)	3.00	3.00	3.00

List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agricultural commodities.

For reasons set out in the preamble, 7 CFR part 868 is proposed to be amended as follows:

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for part 868 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087 as amended (7 U.S.C. 1621, *et seq.*)

2. In § 868.90 paragraph (a) is revised to read as follows:

§ 868.90 Fees for certain Federal inspection services.

(a) The fees shown in Table 1 apply to Federal Commodity Inspection Services specified below.

TABLE 1.—HOURLY RATES^{1 3}
[Fees for inspection of commodities other than rice]

Hourly Rates (per service representative):	
Monday to Friday—\$34.20	
Saturday, Sunday, and Holidays—\$44.40	
Miscellaneous Processed Commodities: ²	
(1) Additional Tests (cost per test, assessed in addition to the hourly rate):	
(i) Aflatoxin Test (Thin Layer Chromatography)	\$51.40
(ii) Falling Number	12.50

TABLE 1.—HOURLY RATES ^{1 3}—Continued
[Fees for inspection of commodities other than rice]

(iii) Aflatoxin Test Kit	7.50
Graded Commodities (Beans, Peas, Lentils, Hops, and Pulses):	
(1) Additional Tests—Unit Rates (Beans, Peas, Lentils):	
(i) Field run (per lot or sample)	23.00
(ii) Other than field run (per lot or sample)	13.75
(iii) Factor analysis (per factor)	5.65
(2) Additional Tests—Unit Rates (Hops):	
(i) Lot or sample (per lot or sample)	29.30
(3) Additional Tests—Unit Rates (Nongraded Nonprocessed Commodities):	
(i) Factor analysis (per factor)	5.65
(3) Stowage Examination (service-on-request) ⁴ :	
(i) Ship (per stowage space) (minimum \$252.50 per ship)	50.50
(ii) Subsequent ship examinations (same as original)	(⁵)
(iii) Barge (per examination)	40.50
(iv) All other carriers (per examination)	15.50

¹ Fees for original commodity inspection and appeal inspection services include, but are not limited to, sampling, grading, weighing, stowage examinations, pre-inspection conferences, sanitation inspections, and other services requested by the applicant and that are performed within 25 miles of the field office. Travel and related expenses (commercial transportation costs, mileage, and per diem) will be assessed in addition to the hourly rate for service beyond the 25-mile limit. Refer to § 868.92. Explanation of service fees and additional fees, for all other service fees except travel and per diem.

² When performed at a location other than the Commodity Testing Laboratory.

³ Faxed and extra copies of certificates will be charged at \$1.50 per copy.

⁴ If performed outside of normal business hours, 1½ times the applicable unit fee will be charged.

⁵ Minimum \$151.50 per ship.

* * * * *

3. Section 868.91 is revised to read as follows:

§ 868.91 Fees for certain Federal rice inspection services.

The fees shown in Tables 1 and 2 apply to Federal rice inspection services.

TABLE 1.—HOURLY RATES/UNIT RATE PER CWT
[Fees for Federal Rice Inspection Services]

Service ¹	Regular workday (Monday–Saturday)	Nonregular workday (Sunday–Holiday)
Contract (per hour per Service representative)	\$44.80	\$61.80
Noncontract (per hour per Service representative)	54.30	75.00
Export Port Services (per hundredweight) ² .....	.054	.054

¹ Original and appeal inspection services include: Sampling, grading, weighing, and other services requested by the applicant when performed at the applicant's facility.

² Services performed at export port locations on lots at rest.

TABLE 2.—UNIT RATES

Service ^{1, 3}	Rough rice	Brown rice for processing	Milled rice
Inspection for quality (per lot, subplot, or sample inspection)	\$34.80	\$30.00	\$21.50
Factor analysis for any single factor (per factor):			
(a) Milling yield (per sample)	27.00	27.00	.....
(b) All other factors (per factor)	12.90	12.90	12.90
Total oil and free fatty acid .....	.....	42.60	42.60
Interpretive line samples: ²			
(a) Milling degree (per set) .....	.....	.....	91.00
(b) Parboiled light (per sample) .....	.....	.....	22.60
Extra copies of certificates (per copy)	3.00	3.00	3.00

¹ Fees apply to determinations (original or appeals) for kind, class, grade, factor analysis, equal to type, milling yield, or any other quality designation as defined in the U.S. Standards for Rice or applicable instructions, whether performed singly or in combination at other than at the applicant's facility.

² Interpretive line samples may be purchased from the U.S. Department of Agriculture, GIPSA, FGIS, Technical Services Division, 10383 North Executive Hills Boulevard, Kansas City, Missouri 64153–1394. Interpretive line samples also are available for examination at selected FGIS field offices. A list of field offices may be obtained from the Director, Field Management Division, USDA, GIPSA, FGIS, 1400 Independence Avenue, SW, STOP 3630, Washington, DC 20250–3630. The interpretive line samples illustrate the lower limit for milling degrees only and the color limit for the factor "Parboiled Light" rice.

³ Fees for other services not referenced in table 2 will be based on the noncontract hourly rate listed in § 868.90, table 1.

Dated: October 30, 2000.

David Orr,

*Acting Administrator, Grain Inspection,
Packers and Stockyards Administration.*

[FR Doc. 00-28145 Filed 11-2-00; 8:45 am]

BILLING CODE 3410-EN-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 00-24]

RIN 1557-AB14

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R-1084]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064-AC44

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

[Docket No. 2000-90]

RIN 1550-AB11

Simplified Capital Framework for Non- Complex Institutions

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) are considering developing a simplified regulatory capital framework applicable to non-complex banks and thrifts (non-complex institutions). The Agencies believe that the size, structure, complexity, and risk profile of many banking and thrift institutions (banking organizations or institutions) may warrant the application of a simplified capital framework that could relieve regulatory burden associated with the existing capital rules.

The Agencies are considering the advantages and disadvantages associated with developing a regulatory capital framework specifically for non-complex institutions. The main objective of this advance notice of proposed rulemaking is to obtain preliminary views from the industry and the public regarding such a framework. The information gathered as a result of this advance notice of proposed rulemaking will assist the Agencies in determining whether to propose a simplified capital framework and, if so, how the framework should be structured and implemented.

In considering the development of a less burdensome regulatory framework, the Agencies would not lower capital standards or encourage a reduction in existing capital levels. Rather, a simplified, less burdensome framework may result in higher minimum regulatory capital requirements for certain institutions than required under current capital standards. Many non-complex institutions currently maintain levels of capital in excess of the regulatory minimum requirements, and the Agencies would therefore expect that most banking organizations subject to a simplified framework would not have to increase capital levels.

This advance notice of proposed rulemaking sets forth broad options for a simplified framework. The options advanced for comment include adopting a simplified risk-based framework (and maintaining the leverage ratio requirement) or adopting a leverage-based approach. The leverage-based approach may include either a traditional leverage framework or one that is modified to address off-balance sheet risks.

DATES: Comments must be received by no later than February 1, 2001.

ADDRESSES: Comments should be directed to:

OCC: Comments may be submitted to Docket No. 00-24, Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. Comments will be available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to (202) 874-5274, or by electronic mail to regs.comments@occ.treas.gov. You can make an appointment to inspect the comments by calling (202) 874-5043.

Board: Comments, which should refer to Docket No. R-1084, may be mailed to Ms. Jennifer J. Johnson, Secretary, the Board of Governors of the Federal Reserve System, 20th and C Streets,

NW., Washington, DC 20551, or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP-500 between 9 a.m. and 5 p.m. weekdays pursuant to § 261.12, except as provided in § 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FDIC: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. (facsimile number (202) 898-3838; Internet address: comments@fdic.gov). Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC 20429, between 9 a.m. and 4:30 p.m. on business days.

OTS: Send comments to Manager, Dissemination Branch, Information Management & Services Division, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention Docket No. 2000-90. Hand deliver comments to Public Reference Room, 1700 G Street, NW, lower level, from 9 a.m. to 4 p.m. on business days. Send facsimile transmissions to FAX number (202) 906-7755 or (202) 906-6956 (if the comment is over 25 pages). Send e-mails to public.info@ots.treas.gov and include your name and telephone number. Interested persons may inspect comments at 1700 G Street, NW, from 10 a.m. until 4 p.m. on Tuesdays and Thursdays, or obtain comments or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906-5900 from 9 a.m. until 5 p.m. on business days. Comments and the related index will also be posted on the OTS Internet Site at "www.ots.treas.gov."

FOR FURTHER INFORMATION CONTACT:

OCC: Amrit Sekhon, Risk Specialist, Capital Policy Division, (202) 874-5211; or Ron Shimabukuro, Senior Attorney, Legislative and Regulatory