

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

[Docket No. FGIS-2001-003a]

RIN 0580-AA79

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 to increase certain fees by approximately 4.6 percent; i.e., contract and noncontract hourly rates, certain unit rates, and the administrative tonnage fee increases. These fees apply only to official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. These increases are needed to cover increased operational costs resulting from the approximate 4.6 percent anticipated January 2002 Federal pay increase. GIPSA anticipates the increase in the user fees will generate approximately \$703,000 in additional revenue.

DATES: February 1, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Written comments must be submitted to Tess Butler, 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.gov. Please state that your comments refer to Docket No. FGIS 2001-003a. 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: Executive Order 12866, 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, it has been 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.*).

GIPSA regularly reviews its user-fee-financed programs to determine if the fees are adequate. GIPSA has and will continue to seek out cost saving opportunities and implement appropriate changes to reduce costs. Such actions can provide alternatives to fee increases. However, even with these efforts, GIPSA's existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Retained earnings balances are adjusted to reflect prior year revenue and obligations realized in the year reported. In FY 1999, GIPSA's operating costs were \$23,176,643 with revenue of \$22,971,204, resulting in a negative margin of \$205,440. In FY 2000, GIPSA's operating costs were \$24,146,428 with revenue of \$23,150,188 that resulted in a negative margin of \$996,240 and a negative reserve balance of \$938,147. Using the most recent data available, GIPSA's FY 2001 operating costs were \$25,670,126 with revenue of \$23,977,240 that resulted in a negative margin of \$1,692,886. The current reserve negative balance of \$2,572,080 is well below the desired 3-month reserve of approximately \$6 million.

Employee salaries and benefits are major program costs that account for approximately 84 percent of GIPSA's total operating budget. The anticipated general and locality salary increase that averages 4.6 percent for GIPSA employees, effective January 2002, will increase GIPSA's costs by approximately \$703,000.

GIPSA has reviewed the financial position of the inspection and weighing

program based on the anticipated increased salary and benefit costs along with the projected FY 2002 workload of 77 million metric tons. Based on the review, GIPSA has concluded that an approximate 4.6 percent increase will have to be recovered through increases in fees.

The proposed fee increase primarily applies to entities engaged in the export of grain. Under the provisions of the USGSA, grain exported from the United States must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA on a fee basis at 32 export facilities. All of these facilities are owned and managed by multi-national corporations, large cooperatives, or public entities that do not meet the criteria for small entities established by the Small Business Administration.

Some entities that request nonmandatory official inspection and weighing services at other than export locations could be considered small entities. The impact on these small businesses is similar to any other business; that is, an average 4.6 percent increase in the cost of official inspection and weighing services. This proposed increase should not significantly affect any business requesting official inspection and weighing services. Furthermore, any of these small businesses that wish to avoid the fee increase may elect to do so by using an alternative source for inspection and weighing services. Such a decision should not prevent the business from marketing its products.

There would be no additional reporting or recordkeeping requirements imposed by this action. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements in Part 800 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 proposed rule.

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 that must be exhausted prior to any judicial challenge to the provisions of this proposed rule.

Proposed Action

The USGSA (7 U.S.C. 71 *et seq.*) authorizes GIPSA to provide official grain inspection and weighing services and to charge and collect reasonable fees for performing these services. The fees collected are to cover, as nearly as practicable, GIPSA's costs for performing these services, including related administrative and supervisory costs. The current USGSA fees were published in the **Federal Register** on July 9, 2001 (66 FR 35751), and became effective on August 8, 2001.

GIPSA regularly reviews its user-fee-financed programs to determine if the fees are adequate. GIPSA has and will continue to seek out cost saving opportunities and implement appropriate changes to reduce costs. Such actions can provide alternatives to fee increases. However, even with these efforts, GIPSA's existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Retained earnings balances are adjusted to reflect prior year revenue and obligations realized in the year reported. In FY 1999, GIPSA's operating costs were \$23,176,643 with revenue of \$22,971,204, resulting in a negative margin of \$205,440. In FY 2000, GIPSA's operating costs were \$24,146,428 with revenue of \$23,150,188 that resulted in a negative margin of \$996,240 and a negative reserve balance of \$938,147. Using the most recent data available, GIPSA's FY 2001 operating costs were \$25,670,126

with revenue of \$23,977,240 that resulted in a negative margin of \$1,692,886. The current reserve negative balance of \$2,572,080 is well below the desired 3-month reserve of approximately \$6 million. Employee salaries and benefits are major program costs that account for approximately 84 percent of GIPSA's total operating budget. The salary increase that GIPSA anticipates becoming effective in January 2002 averages 4.6 percent for GIPSA employees. Overall, program costs are estimated to increase by approximately \$703,000. GIPSA has reviewed the financial position of the inspection and weighing program based on the anticipated increased salary and benefit costs, along with the projected FY 2002 workload of 77 million metric tons. Based on the review, GIPSA has concluded that an approximate 4.6 percent increase will have to be recovered through increases in fees.

The current hourly fees are:

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime	Holidays
1-year contract	\$27.40	\$29.80	\$38.60	\$46.40
6-month contract	30.20	32.00	41.00	53.00
3-month contract	34.40	35.60	44.60	55.40
Noncontract	40.00	42.00	51.00	62.60

GIPSA has also identified certain unit fees, for services not performed at an applicant's facility, that contain direct labor costs and would require a fee increase. Further, GIPSA has identified those costs associated with salaries and benefits that are covered by the administrative metric tonnage fee. The anticipated 4.6 percent cost-of-living increase to salaries and benefits covered by the administrative tonnage fee results in an overall increase of an average of 4.6 percent to the administrative tonnage fee. Accordingly, GIPSA is proposing an approximate 4.6 percent increase to certain hourly rates, certain unit rates, and the administrative tonnage fee 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.

This proposed rule provides a 30-day period for interested persons to comment. This comment period is deemed appropriate because grain export volume and associated requests for official services for such grain are projected to further 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.

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 is amended by revising Schedule A in paragraph (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 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	\$28.60	\$31.20	\$40.40	\$48.60
6-month contract	31.60	33.40	42.80	56.00
3-month contract	36.00	37.20	46.60	58.00

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, Sun- day, and overtime ²	Holidays
Noncontract	41.80	44.00	53.40	65.40
(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) Corn oil, protein, and starch (one or any combination)	1.50			
(iv) Soybean protein and oil (one or both)	1.50			
(v) Wheat protein (per test)	1.50			
(vi) Sunflower oil (per test)	1.50			
(vii) Vomitoxin (qualitative)	12.50			
(viii) Vomitoxin (quantitative)	18.50			
(ix) Waxy corn (per test)	1.50			
(x) Fees for other tests not listed above will be based on the lowest noncontract hourly rate.				
(xi) 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	\$0.1152			
(b) 1,000,001–1,500,000	0.1051			
(c) 1,500,001–2,000,000	0.0568			
(d) 2,000,001–5,000,000	0.0420			
(e) 5,000,001–7,000,000	0.0230			
(f) 7,000,001 +	0.0105			

¹ Fees apply to original inspection and weighing, reinspection, and appeal inspection service and 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)	\$19.25
(b) Railcar (per carrier)	28.90
(c) Barge (per carrier)	185.00
(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)	9.95
(b) Railcar (per carrier)	19.25
(c) Barge (per carrier)	110.00
(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)	11.50
(b) Warehouseman inspection (per sample)	19.50
(c) Factor only (per factor—maximum 2 factors)	5.15
(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)	12.80
(f) Class X Weighing (per hour per service representative)	55.00
(v) Additional tests (excludes sampling)	
(a) Aflatoxin (per test—other than TLC method)	29.00
(b) Aflatoxin (per test—TLC method)	110.00
(c) Corn oil, protein, and starch (one or any combination)	8.80
(d) Soybean protein and oil (one or both)	8.80
(e) Wheat protein (per test)	8.80
(f) Sunflower oil (per test)	8.80
(g) Vomitoxin (qualitative)	30.50
(h) Vomitoxin (quantitative)	37.50
(i) Waxy corn (per test)	10.00

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

(j) Canola (per test—00 dip test)	10.00
(k) Pesticide Residue Testing ³	
(1) Routine Compounds (per sample)	210.00
(2) Special Compounds (per service representative)	110.00
(l) 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)	79.50
(a) Factor only (per factor—max 2 factors)	41.80
(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)	29.50
(b) Aflatoxin (TLC)	118.00
(c) Corn oil, protein, and starch (one or any combination)	16.80
(d) Soybean protein and oil (one or both)	16.80
(e) Wheat protein (per test)	16.80
(f) Sunflower oil (per test)	16.80
(g) Vomitoxin (per test—qualitative)	40.00
(h) Vomitoxin (per test—quantitative)	45.00
(i) Vomitoxin (per test—HPLC Board Appeal)	136.00
(j) Pesticide Residue Testing ³	
(1) Routine Compounds (per sample)	210.00
(2) Special Compounds (per service representative)	110.00
(k) 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)	79.20
(3) Stowage examination (service-on-request) ³	
(i) Ship (per stowage space) (Minimum \$255.00 per ship)	51.00
(ii) Subsequent ship examinations (same as original) (Minimum \$153.00 per ship)	
(iii) Barge (per examination)	41.00
(iv) All other carriers (per examination)	16.00

¹ Fees apply to original inspection and weighing, reinspection, and appeal inspection service and 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, 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 service representative) ²	\$55.00
(2) Certification of diverter-type mechanical samplers (per hour per service representative) ²	55.00
(3) Special weighing services (per hour per service representative) ²	
(i) Scale testing and certification	55.00
(ii) Evaluation of weighing and material handling systems	55.00
(iii) NTEP Prototype evaluation (other than Railroad Track Scales)	55.00
(iv) NTEP Prototype evaluation of Railroad Track Scales	55.00
	110.00
	(plus usage
	fee per day for
	test car)
(v) Mass standards calibration and reverification	55.00
(vi) Special projects	55.00
(4) Foreign travel (per day per service representative)	490.00
(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)	2.60
(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 \$55.00 per hour.

² Regular business hours—Monday through Friday—service provided at other than regular hours charged at the applicable overtime hourly rate.

Dated: December 26, 2001.

John Pitchford,

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

[FR Doc. 01-32154 Filed 12-31-01; 8:45 am]

BILLING CODE 3410-EN-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-CE-07-AD]

RIN 2120-AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 airplanes. This proposed AD would require you to replace the metered connector and oxygen tubing and related components in the rear seat bench. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this proposed AD are intended to correct for insufficient oxygen quantity available to occupants of the rear seat bench in some emergency conditions, which could result in reduced occupant safety at the rear bench seat location.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before February 19, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001-CE-07-AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH-6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465-9099; facsimile: (303) 465-6040. You may also view this

information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT:

Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; facsimile: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2001-CE-07-AD." We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on certain Pilatus Models PC-12 and PC-12/45 airplanes. The FOCA reports that, because of a design problem, the flow of oxygen to each occupant on the rear seat bench is insufficient. The current configuration uses two-metered connectors, which restricts the flow of oxygen.

What are the consequences if the condition is not corrected? If not

corrected, insufficient oxygen quantity available to occupants of the rear seat bench in some emergency conditions could occur which could result in reduced occupant safety at the rear bench seat location.

Is there service information that applies to this subject? Pilatus has issued Pilatus PC-12 Service Bulletin No: 35-002, dated December 19, 2000.

What are the provisions of this service information? The service bulletin includes procedures for replacing the two-metered connector and oxygen tubing with a system that incorporates a single-metered connector. This includes replacements in the following areas:

—The tubing assembly—oxygen (with coupling);

—Assembly—bracket and grommet; and

—Clamp-hose.

What action did the FOCA take? The FOCA classified this service bulletin as mandatory and issued Swiss AD Number HB 2001-001, dated December 28, 2000, in order to ensure the continued airworthiness of these airplanes in Switzerland.

Was this in accordance with the bilateral airworthiness agreement?

These airplane models are manufactured in Switzerland and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the FOCA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of this Proposed AD

What has FAA decided? The FAA has examined the findings of the FOCA; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Pilatus Model PC-12 and PC-12/45 airplanes of the same type design that are on the U.S. registry;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What would this proposed AD require? This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.