

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## MERIT SYSTEMS PROTECTION BOARD

### 5 CFR Part 1207

#### Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Final rule.

**SUMMARY:** The Merit Systems Protection Board (MSPB or "the Board") is publishing final regulations that adopt previously published interim regulations revising 5 CFR part 1207. These final regulations are necessary to reconcile the Board's regulations with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, and to clarify the procedures for processing those complaints filed against the Board that allege discrimination on the basis of disability during the Board's adjudication of a related employee appeal.

**DATES:** This rule is effective August 26, 2005.

**FOR FURTHER INFORMATION CONTACT:** Bentley M. Roberts, Jr., Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; (202) 653-7200; fax: (202) 653-7130; or e-mail: [mspb@mspb.gov](mailto:mspb@mspb.gov).

**SUPPLEMENTARY INFORMATION:** On May 9, 2005, the Board published amendments to 5 CFR part 1207 as an interim rule with request for comments (70 FR 24293). The Board received no comments during the 60 days allowed for receipt of public comments. This final rule makes no changes to the previously published interim rule. See 70 FR 24293 for additional information concerning the Board's revision of 5 CFR 1207.

Accordingly, the Board adopts the interim rule published at 70 FR 24293

on May 9, 2005, as a final rule effective August 26, 2005.

**Bentley M. Roberts, Jr.,**  
*Clerk of the Board.*

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## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 800

**RIN 0580-AA88**

#### Fees Assessed by the Service

**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 amending the regulation regarding fees assessed to delegated States and designated official agencies, hereafter known as official agencies, authorized by GIPSA to provide official inspection and weighing services to the U.S. grain industry. The fee adjustment is necessary to collect sufficient revenue to cover the current and future cost of supervising the performance of the official agencies.

Current supervision fees are charged to official agencies on a unit basis and represent an average rate of approximately 0.8 cent per metric ton of grain inspected or weighed by the official agencies. The final supervision fee increases the rate to a 1.1 cents per metric ton charge. Official agencies include the cost of GIPSA's supervision fee as part of the fee they charge their customers for grain services. The current average cost for services provided by official agencies is 21 cents per metric ton. Increasing the supervision fee by approximately 0.3 cent per metric ton will minimally increase the total cost of inspection and weighing services to the grain industry.

**DATES:** Effective October 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** David Orr, Director, Field Management Division, telephone (202) 720-0228 at USDA, GIPSA, Room 2409, 1400 Independence Avenue, SW., Washington, DC 20250-3630; Fax

Number (202) 720-1015; E-mail address [David.M.Orr@usda.gov](mailto:David.M.Orr@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The United States Grain Standards Act (USGSA) (7 U.S.C. 71 *et seq.*) authorizes GIPSA to supervise grain inspection and weighing services provided by official agencies and to charge and collect reasonable fees to cover the cost of such supervision. These fees are charged by official agencies to their customers (grain industry) as part of the overall fee charged for inspection and weighing services. Supervision fees collected by GIPSA cover, as nearly as practicable, the program and administrative costs of supervising official agencies. The current supervision fees were published in the **Federal Register** on May 13, 2004 (69 FR 26476), and became effective June 14, 2004. This action adjusted only the supervision fee charged to delegated States for the inspection and weighing of export grain shipments. All other supervision fees remained unchanged. The fee for export grain shipments was changed from a unit fee of \$49.20 per inspection to 1.6 cents per metric ton.

The fees unchanged by the June 14, 2004, action were last amended in September 23, 1985, as published in the **Federal Register** (50 FR 38503) and became effective on October 1, 1985. At that time, supervision fees were lowered an average 40 percent due to the accumulation of a \$4.5 million reserve in retained earnings. The fee rates established on October 1, 1985, were set at a level so that the program operated at a net loss in order to reduce the operating reserves on a planned gradual basis. During the 19 year span from 1985 to 2004, GIPSA has gradually reduced the retained earnings in this program and has reached a point where an adjustment is needed to cover current and future program costs. In FY 2004, the official agency supervision program operating costs totaled \$2,606,826, while revenue amounted to \$1,527,713, a negative margin of \$1,079,113. The retained earnings balance was \$867,191 at the end of FY 2004. GIPSA projects the official agency supervision program deficit to continue at a comparable rate, and estimates that at the end of FY 2006, the program's retained earnings will be negative \$1.1 million.