

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN 0580-AA89

Review Inspection Requirements for Graded Commodities

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

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is amending the regulations under the United States Agricultural Marketing Act of 1946 (AMA), as amended, to allow interested persons to specify the quality factor(s) that would be redetermined during an appeal inspection or a Board appeal inspection for grade. Currently, both appeal and Board appeal inspections for grade must include a redetermination (i.e., a complete review or examination) of all official factors that may determine the grade, as reported on the original certificate, or as required to be shown. Requiring that all quality factors be completely reexamined during an appeal or Board appeal inspection for grade is not efficient, is time consuming, and can be costly. Further, a detailed review of the preceding inspection service is not always needed to confirm the quality of the commodity. This action will allow interested parties to specify which quality factor(s) should be redetermined during the appeal or Board appeal inspection service.

DATES: Effective Dates: December 15, 2005.

FOR FURTHER INFORMATION CONTACT: John C. Giler, Deputy Director, Field Management Division: e-mail address john.c.giler@usda.gov, telephone: (202) 720-1748.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This action has been determined to be not significant for purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB). This action simplifies the regulations concerning official requirements for commodity inspections. This action reduces cost to the affected entities.

Regulatory Flexibility Act Certification

GIPSA has considered the economic impact of this rule on small entities and has determined that its provision would not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

The action will affect entities engaged in shipping graded commodities to and from points within the United States and exporting graded commodities from the United States. GIPSA estimates there are approximately 2,500 rice mills, and bean, pea, and lentil processing plants in the United States that could receive official inspection services by GIPSA, designated/delegated states, and cooperators. Inspections of graded commodities are performed by eight GIPSA offices, one Federal/State office, and six designated States which operate under cooperative agreements and under GIPSA supervision. Under the provisions of the AMA, it is not mandatory for graded commodities to be officially inspected. Further, most users of the official inspection services and those entities that perform these services do not meet the requirements of small entities. Even though some users could be considered small entities, this action relieves regulatory requirements and improves the efficiency of official inspection services. No additional cost is expected to result from this action.

Requiring all appeal inspections and Board appeal inspections for grade to include a complete review of all official factors is not needed by applicants or other parties to transactions, or by official inspection personnel. Furthermore, this requirement often reduces the efficiency of providing official inspection services and increases the costs.

This rule relieves regulatory requirements and improves the efficiency of official inspection services.

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Further the regulations are applied equally to all entities.

Executive Order 12988

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 notice.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements in Part 868 have been previously approved by OMB No. 0580-0013.

GIPSA is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Background

On July 7, 2005, GIPSA proposed in the **Federal Register** (70 FR 39199) to revise the regulations under the AMA to allow interested persons to specify the quality factor(s) that would be redetermined during an appeal inspection or a Board appeal inspection for grade. This proposal required comments to be received on or before September 6, 2005. GIPSA had proposed this action because requiring that all quality factors be completely reexamined during an appeal or a Board appeal inspection is not efficient, is time consuming, and can be costly. Further, a detailed review of the preceding inspection service is not always needed to confirm the quality of the commodity. GIPSA proposed that applicants for service be allowed to specify the factor(s) that are to be redetermined as part of an appeal or Board appeal inspection service for grade because it provides a more effective and more efficient inspection service and better meets the industry's needs. However, appeal and board appeal inspections for grade may include a review of any pertinent

factor(s), as deemed necessary by official personnel. This would ensure issuance of an accurate grade.

Comment Review

GIPSA received no comments during the comment period.

Final Action

Accordingly, GIPSA is revising 7 CFR 868.1 to redefine the definitions of appeal and Board appeal inspection services, and revising the regulatory text in 7 CFR 868.60 to revise the conditions for requesting appeal and Board appeal inspection services. (Approved by the Office of Management and Budget under control number 0580-0013).

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. Section 868.1, paragraphs (b)(3), and (b)(6) are revised to read as follows:

§ 868.1 Meaning of terms.

* * * * *

(b) * * *

(3) *Appeal inspection service.* A review by the Service of the result(s) of an original inspection or retest inspection service.

* * * * *

(6) *Board appeal inspection service.* A review by the Board of Appeals and Review of the result(s) of an original inspection or appeal inspection service on graded commodities.

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- 3. Section 868.60, paragraph (b) and the OMB citation at the end of the section are revised to read as follows:

§ 868.60 Who may request appeal inspection service.

* * * * *

(b) *Kind and scope of request.* When the results for more than one kind of service are reported on a certificate, an appeal inspection or Board appeal inspection service, as applicable, may be requested on any or all kinds of services reported on the certificate. The scope of an appeal inspection service will be limited to the scope of the original inspection or, in the case of a Board appeal inspection service, the original or appeal inspection service. A

request for appeal inspection of a retest inspection will be based upon the scope of the original inspection. If the request specifies a different scope, the request shall be dismissed. Provided, however, that an applicant for service may request an appeal or Board appeal inspection of specific factor(s) or official grade and factors. In addition, appeal and Board appeal inspection for grade may include a review of any pertinent factor(s), as deemed necessary by official personnel. (Approved by the Office of Management and Budget under control number 0580-0013).

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

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DEPARTMENT OF ENERGY

10 CFR Parts 600 and 603

RIN 1991-AB72

Assistance Regulations

AGENCY: Department of Energy.

ACTION: Interim final rule.

SUMMARY: The Department of Energy (DOE) is adding a new part to the DOE assistance regulations to establish policies and procedures to implement the “other transaction authority” granted to the Secretary of Energy by section 1007 of the Energy Policy Act of 2005. DOE has decided to implement other transaction authority through the award and administration of technology investment agreements (TIAs). TIAs are a new class of assistance instrument for DOE, but they have been used by the Department of Defense (DoD) for many years to support or stimulate defense research projects involving for-profit firms, especially commercial firms that do business primarily in the commercial marketplace. The new part 603 is similar to the DoD regulation; both provide contracting officers greater flexibility to negotiate award provisions in areas that can present barriers to those commercial firms (e.g., intellectual property, audits, and cost principles). DOE also is revising 10 CFR part 600, subpart A, to conform it with the new part.

DATES: Effective Date: This interim final rule is effective on March 15, 2006.

Comment Date: Written comments must be received by December 15, 2005.

ADDRESSES: You may submit comments, identified by RIN Number 1991-AB72, by any of the following methods:

1. E-mail to trudy.wood@hq.doe.gov. Include RIN 1991-AB72 and “TIA” in

the subject line of the e-mail. Please include the full body of your comments in the text of the message or as an attachment.

2. Federal eRulemaking Portal:

<http://www.regulations.gov>. Follow the instructions for submitting comments.

3. Mail: Address the comments to Trudy Wood, U.S. Department of Energy, Office of Procurement and Assistance Policy (ME-61), 1000 Independence Avenue, SW., Washington, DC 20585. Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Ms. Trudy Wood, Office of Procurement and Assistance Policy, Department of Energy, at 202-827-1336.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion of Rule Provisions
- III. Discussion on Conforming Changes to 10 CFR Part 600
- IV. Procedural Requirements
 - A. Review Under Executive Order 12866
 - B. Review Under the Regulatory Flexibility Act
 - C. Review Under the Paperwork Reduction Act
 - D. Review Under the National Environmental Policy Act
 - E. Review Under Executive Order 13132
 - F. Review Under Executive Order 12988
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under the Treasury and General Government Appropriations Act, 2001
 - J. Review Under Executive Order 13211
 - K. Review Under the Small Business Regulatory Enforcement Fairness Act
- V. Approval of the Office of the Secretary of Energy

I. Background

Section 1007 of the Energy Policy Act of 2005 (Pub. L. 109-58) amends section 646 of the Department of Energy (DOE) Organization Act by adding a subsection (g) which authorizes the Secretary of Energy to enter into transactions (other than contracts, cooperative agreements, and grants) subject to the same terms and conditions as the Secretary of Defense under section 2371 of title 10, United States Code. Pursuant to 10 U.S.C. 2371, the Department of Defense (DoD) has developed types of cooperative agreements and other transactions to support research with potential for both commercial and defense applications. In 1997, DoD issued interim guidance that merged various cooperative agreements and other transactions that were similar to