

list of quarantined areas based on projections of the natural spread of PSB that make it reasonable to believe that the pest is present in those States.

Comments on the interim rule were required to be received on or before December 4, 2006. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

### PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 71 FR 58243–58246 on October 3, 2006.

Done in Washington, DC, this 10th day of January 2007.

**W. Ron DeHaven,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E7–505 Filed 1–16–07; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 868

RIN 0580–AA92

#### Fees for Rice Inspection Services

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

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the regulations governing the sampling, inspection, weighing, and certification for rice by increasing certain fees charged for the services by approximately 18 percent. Further, the rice fees increase an additional 3 percent each year through fiscal year 2010 and establish a stowage examination fee. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing

these services under the Agricultural Marketing Act of 1946 (AMA).

**EFFECTIVE DATE:** February 16, 2007.

**FOR FURTHER INFORMATION CONTACT:** For information concerning program operations, contact John Giler, Deputy Director, Field Management Division, at his E-mail address:

*john.c.giler@usda.gov* or by telephone (202) 720–0228. For information concerning fee development contact, contact Ms. Patricia Donohue-Galvin, Director, Budget and Planning Staff, at her E-mail address: *patricia.donohue-galvin@usda.gov* or by telephone (202) 690–0231.

#### SUPPLEMENTARY INFORMATION:

##### Background

The AMA authorizes official inspection and weighing services, on a user-fee basis, of rice (7 U.S.C. 1622(h)). The AMA provides that reasonable fees be collected from the users of the services to cover, as nearly as practicable, the costs of the services rendered.

The regulations in 7 CFR 868 list user fees for inspection and weighing services provided by the Grain Inspection, Packers and Stockyards Administration (GIPSA or Agency). This final rule amends the schedule for fees and charges for inspection and weighing services that GIPSA provides to the rice industry to reflect the costs necessary to operate the program.

GIPSA receives no directly appropriated funds to provide inspection and weighing services. Our ability to provide these services depends on user fees.

For our user fees to cover our costs so that we can continue to provide services and to inform our customers of user fees in time for advance planning, we proposed to set user fees for our inspection and weighing services for fiscal years 2007 through 2010.

GIPSA regularly reviews its user fee programs to determine if the fees are adequate. While GIPSA continues to search for opportunities to reduce its costs, the existing fee schedule will not generate sufficient revenues to cover program costs while maintaining the Agency 3-month operating reserve.

The cost of operating the rice program was \$4.4 million during fiscal year 2006 and will increase to approximately \$4.8 million by fiscal year 2010. These cost increases are due to estimated annual cost of living adjustments for employee salaries and benefits, equipment replacement, and information technology upgrades. Replacing aging rice inspection equipment will cost approximately \$50,000. An information

technology upgrade to improve certification efficiency and program management will cost approximately \$300,000. The estimated costs incorporate plans to introduce program changes that will better control increases in long-term costs.

We designed the revised fee structure to fund the rice program this fiscal year and future fiscal years to avoid a continued program deficit. The combination of the initial 18 percent increase and the subsequent annual 3 percent increases will ultimately cover the program's operating cost and replenish the 3-month retained earnings balance.

We are also establishing a new fee for stowage examination services that we will provide as a service upon request.

In the April 11, 2006 **Federal Register** (71 FR 18231–18236), we invited comments on our proposed rule identifying changes to the user fees we charge for rice inspection and weighing services. We solicited comments concerning our proposal for 60 days ending June 12, 2006. By the close of the comment period, we received two comments; one from representatives of a rice mill and one from a rice industry organization. Both commenters opposed the fee increases. The issues raised in these comments are discussed below.

The comments, one from a rice industry trade organization and one from a rice mill, both opposed the fee increases. The trade organization stated that the fee increase was excessive and would lead to a reduction in service requested from the industry, resulting in a continuing cycle of fee increases. It also said that the fee increase was preemptive and premature considering the continuing nature of discussion on privatization.

The trade organization indicated that GIPSA should eliminate costs, redesign its delivery system in certain locations, and it offered to work with GIPSA to evaluate options.

The rice mill stated that the fees charged by GIPSA were much higher than private industry and that the increase would force the industry to look for alternatives. The mill also questioned a statement in the proposed rule concerning the voluntary nature of the inspection service, because GIPSA is the only agency issuing USDA Rice Inspection Certificates.

We disagree with these comments.

The rice inspection program is authorized under the AMA of 1946 and funded by user fees. The rice fees were last revised in 2003. Since that time, costs have increased and retained earnings have been depleted. Without

the fee increase, the program will continue at a deficit.

We have adopted cost savings measures; however some aspects of the program required upgrades, as previously discussed. In fact, we have already adopted program changes that involved a realignment of staff to better control rising personnel costs in the future. Further, program costs and revenues have been projected out through 2010 with fee adjustments on a fiscal year basis. This will minimize the impact of the needed fee increase and will provide the industry a template to take into account future rice program fees and stabilize program finances.

While the agency has implemented appropriate cost savings measures, we have also completed our feasibility study that considered restructuring the program as part of a government-wide initiative designed to improve efficiency and cost effectiveness (see OMB Circular A-76). Specifically, our feasibility study determined that the A-76 action, which could include the use of private vendors to deliver inspection services, would not result in any savings to the rice inspection program or any long term savings to the rice industry. Therefore, a revision to the user fees is necessary now in order to run the inspection program without a deficit.

Contrary to one of the commenter's statements, rice inspection is a voluntary service. Applicants in fact may choose to receive non-federal inspection services. While it is true that GIPSA is the only entity that issues USDA Rice Inspection Certificates, such certificates are not mandatory.

Finally, we will continue to work with the rice industry, as appropriate, concerning this program.

**Miscellaneous Changes**

We made the following minor miscellaneous changes in the regulation to add clarity. In Table 2 of 7 CFR 868.91, the fees listed as (a) and (b) under Stowage Examination are the same, so we added the actual fee in row (b) instead of implying it and only listing it in row (a). In footnote 2 of

Table 2, we added a reference to the GIPSA Web site as an alternative source for field office information. We moved the text of footnote 3 in Table 2 to the introductory text of section 868.91 because it refers the reader back to the fees in Table 1. As a result, we renumbered footnote 4 in Table 2 as footnote 3.

Therefore, for the reasons given in this proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes noted in this document.

**Executive Order 12866 and Regulatory Flexibility Act**

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, the Office of Management and Budget (OMB) has not reviewed it.

As required by the Regulatory Flexibility Act (RFA); we have considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

We are making these regulatory changes because additional user fee revenues are needed to cover the costs of providing current and future program operations and services.

There are approximately 135 applicants who receive rice inspection and weighing services. A small portion of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201).

GIPSA has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined under the RFA because the majority of applicants that apply for services do not meet the requirements of small entities. Rice inspection and weighing services are provided upon request and the fees charged to users of these services vary with usage. However, the impact on all businesses, including small entities, is very similar. Further, the rice industry

businesses are under no obligation to use these services, and, therefore, any decision on their part to discontinue the use of the services should not prevent them from marketing their products.

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 its costs.

GIPSA's cost of operating the rice program was \$4.4 million during fiscal year 2006 and will gradually escalate to approximately \$4.8 million by fiscal year 2010. These cost increases through fiscal year 2010 are due to employee salaries and benefits coupled with estimated annual cost of living adjustments, the future costs of approximately \$50,000 to replace aging rice inspection equipment in the offices, and the need to fund approximately \$300,000 for an information technology upgrade to improve certification efficiency and program management.

The 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 18 percent fee increase will initially increase the revenue of the program. The 3 percent annual increase through fiscal year 2010 is expected to cover the program's operating cost and replenish the 3-month reserve balance. To minimize the impact of a fee increase, GIPSA has decided to establish fee rates that will collect sufficient revenue over time to cover operating expenses, while striving to create a 3-month operating reserve by FY 2010. The following table reflects GIPSA's financial rice program projections through fiscal year 2010. GIPSA will evaluate the financial status of the rice program on a continuous basis to determine if it is meeting the goal of obtaining a 3-month operating reserve by FY 2010, and to determine if other adjustments are necessary.

TABLE 1.—RICE PROGRAM FY06 ACTUAL AND PROJECTIONS  
[Million dollars]\*

	FY06	FY07	FY08	FY09	FY10
Revenue .....	\$4.0	\$4.6	\$5.0	\$5.1	\$5.3
Obligations .....	4.4	4.4	4.5	4.6	4.8
Projected Reserve (Retained Earnings) .....	(0.5)	(0.3)	0.2	0.7	1.2
Target Reserve (Retained Earnings) (3-months operating obligations) .....	1.1	1.1	1.2	1.2	1.2

\*Figures may not sum due to rounding.

GIPSA is also establishing a new fee for stowage examination services that we will provide as a service upon request.

There is no additional reporting, recordkeeping, or other compliance requirements imposed upon small entities as a result of this final rule.

**Paperwork Reduction Act**

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and record keeping requirements included in this final rule have been approved by OMB under control number 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.

**Executive Order 12988**

We reviewed this final rule under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations or policies, unless they present an 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.

**List of Subjects in 7 CFR Part 868**

Administrative practice and procedure, Agricultural commodities, Reporting and recordkeeping requirements, Rice.

■ For reasons set out in the preamble, amend 7 CFR Part 868 as follows:

**PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES**

■ 1. Revise the authority citation for part 868 to read as follows:

Authority: 7 U.S.C. 1621-1627.

■ 2. Revise section 868.91 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. Fees for other services not referenced in Table 2 will be based on the non-contract hourly rate listed in § 868.91, Table 1.

TABLE 1.—HOURLY RATES/UNIT RATE PER CWT

Service <sup>1</sup>	Regular workday (Monday–Saturday)	Nonregular workday (Sunday–Holiday)
<b>Effective February 16, 2007</b>		
Contract (per hour per Service representative) .....	\$54.80	\$76.00
Noncontract (per hour per Service representative) .....	66.80	92.10
Export Port Services (per hundredweight) <sup>2</sup> .....	0.066	0.066
<b>Effective October 1, 2007</b>		
Contract (per hour per Service representative) .....	\$56.40	\$78.30
Noncontract (per hour per Service representative) .....	68.80	94.80
Export Port Services (per hundredweight) <sup>2</sup> .....	0.068	0.068
<b>Effective October 1, 2008</b>		
Contract (per hour per Service representative) .....	\$58.10	\$80.70
Noncontract (per hour per Service representative) .....	70.90	97.70
Export Port Services (per hundredweight) <sup>2</sup> .....	0.070	0.070
<b>Effective October 1, 2009</b>		
Contract (per hour per Service representative) .....	\$59.90	\$83.10
Noncontract (per hour per Service representative) .....	73.00	100.60
Export Port Services (per hundredweight) <sup>2</sup> .....	0.072	0.072
<b>Effective October 1, 2010</b>		
Contract (per hour per Service representative) .....	\$61.70	\$85.60
Noncontract (per hour per Service representative) .....	75.20	103.60
Export Port Services (per hundredweight) <sup>2</sup> .....	0.074	0.074

<sup>1</sup> Original and appeal inspection services include: Sampling, grading, weighing, and other services requested by the applicant when performed at the applicant's facility.  
<sup>2</sup> Services performed at export port locations on lots at rest.

TABLE 2.—UNIT RATES SERVICE <sup>1</sup>

<b>Effective February 16, 2007</b>	
Inspection for quality (per lot, subplot, or sample inspection):	
(a) Rough rice .....	\$41.90
(b) Brown rice for processing .....	36.00
(c) Milled rice .....	26.00
Factor analysis for any single factor (per factor):	
(a) Milling yield (per sample) (Rough or Brown rice) .....	32.50
(b) All other factors (per factor) (all rice) .....	15.60
Total oil and free fatty acid .....	50.80

TABLE 2.—UNIT RATES SERVICE <sup>1</sup>—Continued

Interpretive line samples: <sup>2</sup>	
(a) Milling degree (per set) .....	111.00
(b) Parboiled light (per sample) .....	27.20
Faxed and extra copies of certificates (per copy) .....	3.00
Stowage Examination (service-on-request) <sup>3</sup>	
(a) Ship (per stowage space) (minimum \$252.50 per ship) .....	50.50
(b) Subsequent ship examination (same as original) (minimum \$151.50 per ship) .....	50.50
(c) Barge (per examination) .....	40.50
(d) All other carriers (per examination) .....	15.50
<b>Effective October 1, 2007</b>	
Inspection for quality (per lot, subplot, or sample inspection):	
(a) Rough rice .....	\$43.20
(b) Brown rice for processing .....	37.10
(c) Milled rice .....	26.80
Factor analysis for any single factor (per factor):	
(a) Milling yield (per sample) (Rough or Brown rice) .....	33.50
(b) All other factors (per factor) (all rice) .....	16.10
Total oil and free fatty acid .....	52.30
Interpretive line samples: <sup>2</sup>	
(a) Milling degree (per set) .....	114.30
(b) Parboiled light (per sample) .....	28.00
Faxed and extra copies of certificates (per copy) .....	3.00
Stowage Examination (service-on-request) <sup>3</sup>	
(a) Ship (per stowage space) (minimum \$252.50 per ship) .....	50.50
(b) Subsequent ship examination (same as original) (minimum \$151.50 per ship) .....	50.50
(c) Barge (per examination) .....	40.50
(d) All other carriers (per examination) .....	15.50
<b>Effective October 1, 2008</b>	
Inspection for quality (per lot, subplot, or sample inspection):	
(a) Rough rice .....	\$44.50
(b) Brown rice for processing .....	38.20
(c) Milled rice .....	27.60
Factor analysis for any single factor (per factor):	
(a) Milling yield (per sample) (Rough or Brown rice) .....	34.50
(b) All other factors (per factor) (all rice) .....	16.60
Total oil and free fatty acid .....	53.90
Interpretive line samples: <sup>2</sup>	
(a) Milling degree (per set) .....	117.70
(b) Parboiled light (per sample) .....	28.80
Faxed and extra copies of certificates (per copy) .....	3.00
Stowage Examination (service-on-request) <sup>3</sup>	
(a) Ship (per stowage space) (minimum \$252.50 per ship) .....	50.50
(b) Subsequent ship examination (same as original) (minimum \$151.50 per ship) .....	50.50
(c) Barge (per examination) .....	40.50
(d) All other carriers (per examination) .....	15.50
<b>Effective October 1, 2009</b>	
Inspection for quality (per lot, subplot, or sample inspection):	
(a) Rough rice .....	\$45.80
(b) Brown rice for processing .....	39.40
(c) Milled rice .....	28.40
Factor analysis for any single factor (per factor):	
(a) Milling yield (per sample) (Rough or Brown rice) .....	35.50
(b) All other factors (per factor) (all rice) .....	17.10
Total oil and free fatty acid .....	55.50
Interpretive line samples: <sup>2</sup>	
(a) Milling degree (per set) .....	121.30
(b) Parboiled light (per sample) .....	29.70
Faxed and extra copies of certificates (per copy) .....	3.00
Stowage Examination (service-on-request) <sup>3</sup>	
(a) Ship (per stowage space) (minimum \$252.50 per ship) .....	50.50
(b) Subsequent ship examination (same as original) (minimum \$151.50 per ship) .....	50.50
(c) Barge (per examination) .....	40.50
(d) All other carriers (per examination) .....	15.50
<b>Effective October 1, 2010</b>	
Inspection for quality (per lot, subplot, or sample inspection):	
(a) Rough rice .....	\$47.20
(b) Brown rice for processing .....	40.60

TABLE 2.—UNIT RATES SERVICE <sup>1</sup>—Continued

(c) Milled rice .....	29.30
Factor analysis for any single factor (per factor):	
(a) Milling yield (per sample) (Rough or Brown rice) .....	36.60
(b) All other factors (per factor) (all rice) .....	17.60
Total oil and free fatty acid .....	57.20
Interpretive line samples: <sup>2</sup>	
(a) Milling degree (per set) .....	124.90
(b) Parboiled light (per sample) .....	30.60
Faxed and extra copies of certificates (per copy) .....	3.00
Stowage Examination (service-on-request) <sup>3</sup>	
(a) Ship (per stowage space) (minimum \$252.50 per ship) .....	50.50
(b) Subsequent ship examination (same as original) (minimum \$151.50 per ship) .....	50.50
(c) Barge (per examination) .....	40.50
(d) All other carriers (per examination) .....	15.50

<sup>1</sup> 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.

<sup>2</sup> Interpretive line samples may be purchased from the U.S. Department of Agriculture, GIPSA, FGIS, Technical Services Division, 10383 North Ambassador Drive, 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 or from the GIPSA Web site (<http://www.gipsa.usda.gov>). The interpretive line samples illustrate the lower limit for milling degrees only and the color limit for the factor "Parboiled Light" rice.

<sup>3</sup> If performed outside of normal business hours, 1½ times the applicable unit fee will be charged.

#### James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 07-153 Filed 1-16-07; 8:45 am]

BILLING CODE 3410-KD-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 966

[Docket No. AMS-FV-06-0190; FV06-966-2 FR]

#### Tomatoes Grown in Florida; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the Florida Tomato Committee (Committee) for the 2006-07 and subsequent fiscal periods from \$0.025 to \$0.035 per 25-pound container or equivalent of tomatoes handled. The Committee locally administers the marketing order which regulates the handling of tomatoes grown in Florida. Assessments upon Florida tomato handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** *Effective Date:* January 18, 2007.

#### FOR FURTHER INFORMATION CONTACT:

William G. Pimental, Marketing Specialist or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Marketing Order

Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 325-8793, or E-mail: [William.Pimental@usda.gov](mailto:William.Pimental@usda.gov) or [Christian.Nissen@usda.gov](mailto:Christian.Nissen@usda.gov).

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable tomatoes beginning August 1, 2006, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or

policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2006-07 and subsequent fiscal periods from \$0.025 to \$0.035 per 25-pound container or equivalent of tomatoes handled.

The Florida tomato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Florida tomatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The