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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN 0580-AA94

United States Standards for Rough Rice, Brown Rice for Processing, and Milled Rice

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

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is amending the U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice, to change the requirement that certain information currently provided on the grade line of official certificates for Mixed rice be moved to the Results section of the inspection certificate. GIPSA believes that these changes will enhance the use of the inspection certificate, and as a result, help to facilitate the marketing of Mixed rice.

DATES: *Effective Date:* November 27, 2009.

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SUPPLEMENTARY INFORMATION:

Background

The Agricultural Marketing Act of 1946 (AMA) (7 U.S.C. 1621-1627) directs and authorizes the Secretary of Agriculture to develop and improve standards for agricultural products (7 U.S.C. 1622). These are standards of quality, condition, quantity, grade, and packaging. The standards encourage

uniformity and consistency in commercial practices.

GIPSA establishes and maintains a variety of quality and grade standards for agricultural commodities that serve as a fundamental starting point to define commodity quality in the domestic and global marketplace. The AMA standards are voluntary and widely used in private contracts, government procurement, marketing communication, and, for some commodities, consumer information. Standards developed by GIPSA under the AMA include rice, whole dry peas, split peas, feed peas, lentils, and beans.

GIPSA inspects shipments of rice in accordance with the AMA standards to establish the grade of the rice and issues inspection certificates for each shipment. We provide official procedures for inspections in the Rice Inspection Handbook for determining the various grading factors. In addition to Federal usage, the rice standards are applied by one State and one private cooperator. In 2008, GIPSA performed approximately 37 percent of official rice inspections, with State and private cooperators performing the balance of official inspections. When official rice inspectors issue inspection results, they document the grade designation on the grade line of the inspection certificate. The requirements for the grade designation for Rough Rice, Brown Rice for Processing, and Milled Rice categories are included in the regulations issued under the AMA (7 CFR part 868).

The current regulations in 7 CFR 868 Subparts C (§§ 868.201-213), D (§§ 868.251-264), and E (§§ 868.301-316) specify U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice, respectively, and include provisions about the contents of the grade designation for each category of rice. In the grade designation for each category of rice, there is an additional set of information provided for the class of Mixed rice that specifies the content. Under the current standards, this additional information for Mixed rice is included on the grade line of the inspection certificate.

This final rule moves the additional information on Mixed rice to the Results section of the certificate to enhance the use of the certificate.

Notice of Proposed Rulemaking and Final Action

GIPSA published a Notice of Proposed Rulemaking in the **Federal Register** on June 24, 2009 (74 FR 30015), inviting interested parties to comment on amending the regulations under the AMA. GIPSA received no comments on the proposed rule during the comment period that ended on August 24, 2009. Accordingly, GIPSA is publishing the final rule as it was proposed. The revisions to §§ 7 CFR 868.211, .262 and .314 are as follows:

(1) Revise the section heading wording from “Grade Designation” to read “Grade Designation and Other Certificate Information;”

(2) Specify the grade designation requirements for all classes of rice in paragraph (a) of each section;

(3) Specify additional information required only for the class of Mixed rice in paragraph (b) of each section;

(4) Specify that the additional information for Mixed rice be reported in the Results section of the inspection certificate; and

(5) Convert the note at the end of the section to a new paragraph (c) in each section.

We are also making other minor changes that include clarifying that grade designation information goes on the grade line of the inspection certificate. In addition, we are making the format more readable and more consistent with other regulations in this section by converting notes into numbered paragraphs, and by inserting line breaks after each item in numbered lists of items.

Effects on Regulated Entities

This final rule moves certain information from the grade line to the Results section of the inspection certificate. GIPSA believes that this final rule will simplify the standards for rice and improve official inspection services by allowing for more efficient use of electronic certification. Regulated entities should not be additionally burdened by this proposed amendment. Moreover, having more legible inspection certificates should help these entities facilitate the marketing of rice.

Executive Order 12866 and Regulatory Flexibility Act

The Office of Management and Budget has designated this rule as not

significant for the purposes of Executive Order 12866.

We have determined that this final 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. 601–612). An initial regulatory flexibility analysis as described in 5 U.S.C. 605 of the Regulatory Flexibility Act is not required or provided here.

The rice industry includes producers [approximately 4,300 farms (USDA–2002 Census of Agriculture)], handlers, processors, and merchandisers, who are the primary users of the rice standards, and use the standards as a common trading language to market rice. In addition, there is one state cooperator and one private cooperator that apply the standards. For North American Industry Classification System (NAICS) code 311212 “rice milling,” the Small Business Administration size standard is \$500,000 in annual revenues. Most users of the official inspection services and those entities that perform these services do not meet the requirement of small entities. Even though some users may be small entities, this final rule will not adversely affect or burden these users. Under the provisions of the AMA (7 U.S.C. 1621–1627), it is not mandatory for rice to be inspected. Although we do not expect this final rule to add any additional cost for entities of any size, any such costs would apply equally to all entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform, and is not intended to have a retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the information collection and recordkeeping requirements in Part 868 have been previously approved by OMB No. 0580–0013.

E-Government Compliance

GIPSA is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agricultural commodities,

Reporting and recordkeeping requirements, Rice.

■ For the reasons set out in the preamble, we amend 7 CFR part 868 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: 7 U.S.C. 1621–1627.

■ 2. Revise § 868.211 to read as follows:

§ 868.211 Grade designation and other certificate information.

(a) *Rough rice*. The grade designation for all classes of Rough rice shall be included on the certificate grade-line in the following order:

- (1) The letters “U.S.,”
- (2) The number of the grade or the words “Sample grade,” as warranted;
- (3) The words “or better,” when applicable and requested by the applicant prior to inspection;

(Approved by the Office of Management and Budget under control number 0580–0013)

- (4) The class;
- (5) Each applicable special grade (see § 868.213); and

(6) A statement of the milling yield.

(b) *Mixed Rough rice information*. For the class Mixed Rough rice, the following information shall be included in the Results section of the certificate in the following order:

- (1) The percentage of whole kernels of each type in the order of predominance;
- (2) The percentage of large broken kernels of each type in the order of predominance;
- (3) The percentage of material removed by the No. 6 sieve or the No. 6 sizing plate; and
- (4) The percentage of seeds, when applicable.

(c) *Large broken kernels*. Large broken kernels, other than long grain, in Mixed Rough rice shall be certified as “medium or short grain.”

■ 3. Revise § 868.262 to read as follows:

§ 868.262 Grade designation and other certificate information.

(a) *Brown rice for Processing*. The grade designation for all classes of Brown rice for processing shall be included on the certificate grade-line in the following order:

- (1) The letters “U.S.,”
- (2) The number of the grade or the words “Sample grade,” as warranted;
- (3) The words “or better,” when applicable and requested by the applicant prior to inspection;

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(4) The class; and

(5) Each applicable special grade (see § 868.264).

(b) *Mixed Brown rice for Processing information*. For the class Mixed Brown rice for processing, the following information shall be included in the Results section of the certificate in the following order:

- (1) The percentage of whole kernels of each type in the order of predominance;
- (2) The percentage of broken kernels of each type in the order of predominance, when applicable; and
- (3) The percentage of seeds, related material, and unrelated material.

(c) *Broken kernels*. Broken kernels, other than long grain in Mixed Brown rice for processing shall be certified as “medium or short grain.”

■ 4. Revise § 868.314 to read as follows:

§ 868.314 Grade designation and other certificate information.

(a) *Milled rice*. The grade designation for all classes of Milled rice shall be included on the certificate grade-line in the following order:

- (1) The letters “U.S.,”
- (2) The number of the grade or the words “Sample grade,” as warranted;
- (3) The words “or better,” when applicable and requested by the applicant prior to inspection;

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(4) The class; and

(5) Each applicable special grade (see § 868.316).

(b) *Mixed Milled rice information*. For the class Mixed Milled rice, the following information shall be included in the Results section of the certificate in the following order:

- (1) The percentage of whole kernels of each type in the order of predominance;
- (2) The percentage of broken kernels of each type in the order of predominance, when applicable; and
- (3) The percentage of seeds and foreign material.

(c) *Broken kernels*. Broken kernels, other than long grain in Mixed Milled rice shall be certified as “medium or short grain.”

J. Dudley Butler,

Administrator, Grain Inspection, Packers and Stockyards Administration.

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