# Rules and Regulations

Federal Register

Vol. 89, No. 110

Thursday, June 6, 2024



## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 800

**[Doc. No. AMS–FGIS–24–0010]**

**RIN 0581–AE28**

## Fees for Official Inspection and Weighing Services Under the United Stated Grain Standards Act

**AGENCY:** Agricultural Marketing Service, Department of Agriculture (USDA).

**ACTION:** Interim rule; request for comments.

**SUMMARY:** The Agricultural Marketing Service (AMS), Federal Grain Inspection Service (FGIS or the Service) is revising the fee schedule for official inspection and weighing services performed under the United States Grain Standards Act (USGSA), as amended. Specifically, this interim rule announces the new rates for the remainder of fiscal year 2024, and until such time as new fees are set by a final rule. AMS intends to follow this rulemaking with a notice of proposed rulemaking establishing a new regulatory fee formula. The necessary and immediate changes to the current fees will prevent FGIS cessation of services due to insufficient required funding and, most urgently, avoid significant negative impacts to the $54 billion grain export industry. This interim rule will allow FGIS to fully recover the actual costs of providing services and re-establish a 3- to 6-month operating reserve, consistent with the USGSA, and, in doing so, ensure uninterrupted essential grain inspection services that enable U.S. companies to continue exporting and marketing U.S. grain around the world.

**DATES:** This interim rule is effective July 8, 2024. Comments are due July 8, 2024.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this interim rule. Comments may be submitted through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Please reference Doc. No. AMS–FGIS–24–0010. Comments may also be submitted by email to Anthony Goodeman at *Anthony.T.Goodeman@usda.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public on the internet at the address provided above. Please be advised that the identity of the individuals or entities submitting the comments will be made public. Prospective customers can find the fee schedules posted on AMS's public website: *https://www.ams.usda.gov/about-ams/fgis-program-directives.*

**FOR FURTHER INFORMATION CONTACT:** Denise Ruggles, Executive Program Analyst, USDA, AMS, FGIS, Telephone: 816–702–3897, Email: *Denise.M.Ruggles@usda.gov;* or Anthony Goodeman, Senior Policy Advisor, USDA, AMS, FGIS, Telephone: 202–720–2091, Email: *Anthony.T.Goodeman@usda.gov.*

**SUPPLEMENTARY INFORMATION:** This rule establishes revised 2024 fees for grain inspection and weighing services provided by the Agricultural Marketing Service's (AMS) Federal Grain Inspection Service (FGIS or the Service). The new fees account for the actual cost of FGIS providing official services. The new fees were calculated using formulas modeled after those in other AMS user-fee grading programs. A forthcoming notice of proposed rulemaking to be published separately will amend FGIS's user fee regulations to incorporate the formulas.

## Background

The USGSA authorizes and requires the Secretary to charge and collect reasonable fees to cover the estimated costs for performing official grain inspection and weighing services (which are mandatory under the Act for U.S. grain exports). In 2015, Congress amended the USGSA to provide that ''[i]n order to maintain an operating reserve of not less than 3 and not more than 6 months, the Secretary shall adjust the fees . . . not less frequently than annually.'' (7 U.S.C. 79(j)(4) and 79a(l)(3)) To comply with these provisions, FGIS (then the Grain Inspection, Packers, and Stockyards Administration (GIPSA)) issued regulations requiring the agency to review and adjust fees annually in order to maintain a 3- to 6-month reserve of operating expenses. (81 FR 49855)

Through those regulations, the Service determined that a 4.5-month operating reserve would comply with the statutorily required operating reserve of 3 to 6 months. In years when the operating reserve has been sufficient, for each $1 million that the reserve's balance exceeded 4.5 months, the Service reduced fees by 2 percent, and no greater than 5 percent. Conversely, in years when the operating reserve was projected to be insufficient, for each $1 million that the balance fell short of the 4.5-month target, the Service increased fees by 2 percent, while also capping such increases at 5 percent. In accordance with the current regulations, annual fees cannot increase or decrease by greater than 5 percent. The intention of this regulatory cap had been to limit the magnitude of an annual fee adjustment.

The current regulations provide for FGIS review and revision of fees annually (7 CFR 800.71(b)) to establish the tonnage fees (national and local) and supervision fees. The annual adjustment of fees is based on the operating reserve total at the end of the prior fiscal year. Fees are increased or decreased to maintain an operating reserve of 4.5 months of operating expenses. Historically, the operating reserve balance remained higher than the 4.5-month target, so FGIS annually reduced fees by the maximum amount, 5 percent, in 2017 (81 FR 96339), 2018 (83 FR 6451), and 2019 (84 FR 11926); and by 2 percent in 2020 (85 FR 8536).

However, at the close of FY 2020, FGIS was operating at a loss of $5 million and had an operating reserve balance below 4.5 months of operating expenses. In accordance with current regulations, FGIS increased fees by 5 percent in 2021 (86 FR 1475), 2022 (87 FR 920), and 2023 (88 FR 18512). These annual fee increases were not sufficient to both cover operating costs and a maintain a sufficient operating reserve. Because of the limitations on the magnitude of the annual increase, 2023 fees were lower than those charged in 2016 (*e.g.,* the contract regular hourly rate in 2016 was $40.20 and, in 2023, the rate was $39.20). A drop in export tonnage (and its associated revenue) further increased the FGIS deficit. Table

1 below illustrates the interplay between FGIS revenues, reserve balances, and export tonnage over the previous 5 years.

TABLE 1—FGIS GRAIN INSPECTION AND WEIGHING NET INCOME AND OPERATING RESERVE FOR THE LAST 5 FISCAL YEARS

| Fiscal year | Operating net (in millions) | Operating reserve balance (in millions) | Operating reserve balance (in months) | Annual export tons (in million metric tons) [1] |
|---|---|---|---|---|
| 2019 | ($6) | $15.5 | 5 | 108 |
| 2020 | (5.5) | 10 | 3 | 110 |
| 2021 | (3) | 7 | 2.5 | 137 |
| 2022 | (4) | 3 | 1 | 124 |
| 2023 | (3.5) | (0.5) | (0.3) | 97 |

[1] The data in this column represent export grain officially inspected and/or weighed (excluding land carrier shipments to Canada and Mexico inspected or weighed by delegated States and designated agencies), and outbound grain officially inspected and/or weighed by FGIS.

Since 2021, the expected revenue from user fees has been lower than the Service anticipated. Since 2021, the export volume (on which FGIS assesses tonnage fees) has declined year-over-year: by 10 percent in 2022, 22 percent in 2023, and 10 percent year-to-date in 2024. Reduced export volume has also impacted FGIS' ability to reestablish a sufficient operating reserve. This decline has been, in part, impacted by natural disasters. Though export volumes vary depending on weather, prices, and global demand, export volumes had risen in consecutive years since 2018. This significant decline was not expected, and the hurricane and severe drought were major unexpected events that contributed to the sudden decline in export volume.

In August 2021, Hurricane Ida struck the coast of Louisiana just prior to the high-volume harvest season. The lower Mississippi River handles over half of U.S. grain exports, and many of the major grain exporters sustained damage and could not return to normal operations for months. Grain export inspection volume declined year-over-year by 10 percent in 2022, and corresponding FGIS user fee revenue dropped by $3 million in FY 2022.

Then, in 2022, a severe drought struck the midwestern U.S., and parts of the Mississippi River, which handles the barge traffic to feed the nation's largest export market, sunk to the lowest levels in recorded history, dating back 143 years. Those record-low river levels hindered barge and vessel loading operations, and export volumes declined by another 22 percent year-over-year from 2022 to 2023. FGIS experienced another $3.5 million reduction in revenue for the same period. In the two years following the hurricane and drought, FGIS revenue was down a combined $6.5 million. Agency operating costs were also significantly impacted by the COVID–19 Pandemic, as well as information technology and cost-of-living expenses increases.

While the above discussed conditions individually presented significant challenges, their unprecedented, cumulative effect over a short time span limited FGIS's ability to recover its costs and contributed to the depletion of FGIS's reserves, jeopardizing its current ability to sustain and provide inspection and weighing services.

## 2023 Periodic Review

Under the current regulations, FGIS can review all fees to ''. . . ensure they reflect the true cost of providing and supervising official service.'' (7 CFR 800.71(c)) Given the confluence of events outside the agency's control, FGIS performed a periodic review in 2023 that examined the costs of all services offered. The review disclosed that most FGIS fees were misaligned with their actual costs and the current regulatory fee formula did not account for all agency costs. This misalignment and failure to account for actual costs has contributed to the current financial situation. The operating reserves for grain inspection and weighing activities at the end of FY 2023 were $0. With higher costs and lower export volume, FGIS faces a widening deficit for FY 2024, estimated to be approximately ($9 million), unless it makes immediate fee adjustments. In addition to the need for an immediate fee adjustment, the agency also determined that the current fees do not fully account for the agency's operating expenses. Without an immediate increase in fees to reflect the true cost of providing and supervising official services, FGIS must cease operations and will not be able to provide mandatory inspection and weighing services for the grain industry. In 2023, FGIS presented potential fee scenarios at public meetings and received stakeholder feedback that official services are necessary and add value to U.S. grain commodities. Stakeholders cautioned against large swings in the fees. They also acknowledged that FGIS has a responsibility to carry out inspection and weighing services and maintain appropriate reserves to sustain operations.

In addition to conducting the 2023 Periodic Review, FGIS has also implemented cost-saving measures to mitigate losses where possible. In FY24, the agency has frozen hiring of inspection and weighing staff, reduced travel to ''mission-critical only,'' reduced overtime at elevator locations, frozen employee awards, and reassigned underutilized staff to other field offices. These measures are appropriate and necessary but will be insufficient to correct the financial deficit and rebuild the operating reserve.

## New Fee Calculation

The new fees are based on the actual costs FGIS incurs in providing official services and the need to re-establish an operating reserve. The existing FGIS tonnage formula only accounts for fees assessed on grain tonnage and supervision of official agencies (§ 800.71(b)(1) and (2)); it excludes direct service costs and unit fees. In contrast, the new fees account for these costs.

### *Formulas for the Regular Rate, Overtime Rate, and Holiday Rate*

FGIS utilized the formulas described below to calculate the revised fees announced in this interim rule. Salaries, hours, and most rates used in the formulas are based on the prior fiscal year's obligations and hours of service. Some rates, such as those for equipment use and specialist laboratory services, are based on unique cost components that are not accounted for in the prior fiscal year's obligations and service hours. FGIS has rounded the final rates to the nearest $0.10. Currently, some fees are charged on a per unit basis and others are charged on a per hour basis. FGIS will continue to provide costs based on a per hour and per unit basis to maintain consistency.

The formulas used to determine hourly rates are as follows:

*Regular rate*—The total direct pay of FGIS personnel performing grading, weighing, laboratory services, and equipment testing divided by the total direct hours for the previous year, which is then multiplied by the next year's percentage of cost-of-living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses will be added to the cost of providing the service through the operating rate or the travel will be billed separately. An example of the calculation will look like this: [Total direct pay divided by total direct hours ($2,663,407/82,985) = $32.10, multiplied by 1.7% (cost-of-living increase) = $32.64, + $10.04 (benefits rate) + $28.90 (operating rate) + $0.01 (bad debt allowance rate) = $71.59 (rounded to $71.60); rounding is done to the nearest $0.10.]

*Overtime Rate*—The total direct pay of FGIS personnel performing grading, weighing, laboratory services, and equipment testing divided by the total direct hours, which is then multiplied by the next year's percentage of cost-of-living increase and then multiplied by 1.5, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses will be added to the cost of providing the service through the operating rate or the travel will be billed separately. An example of the calculation will look like this: [Total direct pay divided by total direct hours ($2,663,407/82,985) = $32.10, multiplied by 1.7% (cost-of-living increase) = $32.64, multiplied by 1.5 (overtime rate) = $48.96 + $10.04 (benefits rate) + 28.90 (operating rate) + $0.01 (bad debt allowance rate) = $87.91 (rounded to $87.90); rounding is done to the nearest $0.10.]

*Holiday Rate*—The total direct pay of FGIS personnel performing grading, weighing, laboratory services, and equipment testing divided by the total direct hours, which is then multiplied by the next year's percentage of cost-of-living increase and then multiplied by 2, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses will be added to the cost of providing the service through the operating rate or the travel will be billed separately. An example of the calculation will look like this: [Total direct pay divided by total direct hours ($2,663,407/82,985) = $32.10, multiplied by 1.7% (cost-of-living increase) = $32.64, multiplied by 2 (double time or Holiday rate) = $65.28, + $10.04 (benefits rate) + $28.90 (operating rate) + $0.01 (bad debt allowance rate) = $104.23 (rounded to $104.20); rounding is done to the nearest $0.10.]

Formula calculations are based on the prior fiscal year's actual costs or historical costs, workload data, projection of expenses impacting program costs, cost-of-living increases, and inflation. Cost-of-living increases and inflation factors are based on the economic assumptions from the Office of Management and Budget (OMB). Rather than codify a reference to an OMB budget document in this rule, each year AMS intends to use the most recent economic factors released by OMB for budget development purposes to determine cost impacts for these user fee activities.

*Formulas for the Benefits Rate, Operating Rate, and Allowance for Bad Debt Rate*

FGIS derived the components of the formulas above using the previous fiscal year's actual costs, as follows:

*Benefits rate*—The total direct benefits costs of FGIS personnel performing grading, weighing, laboratory services, and equipment testing divided by the total hours worked (regular, overtime, and holiday), which is then multiplied by the next calendar year's percentage cost-of-living increase. An example of the calculation will look like this: [Total direct benefits costs/(total regular hours + total overtime hours + total holiday hours) ($819,207/82,985)] = $9.87, multiplied by 1.7% (Cost of Living) = $10.04.]

*Operating Rate*—The total operating costs (including user fee adjustment) of FGIS personnel performing grading, weighing, laboratory services, and equipment testing divided by total hours worked (regular, overtime, and holiday), which is then multiplied by the percentage of inflation. The Operating Rate will include the adjustment for user fee reserve as an Operating Cost. For the purposes of this example, FGIS will call out the reserve adjustment separately. This example will assume $1,000,000 is needed for the reserve and assume all other operating costs are $42,000,000, divided by 630,000 total hours. An example of the calculation will look like this: [Total operating costs/(total regular hours + total overtime hours + total holiday hours (($42,000,000 + 1,000,000)/ 630,000)] = $69.61, multiplied by 2% (inflation) = $69.62.]

*Allowance for Bad Debt Rate*—Total bad debt for grading, weighing, laboratory services, and equipment testing divided by total hours worked (regular, overtime, and holiday). An example of the calculation will look like this: [Total bad debt cost/(total regular hours + total overtime hours + total holiday hours) ($1,000/82,985) = $ 0.01.]

As noted above, the formulas reflect that the cost of providing services includes both direct and indirect costs. Direct costs include the cost of salaries, employee benefits, and if applicable, travel and some operating costs. Indirect costs include the cost of program and AMS activities supporting the services provided to the industry and are not covered by FGIS tonnage fees. For purposes of these formulas, indirect costs have been included as part of operating costs.

**Revised Fees for 2024**

Tables 2–4 below set forth the revised fees for FGIS inspection and weighing services effective July 8, 2024, and until a final rule is issued. Fees were revised following the periodic review prescribed in the regulations to ensure cost recovery for official services performed by FGIS (specifically that revenue meets obligations for FY 2024) and rebuilding of the mandatory operating reserve.

FGIS calculated the hourly rates in the tables below by applying the formulas identified in the preceding sections to data for FY 2023 obligations and hours. The hourly rates also account for a 5.2 percent cost-of-living increase and inflation. However, the tables below do not implement the full fee increases that would otherwise result from application of the formulas. Without an adjustment, the formulas would result in a 111 percent increase in most fees. FGIS has adjusted the rates downwards by approximately 20 percent to establish more reasonable fees that also cover the costs of providing official inspection services for the remainder for FY 2024, and until such time as a final rule is issued. Accordingly, FY 2024 fees for official grain inspection and weighing services provided under the USGSA in the United States and Canada [1] are as follows:

TABLE 2—FEE TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [1]

| Service | Regular rate Monday–Friday (6 a.m.–6 p.m.) | Night differential Monday–Friday (6 p.m.–6 a.m.) | Overtime rate Sunday and Saturday | Holiday rate |
|---|---|---|---|---|
| Inspection and Weighing Services Hourly Fees (per service representative): | | | | |
| One-Year Contract (per hour per Service representative): | $65.00 | $71.50 | $81.30 | $97.50 |
| Noncontract (per hour per Service representative): | 93.30 | .......................... | 116.60 | 140.00 |

| Service | 2024 Rate |
|---|---|
| Additional Tests (cost per test, assessed in addition to the hourly rate): [2] | |
| Aflatoxin (rapid test kit method) | $17.90 |
| All other Mycotoxins (rapid test kit method) | 32.60 |
| NIR or NMR Analysis (protein, oil, starch, etc.) | 4.30 |
| Waxy corn (per test) | 4.30 |
| Class Y Weighing—online (per carrier) | 2.80 |
| Fees for other tests not listed above will be based on the noncontract hourly rate from Fee Table 1 (per hour/per representative) | ................. |
| Tonnage Fee (assessed in addition to all other applicable fees, only one tonnage fee will be assessed when inspection and weighing services are performed on the same carrier): | |
| All outbound carriers serviced by the specific field office (per-metric ton): [3] | |
| Delegated States/Designated Agencies (national $0.057) [4] | $0.057 |
| League City tonnage fee (local $0.080 plus national $0.057) | 0.137 |
| New Orleans tonnage fee (local $0.012 plus national $0.057) | 0.069 |
| Pacific Northwest tonnage fee (local $0.135 plus national $0.057) | 0.192 |
| Toledo tonnage fee (local $0.154 plus national $0.057) | 0.211 |

[1] Fees apply to original inspection and weighing, re-inspection, 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] Appeal and re-inspection services will be assessed the same fee as the original inspection service.

[3] Standard carrier capacity for trucks/submitted samples—52,800 lbs. (approx. 23.95 metric tons (mt)), container—54,000 lbs. (approx. 24.49 mt), rail—220,000 lbs. (approx. 99.79 mt), barge—3,648,000 lbs. (approx. 1,654.70 mt), Pacific Northwest (PN) barge—6,707,000 lbs. (approx. 3,042.24 mt).

[4] Tonnage fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 3—FEE TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1 2]

| Service | 2024 Rate |
|---|---|
| Original Inspection and Weighing (Class X) Services: | |
| Sampling only (use hourly rates from Fee Table 1). | |
| Stationary Lots (sampling, grade/factor, and checkloading): | |
| Truck/trailer/container (per carrier) | $35.00 |
| Railcar (per carrier) | 51.90 |
| Sacked grain (per hour per service representative plus an administrative fee per hundred weight) | 0.125/CWT |
| Lots sampled online during loading (sampling use hourly rates from Fee Table 1, plus): | |
| Truck/trailer/container (per carrier) | 21.30 |
| Railcar (per carrier) | 43.90 |
| Sacked grain (per hour per service representative plus an administrative fee per hundred weight) | 0.125/CWT |
| Other services: | |
| Submitted sample (per sample—grade and factor) | 21.30 |
| Factor only (per factor—maximum 2 factors) | 10.40 |
| Class X Weighing will be based on the noncontract hourly rate from Fee Table 1 (per hour/per service representative) | ....................... |
| Additional tests (excludes sampling): | |
| Aflatoxin (rapid test kit method) | 52.50 |
| All other Mycotoxins (rapid test kit method) | 67.60 |

[1] Canada fees include the noncontract hourly rate, the Toledo field office tonnage fee, and the actual cost of travel.

TABLE 3—FEE TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1 2]—Continued

| Service | |
|---|---|
| Fecal Matter Assay—Detection of Fecal Matter (Qualitative) | 326.55 |
| NIR or NMR Analysis (protein, oil, starch, etc.) | 17.90 |
| Test Kit Evaluation (Monday–Friday) | 111.70 |
| Tilletia controversa Kühn (TCK) spores testing (per sample) | 326.55 |
| Waxy Corn (per test) | 17.90 |
| Fees for other tests not listed above will be based on the noncontract hourly rate from Fee Table1 | |
| Pesticide Residue Testing: | |
| Routine Compounds (per hour per service representative) | 376.50 |
| Non-routine Compounds (Subject to availability) (per hour per service representative) | 200.90 |
| Original Inspection and Weighing (Class X) Services: | |
| Appeal inspection and review of weighing service [3]. | |
| Sampling service for Appeals additional (hourly rates from Fee Table 1). | |
| Board appeal and Appeals (grade and factor) | 142.70 |
| Factor only (per factor—max 2 factors) [4] | 75.10 |
| Additional tests (assessed in addition to all other applicable tests): | |
| Aflatoxin (rapid test kit method) | 52.50 |
| All other Mycotoxins (rapid test kit method) | 82.20 |
| Mycotoxin (per test—HPLC) | 245.60 |
| NIR or NMR Analysis (protein, oil, starch, etc.) | 31.10 |
| Sunflower oil (per test) | 31.10 |
| Fees for other tests not listed above will be based on the noncontract hourly rate from Fee Table 1 | |
| Stowage examination (service on request): | |
| Ship (per stowage space) (minimum 5 spaces per ship) | 89.00 |
| Subsequent ship examinations (same as original) (minimum 3 spaces per ship) | 89.00 |
| Barge (per examination) | 71.30 |
| All other carriers (per examination) | 28.20 |

[1] Fees apply to original inspection and weighing, re-inspection, 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] In addition to a 2-hour minimum charge on Saturday, Sunday, and holidays, an additional charge will be assessed when the revenue from the services in Fee Table 2, does not equal or exceed what would have been collected at the applicable hourly rate.

[3] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.50 per sample by the Service. (Invoice processed through appropriate payment method.)

[4] Factor only appeal—In accordance with 800.135(b) Kind and Scope, an appeal inspection is limited to the kind and scope of the original or re-inspection service; in the case of factor-only inspections, the service is limited to a maximum of two factors with no grade assignment.

TABLE 4—FEE TABLE 3—MISCELLANEOUS SERVICES

| Service | 2024 Rate |
|---|---|
| Grain grading seminars (per hour per service representative) [1] | $111.70 |
| Samples provided to interested parties (per sample) | 5.20 |
| Extra copies of certificates and divided lots (per certificate) | 3.50 |
| Special mailing (actual cost) | Actual cost |
| Travel (mileage, airfare, per diem, etc.) | Actual cost |
| Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 2.) | |
| Special Weighing Services (per hour per service representative): [10] | |
| Scale testing and certification | 145.20 |
| Evaluation of weighing and material handling systems | 145.20 |
| NTEP prototype evaluation (other than Railroad Track Scales) | 145.20 |
| NTEP prototype evaluation of Railroad Track Scales | 145.20 |
| Use of FGIS railroad track scale test equipment per facility for each requested service | 870.70 |
| Mass standards calibration and re-verification | 145.20 |
| Special [weighing] projects | 145.20 |

[1] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate (see § 800.0(b)(14) for definition of "business day.")

*Regulatory Changes*

This interim rule adds a new section (§ 800.74) to the regulations to implement the revised fees set forth above. Because the current user fee regulation at 7 CFR 800.71 does not permit fee increases greater than 5 percent, this interim rule also imposes a temporary stay on § 800.71. A temporary stay is also placed on § 800.72(b), as the additional charge provided therein is incorporated into Fee Table 2, footnote 2, above. To accommodate the stay imposed on §§ 800.71 and 800.72(b) and the addition of new § 800.74, conforming changes are made where §§ 800.71 or 800.72 are otherwise referenced in 7 CFR part 800, including in the following sections: 800.34, 800.36, 800.73, 800.156(d)(5), and 800.197(b)(3).

**Good Cause Analysis**

*Impact to Industry*

Without an immediate fee increase, FGIS will not be able to continue providing official inspection and weighing services. While there will be financial impacts to the agency and its operations if fees are not immediately increased, the impact of FGIS failing to provide basic services will have far-reaching and unprecedented impacts on the industry, including an unprecedented national disruption of grain exports. In the past, isolated, regional, and time-limited disruptions in the provision of official inspection and weighing services have had major ramifications for the industry. Likewise, failing to operate and provide official inspection and weighing could lead to unsustainable uncertainty and cost that may far exceed impacts of past isolated, regional, and time-limited disruptions.

FGIS inspects or weighs, on average, approximately $137 million worth of grain commodities every day, averaging $54 billion annually. The USGSA requires that nearly all grain exports be inspected and weighed by FGIS prior to export. FGIS provides these services mostly on bulk grain vessels loaded at ports throughout the U.S., with activities concentrated in the lower Mississippi River, Texas Gulf, Pacific Northwest, and Great Lakes regions. Each vessel can carry from 500,000 to 2,000,000 or more bushels of grain (12,500 to 50,000 metric tons), which represents between 500 and 2,000 truckloads of grain brought to market by producers, totaling millions of dollars on each vessel. The grade and condition of the commodity can greatly impact the value and end use functionality, so FGIS performs independent grading in accordance with a contract specific to each vessel. These contracts describe the grades and factors necessary to fulfill the requirements agreed to by buyer and seller. As an unbiased and trusted third party, FGIS grades and weights are respected around the world and facilitate trade through near-universal understanding and acceptance. Without such acceptance, some countries could require inbound quality inspections which could delay and introduce variables to the acceptance of U.S. grain shipments.

Since nearly every export shipment is subject to mandatory FGIS inspection and weighing, the results of those FGIS grade requirements (*e.g.,* U.S. No. 2 or better Yellow corn per FGIS standards) are typically written into the contract terms for final settlement. If FGIS can no longer provide those services, the shippers would not be able to meet their current contractual obligations. This could lead to the cancellation of contracts or modification of contracts to accept some other terms for grading. If alternative grading is used, inspections would be conducted by unlicensed and potentially untrained graders who may or may not have a relationship or financial interest with the shipping or receiving company. In contrast, every FGIS inspector must be trained, licensed, and free of conflicts of interest. The inspections are supported by an appeals system and national monitoring program to ensure alignment across the country. Without such support, the U.S. grain industry could be subject to foreign buyer concerns about quality and have no mechanism, such as an FGIS appeals or formal complaint system, to address such concerns expressed against U.S. grain shipments. Without such a system in place, global acceptance of U.S. grain exports could be placed at higher risk. FGIS plays a vital role in the global grain industry.

Nearly every grain export shipment would be impacted in some way if FGIS ceases operations, with immediate impacts upstream to handlers and producers. U.S. grain will immediately become less competitive as U.S. companies pay demurrage charges on vessels, barges, and railcars, which could amount to many thousands of dollars per hour; and these inefficiencies could result in lower prices ultimately paid to farmers. For example, when exports were hindered due to Hurricane Ida in 2021, vessels could not load, barge traffic halted, and corn and soybean prices unexpectedly sunk to their lowest levels in five weeks. This event was severe and directly impacted only one geographic area of the export chain, yet it had rippling effects throughout the grain supply chain. In contrast, if FGIS ceases operations entirely, the whole grain export marketing chain would be impacted and could prompt significant market volatility.

If the cessation of operations causes delays at export points, barges and trains will be delayed, grain elevators will fill, and the orderly U.S. grain handling system will quickly congest. Farmers may not be able to bring their crops to market during harvest, causing farmers to go unpaid for ready-for-delivery crops, and harvested grain could be subject to damage and discounts due to improper storage. As an example, during an inspection disruption at an elevator in Washington in 2014, export capacity was reduced by 86 percent, delaying hundreds of thousands of tons of U.S. grain shipments. The elevator quickly filled up with inbound grain from farmers, but without the normal export outlets, had to stop taking inbound grain. A major rail line stopped servicing the elevator, and farmers could not bring their grain to market during harvest. This caused significant harm to those handlers, farmers, and the public, as hundreds of millions of dollars in grain shipments were delayed. Such bottlenecks further impact farmers as the grain can become damaged as it sits in fields or farm storage waiting for normal export channels to reopen.

FGIS also oversees a network of private and public organizations, called Official Agencies, which provide inspection and weighing services on FGIS' behalf, primarily at interior locations. These Official Agencies inspect or weigh over 200 million metric tons of grain annually. While there are some appropriations dedicated to monitoring compliance of those operations, the daily oversight and interaction is funded through a user fee. If FGIS ceases operations, those activities would cease. Lack of oversight of domestic inspection would threaten an important component of the grain inspection system. When information asymmetries exist between buyers and sellers about grain quality, domestic inspection provides an unbiased assessment to all parties about protein content, damaged kernels, foreign material, and other quality factors related to the product's market value to ensure fair and efficient marketing of U.S. grains. Further, lack of oversight means farmers or handlers could be unnecessarily discounted, as the user-fee supported Federal appeals program would cease.

*Impact to Government*

In addition to the mandatory grain inspection and weighing services FGIS provides under the USGSA, FGIS provides several other services to facilitate the marketing of grain and related products. If FGIS cannot sustain operations, it would not be able to provide additionally important services, including perform phytosanitary inspection services on behalf of the Animal and Plant Health Inspection Service (APHIS); report hazardous shipments to the Food and Drug Administration (FDA); or conduct tests of railroad scales used in commerce.

Many export shipments require a phytosanitary certificate to meet the importing countries' phytosanitary requirements. FGIS, through a memorandum of understanding with APHIS, conducts many of these inspections concurrently with the quality grading. This efficiency allows the United States Department of Agriculture (USDA) to perform two examinations at once. If FGIS can no longer provide this service, customers could encounter delays and taxpayers could see higher costs as APHIS could have to provide these services unexpectedly and without sufficient staff.

During the occurrence of its official inspection services, if FGIS encounters a condition that could be hazardous to human or animal health, FGIS reports those findings to FDA. Those actionable conditions include insect infestation, a carcinogenic toxin called aflatoxin, unusual odors or additives in grain, and other conditions unsuitable for consumption. Similar to the relationship with APHIS, FGIS conducts these inspections concurrently and efficiently with the grain quality inspection. If FGIS can no longer operate, FDA will have to draw from taxpayer resources to fulfill these inspections, or if these inspection activities could go unfulfilled, it could expose the public to hazardous conditions that would have otherwise been identified by FGIS.

FGIS maintains an optional, user-fee supported program to test railroad track scales to various industries, including grain handlers. These tests ensure confidence in the scales used to weigh of commodities loaded in railcars transported on the Nation's rail system. If FGIS is unable to provide those services, the certification of railroad scales could be delayed, reducing confidence and exposing the rail infrastructure to risk of handing overweight freight. This service would need to be otherwise absorbed by another organization such as the National Institute of Science and Technology, which would involve careful planning and sufficient transition time.

*Statutory Compliance*

This action also seeks to ensure compliance with the USGSA, which requires FGIS to charge fees sufficient to cover the costs of the official inspection and weighing services it provides, and to adjust fees annually to maintain an operating reserve of not less than 3 and not more than 6 months. The Service is committed to issuing the final rule expeditiously after reviewing public comments and obtaining additional information.

At current rates, FGIS does not charge sufficient fees to meet obligations, and has incurred significant losses in the current 2024 fiscal year. FGIS must immediately increase fees to ensure that revenue meets obligations for the 2024 fiscal year. Otherwise FGIS will default and must cease operations.

The USGSA requires the Secretary to charge and collect reasonable fees to cover the estimated costs for performing official grain inspection and weighing services (which are mandatory under the Act for U.S. grain exports). The Act also requires the maintenance of an operating reserve balance of three-to-six months (*i.e.,* approximately $9M to $17M). At present, FGIS is non-compliant with the requirements of the USGSA, in both instances; and, upon good cause, AMS has determined that it must immediately adjust grain inspection and weighing fees to maintain mandatory services and the orderly marketing of grain for the U.S. grain export industry, which is valued at over $54 billion annually. This interim final rule announces the 2024 rates to be charged for the remainder of the fiscal year, and until such time as a final rule is issued.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting the revised fees for FY 2024 into effect because further delay will result in significant, negative supply chain impacts throughout the entire U.S. grain industry.

*Alternatives Considered*

The USGSA allows for the required official inspection of grain to be exported out of the United States to be waived in emergency and other circumstances that would not impair the objectives of the Act. Waivers have been used in limited instances, such as in the aftermath of Hurricane Ida in 2021, but do not present a feasible option for FGIS to address the current budgetary shortfall. A waiver from FGIS allows for shipment of grain without official inspection. If parties have contracted for USDA inspected grain, both parties must agree to accept the uninspected grain if a waiver has been issued. Widespread shipment of uninspected grain could raise skepticism about the quality of U.S. grain. This could have widespread and long-term unintended consequences for the U.S. grain industry both domestically and internationally.

In 2014, when a single grain elevator, in the State of Washington, could not receive Federal grain inspection services for a month, exporters had to request, in accordance with the USGSA and implementing regulations at 7 CFR 800.18, emergency grain inspection and weighing waivers from the Secretary to export grain. These waivers allowed exporters to ship some of their grain but not all. Loading capacity was reduced by 83 percent, causing rail lines to stop deliveries to the elevator and halting producer grain shipments at interior locations. The issuance of waivers can also result in unintended negative effects for the industry as customers abroad may reject the product for failing to meet contractual requirements (*i.e.,* a particular USDA grade). Therefore, the utilization of waivers has been limited to short term, regional issues that were remedied within a reasonable timeframe.

Without adjusting hourly and unit-based fees, FGIS anticipates a deficit in its FY 2024 operating reserves of nearly $9M. With such a shortfall, FGIS will not have sufficient revenue to meet obligations and will cease operations. U.S. grain exports would be disrupted for the over $54 billion grain export industry. Factors that have contributed to this potential imminent harm to the public include: (1) an eight-year period of low fees (*i.e.,* 2024 fees, $39.20/hour, are lower than 2016 fees, $40.20/hour); (2) regulatory provisions that limit annual fee increases and do not fully account for the actual cost of services provided; (3) inflation; (4) cost-of-living adjustments for the Federal workforce; (5) increased service delivery costs driven by unprecedented weather events (*e.g.,* Hurricane Ida and droughts); (6) declining global demand for grain; and (7) an increased volume of U.S. grain being distributed to domestic processing plants (which excludes them from mandatory inspection and weighing under the USGSA).

While the above conditions individually presented significant challenges, their unprecedented confluence, with other circumstances, over a short span presents a situation where FGIS must immediately take action to maintain operations and compliance with the USGSA.

For the reasons stated above, AMS finds that good cause exists for this interim rule to be effective 30 days after publication in the **Federal Register**.

Severability

The Department believes that each component of the rule is legally supportable, individually and in the aggregate. To the extent a court may enjoin any part of the rule, the Department intends that other provisions or parts of provisions should remain in effect. The stay of the current regulations is severable from the establishment of the revised 2024 fees.

**Required Regulatory Analyses**

*Executive Orders 12866, 13563, and 14094 and the Regulatory Flexibility Act*

The Office of Management and Budget has designated this rulemaking as not significant under Executive Order 12866, ''Regulatory Planning and Review,'' Executive Order 13563, ''Improving Regulation and Regulation Review,'' and Executive Order 14094, ''Modernizing Regulatory Review.'' Since grain export volume can vary significantly from year to year, estimating the impact in any future fee changes can be difficult. FGIS recognizes the need to provide predictability to the industry for inspection and weighing fees. The statutory requirement to also maintain an operating reserve between 3 to 6 months of operating expenses ensures that FGIS can adequately cover its costs without imposing an undue burden on its customers.

Currently, FGIS regularly reviews its user-fee financed programs to determine if the fees charged for performing official inspection and weighing services adequately cover the cost of providing those services. Due to the limitations in the current regulations, combined with four years of rate decreases, and noneconomic factors that led to the 2020–2023 period having the highest inflation in more than 40 years,[2] FGIS is now experiencing a deficit which is forecasted to grow without corrective action.

This interim rule revises fees for official grain inspection and weighing services provided by FGIS to ensure stability of the program. FGIS will continue to seek out cost-saving measures and implement appropriate changes to reduce its costs to provide alternatives to fee increases.

USDA is issuing this interim rule in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866, and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means.

[2] For example, the Consumer Price Index (CPI) Calculator (*https://data.bls.gov/cgi-bin/cpicalc.pl*) shows prices up 20 percent between January 2020 and February 2024, and up 31 percent between January 2016 and February 2024.

The revised fees set forth in this interim rule are necessary to ensure FGIS's continued operations and avoid significant disruptions to the private grain industry. The industry is familiar with the annual process for evaluating and updating fees and anticipates the changes in this interim rule. Additional costs to FGIS customers related to this interim final rule will allow FGIS to continue providing mandatory and voluntary grain inspection services that facilitate international and domestic trade.

This rulemaking is unlikely to have an annual effect of $200 million or more or adversely affect the economy. The changes to the FGIS fees in this rulemaking are a response to a projected deficit for FY 2024 of nearly $9 million. The interim rule would address the deficit with revised fees that are reflective of the costs to provide the services and will help prevent the deficits from widening in the future. This interim rule does not meet the criteria of a significant regulatory action under Executive Order 12866 as updated by Executive Order 14094. Therefore, the OMB has not reviewed this interim rule under those orders.

A 30-day comment period is provided to allow interested parties to submit written comments on this interim rule.

Under the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–12), FGIS has considered the economic impact of this rulemaking on small entities. The purpose of the Regulatory Flexibility Act is to fit regulatory actions to the scale of businesses subject to such actions. This ensures that small businesses will not be unduly or disproportionately burdened. FGIS is issuing this rulemaking to ensure continuity of mandatory services and ensure compliance with the USGSA.

The Small Business Administration (SBA) defines small businesses by their North American Industry Classification System Codes (NAICS). This rulemaking affects customers of FGIS's official inspection and weighing services in the domestic and export grain markets (NAICS code 115114). Current guidance from the SBA provides a revenue cutoff at $34 million to differentiate large and small firms in this industry. Fees for the program which apply to this industry are provided on the FGIS website.

Under the USGSA, all grain exported from the United States must be officially inspected and weighed, with few exceptions. FGIS provides mandatory inspection and weighing services at 29 export facilities in the United States. Five delegated State agencies provide mandatory inspection and weighing services at 20 facilities. All these facilities are owned by multinational corporations, large cooperatives, or public entities that do not meet the requirements for small entities established by the SBA. Further, the provisions of this rulemaking apply equally to all entities.

The USGSA requires the registration of all persons engaged in the business of buying grain for sale in foreign commerce. In addition, those persons who handle, weigh, or transport grain for sale in foreign commerce must also register. The regulations found at 7 CFR 800.30 and 800.31 define a foreign commerce grain business as the business of regularly buying for sale, handling, weighing, or transporting grain totaling 15,000 metric tons or more during the preceding or current calendar year. Currently, there are 174 businesses registered to export grain, most of which are not small businesses.

Most users of the official inspection and weighing services meet the SBA requirements for small entities. Data on user fee receipts from the FGIS for the past 5 years, plus 2024 to date, show a total of 2,123 different accounts over this time, though many firms are represented by multiple accounts. For the purposes of the Regulatory Flexibility Analysis, FGIS will consider accounts as representing establishments, with multiple establishments associated with larger firms.

FGIS identified a total of 31 large firms, as defined by the SBA firm size classification of receipts in excess of $34 million. FGIS also identified the total number of establishments affiliated with the 31 large firms to be 133. With a total number of establishments of 2,123, this means 1,990, or 94 percent, of the establishments that paid fees to FGIS over the 2019–2024 period are small businesses according to the SBA definition.

Table 5 shows that, while 6 percent of the firms are considered large, in total they have contributed the vast majority of the fees paid to the program. In each of the five previous years, and for the year 2024 to date, the 31 large firms paid between 86 and 90 percent of all FGIS fees, with an average of 89 percent. The remaining 1,990 establishments paid on average 11 percent of total fees.

TABLE 5—FGIS BILLED ACCOUNTS SUMMARY TABLE FOR REGULATORY FLEXIBILITY ANALYSIS BY SMALL BUSINESS ADMINISTRATION SIZE CLASSIFICATION

| Fiscal year | All firms | Large firms | | Small firms | |
|---|---|---|---|---|---|
| | Total fees paid | Fees paid | Share paid (%) | Fees paid | Share paid (%) |
| 2019 | $32,314,848 | $27,694,899 | 86 | $4,619,949 | 14 |
| 2020 | 30,746,015 | 27,386,467 | 89 | 3,359,547 | 11 |
| 2021 | 34,320,110 | 30,693,195 | 89 | 3,626,915 | 11 |
| 2022 | 31,663,547 | 28,183,027 | 89 | 3,480,520 | 11 |
| 2023 | 27,734,760 | 25,069,234 | 90 | 2,665,526 | 10 |
| Oct 2023–Feb 2024 | 10,702,712 | 9,679,943 | 90 | 1,022,769 | 10 |
| Grand Total | 167,481,991 | 148,706,765 | 89 | 18,775,226 | 11 |

The new fee structure will not change the relative burden of these fees on small businesses. These updated fees will benefit all inspection applicants, regardless of size, as fees will more closely reflect the current cost of inspections. Further, there are no additional reporting, record keeping, or other compliance requirements imposed upon small entities as a result of this rulemaking. FGIS has not identified any other Federal rules which may duplicate, overlap, or conflict with this rulemaking.

*Executive Order 12988*

This interim rule has been reviewed under Executive Order 12988—Civil Justice Reform. It is not intended to have retroactive effect. Section 18 of the USGSA (7 U.S.C. 87g) provides that no State or subdivision thereof may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the USGSA. Otherwise, this interim 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 interim rule.

*Executive Order 13175*

This interim rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications. FGIS has determined this interim rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

*Congressional Review Act*

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this interim rule does not meet the criteria set forth in 5 U.S.C. 804(2).

*E-Government Act*

USDA is committed to complying with the provisions of the E-Government Act (44 U.S.C. 3601 *et seq.*) by promoting 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.

*Paperwork Reduction Act*

This interim rule does not impose any additional reporting or recordkeeping requirements on either small or large FGIS customers. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), FGIS reports and forms are periodically reviewed to reduce information collection requirements and duplication.

**List of Subjects in 7 CFR Part 800**

Administrative practice and procedure, Conflicts of interests, Exports, Freedom of information, Grains, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 800 as follows:

## PART 800—GENERAL REGULATIONS

■ 1. The authority citation for part 800 continues to read as follows:

**Authority:** 7 U.S.C. 71–87K, 1621–1627.

■ 2. Amend § 800.34 by revising the first sentence to read as follows:

**§ 800.34 Registration fee.**

An applicant shall submit the registration fee prescribed in § 800.74 with the completed application. * * *

■ 3. Amend § 800.36 by revising the last sentence to read as follows:

**§ 800.36 Certificates of registration.**

* * * The Service shall charge a fee, in accordance with § 800.74, for each additional copy of a certificate of registration requested by a registrant.

**§ 800.71 [Stayed]**

■ 4. Stay § 800.71 indefinitely.

**§ 800.72 [Amended]**

■ 5. Stay § 800.72(b) indefinitely.

■ 6. Amend § 800.73 by revising paragraph (d) to read as follows:

**§ 800.73 Computation and payment of service fees; general fee information.**

* * * * *

(d) *To whom fees are assessed.* Fees for inspection, weighing, and related services performed by service representatives, including additional fees as provided in §§ 800.72(a) and 800.74, shall be assessed to and paid by the applicant for the service.

* * * * *

■ 7. Add § 800.74 above the undesignated center heading ''Kinds of Official Services'' to read as follows:

**§ 800.74 Fees for fiscal year 2024.**

The fees for fiscal year 2024 are established in the fee tables posted on the Service's public website.

**§ 800.156 [Amended]**

■ 8. Amend § 800.156, in paragraph (d)(5)(ii), by removing ''§ 800.71'' and adding in its place ''§ 800.74''.

■ 9. Amend § 800.197 by revising paragraph (b)(3) to read as follows:

**§ 800.197 Approval as a scale testing and certification organization.**

* * * * *

(b) * * *

(3) Be accompanied by the fee prescribed in § 800.74; and

* * * * *

**Melissa Bailey,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2024–12400 Filed 6–5–24; 8:45 am]

**BILLING CODE 3410–02–P**

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## DEPARTMENT OF ENERGY

### 10 CFR Part 433

**[EERE–2010–BT–STD–0031]**

**RIN 1904–AB96**

## Clean Energy for New Federal Buildings and Major Renovations of Federal Buildings; Correction

**AGENCY:** Federal Energy Management Program, Department of Energy.

**ACTION:** Final rule; correction.

**SUMMARY:** On May 1, 2024, the U.S. Department of Energy (''DOE'') published a final rule that adopted energy performance standards for certain new Federal buildings and Federal buildings undergoing major renovations. This document corrects errors in the regulatory text published with the final rule. These errors do not affect the substance of the rulemaking or any conclusions reached in support of the proposed rule.

**DATES:** Effective July 15, 2024.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Rick Mears, U.S. Department of Energy, Office of the Under Secretary for Infrastructure, Federal Energy Management Program, FEMP–1, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *cer-information@hq.doe.gov.*

Ms. Laura Zuber, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–4798. Email: *laura.zuber@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

On May 1, 2024, DOE published a final rule (Final Rule) that adopted energy performance standards for certain new Federal buildings and Federal buildings undergoing major renovations. The Final Rule adopted revisions to the energy performance standards at title 10 of the Code of Federal Regulations (''CFR'') parts 433 and 435. 89 FR 35384. Since publication of the Final Rule, DOE has identified errors in the regulatory text adopted by the Final Rule. Specifically, DOE incorrectly numbered subparagraphs in 10 CFR 433.200(c). DOE is issuing this correction to provide correct subparagraph numbers for 10 CFR 433.200(c) and to revise an internal citation. The corrections are described in the following paragraphs.

### II. Need for Correction

As published, the regulatory text in the Final Rule may lead to confusion regarding the application of certain paragraphs in 10 CFR 433.200(c) as two subsections are currently misidentified to fall under 10 CFR 433.200(c)(1)(ii), which applies to designs for new construction or major renovations of all Scope 1 fossil fuel using systems in certain Federal buildings that began during or after Fiscal Year 2030. Because this document would simply clarify the adopted regulatory text without making substantive changes to the energy performance standards adopted in Final Rule, the changes addressed in this document are technical in nature.

### III. Procedural Issues and Regulatory Review

DOE has concluded that the determinations made pursuant to the various procedural requirements applicable to the Final Rule remain unchanged for these technical corrections to the regulatory text. These determinations are set forth in the Final Rule. 89 FR 35384, 35411–35415.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b), DOE finds that there is good cause to not issue a separate notice to solicit public comment on the technical corrections contained in this document. Issuing a separate notice to solicit public comment would be impracticable, unnecessary, and contrary to the public interest. As explained previously, the corrections in this document do not affect the substance of or any of the conclusions reached in support of the Final Rule. Additionally, given the Final Rule is a product of an extensive administrative record with numerous opportunities for public comment, DOE finds additional comment on the technical corrections is unnecessary. Therefore, providing prior notice and an opportunity for public comment on correcting objective errors that do not change the substance of the proposed energy performance standards serve no useful purpose.

### Correction

In the FR Doc. 2024–08196 appearing on page 35384 in the **Federal Register** of Wednesday, May 1, 2024, the following corrections are made:

**§ 433.200 [Corrected]**

■ 1. On page 35418, in the first column between the table and the equation, in § 433.200, paragraph (c)(1)(ii)(C) is redesignated as paragraph (c)(2);

■ 2. On page 35418, in the second column between the table and the equation, in § 433.200, the paragraph (c)(1)(ii)(D) heading is redesignated as the paragraph (c)(3) heading;

■ 3. On page 35418, in the second column between the table and the equation, in § 433.200, paragraph (c)(1)(ii)(D)(*1*) is redesignated as paragraph (c)(3)(i);

■ 4. On page 35418, in the second column between the table and the equation, in § 433.200, in newly redesignated paragraph (c)(3)(i), the reference ''paragraph (c)(1)(A)'' is corrected to read as ''paragraph (c)(1)(i)''; and

■ 5. On page 35418, in the first column following the equation, in § 433.200, paragraph (c)(1)(ii)(D)(*2*) is redesignated as paragraph (c)(3)(ii).

### Signing Authority

This document of the Department of Energy was signed on May 24, 2024, by Mary Sotos, the Director of the Federal Energy Management Program, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 29, 2024.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2024–12081 Filed 6–5–24; 8:45 am]

**BILLING CODE 6450–01–P**

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Parts 125 and 128

**RIN 3245–AI10**

## Eliminating Self-Certification for Service-Disabled Veteran-Owned Small Businesses

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Direct final rule.