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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN 0580-AA82

Fees for Rice Inspection Services

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

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is implementing an approximate 4.1 percent increase in fees for all hourly rates and certain unit rates for inspection services performed under the Agricultural Marketing Act (AMA) of 1946 in the rice inspection program. These increases are needed to cover increased operational costs resulting from the mandated January 2003 Federal pay increase.

EFFECTIVE DATE: June 9, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Executive Order 12866, the Regulatory Flexibility Act, and the Paperwork Reduction Act

This final rule has been determined to be nonsignificant for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Also, pursuant to the requirements set forth in the Regulatory Flexibility Act, Donna Reifschneider, Administrator, GIPSA, has 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 *et seq.*).

GIPSA regularly reviews its user-fee programs to determine if the fees are adequate and continues to seek cost-saving opportunities and implement appropriate changes to reduce costs. Such actions can provide alternatives to fee increases. Employee salaries and benefits are major program costs that account for approximately 84 percent of GIPSA's total operating budget. The mandated January 2003 general and locality salary increase that averages 4.1 percent for all GIPSA employees has increased program costs in the rice inspection program.

The existing fee schedule for GIPSA's rice inspection program will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Fees for this program are in Tables 1 and 2 of 7 CFR 868.91. In Fiscal Year (FY) 2000, operating costs in the rice program were \$4,034,964 with revenue of \$4,837,116 that resulted in a positive margin of \$802,152 and a positive reserve of \$406,359. In FY 2001, operating costs in the rice program were \$3,842,326 with revenue of \$4,102,960 that resulted in a positive margin of \$260,634 and a positive reserve of \$611,654. In FY 2002, operating costs in the rice program were \$3,882,574 with revenue of \$3,885,121 that resulted in a positive margin of \$2,547 and a positive reserve of \$311,596. The current positive reserve balance of \$311,596 is below the desired 3-month reserve of approximately \$1 million.

GIPSA has reviewed the financial position of our rice inspection program based on the increased salary and benefit costs, along with the projected FY 2003 workload. Even though the financial status of the rice inspection program has improved, GIPSA has concluded that it cannot absorb the increased costs caused by the 4.1 percent salary increase with the small positive reserve balance. This fee increase will collect an estimated \$155,500 in additional revenues in the rice program based on the projected FY 2003 work volume of 3.4 million metric tons.

This fee increase applies primarily to GIPSA customers that produce, process, and market rice for the domestic and international markets. There are approximately 550 such customers located primarily in Arkansas, Louisiana, and Texas. Many of these

customers meet the criteria for small entities established by the Small Business Administration criteria for small businesses. Even though the fees are being increased, the increase will not be excessive (4.1 percent) and should not significantly affect those entities. Those entities are under no obligation to use GIPSA's service and, therefore, any decision on their part to discontinue the use of service should not prevent them from marketing their products.

There will be no additional reporting or record keeping requirements imposed by this final action. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 35), the information collection and record keeping requirements in part 868 have been previously approved by the Office of Management and Budget under control number 0580-0013. GIPSA has not identified any other Federal rules which may duplicate, overlap, or conflict with this final rule.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final action is not intended to have a retroactive effect. This final action will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this final rule.

Background

In the February 28, 2003, **Federal Register** (68 FR 9593) GIPSA proposed an approximate 4.1 percent increase in fees for rice inspection services performed under the Agricultural Marketing Act of 1946. Under the provisions of the AMA (7 U.S.C. 1621, *et seq.*), rice inspection services are provided upon request and GIPSA must collect a fee from the customer to cover the cost of providing such services. Section 203 (h) of the AMA (7 U.S.C. 1622 (h)) provides for the establishment and collection of fees that are reasonable and, as nearly as practicable, cover the costs of the services rendered. These fees cover the GIPSA administrative and supervisory costs for the performance of official services, including personnel compensation and benefits, travel, rent, communications, utilities, contractual