

significantly change. GIPSA routinely review the agency's revenue and cost of service as part of its ongoing fee review process. If inspection services and revenue from those services change significantly, GIPSA may determine a change in fees is needed and would do so as part of a fee proposal.

#### Executive Order 12988 and 12898

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a 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 administration procedures that must be exhausted prior to any judicial challenge to the provision of this rule.

Pursuant to Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations," GIPSA has considered potential civil rights implications of this rule on minorities, women, or persons with disabilities to ensure that no person or group will be discriminated against on the basis of race, color, sex, national origin, religion, age, disability, or marital or familial status. The final rule will apply in the same manner to all persons and groups whose activities are regulated, regardless of race, gender, national origin, or disability. This rule will have no effect on protected populations.

#### Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements in part 800 have been previously approved by OMB and assigned OMB No. 0580-0013.

#### Background

On August 21, 2002, GIPSA proposed in the **Federal Register** (67 FR 54133) to revise the regulations under the United States Grain Standards Act (Act), as amended, to allow interested persons to specify the quality factor(s) that would be redetermined during a reinspection or appeal inspection for grade. This proposal required comments to be received on or before October 21, 2002. On October 23, 2002, GIPSA published in the **Federal Register** (67 FR 65048) a notice to extend the comment period to November 21, 2002.

GIPSA had proposed this action because requiring that all quality factors be completely reexamined during a reinspection or appeal inspection is not efficient, is time consuming, and can be

costly. Further, a detailed review of the preceding inspection service is not always needed to confirm the quality of the grain. GIPSA proposed that applicants for service should be allowed to specify the factor(s) that are to be redetermined as part of a reinspection or an appeal inspection service because it provides a more effective and more efficient inspection service and better meets the industry's needs. However, reinspections for grade, appeal and Board appeal inspections for grade may include a review of any pertinent factor(s), as deemed necessary by official personnel. This would assure the issuance of an accurate grade. GIPSA also solicited comments regarding the need to show a statement on the certificate that would identify which factors were determined during the review inspection(s) and which were determined on a preceding inspection. GIPSA did not propose to include a required statement as part of the proposal.

#### Comment Review

GIPSA received 7 comments regarding the proposed action. All comments supported the action. Two comments were from associations involved with graded commodities inspected under the authority of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). Although their comments supported the proposed change; they asked that GIPSA extend this action to include their graded products (rice and pulses). Rice and pulse inspection is provided under the provisions of the regulations contained in 7 CFR part 868. Since the proposed action involved a change to 7 CFR part 800 and did not address the regulatory provisions of part 868, GIPSA cannot effect a change as part of this action. However, GIPSA will consider such action as part of a separate rulemaking, if deemed appropriate.

GIPSA also received a combined comment from two trade associations that generally supported the proposed revisions with an exception. Their comment expressed a concern that there were no clarifying guidelines published to implement this change which may result in differing interpretations and applications among official agencies and GIPSA field offices. They urged GIPSA to simultaneously publish with the final rule clarifying instructions to official personnel specifying the conditions under which a review of other pertinent factors (factors not requested by the applicant for service), as deemed necessary by official personnel.

In discussing the merits of the proposed rulemaking action, GIPSA

noted that while various industry groups had indicated that requiring all factors to be completely reviewed on reinspections and appeal inspections is usually unnecessary and costly, others indicated that the regulation must not allow official personnel to overlook questionable factor results just because the applicant for inspection did not request that certain factors be redetermined during the course of a review inspection. We noted that both of the views had merit and that all official inspections must be accurate. We pointed out that reinspections for grade, appeal and Board appeal inspections for grade could include a review of any pertinent factor(s), as deemed necessary by official personnel. If there was an indication that a factor or factors may have been misgraded or overlooked, then the factors in question would be redetermined. The current policy for review inspections addresses this issue. GIPSA will distribute a program notice to announce the final action and reaffirm the policy.

GIPSA received only one comment regarding the proposal not to use a statement on an official inspection certificate that identifies which factors were reinspected. The comment supported GIPSA's view to not include this type of statement on the inspection certificate.

#### Final Action

Accordingly, GIPSA is revising the regulatory text in 7 CFR 800.125 to allow requests for reinspections to be limited to one or more grade or condition factors, and is revising the regulatory text in 7 CFR 800.135 to allow requests for appeal inspections to be limited to one or more grade or condition factors.

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

Administrative practice and procedure, Grains.

#### PART 800—GENERAL PROVISIONS

■ For the reasons set out in the preamble, 7 CFR part 800 is amended as follows:

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

**Authority:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

■ 2. Section 800.125 (b) is revised to read as follows:

**§ 800.125 Who may request reinspection services or review of weighing services.**

\* \* \* \* \*

(b) *Kind and scope of request.* A reinspection or review of weighing service is limited to the kind and scope of the original service. If the request