

change was needed because advances in technology had allowed exporters to improve operational efficiencies, which, in turn, had reduced the number of GIPSA personnel required to service certain facilities. The fee structure was changed from primarily using hourly fees to recover costs to a method that uses a mix of hourly and unit fees for its inspection and weighing services. Direct service costs are recovered through hourly fees charged for employees providing the inspection and weighing services. Administrative costs are recovered by a tonnage fee applied to grain inspected and weighed as shipments from an export facility. Export grain companies are paying for direct labor costs and pay a share of the local and national administrative costs.

Since implementing the fees in 1996, GIPSA has adjusted hourly fees to correspond with annual Federal pay increases. This action is necessary since employee payroll costs account for approximately 84 percent of GIPSA's total operating budget. The current USGSA fees were published in the **Federal Register** on June 2, 2003, (68 FR 32623) and became effective on July 2, 2003.

GIPSA regularly reviews its programs to determine if the fees are adequate. Since implementing the fees in 1996, GIPSA has only experienced one year where the revenues exceeded the costs. Annual losses have been between \$1 million to \$1.7 million since 1996 except for the one positive year GIPSA revenue exceeded the costs by \$88,000.

GIPSA recognizes the need to reduce inspection and weighing costs as much as possible before increasing fees. Therefore, GIPSA has taken action through the years to minimize payroll costs. These actions include utilizing employee buyouts to remove high-salaried, senior employees from the active employment list; taking advantage of employee attrition to reduce total staff by not hiring to fill vacant positions; hiring and scheduling more part-time and intermittent employees to better manage staff costs during fluctuating work periods; and reducing the amount of paid overtime via creative scheduling processes. Although GIPSA has observed a 14 percent reduction in paid hours and has reduced overtime pay by 2 percent, this is not enough to avoid continued financial losses.

GIPSA has completed a review of the grain inspection and weighing programs and has determined it is necessary to amend the fees in order to replenish the retained earnings accounts and to maintain a 3-month operating reserve. The proposed changes are targeted to

recover employee costs directly related to services provided and to recover the costs associated with administering and supervising the grain inspection and weighing programs. Maintaining GIPSA's financial stability will assure continued inspection and weighing services to the grain industry which will further facilitate the sound and orderly marketing of grain in domestic and export markets.

To minimize the impact of a fee increase, GIPSA has decided to propose fee rates that collect sufficient revenue to immediately cover operating expenses, while striving to create a 3-month operating reserve by FY 2010. These proposed fees are designed to collect sufficient annual revenue through FY 2007, to achieve an average estimated positive \$1,000,000 balance annually based on an inspection volume of 80 MMT per year. The cost of living projections used in calculating future salary and benefits out to FY 2007 were supplied by OMB as set forth in their Federal Register publication (68 FR 12388) on March 14, 2003. GIPSA will evaluate the financial status of the grain inspection and weighing 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.

Under the provisions of the United States Grain Standards Act, grain exported from the United States must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA at 32 export facilities and by delegated States at 19 export facilities. All of these facilities are owned by multi-national corporations, large cooperatives, or public entities that do not meet the requirements for small entities established by the Small Business Administration. Further, the regulations are applied equally to all entities.

The USGSA (7 U.S.C. 87f-1) requires the registration of all persons engaged in the business of buying grain for sale in foreign commerce. In addition, those individuals who handle, weigh, or transport grain for sale in foreign commerce must also register. The USGSA regulations (7 CFR 800.30) define a foreign commerce grain business as persons who regularly engage in buying for sale, handling, weighing, or transporting grain totaling 15,000 metric tons or more during the preceding or current calendar year. At present, there are 90 registrants registered to export grain. While most of the 90 registrants are large businesses, we assume that some may be small.

GIPSA also provides nonmandatory inspection and weighing services at other than export locations. Approximately 75 different applicants receive nonmandatory inspection services each year and approximately 50 different locations receive track scale tests as a miscellaneous service each year. While most of these applicants are large businesses, we assume that the proposed increases should not significantly affect many small businesses requesting these official services. Furthermore, any of these applicants that wish to avoid the fee increase may do so by using an alternative source for these services. Such a decision should not prevent the business from marketing its product or conducting business as usual.

GIPSA has determined that the total cost to the grain industry to implement the proposed changes will be approximately \$5,266,767 per year. This represents an approximate 21 percent increase in revenues or an average increase of 6.5 cents per ton. These calculations are based on the assumptions that the projected OMB employee costs for continued annual Federal pay increases will increase a total of 17.38 percent from FY 2002 to FY 2007 and GIPSA will collect revenue from a minimum of 80 MMT per year which was used to establish the tonnage fee.

Most users of the official inspection and weighing services do not meet the requirements for small entities. Further, GIPSA is required by statute to make services available and to recover, as nearly as practicable, the costs of providing such services. Additionally, GIPSA has not identified any other Federal rules which may duplicate, overlap, or conflict with this proposed rule. Therefore, Donna Reifschneider, Administrator, GIPSA, has determined that this proposed 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.*).

List of Subjects in 7 CFR Part 800

Administrative practice and procedure; Grain.

For the reasons set out in the preamble, 7 CFR Part 800 is proposed to be amended as follows:

PART 800—GENERAL REGULATIONS

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 800.71 is amended by revising paragraph (a), Schedule A and