

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580-AA81

Fees for Official Inspection and Official Weighing Services

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

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) of the Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing to increase certain fees by approximately 4.1 percent; *i.e.*, contract and noncontract hourly rates, certain unit rates, and the administrative tonnage fee increases. These fees apply only to official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. These increases are needed to cover increased operational costs resulting from the approximate 4.1 percent January 2003 Federal pay increase. GIPSA anticipates the increase in the user fees will generate approximately \$685,000 in additional revenue.

DATES: March 31, 2003.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Written comments must be submitted to Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1647-S, Washington, DC 20250-3604, or faxed to (202) 690-2755. Comments may also be sent by E-mail to: comments.gipsa@usda.gov. Please state that your comments refer to RIN No. 0580-AA81. Comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

David Orr, Director, Field Management Division, at his E-mail address:

David.M.Orr@usda.gov, or telephone him at (202) 720-0228.

SUPPLEMENTARY INFORMATION:

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

This 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, it has been 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.*).

GIPSA regularly reviews its user-fee-financed programs under the United States Grain Standards Act (7 U.S.C. 71 *et seq.*) to determine if the fees are adequate. GIPSA has and will continue to seek out cost-saving opportunities and implement appropriate changes to reduce costs. Such actions can provide alternatives to fee increases. However, even with these efforts, GIPSA's existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Retained earnings balances are adjusted to reflect prior year revenue and obligations realized in the year reported. In Fiscal Year (FY) 2000, GIPSA's operating costs were \$24,146,428 with revenue of \$23,150,188 that resulted in a negative margin of \$996,240 and a negative reserve balance of \$938,147. In FY 2001, GIPSA's operating costs were \$25,670,126 with revenue of \$23,977,240 that resulted in a negative margin of \$1,692,886 and a negative reserve balance of \$2,572,080. Using the most recent data available, GIPSA's FY 2002 operating costs were \$23,812,292 with revenue of \$23,322,247 that resulted in a negative margin of \$490,045. The current reserve negative balance of \$3,318,041 is well below the desired 3-month reserve of approximately \$6 million. GIPSA recognizes the fact that retained earnings are well below the desired level. This proposed action will not have a major impact on improving GIPSA's financial position. GIPSA has been reviewing the fees and will

propose changes that will address this deficit in the near future.

Employee salaries and benefits are major program costs that account for approximately 84 percent of GIPSA's total operating budget. The anticipated general and locality salary increase that averages 4.1 percent for GIPSA employees, effective January 2003, will increase GIPSA's costs by approximately \$685,000.

GIPSA has reviewed the financial position of the inspection and weighing program based on the anticipated increased salary and benefit costs, along with the projected FY 2003 workload of 78 million metric tons. Based on the review, GIPSA has concluded that an approximate 4.1 percent increase will have to be recovered through increases in fees.

The proposed fee increase primarily applies to entities engaged in the export of grain. Under the provisions of the USGSA, grain exported from the United States must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA on a fee basis at 32 export facilities. All of these facilities are owned and managed by multi-national corporations, large cooperatives, or public entities that do not meet the criteria for small entities established by the Small Business Administration.

Some entities that request nonmandatory official inspection and weighing services at other than export locations could be considered small entities. The impact on these small businesses is similar to any other business; that is, an average 4.1 percent increase in the cost of official inspection and weighing services. This proposed increase should not significantly affect any business requesting official inspection and weighing services. Furthermore, any of these small businesses that wish to avoid the fee increase may elect to do so by using an alternative source for inspection and weighing services. Such a decision should not prevent the business from marketing its products.

There would be no additional reporting or recordkeeping requirements imposed by this action. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements in Part 800 have been previously approved by the