

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 proposed rule.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. The USGSA provides in § 87g that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this proposed rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this proposed rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this proposed rule.

Proposed Action

The USGSA (7 U.S.C. 71 *et seq.*) authorizes GIPSA to provide official grain inspection and weighing services and to charge and collect reasonable fees for performing these services. The fees collected are to cover, as nearly as practicable, GIPSA's costs for performing these services, including related administrative and supervisory

costs. The current USGSA fees were published in the **Federal Register** on March 21, 2002 (67 FR 13084), and became effective on April 22, 2002.

GIPSA regularly reviews its user-fee-financed programs 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 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. Employee salaries and benefits are major program costs that account for approximately 84 percent of GIPSA's total operating budget. The salary increase that GIPSA anticipates becoming effective in January 2003 averages 4.1 percent for GIPSA employees. Overall, program costs are estimated to increase by approximately \$685,000. GIPSA recognizes that retained earnings are well below the desired level and that this proposed action will not have a major impact on improving its financial position. As a result, GIPSA has been reviewing its overall fee structure. Changes that will address this structure will be considered in the near future and will be proposed as appropriate. GIPSA remains committed to providing the most cost-effective services possible to the grain industry while maintaining program quality and integrity.

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 current hourly fees are:

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and Overtime	Holidays
1-year contract	\$28.60	\$31.20	\$40.40	\$48.60
6-month contract	31.60	33.40	42.80	56.00
3-month contract	36.00	37.20	46.60	58.00
Noncontract	41.80	44.00	53.40	65.40

GIPSA has also identified certain unit fees, for services not performed at an applicant's facility, that contain direct labor costs and would require a fee increase. Further, GIPSA has identified those costs associated with salaries and benefits that are covered by the administrative metric tonnage fee. The anticipated 4.1 percent cost-of-living increase to salaries and benefits covered by the administrative tonnage fee results in an overall increase of an average of 4.1 percent to the administrative tonnage fee. Accordingly, GIPSA is proposing an approximate 4.1 percent increase to certain hourly rates, certain unit rates, and the administrative tonnage fee in 7 CFR 800.71, Table 1—Fees for Official Services Performed at an Applicant's Facility in an Onsite FGIS Laboratory; Table 2—Services Performed at Other Than an Applicant's

Facility in an FGIS Laboratory; and Table 3—Miscellaneous Services.

This proposed rule provides a 30-day period for interested persons to comment. This comment period is deemed appropriate because the anticipated Federal pay increase is scheduled to become effective on January 1, 2003, and grain export volume and associated requests for official services for such grain are projected to further decrease in the coming months due to seasonal and other adjustments. Accordingly, given the current level of the operating reserve, it would be necessary to implement any fee increase that may result from this rulemaking as soon as possible.

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 Schedule A in paragraph (a) to read as follows:

§ 800.71 Fees assessed by the Service.

(a) * * *

Schedule A.—Fees for Official Inspection and Weighing Services Performed in the United States