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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 868

RIN 0580-AA67

#### Fees for Rice Inspection

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

**ACTION:** Final rule.

**SUMMARY:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) is increasing certain fees for Federal rice inspection services performed under the Agricultural Marketing Act (AMA) of 1946. This fee increase is intended to cover, as nearly as practicable, the projected approximate 3.6 percent increase to Federal salaries for Federal Rice Inspection Services. The increase is designed to generate additional revenue required to recover operational costs created by cost-of-living increases to Federal salaries January 1, 1999.

**EFFECTIVE DATE:** March 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Sharon Vassiliades, USDA, GIPSA, ART, 1400 Independence Avenue, SW, Stop 3649, Washington, D.C. 20250-3649; telephone (202) 720-1738; electronic mail or Internet svassili@fgisdc.usda.gov.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

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.

##### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. This 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 which must be exhausted prior to any judicial challenge to provisions of this rule.

#### Regulatory Flexibility Act and Effects on Small Entities

James R. Baker, Administrator, GIPSA, has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The cost of living increase in the rice service fee is primarily applicable to GIPSA customers that produce, process, and market rice for the domestic and international markets. There are approximately 550 such customers located primarily in the Arkansas, Louisiana, and Texas geographic areas. Many of these customers meet the criteria for small business. GIPSA has determined that this rule will have a limited economic impact on small entities as defined in the Regulatory Flexibility Act.

Under the provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), rice inspection services are provided upon customer request and GIPSA must recover from the customer the cost of providing such services. GIPSA will recover the January 1, 1999, average 3.6 percent increase in Federal salary costs by raising its rice service fee. The increase will affect only that portion of the fees associated with the hourly salaries paid to Federal employees and administrative personnel; overhead costs are not included in this increase.

GIPSA cannot absorb the approximate 3.6 percent increase in salary costs with the existing deficit in retained earnings. In fiscal year 1998, GIPSA's obligations were \$3,820,820 with revenue of \$4,011,446, resulting in a positive margin of \$190,626 and retained earnings of negative \$895,584.

The increase in fees will not have a significant impact on either small or large entities. GIPSA estimates that the increased fee charged to its 550 customers will provide an annual increase of \$155,356 in revenue (assuming fiscal year 1998 volume equivalents).

#### Information Collection and Record Keeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and record keeping requirements concerning applications for official inspection services including rice inspections have been previously approved by the Office of Management and Budget under control number 0580-0013.

#### Background

On November 25, 1998, GIPSA published in the **Federal Register** (63 FR 65134) a proposal to increase certain fees for Federal rice inspection services performed under the Agricultural Marketing Act of 1946.

The rice inspection fees were last amended on July 3, 1996 (61 FR 34714), with a tri-level fee increase with effective dates of August 2, 1996, January 1, 1997, and January 1, 1998. These fees were to cover, as nearly as practicable, the projected operating costs, including related supervisory and administrative costs and to maintain an operating reserve for Federal rice inspection services. They presently appear at 7 CFR 868.91 in Tables 1 and 2. Currently, the regular workday contract and noncontract fees are \$40.20 and \$48.90, respectively, while the nonregular workday contract and noncontract fees are \$56.00 and \$67.90, respectively. The unit rate per hundredweight for export port services is currently \$.048/cwt. and the unit rate for total oil and free fatty acid tests is currently \$39.80. These unit rates are also being changed.

The increase affects only that portion of the fees associated with hourly salaries paid to Federal employees and administrative personnel; overhead recovery is not included. The fee increase generates additional revenue required to recover operational costs created by the January 1999 cost-of-living increase to Federal salaries. The average salary increase for GIPSA employees in calendar year 1999 is projected at approximately 3.6 percent. This action is being taken to ensure that the service fees charged by GIPSA generate adequate revenue to cover the additional cost created by the January 1999 Federal salary increase.

The hourly fees covered by this rule generate revenue to cover the basic

salary, benefits, and leave for those employees providing direct service delivery and administrative salaries and benefits, as well as contributing to overall overhead cost recovery. GIPSA has also identified that part of the hourly rate that is directly attributable to salaries and benefits and certain unit fees for services not performed at an applicant's facility that contain labor costs. This rule increases those hourly rates and unit fees based on an approximate 3.6 percent increase to the labor cost of each hourly rate and unit.

The amount of revenue collected under this rule will be a direct result of the work volume. GIPSA estimates an annual increase of \$155,356 in revenue (assuming fiscal year 1998 volume equivalents). If GIPSA foregoes this adjustment, GIPSA will incur a net loss equivalent to the approximate 3.6 percent Federal salary increase for every hour worked by an employee providing direct service delivery and administrative personnel.

In fiscal year 1998, GIPSA's obligations were \$3,820,820 with revenue of \$4,011,446, resulting in a positive margin of \$190,626 and retained earnings of negative \$895,584. GIPSA cannot afford to absorb a \$155,356 loss due to the approximate 3.6 percent increase in salary costs with the existing deficit in retained earnings. Additionally, GIPSA will continue to monitor its costs to improve operating efficiencies and adopt cost saving measures, where possible and practicable.

#### Comment Review

GIPSA received one comment during the 60-day comment period. The

commenter, a grain trade association representing grain, feed, and processing companies, opposed the fee increase, stating that the agency is simply passing on increased costs to users of the rice inspection program without first relying on cost saving measures and improved efficiencies to offset the anticipated increase in salaries for Federal employees. The comment went on to say that the agency should look at current activities to determine where programs can be streamlined, staffing can be reduced or be made more efficient, and services can be automated as the primary method to control costs and re-build the 3-month operating reserve in the trust fund account.

GIPSA is required by the AMA to recover its costs for providing rice inspection services by establishing reasonable fees to cover their estimated costs. The 3.6 percent increase is consistent with the provisions of the AMA concerning the establishment of fees. Absorbing the average 3.6 percent salary increase is impractical considering the extremely low retained earnings of negative \$895,584. Further, GIPSA has conducted numerous cost saving measures in the past few years, early retirements, field office consolidations, and reduction in travel and training. GIPSA will continue to monitor its costs to improve operating efficiencies and adopt cost saving measures, where possible and practicable.

#### Final Action

Section 203 of the AMA (7 U.S.C. 1622) 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 costs, including administrative and supervisory costs, for the performance of official services, including personnel compensation, personnel benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment.

It is found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) Given the current level of the operating reserve, the fee increase should be implemented as soon as possible, and (2) the effective date coincides with the beginning of a billing cycle.

In Section 868.91, Tables 1 and 2 are revised to provide for the increases in rice inspection fees.

#### List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agricultural commodities.

For reasons set out in the preamble, 7 CFR Part 868 is amended as follows:

#### PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for part 868 continues to read as follows:

**Authority:** Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

2. Section 868.91 is revised to read as follows:

#### § 868.91 Fees for certain Federal rice inspection services.

The fees shown in Tables 1 and 2 apply to Federal Rice Inspection Services.

TABLE 1.—HOURLY RATES/UNIT RATE PER CWT  
[Fees for Federal Rice Inspection Services]

Service <sup>1</sup>	Regular work-day (Monday-Saturday)	Nonregular workday (Sunday-holiday)
Contract (per hour per Service representative) .....	\$40.80	\$56.80
Noncontract (per hour per Service representative) <sup>2</sup> .....	50.00	69.00
Export Port Services <sup>2</sup> .....	0.05	0.05

<sup>1</sup> Original and appeal inspection services include: Sampling, grading, weighing, and other services requested by the applicant when performed at the applicant's facility.

<sup>2</sup> Services performed at export port locations on lots at rest.

TABLE 2.—UNIT RATES

Service <sup>1,3</sup>	Rough rice	Brown rice for processing	Milled rice
Inspection for quality (per lot, subplot, or sample inspection) .....	\$32.90	\$28.40	\$20.20
Factor analysis for any single factor (per factor):			
(a) Milling yield (per sample) .....	25.50	25.50	
(b) All other factors (per factor) .....	12.10	12.10	12.10
Total oil and free fatty acid interpretive line samples: <sup>2</sup> .....		40.00	40.00
(a) Milling degree (per set) .....			85.10

TABLE 2.—UNIT RATES—Continued

Service <sup>1,3</sup>	Rough rice	Brown rice for processing	Milled rice
(b) Parboiled light (per sample) .....			21.30
Extra copies of certificates (per copy) .....	3.00	3.00	3.00

<sup>1</sup> Fees apply to determinations (original or appeals) for kind, class, grade, factor analysis, equal to type, milling yield, or any other quality designation as defined in the U.S. Standards for Rice or applicable instructions, whether performed singly or combined at other than at the applicant's facility.

<sup>2</sup> Interpretive line samples may be purchased from the U.S. Department of Agriculture, GIPSA, FGIS, Technical Services Division, 10383 North Executive Hills Boulevard, Kansas City, Missouri 68030. Interpretive line samples also are available for examination at selected FGIS field offices. A list of field offices may be obtained from the Director, Field Management Division, USDA, GIPSA, FGIS, 1400 Independence Avenue, SW, STOP 3630, Washington, DC 20250-3630. The interpretive line samples illustrate the lower limit for milling degrees only and the color limit for the factor "Parboiled Light" rice.

<sup>3</sup> Fees for other services not referenced in Table 2 will be based on the noncontract hourly rate listed in Section 868.90, Table 1.

**James R. Baker,**

*Administrator.*

[FR Doc. 99-3338 Filed 2-11-99; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

#### 7 CFR PART 1530

[Rin 0551-AA39]

#### **Sugar to be Imported and Re-Exported in Refined Form or in Sugar Containing Products, or Used for the Production of Polyhydric Alcohol**

**AGENCY:** Foreign Agricultural Service (FAS), USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule supersedes the regulation at 7 CFR part 1530, which governs the importation of world priced raw sugar and its subsequent re-export as refined sugar, or as an ingredient in sugar containing products, or its use in the production of certain polyhydric alcohols.

**EFFECTIVE DATE:** This final rule is effective February 12, 1999.

**ADDRESSES:** U.S. Department of Agriculture, Foreign Agricultural Service, Import Policies and Programs Division, 1400 Independence Avenue, SW., Stop 1021, Washington, DC 20250-1021.

**FOR FURTHER INFORMATION CONTACT:** Stephen Hammond, Division Director, Import Policies and Programs Division, U.S. Department of Agriculture, Foreign Agricultural Service, 1400 Independence Avenue, SW., Stop 1021, Washington, DC 20250-1021. Telephone: 202/720-2916.

#### **SUPPLEMENTARY INFORMATION:**

##### **Executive Order 12866**

This final rule is issued in conformance with Executive Order 12866. The Administrator of the Foreign

Agricultural Service (FAS) has determined that this rule is "not economically significant." Therefore, except for requirements under the Paperwork Reduction Act of 1995, the rule has not been reviewed by the Office of Management and Budget. The Administrator, FAS, has determined that the provisions of this final rule will not: (1) Result in an annual effect on the economy of \$100 million or more; (2) adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; or (3) regulate issues of human health, human safety, or the environment. Further, the Administrator has determined that the rule does not:

(1) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (2) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs, or the rights and obligations of recipients; or (3) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

##### **Regulatory Flexibility Act**

The Regulatory Flexibility Act ensures that regulatory and information requirements are tailored to the size and nature of small businesses, small organizations, and small governmental jurisdictions. This final rule will not have a significant economic impact on a substantial number of small entities. Participation in the programs is voluntary. Direct and indirect costs are small as a percentage of revenue and in terms of absolute costs. The minimal regulatory compliance requirements are scaled to impact large and small businesses equally, and the programs improve businesses' cash flow and liquidity.

##### **National Environmental Policy Act**

The Administrator has determined that this action will not have a significant effect on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this rule.

##### **Executive Orders 12372 and 12875, and the Unfunded Mandates Reform Act (Pub. L. 104-4)**

These Executive Orders and Public Law 104-4 require intergovernmental review of programs. Neither the Refined Sugar Re-Export Program, the Sugar Containing Products Re-Export Program, nor the Polyhydric Alcohol Program impose an unfunded mandate or any other requirement on State, local or Tribal governments. Further, the programs are national in scope and involve a power delegated to the United States by the Constitution. Accordingly, these programs are not subject to the provisions of either Executive Order 12372, or Executive Order 12875, or the Unfunded Mandates Reform Act, Pub. L. 104-4.

##### **Executive Order 12612**

Executive Order 12612 requires implications of "federalism" be considered in the development of regulations. The Administrator certifies that this final rule has been reviewed in light of Executive Order 12612 and that it is consistent with the principles, criteria, and requirements stated in sections 2 through 5 of this Executive Order. The Administrator further certifies that this rule would impose no additional cost or burden on the States, nor affect the States' abilities to discharge traditional State governmental functions.

##### **Executive Order 12606**

Executive Order 12606 requires that government action include consideration of maintaining stability and strengthening the family. The