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Proposed Rules
Federal Register

DEPARTMENT OF AGRICULTURE
Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868
RIN No. 0580-AA54

General Regulations and Standards for Certain Agricultural Commodities

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

ACTION: Proposed rule.

SUMMARY: **The Grain Inspection, Packers and Stockyards Administration (GIPSA)** is proposing to amend the regulations under the Agricultural Marketing Act (Act) of 1946 to allow GIPSA and State cooperators to use contractors to perform specified inspection services. GIPSA has determined that private firms, institutions, and individuals, working under contract with GIPSA field offices and State cooperators may be able to perform some inspection services, at certain locations, more effectively or at less cost than if those services were performed by Department or State employees. Consequently, GIPSA is proposing to amend the regulations to allow GIPSA and State cooperators to contract for service work and to license individual contractors and those employed by contractors.

DATES: Comments must be received on or before March 16, 1998.

ADDRESSES: Written comments must be submitted to George Wollam, USDA, GIPSA, ART, Stop 3649, Washington, DC 20250-3649; FAX (202) 720-4628. All comments received will be made available for public inspection in Room 0623, USDA South Building, 1400 Independence Avenue, SW., Washington, DC, during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, address same as above, telephone (202) 720-0292.

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 rule is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule is not intended to have retroactive effect. There are no

administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule or application of its provisions.

Effects on Small Entities

GIPSA has determined that this proposed 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.). GIPSA believes that allowing contracts with private firms, institutions, individuals, and others for inspection work will foster more cost-effective operations. Many users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act. For example, the primary user of pulse inspection services is the U.S. government. It is estimated that between 80 and 90 percent of all inspections are performed (directly or indirectly) at the request of either the USDA's Farm Service Agency or Foreign Agricultural Service, or the U.S. Agency for International Development. The proposed change would allow GIPSA and the 13 State cooperators to use contractors to perform specified inspection services. Currently, contract samplers are used by both GIPSA and State cooperators which has resulted in reduced operating expenses and, in many cases, quicker services to applicants for services. It is expected that this action would result in similar benefits.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements in part 868 have been approved previously by OMB and assigned OMB No. 0580-0013.

Background

GIPSA is committed to carrying out its statutory and regulatory mandates in a cost effective manner that best serves the public interest. Concurrently, GIPSA is constantly seeking ways to reduce the cost of providing official services, without reducing the quality of that service. One measure that has proven effective is the use of contract samplers at outlying service points or during periods of peak demand. By judiciously using contract samplers, GIPSA field offices and State cooperators have been able to reduce their operating expenses and, in many cases, provide quicker service to their applicants for services. GIPSA believes that contract inspections may be equally beneficial in certain situations; e.g., providing quality inspections on an intermittent basis at geographically isolated service points. Additionally, GIPSA feels that allowing GIPSA and State cooperators to contract with private firms, institutions, individuals, and others for inspection work will foster more cost-effective operations, which in turn, may lessen the need for future fee increases.

The Act of 1946, as amended, provides authority to the Secretary of Agriculture to enter into contracts and agreements with States and agencies of States, private firms, institutions, and individuals for the purpose of performing specified inspection services. According to section 868.1(b)(23) of the regulations, such services may include ``applying such tests and making examinations of a commodity and records by official personnel as may be necessary to determine the kind, class, grade, other quality designation, the quantity, or condition of commodity; performing condition of container, carrier stowage examination; and any other services as related to commodities,

as necessary; and issuing an inspection certificate.' ' However, section 868.80(a)(1) of the regulations states that only persons employed by a cooperator may be licensed to inspect commodities or to perform related services. Consequently, GIPSA is proposing to amend the regulations to provide for GIPSA and

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State cooperators to contract for quality (grading) inspection services and to license individual contractors and those employed by a contractor.

Proposed Action

To provide for more responsive, cost-effective inspection services under the Act of 1946, GIPSA is proposing to revise:

- 1. Section 868.1(b)(13) to expand the definition of contractor to provide for cooperators to use contractors for specified services.
- 2. Section 868.80(a)(1) to add provisions for licensing individual contractors and employees of contractors.

List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agricultural commodities.

For reasons set forth in the preamble, 7 CFR Part 868 is proposed to be 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 868.1(b)(13) is revised to read as follows:

Sec. 868.1 Meaning of terms.

* * * * *

(b) * * *

(13) Contractor. Any person who enters into a contract with the Service or with a cooperator to perform specified inspection services.

* * * * *

2. Section 868.80(a)(1) is revised to read as follows:

Sec. 868.80 Who may be licensed.

(a) Inspectors. * * *

(1) Is employed by a cooperator, is a contractor, or is employed by a contractor.

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Dated: January 9, 1998.

James R. Baker,
Administrator, **Grain Inspection, Packers and Stockyards Administration.**

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