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 [Proposed Rules]
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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: Proposed rule.

 SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing an increase in 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 proposed increase is designated to generate additional revenue required to recover operational costs created by cost-of-living increases to Federal salaries January 1, 1999.

DATES: Written comments must be submitted on or before January 25, 1999.

ADDRESSES: Written comments must be submitted to Sharon Vassiliades, USDA, GIPSA, ART, 1400 Independence Avenue, SW., Stop 3649, Washington, DC 20250-3649, or faxed to (202) 720-4628. Comments may also be sent by electronic mail or Internet to: svassili@gipsadc.usda.gov. All comments received will be made available for public inspection during regular business hours in Room 0623, South Building, USDA, 1400 Independence Avenue, SW., Washington, DC 20250-3649 (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:
 Sharon Vassiliades at 202 720-1738.

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 proposed 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 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.).

The proposed 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 proposed 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 is proposing to recover a projected January 1, 1999, 3.6 percent increase in federal salary costs by raising its rice service fee. The proposed increase will affect only that portion of the fees associated with the hourly salaries paid to

Federal employees and

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administrative personnel; overhead recovery is not being proposed in this docket.

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 proposed increase in fees would 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

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 also are proposed to be changed.

The proposed increase will affect only that portion of the fees associated with hourly salaries paid to Federal employees and administrative personnel; overhead recovery is not being proposed in this docket. The proposed fee increase generates additional revenue required to recover operational costs created by a projected 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 proposed 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 proposal 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 proposal 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 proposal 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 \$895,589. 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.

Proposed 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 administrative and supervisory costs for the performance of official services, including personnel compensation, personnel benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment.

Section 868.91, Tables 1 and 2 are proposed to be revised to provide for the increase 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 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 868.91 is revised to read as follows:

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

\1\ Original and appeal inspection services include: Sampling, grading, weighing, and other services requested by the applicant when performed at the applicant's facility.
 \2\ Services performed at export port locations on lots at rest.

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Table 2.--Unit Rates

Service <SUP>1 <SUP>3	Brown rice for		Milled rice
	Rough rice	processing	
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 interpretative line samples: \2\..	.....	40.00	40.00
(a) Milling degree (per set).....	.....	.....	85.10
(b) Parboiled light (per sample).....	.....	.....	21.30
Extra copies of certificates (per copy).....	3.00	3.00	3.00

\1\ 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.
 \2\ Interpretive lines 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.
 \3\ Fees for other services not referenced in Table 2 will be based on the noncontract hourly rate listed in Section 868.90, Table 1.

Dated: November 20, 1998.
 James R. Baker,
 Administrator.
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