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## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 800

#### Fees for Official Inspection and Official Weighing Services Under the United States Grain Standards Act (USGSA)

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) Grain Inspection, Packers and Stockyards Administration (GIPSA) is announcing the fee schedule for official inspection and weighing services performed under the United States Grain Standards Act (USGSA), as amended, in order to comply with amendments to the USGSA made by the Agriculture Reauthorizations Act of 2015. The USGSA provides GIPSA with the authority to charge and collect reasonable fees to cover the costs of performing official services and the costs associated with managing the program. This action publishes the annual review of fees in Schedule A and the resulting fees that will be effective January 1, 2017.

**DATES:** Effective January 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Denise Ruggles, USDA–GIPSA–FGIS–ODA; Telephone: (816) 659–8406; Email: [Denise.M.Ruggles@usda.gov](mailto:Denise.M.Ruggles@usda.gov).

**SUPPLEMENTARY INFORMATION:** USGSA authorizes the Secretary of Agriculture 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 associated administrative and supervisory costs. The fees are in the regulations at 7 CFR 800.71.

On July 29, 2016, GIPSA published in the *Federal Register* (81 FR 49855) a final rule amending 7 CFR 800.71 in accordance with the Reauthorizations Act of 2015, which required GIPSA to calculate fees assessed on tonnage based on the 5-year rolling average of export tonnage volume (§ 800.71) and adjust all Schedule A fees annually to maintain a 3 to 6 month operating reserve for inspection and supervision services (§ 800.71).

GIPSA has conducted the annual review of the fees and operating reserve for the purposes of the annual adjustment of the fees. Accordingly, GIPSA is setting new tonnage fees which will take effect on January 1, 2017, for all field offices. GIPSA has determined that a 5 percent reduction in all Schedule A fees, including the aforementioned tonnage fees, is necessary to attain the goal of 4½ months of operating reserve.

#### Fee Calculations

The regulations require GIPSA annually review the national tonnage

fees, local tonnage fees, and fees for service. After calculating the tonnage fees according to the regulatory formula in section 800.71(b)(1), GIPSA then reviews the amount of funds in the operating reserve at the end of the fiscal year (FY2016 in this case) to ensure that it has 4½ months of operating expenses as required by section 800.71(b)(2) of the regulations. If the operating reserve has more, or less than 4½ months of operating expenses, then GIPSA must adjust all Schedule A fees. For each \$1,000,000, rounded down, that the operating reserve varies from the target of 4½ months, GIPSA will adjust all Schedule A fees by 2 percent. If the operating reserve exceeds the target, all Schedule A fees will be reduced. If the operating reserve does not meet target, all Schedule A fees will be increased. The maximum annual increase or decrease in fees is 5 percent (§ 800.71(b)(2)(i)–(ii)).

(a) Tonnage fees for the 5-year rolling average tonnage were calculated on the previous 5 fiscal years 2012, 2013, 2014, 2015, and 2016. Tonnage fees consist of the national tonnage fee and local tonnage fee and are calculated and rounded to the nearest \$0.001 per metric ton. The tonnage fees are calculated as following:

(1) *National tonnage fee.* The national tonnage fee is the national program administrative costs for the previous fiscal year divided by the average yearly tons of export grain officially inspected and/or weighed by delegated States and designated agencies, excluding land carrier shipments to Canada and Mexico, and outbound grain officially inspected and/or weighed by FGIS during the previous 5 fiscal years.

$$\text{National Tonnage Fee} = \frac{\text{FY2016 National Administrative Costs}}{\text{5 Year Rolling Average Export Tons}}$$

Fiscal year	Metric tons	Fiscal year	Metric tons
2012*	95,290,621	5-year Rolling Average	107,029,800
2013*	81,207,695		
2014	117,560,767		
2015	118,758,937		
2016	122,330,979		

\* To provide uniformity in the 5-year Rolling Average calculation, fiscal years 2012 and 2013 include tons of export grain officially inspected and/or weighed by delegated States and designated agencies prior to the implementation of the fee assessment in the *Federal Register* (78 FR 22151), effective May 1, 2013.

The national program administrative costs for fiscal year 2016 were \$7,214,466. The fiscal year 2017 national tonnage fee, prior to the operating reserve review, is calculated to be at \$0.067 per metric ton.

(2) *Local tonnage fee.* The local tonnage fee is the field office administrative costs for the previous fiscal year divided by the average yearly tons of outbound grain officially

inspected and/or weighed by the field office during the previous 5 fiscal years.

$$Local\ Tonnage = \frac{FY2016\ Field\ Office\ Administrative\ Costs}{5\ Year\ Rolling\ Average\ Export\ Tons\ (Local)}$$

The field offices fiscal year tons for the previous 5 fiscal years and calculated 5-year rolling average are as follows:

Field office	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	5-year rolling average
New Orleans .....	49,507,254	42,399,760	62,862,914	65,244,517	66,077,535	57,218,396
League City .....	7,638,261	10,418,686	12,623,510	12,474,343	12,581,236	11,147,207
Portland .....	5,739,021	3,953,500	6,065,934	4,111,533	4,645,754	4,903,148
Toledo .....	1,276,334	1,329,718	1,802,339	2,484,604	2,030,506	1,784,700

The local field office administrative costs for fiscal year 2016 and the fiscal year 2017 calculated local field office tonnage fee, prior to the operating reserve review, are as follows:

Field office	FY 2016 local administrative costs	Calculated FY 2017 local tonnage fee
New Orleans .....	\$2,179,027	\$0.038
League City .....	1,380,064	0.124
Portland .....	417,349	0.085
Toledo .....	426,863	0.239

(3) *Operating reserve.* In order to maintain an operating reserve not less than 3 and not more than 6 months, GIPSA reviewed the value of the operating reserve at the end of FY2016 to ensure that an operating reserve of 4½ months is maintained.

The program operating reserve at the end of fiscal year 2016 was \$18,863,026 with a monthly operating expense of \$3,295,937. The target of 4.5 months of operating reserve is \$14,831,717 therefore the operating reserve is greater than 4.5 times the monthly operating expenses by \$4,031,311. For each \$1,000,000, rounded down, above the target level, all Schedule A fees must be

reduced by 2 percent. The operating reserve is \$4 million above the target level resulting in a calculated 8 percent reduction. As required by 800.71(b)(2)(ii), the reduction is limited to 5 percent. Therefore, GIPSA is reducing all Schedule A fees for service in Schedule A in paragraph (a)(1) by the maximum 5 percent. All Schedule A fees for service are rounded to the nearest \$0.10, except for fees based on tonnage or hundredweight.

**List of Subjects in 7 CFR Part 800**

Administrative practice and procedure, Exports, Grains, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, GIPSA amends 7 CFR part 800 as follows:

**PART 800—GENERAL REGULATIONS**

■ 1. The authority citation for part 800 continues to read as follows:

**Authority:** 7 U.S.C. 71–87k.

■ 2. Section 800.71(a)(1) is amended by revising Tables 1, 2, and 3 of Schedule A to read as follows:

**§ 800.71 Fees assessed by the Service.**

(a) \* \* \*

(1) \* \* \*

TABLE 1 OF SCHEDULE A—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT’S FACILITY IN AN ONSITE FGIS LABORATORY <sup>1</sup>

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime <sup>2</sup>	Holidays
(i) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract (\$ per hour) .....	\$38.20	\$40.00	\$45.80	\$67.80
Noncontract (\$ per hour) .....	67.80	67.80	67.80	67.80
(ii) Additional Tests (cost per test, assessed in addition to the hourly rate): <sup>3</sup>				
(A) Aflatoxin (rapid test kit method) .....				10.80
(B) Aflatoxin (rapid test kit method-applicant provides kit) <sup>4</sup> .....				8.90
(C) All other Mycotoxins (rapid test kit method) .....				19.80
(D) All other Mycotoxins (rapid test kit method-applicant provides kit) <sup>4</sup> .....				17.90

TABLE 1 OF SCHEDULE A—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY <sup>1</sup>—Continued

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime <sup>2</sup>	Holidays
(E) NIR or NMR Analysis (protein, oil, starch, etc.) .....				2.60
(F) Waxy corn (per test) .....				2.60
(G) Fees for other tests not listed above will be based on the lowest noncontract hourly rate				
(H) Other services .....				
(1) Class Y Weighing (per carrier):				
(i) Truck/container .....				0.70
(ii) Railcar .....				1.60
(iii) Barge .....				2.90
(iii) Tonnage Fee (assessed in addition to all other applicable fees, only one tonnage fee will be assessed when inspection and weighing services are performed on the same carrier):				
(A) All outbound carriers serviced by the specific Field Office (per-metric ton):				
(1) League City .....				0.182
(2) New Orleans .....				0.100
(3) Portland .....				0.145
(4) Toledo .....				0.291
(5) Delegated States <sup>5</sup> .....				0.064
(6) Designated Agencies <sup>5</sup> .....				0.064

<sup>1</sup> Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

<sup>2</sup> Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.

<sup>3</sup> Appeal and re-inspection services will be assessed the same fee as the original inspection service.

<sup>4</sup> Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

<sup>5</sup> Tonnage fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 2 OF SCHEDULE A—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY <sup>1 2</sup>

(i) Original Inspection and Weighing (Class X) Services:				
(A) Sampling only (use hourly rates from Table 1 of this section):				
(B) Stationary lots (sampling, grade/factor, & check loading):				
(1) Truck/trailer/container (per carrier) .....				\$21.40
(2) Railcar (per carrier) .....				31.60
(3) Barge (per carrier) .....				198.60
(4) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT) .....				0.08
(C) Lots sampled online during loading (sampling charge under (1)(i) of this table, plus):				
(1) Truck/trailer container (per carrier) .....				12.80
(2) Railcar (per carrier) .....				26.70
(3) Barge (per carrier) .....				135.90
(4) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT) .....				0.08
(D) Other services:				
(1) Submitted sample (per sample—grade and factor) .....				12.80
(2) Warehouseman inspection (per sample) .....				22.40
(3) Factor only (per factor—maximum 2 factors) .....				6.30
(4) Check loading/condition examination (use hourly rates from Table 1 of this section, plus an administrative fee per hundredweight if not previously assessed) (CWT) .....				0.08
(5) Re-inspection (grade and factor only. Sampling service additional, item (1)(i) of this table) .....				13.90
(6) Class X Weighing (per hour per service representative) .....				67.80
(E) Additional tests (excludes sampling):				
(1) Aflatoxin (rapid test kit method) .....				31.90
(2) Aflatoxin (rapid test kit method—applicant provides kit) <sup>3</sup> .....				30.00
(3) All other Mycotoxins (rapid test kit method) .....				41.00
(4) All other Mycotoxins (rapid test kit method—applicant provides kit) <sup>3</sup> .....				39.10
(5) NIR or NMR Analysis (protein, oil, starch, etc.) .....				10.80
(6) Waxy corn (per test) .....				10.80
(7) Canola (per test-00 dip test) .....				10.80
(8) Pesticide Residue Testing: <sup>4</sup>				
(i) Routine Compounds (per sample) .....				228.90
(ii) Special Compounds (Subject to availability) .....				122.00
(9) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1 of this section .....				
(ii) Appeal inspection and review of weighing service: <sup>5</sup>				
(A) Board Appeals and Appeals (grade and factor) .....				86.90
(1) Factor only (per factor—max 2 factors) .....				45.80
(2) Sampling service for Appeals additional (hourly rates from Table 1 of this section) .....				
(B) Additional tests (assessed in addition to all other applicable tests):				
(1) Aflatoxin (rapid test kit method) .....				31.90
(2) Aflatoxin (rapid test kit method—applicant provides kit) <sup>3</sup> .....				29.80

TABLE 2 OF SCHEDULE A—SERVICES PERFORMED AT OTHER THAN AN APPLICANT’S FACILITY IN AN FGIS LABORATORY <sup>1 2</sup>—Continued

(3) All other Mycotoxins (rapid test kit method) .....	50.00
(4) All other Mycotoxins (rapid test kit method—applicant provides kit) <sup>3</sup> .....	48.10
(5) NIR or NMR Analysis (protein, oil, starch, etc.) .....	18.80
(6) Sunflower oil (per test) .....	18.80
(7) Mycotoxin (per test-HPLC) .....	149.40
(8) Pesticide Residue Testing: <sup>4</sup> .....	
(i) Routine Compounds (per sample) .....	228.90
(ii) Special Compounds (Subject to availability) .....	122.00
(9) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1 of this section. ....	
(C) Review of weighing (per hour per service representative) .....	87.70
(iii) Stowage examination (service-on-request): <sup>4</sup> .....	
(A) Ship (per stowage space) (minimum \$271.00 per ship) .....	54.20
(B) Subsequent ship examinations (same as original) (minimum \$162.60 per ship) .....	54.20
(C) Barge (per examination) .....	43.50
(D) All other carriers (per examination) .....	17.10

<sup>1</sup> Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee’s assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

<sup>2</sup> An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).

<sup>3</sup> Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

<sup>4</sup> If performed outside of normal business, 1½ times the applicable unit fee will be charged.

<sup>5</sup> If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of \$3.50 per sample by the Service.

TABLE 3 OF SCHEDULE A—MISCELLANEOUS SERVICES <sup>1</sup>

(i) Grain grading seminars (per hour per service representative) <sup>2</sup> .....	\$67.80.
(ii) Certification of diverter-type mechanical samplers (per hour per service representative) <sup>2</sup> .....	67.80.
(iii) Special weighing services (per hour per service representative): <sup>2</sup> .....	
(A) Scale testing and certification .....	88.30.
(B) Scale testing and certification of railroad track scales .....	88.30.
(C) Evaluation of weighing and material handling systems .....	88.30.
(D) NTEP Prototype evaluation (other than Railroad Track Scales) .....	88.30.
(E) NTEP Prototype evaluation of Railroad Track Scale .....	88.30.
(F) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.) .....	529.40.
(G) Mass standards calibration and re-verification .....	88.30.
(H) Special projects .....	88.30.
(iv) Foreign travel (hourly fee) <sup>3</sup> .....	88.30.
(v) Online customized data service: .....	
(A) One data file per week for 1 year .....	529.40.
(B) One data file per month for 1 year .....	317.70.
(vi) Samples provided to interested parties (per sample) .....	3.30.
(vii) Divided-lot certificates (per certificate) .....	2.10.
(viii) Extra copies of certificates (per certificate) .....	2.10.
(ix) Faxing (per page) .....	2.10.
(x) Special mailing .....	Actual Cost
(x) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1) .....	

<sup>1</sup> Any requested service that is not listed will be performed at \$67.80 per hour.

<sup>2</sup> Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate. (See the definition of “business day” in § 800.0(b))

<sup>3</sup> Foreign travel charged hourly fee of \$88.30 plus travel, per diem, and related expenditures.

\* \* \* \* \*

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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 983**

[Doc. No. AMS–SC–16–0076; SC16–983–2 FIR]

**Pistachios Grown in California, Arizona, and New Mexico; Decreased Assessment Rate**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that implemented a recommendation from the Administrative Committee for Pistachios (Committee) to decrease the assessment rate established for pistachios grown in California, Arizona, and New Mexico for the 2016–2017 and subsequent production years from