

## § 800.70

may recombine dockage and foreign material, but not dust, with grain provided such recombination occurs during the loading of a vessel with the intended purpose of ensuring uniformity of dockage and foreign material in the cargo.

(Approved by the Office of Management and Budget under control number 0580-0011)

[52 FR 24437, June 30, 1987, as amended at 59 FR 52077, Oct. 14, 1994]

### FEES

#### § 800.70 Fees for official services performed by agencies.

(a) *Assessment and use of fees.* (1) Fees assessed by an agency for official inspection and Class X or Class Y weighing services or testing of inspection equipment shall be reasonable and nondiscriminatory.

(2) In the case of a State or local governmental agency, fees shall not be used for any purpose other than to finance the cost of the official inspection and Class X or Class Y weighing service and inspection equipment testing service performed by the agency or the cost of other closely related programs administered by the agency.

(b) *Approval required—(1) Restriction.* Only fees that meet the requirements stated in this section and are approved by the Service as reasonable and nondiscriminatory may be charged by an agency.

(2) *Exceptions.* For good cause shown by an agency, the Administrator may grant case-by-case exceptions to the requirements in this section, provided that a determination is made that the agency fees would be reasonable and nondiscriminatory.

(c) *Reasonable fees.* In determining if an agency's fees are reasonable, the Service will consider whether the fees: (1) Cover the estimated total cost to the agency of (i) official inspection services, (ii) Class X or Class Y weighing services, (iii) inspection equipment testing services, and (iv) related supervision and monitoring activities performed by the agency; (2) Are reasonably consistent with fees assessed by adjacent agencies for similar services; (3) Are assessed on the basis of the average cost of performing the same or similar services at all locations served

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by the agency; and (4) Are supported by sufficient information which shows how the fees were developed.

(d) *Nondiscriminatory fees.* In determining if fees are nondiscriminatory, the Service will consider whether the fees are collected from all applicants for official service in accordance with the approved fee schedule. Charges for time and travel incurred in providing service at a location away from a specified service point shall be assessed in accordance with the approved fee schedule.

(e) *Schedule of fees to be established.* (1) Each agency shall establish a schedule of fees for official services which the agency is delegated or designated the authority to perform. The schedule shall be in a standard format in accordance with the instructions. Such schedules may include fees for nonofficial services provided by the agency, but they shall be clearly identified and will not be subject to approval by the Service.

(2) The schedule shall be published and made available by the agency to all users of its services.

(f) *Request for approval of fees—(1) Time requirement.* A request for approval of a new or revised fee shall be submitted to the Service not less than 60 days in advance of the proposed effective date for the fee. Failure to submit a request within the prescribed time period may be considered grounds for postponement or denial of the request.

(2) *Contents of request.* Each request shall show (i) the present fee, if any, and the proposed fee, together with data showing in detail how the fee was developed, and (ii) the proposed effective date.

(g) *Review of request—(1) Approval action.* If upon review the Service finds that the request and supporting data justify the new or revised fee, the request will be marked "approved" and returned to the agency.

(2) *Denial action.* If the Service finds that the request and supporting data do not justify the new or revised fee, approval of the request will be withheld pending receipt of any additional supporting data which the agency has to offer. If the data are not submitted within a reasonable period, the request

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shall be denied. In the case of a denial of a request, the agency shall be notified of the reason for denial.

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

(a) *Official inspection and weighing services.* The fees shown in schedules A and B apply to official inspection and weighing services performed by FGIS in the United States and Canada. The fees shown in schedule C apply to official inspection and weighing services

performed by delegated States and designated agencies in the United States, except for those State agencies that have been delegated additional responsibilities by FGIS. These States shall be assessed fees as set forth in the State's Delegation of Authority document. Failure of a delegated State or designated agency to pay prescribed fees within 30 days after being due, shall result in automatic termination of the delegation or designation. The delegation or designation shall be reinstated if fees currently due, plus interest and any further expenses incurred by the Service because of the termination are paid within 60 days of the termination.

**SCHEDULE A—FEES FOR OFFICIAL INSPECTION AND WEIGHING SERVICES PERFORMED IN THE UNITED STATES**

**TABLE 1—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 over-time <sup>2</sup>	Holidays
<b>(1) Inspection and Weighing Services Hourly Rates (per service representative):</b>				
1-year contract (\$ per hour) .....	36.00	37.60	43.00	64.00
Noncontract (\$ per hour) .....	64.00	64.00	64.00	64.00
<b>(2) Additional Tests (cost per test, assessed in addition to the hourly rate):<sup>3</sup></b>				
(i) Aflatoxin (rapid test kit method) .....	\$10.00			
(ii) NIR or NMR Analysis (protein, oil, starch, etc.) .....	2.25			
(iii) Vomitoxin (qualitative) .....	12.50			
(iv) Vomitoxin (quantitative) .....	18.50			
(v) Waxy corn (per test) .....	2.25			
(vi) Fees for other tests not listed above will be based on the lowest noncontract hourly rate .....	.....			
(vii) Other services .....	.....			
(a) Class Y Weighing (per carrier) .....	.....			
(1) Truck/container .....	0.30			
(2) Railcar .....	1.25			
(3) Barge .....	2.50			
<b>(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):</b>				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				
(a) League City .....	0.167			
(b) New Orleans .....	0.067			
(c) Portland .....	0.136			
(d) Toledo .....	0.184			

<sup>1</sup> Fees apply to original inspection and weighing, reinspection, 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 reinspection services will be assessed the same fee as the original inspection service.