# **Rules and Regulations**

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#### DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 802

RIN 0580-AA39

Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA. **ACTION:** Direct final rule.

**SUMMARY:** In compliance with the requirements for periodic review of existing regulations, the Federal Grain Inspection Service (FGIS), of the Grain Inspection, Packers and Stockyards Administration is amending the regulations under the United States Grain Standards Act, as amended, entitled Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems. FGIS is incorporating by reference the applicable requirements of the National Institute of Standards and Technology (NIST) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," 1994 edition (Handbook 44) and continues to adopt all of the requirements of NIST Handbook 105-1, "Specifications and Tolerances for Reference Standard Weights and Measures," 1990 revision (Handbook 105-1). Currently, the 1990 Edition of Handbook 44 and the 1990 edition of Handbook 105-1 are incorporated by reference.

DATES: This rule will be effective on August 18, 1995, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before July 19, 1995. If adverse comments are received, we will publish a document in the **Federal Register.** 

ADDRESSES: Please send any adverse comments or notice of intent to submit adverse comments to George Wollam, GIPSA–FGIS, USDA, Room 0623–S, P.O. Box 96454, Washington, DC 20090–6454; FAX (202) 720–4628. All comments received will be made available for public inspection at the above address during business hours (7 CFR 1.27(b)).

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

### SUPPLEMENTARY INFORMATION:

## **Executive Order 12866**

This rule has been determined to be not-significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

### **Executive Order 12778**

This amended rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. The United States Grain Standards Act provides in section 87g that no State or subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this proposed rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflicts with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of

## Regulatory Flexibility Act Certification

James R. Baker, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. Most users of the official inspection and weighing services and those persons that perform those services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Further, the standards are applied equally to all entities.

# **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 68 have been approved previously by OMB and assigned OMB No. 0580–0013.

# **Background**

Part 802 of the regulations, Official Performance and Procedural Requirements for Grain Weighing **Equipment and Related Grain Handling** Systems (7 CFR 802.0-802.1), sets forth certain procedures, specifications, tolerances, and other technical requirements for grain weighing equipment and related grain handling systems used in performing Class X, and Class Y weighing services. This review of the regulations includes a determination of continued need for and consequences of the regulations. An objective of the review is to ensure that the regulations are consistent with FGIS policy and authority and are up-to-date. FGIS has determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. FGIS, therefore, will incorporate the 1994 edition of Handbook 44 by reference into Part 802 of the regulations and the 1990 revision of Handbook 105-1 continues to be adopted in order to update the regulations.

Effective December 4, 1991, FGIS incorporated by reference into Part 802 of the regulations most provisions in the National Institute of Standards and Technology (NIST) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," 1990 edition (Handbook 44), and all provisions in NIST Handbook 105–1, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures," 1990 edition (Handbook 105-1) NIST rule (53 FR 37727). Those provisions in Handbook 44 that obviously did not pertain to FGIS services were not incorporated by reference. The provisions that were not incorporated are listed in section 802.0(b) of the regulations.

We are publishing this rule without a prior proposal because we regularly update this portion of the regulations and view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the