

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 810

RIN 0580-AA14

#### United States Standards for Corn

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

**ACTION:** Proposed rule.

**SUMMARY:** In its periodic review of existing regulations, the Federal Grain Inspection Service (FGIS), a program of the Grain Inspection, Packers and Stockyards Administration (GIPSA), proposes to amend the U.S. Standards for Corn to: Report test weight (TW) to the nearest tenth of a pound, eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight, and offers stress crack testing as official criteria. This proposed rule is intended to facilitate the marketing of corn.

**DATES:** Comments must be submitted on or before April 24, 1995.

**ADDRESSES:** Written comments must be submitted to George Wollam, GIPSA, USDA, Room 0623-S, P.O. Box 96454, Washington, DC 30090-6454; FAX (202) 720-4628.

All comments received will be made available for public inspection at Room 0623 South Building, 1400 Independence Avenue, SW., Washington, DC during regular 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 is exempt from Executive Order 12866 review.

#### Executive Order 12778

This proposed 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 any irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

#### Regulatory Flexibility Act Certification

James Robert 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 in the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities. Further, the regulations are applied equally to all entities.

#### Background

During October 1993, the Federal Grain Inspection Service (FGIS), prepared a discussion paper concerning the U.S. Standards for Corn. This paper addressed a number of issues relating to the standards and was distributed throughout the grain industry. The paper also served as a starting point for discussions with producers, trade associations, processors, handlers, and merchandisers to better understand their views on changes needed to improve existing standards. FGIS received positive feedback from the grain industry regarding the corn discussion paper; and, in fact, numerous industry representatives suggested that FGIS continue to develop and distribute similar documents before amending other standards.

FGIS received a total of 12 written comments concerning the discussion paper: 3 from research associations and universities, 1 from a producer organization, 4 from handler and processor associations, 1 from an

industry consortium, 2 from grain inspection and weighing associations, and 1 from a grain company. In addition to receiving written comments, FGIS reviewed the corn standards with representatives of the Iowa Department of Agriculture, the Grain Quality Workshops, and other corn-related associations.

On the basis of all comments and other available information, FGIS is proposing three changes to the corn standards that reflect current market needs and also serve to improve the effectiveness of the standards. The proposed amendments include: (1) Reporting TW to the nearest tenth of a pound, (2) eliminating the count limit on stones and reducing the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight, and (3) offering stress crack testing as official criteria.

#### Test Weight (TW)

FGIS proposes to revise § 810.102(d) of the United States Standards for Grain to report TW in corn to the nearest tenth of a pound. This change will bring the reporting requirement for TW into line with the reporting requirements for other factors, such as total damaged kernels and broken corn and foreign material (BCFM).

This is not the first time that FGIS has proposed to revise the reporting requirement for TW in corn. In 1986, (51 FR 35224) to promote greater uniformity among the grain standards, FGIS proposed to reformat the grain standards and solicited comments regarding certification requirements for factors not expressed to the nearest tenth. FGIS proposed to report all percentages (except ergot) and all TW values to the nearest tenth. The proposal included TW in corn which is certified in whole and half pounds with fractions of a half pound disregarded.

The majority of commentors who opposed the proposal indicated that sufficient data were not available to determine how a change in reporting requirements would affect reproducibility of results—especially for TW in coarse grains. FGIS decided not to revise the reporting requirements, except for dockage in wheat (52 FR 24414). FGIS does offer, upon request, the recording of TW results to the nearest tenth pound in the Remarks section of the grade certificate.