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DEPARTMENT OF AGRICULTURE
Grain Inspection, Packers and Stockyards Administration
7 CFR Part 801
RIN 0580-AA60

Tolerances for Moisture Meters

AGENCY: **Grain Inspection, Packers and Stockyards Administration, USDA.**
ACTION: Interim rule with request for comments.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is amending regulations under the United States Grain Standards Act (USGSA) by revising tolerances for moisture meters used in official grain inspection services. GIPSA is making this revision to reflect tolerances for both the current official moisture meter, the Motomco Model 919, and the Dickey-john GAC 2100, which will be phased in as the new official moisture meter beginning on August 1, 1998.

DATES: This interim rule is effective August 1, 1998. To be assured of consideration, written comments must be filed before August 24, 1998.

ADDRESSES: Written comments must be sent to Sharon Vassiliades, GIPSA, USDA, STOP 3649, Washington, D.C. 20250-3649; FAX to (202) 720-4628; or e-mail svassili@gipsadc.usda.gov.

All comments received will be made available for public inspection in Room 0623, USDA South Building, 1400 Independence Avenue, SW, Washington, D.C., during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Sharon Vassiliades, address as above, telephone (202) 720-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. The 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 rule will not preempt any State or local laws, regulations, or policies, unless they present an 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.

Effect on Small Entities

The Administrator of GIPSA certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601). GIPSA is making this revision to reflect tolerances for the current official moisture meter, the Motomco Model 919, and the Dickey-john GAC 2100, which is being phased in as the new official moisture meter beginning on August 1, 1998. The revised tolerances will be applied to moisture meters owned and used by GIPSA, 8 delegated States, and the 57 official agencies (49 private entities and 8 State agencies) to perform official grain inspection services. Most of these agencies would be considered small entities under Small Business Administration criteria. Although the check testing procedure for the new meter is simpler than that for the current meter, the tolerance on the new moisture meter used for official inspection is being neither tightened nor relaxed as compared to the tolerances for the current meter. There is, therefore, little impact of making these tolerance changes in the regulations on small or large entities engaged in the inspection of grain.

Information Collection and Recordkeeping Requirements.

In accordance with the Paperwork Reduction Act of 1995, the recordkeeping and reporting burden imposed by Part 801 was previously approved by OMB under control number 0580-0013 and will not be affected by this rule.

Background

GIPSA has selected a new official moisture meter for the national grain inspection system. This was announced in the Federal Register on April 9, 1998 (63 FR 17356). In a separate notice document published in the Federal Register on this date, GIPSA announces that as of August 1, 1998, all official moisture content measurements of corn, soybeans, and sunflower seed inspected under the USGSA will be made with the GAC 2100. Transition dates for other grains will be announced separately at a later time. Use of the new instruments for official moisture measurements will be phased in over a 2-year period. The maintenance tolerances for moisture meters are stated for low, mid, and high moisture ranges for both direct comparison and sample exchange testing. These tolerances have been and will continue to be applied to the Motomco 919 moisture meters used for official inspection until such time as they are replaced by the GAC 2100.

Differences in technology between the GAC 2100 and the Motomco 919 have necessitated the development of a new procedure for checking the performance of individual GAC 2100 meters against standard meters to determine whether they are in tolerance. The current three moisture range tolerances and the direct comparison method for checking meters, other than Headquarters meters, used for the Motomco 919 will not be needed to determine if the GAC 2100 meters are in tolerance. The current mid range moisture tolerance for Headquarters, and all other than Headquarters meters, will be used to determine if the GAC 2100 is within tolerance. Further, for the meters other than Headquarters, only the sample exchange method will be used.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) the tolerance for the new moisture meter is being neither tightened nor relaxed as compared to the tolerance for the current meter; (2) the 1999 grain market year begins August 1, 1998, and the

changes should be in effect to allow the use of the new moisture meter at the beginning of the marketing year for corn, soybeans and sunflower seed; (3) this rule provides a 60-day opportunity for comment, and all written comments timely received will be considered prior to finalization of the rule.

List of Subjects in 7 CFR Part 801

Grains, Scientific equipment.

For reasons set forth in the preamble, 7 CFR Part 801 is amended as follows:

1. The authority citation for Part 801 continues to read as follows:

Authority: Pub. L. 94-582, 90 Stat 2867, as amended (7 U.S.C. 71 et seq.).

2. Section 801.6 is revised to read as follows:

Sec. 801.6 Tolerances for moisture meters.

(a) The maintenance tolerances for Motomco 919 moisture meters used in performing official inspection services shall be:

(1) Headquarters standard meters:

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Moisture range	Tolerance	
	Direct comparison	Sample exchange
Low.....	<plus-minus>0.05 percent moisture, mean deviation from National standard moisture meter using Hard Red Winter wheat	
Mid.....	<plus-minus> 0.05 percent moisture, mean deviation from National standard moisture meter using Hard Red Winter wheat	
High.....	<plus-minus> 0.05 percent moisture, mean deviation from National standard moisture meter using Hard Red Winter wheat	

(2) All other than Headquarters standard meters:

Moisture range	Tolerance	
	Direct comparison	Sample exchange
Low.....	<plus-minus> 0.15 percent moisture, mean deviation from	<plus-minus> 0.20 percent moisture, mean deviation from

	standard moisture meter using Hard Red Winter wheat	standard moisture meter using Hard Red Winter wheat.
Mid.....	<plus-minus> 0.10 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat	<plus-minus> 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.
High.....	<plus-minus> 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat	<plus-minus> 0.20 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.

(b) The maintenance tolerances for GAC 2100 moisture meters used in performing official inspection services shall be:

(1) Headquarters standard meters. By direct comparison using mid-range Hard Red Winter wheat, <plus-minus> 0.05% mean deviation for the average of the Headquarters standard moisture meters.

(2) All other than Headquarters standard meters. By sample exchange using mid-range Hard Red Winter wheat, <plus-minus> 0.15% mean deviation from the standard meter.

Dated: June 19, 1998.

David R. Shipman,
Acting Administrator, Grain Inspection, Packers and Stockyards
Administration.

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