

# Rules and Regulations

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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:** Final rule.

**SUMMARY:** This document makes final an interim rule amending regulations under the United States Grain Standards Act (USGSA) by revising tolerances for moisture meters used in official grain inspection services. The Grain Inspection, Packers and Stockyards Administration made this revision to reflect tolerances for both the Motomco Model 919 moisture meter and the Dickey-john GAC 2100, which GIPSA started phasing in as the new official moisture meter as of August 1, 1998.

**EFFECTIVE DATE:** February 5, 1999.

**FOR FURTHER INFORMATION CONTACT:** Richard Pffor at telephone (202) 720-0262.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This 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 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 made this revision to reflect tolerances for the current official moisture meter, the Motomco Model 919, and the Dickey-john GAC 2100, which GIPSA started phasing in as the new official moisture meter beginning 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 GAC 2100 meter is simpler than that for the Motomco 919 meter, the tolerance on the GAC 2100 moisture meter used for official inspection is being neither tightened nor relaxed as compared to the tolerances for the Motomco 919. 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

Following the selection of a new official moisture meter for the national grain inspection system, GIPSA published an interim rule on June 25, 1998 (63 FR 34554), that revised tolerances for moisture meters used in official grain inspection services and provided an opportunity to comment on those revised tolerances. GIPSA received no comments in response to the interim rule.

In a separate notice published in the **Federal Register** on June 25, 1998 (63

FR 34629), GIPSA announced that as of August 1, 1998, all official moisture content measurements of corn, soybeans, and sunflower seed inspected under the USGSA would be made with the GAC 2100. Transition dates for other grains will be announced separately. The maintenance tolerances for Motomco 919 moisture meters have been and will continue to be applied to the Motomco 919 moisture meters used for official inspection until such time as the meters are replaced by the GAC 2100.

Differences in technology between the GAC 2100 and the Motomco 919 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 three moisture range tolerances (low, mid, and high) 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 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.

#### Final Action

GIPSA received no comments during the 60-day comment period provided by the interim rule. Therefore, GIPSA has determined that the interim rule, as published at 63 FR 34554, will be adopted as the final rule.

#### List of Subjects in 7 CFR Part 801

Grains, Scientific equipment.

#### PART 801—OFFICIAL PERFORMANCE REQUIREMENTS FOR GRAIN INSPECTION EQUIPMENT

Accordingly, the interim final rule amending 7 CFR part 801 which was published at 63 FR 34554 on June 25, 1998, is adopted as a final rule without change.

Dated: December 29, 1998.

**James R. Baker,**

*Administrator, Grain Inspection, Packers and Stockyards Administration.*

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