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 [Page 20054-20056]
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 DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Parts 800 and 810

United States Standards for Rye

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

ACTION: Final rule.

 SUMMARY: The **Grain Inspection, Packers and Stockyards Administration (GIPSA)** is revising the United States Standards for Rye to certificate dockage to the nearest tenth of a percent. The current method of dockage certification rounds the actual dockage percentage down to the nearest whole percent. This method may result in understating the level of dockage up to 0.99 percent on the certificate. Certification of dockage to the nearest tenth of a percent is more precise than the current method and should enhance the marketability of U.S. rye traded in the domestic and export markets. This change requires the establishment of new **inspection** tolerances or breakpoints, as appropriate.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: George Wollam, GIPSA, USDA, Room 0623-S, Stop 3649, Washington, D.C., 20250-3649; FAX (202) 720-4628; or E-mail gwollam@gipsadc.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Department of Agriculture is issuing this rule in conformance with Executive Order 12866.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. The United States **Grain** Standards Act, (ACT) as amended, 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 final 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.

Regulatory Flexibility Act Certification

GIPSA has determined that this final 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. 601 et seq.). 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.

The rye industry, including producers, handlers, exporters and processors, are the primary users of the U.S. Standards for Rye and utilize the official standards as a common trading language to market rye.

The rye industry in the United States is regional in nature, concentrated primarily in the upper midwest area. There are an estimated 10 processors of rye, utilizing a crop produced on approximately 355,000 acres in the United States. The average annual production of rye for the period 1988 through 1997 was 10,045,000 bushels. No rye has been officially inspected for export from the

United States for several years.

The current method of dockage certification rounds the actual dockage percentage down to the nearest whole percent. This method may result in understating the level of dockage up to 0.99 percent on the certificate. Certification of dockage to the nearest tenth of a percent is more precise than the current method and should enhance the marketability of U.S. rye traded in the domestic and, potentially, export markets. The potential benefits of revising the dockage certification procedure to report rye dockage to the nearest tenth of a percent include a more accurate description of the raw **grain** and the potential to improve pricing efficiency within the market. Certification to the nearest tenth of a percent is also more precise. A corresponding change will be made to the **inspection** tolerances or break points, as appropriate.

Further, the rye industry already trades on dockage reported in tenths of a percent. Therefore, small entities should experience no significant economic impact from the change.

Paperwork Reduction Act

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3504), the information collection requirements contained in Part 800 have been previously approved by the Office of Management and Budget under control number 0580-0013.

Background

On December 17, 1997, GIPSA published in the Federal Register (62 FR 66036) a proposal to revise the United States Standards for Rye to certificate dockage to the nearest tenth of a percent. Dockage consists primarily of dust, chaff, small weed seeds, very small pieces of broken rye, and coarse grains larger than rye. Domestic handlers and millers usually remove dockage during **grain** cleaning and may use it as animal feed. Foreign buyers use dockage in a variety of ways. Some use the dockage in animal feed, others mill the dockage with the rye, and some remove and discard the dockage.

In the current Official United States Standards for **Grain** (7 CFR Part 810), the percentage of rye dockage is certified by rounding down to the nearest 1.0 percent (7 CFR 810.104 (b)). For example, for 0.0 to 0.99 percent, no dockage is reported on the certificate, 1.00 to 1.99 percent is reported as 1.0 percent dockage, 2.00 to 2.99 is reported as 2.0 percent dockage, and so forth. A domestic handler/processor had questioned the adequacy of the current dockage certification method, asserting that the actual dockage is almost always understated. Further, the handler/processor suggested that the current U.S. Standards for Rye are not relevant, as the domestic rye industry trades on a dockage basis expressed in tenths of a percent and not whole percents.

Changing the current reporting and certification procedure to the nearest tenth percent on official **inspection** certificates will more accurately and precisely state dockage content in rye. Further, this action should also promote pricing efficiency.

GIPSA also proposed to amend the **inspection** plan tolerances, or breakpoints, based on this change. Shiplots, unit trains, and lash barge lots are inspected with a statistically based **inspection** plan. **Inspection** tolerances, commonly referred to as ``breakpoints,`` are used to determine acceptable quality. This change requires the establishment of a new breakpoint that reflects the greater accuracy to which rye dockage will be calculated and reported.

Therefore, GIPSA is revising the current breakpoint for rye dockage which is listed in Table 14 of section 800.86(c)(2). Specifically, GIPSA will change the breakpoint from 0.32 to 0.2.

Comment Review

During the 60-day comment period, GIPSA received four comments: One from a rye miller in the upper midwest; two from **grain** handling associations; and one from a State Department of Agriculture.

The comment from the rye miller stated that the change would strengthen the integrity of the rye standards as it made sense given

that rye is a cereal **grain**, it was appropriate that the U.S. rye dockage standard be the same as the wheat standard. One **grain** handling association stated that the change was consistent with current marketing practices and long overdue. They encouraged GIPSA to implement the change at the earliest feasible time. The other **grain** handling association did not object to the proposed change and stated that the change would make dockage procedures for rye consistent with wheat. The State Department of Agriculture commented that certifying rye dockage to the nearest tenth of a percent will provide a truer picture of what is actually in the lot of rye and should, therefore, be helpful for marketing purposes.

On the basis of these comments and other available information, GIPSA decided to revise the rye standards as proposed.

Final Action

GIPSA is revising Sec. 800.86, **Inspection** of shiplot, unit train, and lash barge **grain** in single lots, paragraph (c)(2) Table 14, by changing the breakpoint for dockage in rye from 0.32 to 0.2.

[[Page 20056]]

GIPSA also is amending the Official United States Standards for **Grain**, Subpart A--General Provisions, Sec. 810.104, Percentages, by revising paragraph (b), Recording. This change requires rye dockage to be determined and reported in whole and tenths of a percent to the nearest tenth of a percent.

Pursuant to Section 4(b)(1) of the United States **Grain** Standards Act, as amended (7 U.S.C. 76(b)(1)), no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation unless, in the judgement of the Secretary, the public health, interest, or safety require that they become effective sooner. Pursuant to that section of the Act, the revisions will become effective June 1, 1999. This effective date will coincide with the beginning of the 1999 crop year and facilitate the marketing of rye.

List of Subjects

7 CFR Part 800

Administrative practice and procedure, Exports, **Grain**.

7 CFR Part 810

Exports, **Grain**.

For reasons set out in the preamble, 7 CFR Part 800 and 7 CFR Part 810 are amended as follows:

PART 800--GENERAL REGULATIONS

1. The authority citation for Part 800 continues to read as follows:

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

2. Section 800.86(c)(2) is amended by revising the entry for ``Dockage'' in Table 14 to read as follows:

Sec. 800.86 **Inspection** of shiplot, unit trains, and lash barge **grain** in single lots.

* * * * *

(c) * * *

(2) * * *

TABLE 14--Breakpoints (BP) for Rye Special Grades and Factors

Special grade or factor	Grade limit	Breakpoint
* * * * *	* * * * *	* * * * *
Dockage.....	As specified by contract or load order grade.	0.2

* * * * *

PART 810--OFFICIAL UNITED STATES STANDARDS FOR **GRAIN**

3. The authority citation for Part 810 continues to read as follows:

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

4. Section 810.104 is amended by revising the first three sentences of paragraph (b) to read as follows:

Sec. 810.104 Percentages.

* * * * *

(b) Recording. The percentage of dockage in flaxseed and sorghum is reported in whole percent with fractions of a percent being disregarded. Dockage in barley and triticale is reported in whole and half percent with a fraction less than one-half percent being disregarded. Dockage in wheat and rye is reported in whole and tenth percents to the nearest tenth percent. * * *

Dated: April 14, 1998.
James R. Baker,
Administrator, **Grain Inspection, Packers and Stockyards** Administration.
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