

# 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 this rule.

#### 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

## Federal Register

Vol. 60, No. 117

Monday, June 19, 1995

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

**Federal Register** unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will

publish a document to this effect in the **Federal Register**, before the effective date of this direct final, confirming that it is effective on the date indicated in this document.

#### Direct Final Action

In 1991 FGIS incorporated by reference the 1990 edition of Handbook 105-1. FGIS will continue to adopt this edition by reference in section 802.0(a) of the regulations.

The 1990 edition of Handbook 44 has been changed annually by NIST as new items are adopted, deleted, or revised by the National Conference on Weights and Measures. Many of these changes were for clarity. Further, most State weights and measures organizations automatically adopt each new edition of Handbook 44 and Handbook 105-1. FGIS will revise section 802.0(a) by incorporating by reference the 1994 edition of Handbook 44 including the following sections:

Section 1.10 General Code  
Section 2.20 Scales

#### Section 2.22 Automatic Bulk Weighing Systems

#### Section 2.23 Weights

In addition, recent amendments to the U.S. Grain Standards Act (Public Law 103-156) have included the authority to provide for the testing of weighing equipment used for other than weighing grain. FGIS is referring to this type of testing as commercial testing and is including references to commercial services in its regulations.

The following table lists those relevant codes and paragraphs, but not definitions, in which amendments and editorial changes were made in 1991 through 1994 by the 75th, 76th, 77th, and 78th National Conference on Weights and Measures as they appeared in the 1991 through 1994 editions of Handbook 44. The column headed "Action" indicates changes noted as "added", "amended", "deleted", "renumbered", or provides an explanation.

Code	Paragraph	Action
<b>1990 Amendments</b>		
General .....	G-S.5.3.1 & G-S.5.6 .....	Retroactive.
Scales .....	S.1.7 .....	Amended.
Scales .....	S.2.1.5 .....	Added.
Scales .....	S.6.1., S.6.2.1, S.6.3., S.6.4 .....	Deleted.
Scales .....	S.6.5., S.6.6., S.6.7., S.6.7.1 .....	Deleted.
Scales .....	S.6.7.2., S.6.8., S.6.10 .....	Deleted.
Scales .....	S.6.11 .....	Deleted.
Scales .....	S.6.1. and S.6.2 .....	Renumbered.
Scales .....	S.6.3 .....	Added.
Scales .....	Tables S.6.3.a & b .....	Added.
Scales .....	S.6.11 .....	Amended.
Scales .....	N.3.1 .....	Amended.
Scales .....	N.3.1.1 .....	Deleted.
Scales .....	N.3.1.1., N.3.1.2, N.3.1.3 .....	Added.
Scales .....	N.4.-N.4.3.1.4 .....	Added.
Scales .....	T.N.3.6.-T.N.3.6.4 .....	Amended.
Scales .....	T.N.3.7 .....	Renumbered.
Scales .....	T.N.3.8 .....	Renumbered.
Scales .....	UR.5 .....	Added.
Scales .....	Section T.1 .....	Amended.
Scales .....	Table T.1.1 .....	Added.
Scales .....	T.N.8.1.3 .....	Amended.
<b>1990 Editorial Changes</b>		
Scales .....	T.1.1.1 .....	Deleted.
Scales .....	Table 8 .....	Class III entries restored.
<b>1991 Amendments</b>		
General .....	G-S.1 .....	Amended.
General .....	G-UR.2.3 .....	Amended.
General .....	G-UR.4.1 .....	Amended.
Scales .....	S.1.11 .....	Amended.
Scales .....	S.2.4 .....	Amended.
Scales .....	N.1.3.4 .....	Amended.
Scales .....	N.4 .....	Footnote Added.
Scales .....	N.4.3.1.3 .....	Amended.
Automatic Bulk Weighing Systems .....	UR.4 .....	Amended.

Code	Paragraph	Action
<b>1991 Editorial Changes</b>		
General .....	G-S.5.2.1 .....	Deleted recorded representation reference.
Scales .....	S.6.1 .....	Deleted reference to T.1.3.
Scales .....	Table S.6.3.a .....	Symbols added.
Scales .....	Table S.6.3.b .....	Added Note 17 nonretroactive.
Scales .....	S.6.4 .....	Added from 1989 Handbook.
Scales .....	Table T.1.1 .....	Corrected T.N.3.7 to T.N.3.8.

<b>1992 Amendments</b>		
Scales .....	S.1.1.1 .....	Amended.
Scales .....	S.1.7 .....	Amended.
Scales .....	S.1.12 .....	Added.
Scales .....	S.2.4.1 .....	Added.
Scales .....	Tables S.6.3.a. and S.6.3.b .....	Amended.
Scales .....	N.1.3.7 .....	Added.
Scales .....	N.1.3.7. to N.1.3.8 .....	Renumbered.
Scales .....	Table T.1.1 .....	Amended.
Scales .....	T.N.3.6 .....	Amended.
Scales .....	T.N.3.6.2 .....	Amended.
Scales .....	T.N.3.6.4 .....	Amended.
Scales .....	T.N.3.7 .....	Amended.
Scales .....	UR.1.4 .....	Added.
Scales .....	Table 7a .....	Amended.
Scales .....	UR.3.3 .....	Added note at end of section.
Scales .....	UR.3.7 .....	Amended.
Scales .....	UR.3.9 .....	Added.
Scales .....	UR.5 .....	Amended.
Automatic Bulk Weighing:		
Systems .....	UR.1.1 Table .....	Deleted.
Systems .....	UR.1.1 .....	Amended.

<b>1992 Editorial Changes</b>		
All .....		Changes made to include SI units.
Scales .....	Table T.1.1 .....	New headings second line.
Scales .....	T.3 .....	Deleted T.3.1 in the 1st paragraph.

<b>1993 Amendments</b>		
General .....	G-S.8 .....	Amended.
Scales .....	S.1.1 .....	Amended.
Scales .....	Table S.1.11 .....	Amended.
Scales .....	S.1.13 .....	Added.
Scales .....	S.5.4 .....	Added.
Scales .....	N.4.3.1.1 .....	Amended.
Scales .....	Renumber N.5 to N.6 .....	Renumbered.
Scales .....	N.5 (New) .....	Added.
Scales .....	UR.2.6.1 .....	Amended.
Automatic Bulk Weighing:		
Systems .....	S.3.2 .....	Deleted.
Systems .....	S.3.3 .....	Added.

<b>1993 Editorial Changes</b>		
Scales .....	Table 4 .....	Deleted "recommended".
Scales .....	Index .....	Index added for scales code.

Changes in Handbook 44 also necessitate a revision to 802.0(b). Therefore, FGIS revises section 802.0(b) by revising the list of those provisions that do not pertain to FGIS services. These provisions are as follows:

S.1.8. Computing Scales  
 N.3. Recommended Minimum Test Weights and Test Loads

N.5. Nominal Capacity of Prescription Scales  
 T.2.3. Prescription Scales  
 T.2.4. Jewelers' Scales (all sections)  
 T.2.5. Dairy—Product-Test Scales (all sections)  
 T.N.3.9. Materials Test on Customer-Operated Bulk-Weighing Systems for Recycled Materials

#### **List of Subjects in 7 CFR Part 802**

Administrative practice and procedure, Export, Grain, Incorporation by reference, Reporting and recordkeeping requirements.

For reasons set out in the preamble, 7 CFR Part 802 is amended as follows:

**PART 802—OFFICIAL PERFORMANCE AND PROCEDURAL REQUIREMENTS FOR GRAIN WEIGHING EQUIPMENT AND RELATED GRAIN HANDLING SYSTEMS**

1. The authority citation for Part 802 continues to read as follows:

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

2. Section 802.0 is revised to read as follows:

**§ 802.0 Applicability.**

(a) The requirements set forth in this Part 802 describe certain 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, official inspection services, and commercial services under the Act. All scales used for official grain weight and inspection certification services provided by FGIS shall meet applicable requirements contained in the FGIS Weighing Handbook, the General Code, the Scales Code, the Automatic Bulk Weighing Systems Code, and the Weights Code of the 1994 edition of National Institute of Standards and Technology (NIST) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices" (Handbook 44); and NIST HANDBOOK 105-1 (1990 Edition), "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures" (Handbook 105-1). These requirements are confirmed to be met by having National Type Evaluation Program or Federal Grain Inspection Service type approval. Scales used for commercial purposes will be required to meet only the applicable requirements of the 1994 edition of the NIST Handbook-44. Pursuant to the provisions of 5 U.S.C. 552(a), with the exception of the Handbook 44 requirements listed in paragraph (b) of this section, the materials in Handbooks 44 and 105-1 are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**. The NIST Handbooks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20403. They are also available for inspect at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(b) The following Handbook 44 requirements are not incorporated by reference:

*Scales Code (2.20)*

- S.1.8. Computer Scales
- S.1.8.2. Money-Value Computation
- S.1.8.3. Customer's Indications
- S.1.8.4. Recorded Representations, Point of Sale
- S.2.5.2. Jeweler's, Prescription, & Class I & II Scales
- S.3.3. Scoop Counterbalance
- N.1.3.2. Dairy-Product Test Scales
- N.1.5. Discrimination Test (Not adopted for Grain Test Scales only)
- N.1.8. Material Tests
- N.3.1.2. Interim Approval
- N.3.1.3. Enforcement Action for Inaccuracy
- N.4. Coupled-in-Motion Railroad Weighing Systems
- N.5. Nominal Capacity of Prescription Scales
- T.1.2. Postal and Parcel Post Scales
- T.2.3. Prescription Scales
- T.2.4. Jewelers' Scales (all sections)
- T.2.5. Dairy—Product-Test Scales (all sections)
- T.N.3.9. Materials Test on Customer-Operated Bulk-Weighing Systems for Recycled Materials
- UR.1.4. Grain Test Scales: Value of Scale Divisions
- UR.3.1. Recommended Minimum Load
- UR.3.1.1. Minimum Load, Grain Dockage
- Automatic Bulk Weighing Systems (2.22):
  - UR.1.1. Selection Requirements for Systems Used to Weight Grain.

Dated: June 6, 1995.

**James R. Baker,**

*Administrator.*

[FR Doc. 95-14624 Filed 6-16-95; 8:45 am]

**BILLING CODE 3410-EN-M**

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Parts 701, 747, 790 and 792**

**Changes in Citations, Office Descriptions and Information Centers**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Final rule.

**SUMMARY:** This final rule makes housekeeping changes to NCUA's regulations. Corrections are made to certain citations to the United States Code found in the regulations and descriptions of two NCUA offices are updated to reflect current agency structure.

**EFFECTIVE DATE:** June 19, 1995.

**FOR FURTHER INFORMATION CONTACT:** Hattie M. Ulan, Special Counsel to the General Counsel, at 703-544-6540.

**SUPPLEMENTARY INFORMATION:** Section 701.14 and part 747, subpart J contain incorrect citations to the United States Code. These citations were correct when the regulations were originally drafted, but have changed due to a recodification

of the U.S. Code. The corrections are made in this document. Part 790 sets forth descriptions of the various NCUA offices. Two updates need to be made to these descriptions. First, the Office of Chief Economist and Policy Development, described in Section 790.2(b)(14) has been redesignated as the Office of Investment Services. The duties and responsibilities of the Office of Investment Services are somewhat different from the former office. Modifications to both the office name and description are made. Second, the structure of regional office management has recently been modified. Senior regional management formerly consisted of a Regional Director, an Associate Regional Director and a Deputy Regional Director. The titles and duties of these officials are found in Section 790.2(c)(2). Regional management now consists of a Regional Director, an Associate Regional Director for Programs and an Associate Regional Director for Operations. Modifications to Section 790.2(c)(2) are made to reflect the current structure and duties.

Part 792 contains, among other things, a description of the NCUA's information centers for purposes of the Freedom of Information Act. The Asset Liquidation Management Center is added to Section 792.2(f) as an agency information center.

Since these changes are housekeeping and do not have any substantive effect on credit unions, the Board finds it unnecessary to either issue a proposed rule or to have a delayed effective date. Therefore these changes are issued in final form and are effective upon publication.

**Regulatory Procedures**

**Regulatory Flexibility Act**

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). The types of changes made by this rule have no economic impact on credit unions. These are merely housekeeping changes. Therefore, the NCUA Board has determined and certifies that, under the authority granted in 5 U.S.C. 605(b), this final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

**Paperwork Reduction Act**

This final rule does not change any paperwork requirements.