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DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Weighing Provisions and Procedures

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is issuing this final rule which makes changes to the regulations for Weighing Provisions and Procedures under the United States Grain Standards Act (Act), as amended. The Service reviewed these regulations under the requirements for the periodic review of existing regulations and is reissuing them with amendments. This action amends the regulations for Weighing Provisions and Procedures by condensing language and reorganizing the text. In addition, this final rule establishes new provisions permitting the application of additives to grain for the purpose of controlling fungi, suppressing dust, and identifying grain.

EFFECTIVE DATE: April 3, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Staff, FGIS, USDA, Room 1661 South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as nonmajor because it does not meet the criteria for major regulation established in the Order.

Regulatory Flexibility Act Certification

Mr. W. Kirk Miller, Administrator, FGIS, 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.*) 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.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and Section 3504(h) of the Act, the previously approved information collection and recordkeeping requirements are included in OMB approval number 0580-0012.

Final Action

FGIS reviewed the Weighing Provisions and Procedures (7 CFR Part 800.95-800.103) to determine whether there was a continuing need for the regulations. The objectives of the review were to ensure that the regulations were serving their intended purposes, that the language was clear, and that the regulations were consistent with FGIS authority. FGIS has determined that these regulations are serving their intended purpose, are consistent with FGIS authority, and should remain in effect. In the November 26, 1984, *Federal Register* (49 FR 46414), FGIS proposed the reissuance of the regulations with revisions. Comments were to be submitted by January 25, 1985.

Based on the comments received and all other information available, this final rule amends:

1. Section 800.0, *Meaning of terms*, by including a definition for "additives" as § 800.0(b)(2), and redesignating the remaining successive paragraphs through § 800.0(b)(105).

2. Section 800.88, *Loss of identity*, by incorporating provisions for applying additives for the purpose of controlling insects and fungi, suppressing dust, or identifying grain. The proposed rule noted that the changes to § 800.103(c)(2) as to applying additives would affect § 800.88 which deals with the effect of applications of additives from the

official inspection standpoint.

Conforming changes, which were to have been established in separate rulemaking, were incorporated in this final rule.

3. Section 800.95, *Methods and order of performing weighing services*, by:

(a) Clarifying the procedures for performing weighing services by specifying who may perform approved weighing services.

(b) Removing the provisions for weighing bulk grain, sacked grain, and conducting reviews of weighing because these provisions duplicate provisions already covered in §§ 800.46, 800.129, and FGIS instructions.

(c) Combining §§ 800.96(b) and 800.95(c) and redesignating as § 800.95(b) to simplify the regulation.

4. Section 800.96, *Weighing procedures*, by:

(a) Removing the general Class X and Class Y weighing provisions in § 800.96(a) because these provisions duplicate provisions already covered in § 800.95.

(b) Incorporating provisions for weighing inbound and outbound grain into §§ 800.96(a) and 800.96(b) that are presently covered by §§ 800.96(b)(4)(ii) and 800.103(d)(1).

(c) Reorganizing and clarifying the remaining paragraphs contained in this section, presently designated as §§ 800.96(b), 800.96(c), and 800.96(d), concerning spills, commingled carriers, and losses of identity; and redesignating as §§ 800.96(c)(1), 800.96(c)(4), and 800.96(c)(5).

(d) Incorporating provisions for dust which are presently covered by § 800.103(d)(2)(ii), clarifying the provisions, and redesignating as § 800.96(c)(3).

(e) Incorporating and revising provisions for applying additives presently covered by § 800.103(c) and redesignating as § 800.96(c)(2) for the purpose of controlling insects and fungi, suppressing dust, or identifying grain.

5. Section 800.97, *Weighing of bulk grain in containers, land carriers, and barges in single lots*, by:

(a) Revising the section title.

(b) Revising § 800.97(a) to include weighing grain loaded or unloaded from any carrier and simplifying the language to promote greater understanding of the regulation.

(c) Condensing and combining the procedures for weighing grain currently

contained in §§ 800.97(b), 800.97(d), 800.97(e)(1), and 800.99(c), 800.99(d)(3) and redesignating as §§ 800.97(b)(1), 800.97(b)(2), and 800.97(b)(3).

(d) Clarifying § 800.97(c), revising the heading, and redesignating as § 800.97(c)(1).

(e) Simplifying § 800.97(e)(2) and redesignating as § 800.97(c)(2).

(f) Removing § 800.97(f) because this information is not necessary in the regulatory text and is already covered in FGIS instructions.

(g) Incorporating and clarifying the provisions for certificating shiplot grain that are now in §§ 800.99(d)(1), 800.99(d)(2), and 800.99(d)(4).

6. Section 800.98, *Weighing of grain in combined lots*, by:

(a) Revising the section title.

(b) Simplifying the language of § 800.98(a) to promote greater understanding of the regulation.

(c) Removing the application procedures for weighing during loading or unloading and recertification in §§ 800.98(b)(1) and 800.98(b)(2) because they duplicate provisions already covered in § 800.116 and in the FGIS Weighing Handbook.

(d) Reorganizing, clarifying, and redesignating the specific weighing and certification procedures as §§ 800.98(b) and 800.98(c) to promote a better understanding of the regulations.

(e) Removing the OMB clearance statement of § 800.98 because the information collection requirement is now contained in § 800.116.

7. Section 800.99, *Weighing of shiplot grain in single lots*, by:

(a) Revising the section title.

(b) Removing the weighing and certification procedures for shiplot grain presently contained in §§ 800.99(a), 800.99(c), and 800.99(d) and combining these procedures with those procedures established for other carriers in § 800.97 to simplify the regulations.

(c) Removing the application procedures for shiplot grain in § 800.99(b) because they duplicate those already covered by § 800.116.

(d) Incorporating the checkweighing provisions by level of service presently contained in § 800.101 and redesignating as § 800.99(a).

(e) Incorporating, clarifying, and condensing the official weight sample provisions for checkweighing sacked grain, with the exception of § 800.100(a) which is duplicative, presently contained in §§ 800.100(b), 800.100(c), 800.100(d), 800.100(e), and 800.100(f) and redesignating as § 800.99(b), 800.99(c), 800.99(d), 800.99(e), and 800.99(f).

(f) Incorporating the official checkweighing sampling provisions by kind of movement presently contained

in §§ 800.102(a), 800.102(b), 800.102(c), and 800.102(d) and redesignating as §§ 800.99(g)(1), 800.99(g)(2), 800.99(g)(3), and 800.99(g)(4).

(g) Removing the OMB clearance statement from § 800.99 because the information collection requirement is now contained in § 800.116.

8. Section 800.100, *Official weight sample provisions for checkweighing sacked grain*, by removing the requirements contained in §§ 800.100(a), 800.100(b), 800.100(c), 800.100(d), 800.100(e), and 800.100(f), and with the exception of § 800.100(a), including the requirements in §§ 800.99(b), 800.99(c), 800.99(d), 800.99(e), and 800.99(f).

9. Section 800.101, *Checkweighing sampling provisions by level of service*, by removing and including in § 800.99(a).

10. Section 800.102, *Official checkweighing sample provisions by kind of movement*, by removing and including in § 800.99(g).

11. Section 800.103, *Restricted weighing activities*, by:

(a) Removing the provisions for misusing and modifying equipment contained in §§ 800.103(a) and 800.103(b) because these sections duplicate provisions already covered in 7 CFR Part 802.

(b) Removing the provisions for adding insecticide contained in § 800.103(c) and including in § 800.96(c)(2).

(c) Removing the provisions for processing weighed grain contained in 800.103(d) and including in §§ 800.96(a), 800.96(b), 800.96(c)(2), and 800.96(c)(3).

Fifteen parties commented on the proposed changes to the regulations. These commenters included trade associations, end-users of grain, grain companies, exporters, Government agencies at the State and Federal level, and members of Congress. Three of the parties were in favor of the proposed regulations without any reservations. The remaining commenters were in favor of the proposed condensation of language and reorganization of text and had a variety of comments on the proposed provisions for applying additives to grain for controlling insects, suppressing dust, and identifying grain.

Two of the 12 parties that commented on the proposed rule were opposed to the proposed additive provisions, as related to dust-suppressing agents, asserting that: (1) grain that has been repeatedly sprayed with additives as it moves through the marketing system may eventually deteriorate; (2) edible oils applied to barley may not be easily removed prior to malting and edible oils may inhibit the malting process; and (3)

water may be added just to increase the weight of the grain.

The application of additives can reduce particulate dust and, thereby, eliminate potentially explosive concentrations of dust and dust-related health hazards. Concomitantly, additives may lower test weight, change kernel appearance, and foster off-odors. The current grain standards would reflect, through a lower quality grade, grain influenced in such a manner. Research conducted by the Department (Lai, F.S., Martin, B.S., and Pomeranz, Y. 1985. Oils and lecithin as dust suppression additives in commercially handled corn, soybeans, and wheat; efficacy of treatments and effects on grain quality) found that additives can effectively and economically suppress dust. The Service recognizes the commenters' concerns that additive-treated grain may not be desirable for all end-uses. Therefore, to permit the industry to receive the benefits of dust suppressants while ensuring that end-users are made aware that additives have been applied, the FGIS instructions implementing this regulation will require that the following statement be shown on official certificates issued by the Service or agencies when additives are applied during loading or unloading: "Applicant states (*type of additive*) applied to grain (*before or after*) (*sampling or weighing*) to (*purpose of the application*)."

The remaining 10 commenters were in favor of the proposed additive policy, but offered recommendations or expressed some concerns about certain parts of the regulations. Three parties noted the potential for improper addition of additives for the purpose of adding weight to the grain. Adding any substance for purposes of increasing weight, is a violation of section 342(b) of the Food, Drug, and Cosmetic Act (7 U.S.C. 342(b)). All incidents or suspected incidents of unapproved additive usage or improper additive application will be reported to the appropriate Federal, State, or local authorities for action.

Five commenters recommended that edible oils such as soybean oil, soybean lecithin, and vegetable oil, which have been deemed Generally Regarded as Safe (GRAS) by FDA be allowed to be applied to grain. FGIS concurs that all additives deemed GRAS or otherwise approved by FDA may be applied to grain and a new definition for additives has been added to the regulations to accommodate this view.

Two commenters objected to the showing of information on the official certificate when an additive is applied for the purpose of identification (dye) or

insect control. Since additives may affect the manner in which the grain is used or stored, the Service considers it in the best interest of the marketing system that such information be available in all cases. One commenter requested that the weight of the additive be deducted from the weight of inbound grain shipments. When additives are applied to grain which moves through the handling system, any measurable weight of the additive will continue to be reflected in the total weight. Therefore, the weight of the additive need not be deducted from the weight of the inbound shipment.

One commenter suggested that the language in the proposal with respect to determining the weight of grain on which an additive is applied be clarified. The Service concurs with the comment and has recast the section to clarify when the provision would apply. Also, the list of the purposes for which additives may be applied is changed to delete reference to "other purposes determined by the Administrator to be in the best interest of orderly marketing of grain," because the phrase is unnecessary and the Service believes that any further changes should be accomplished through the rulemaking process. The regulations currently permit the application of additives to grain for the purpose of controlling insects. It was proposed that the application of additives to grain be expanded to include suppressing dust and identifying grain. In addition to these uses, this final rule permits the application of additives to control fungi.

As noted above, the Service is clarifying the provision relating to additives by including a definition of additives (§ 800.0(b)(2)) for purposes of the regulations. Additives are defined as materials approved by FDA or the Environmental Protection Agency and added to grain for purposes of insect or fungi control, dust suppression, or identification.

This change affects the present § 800.88, *Loss of identity*, which deals with the effect of an application of additives from an official inspection standpoint. Therefore, conforming changes have been made to it.

Miscellaneous nonsubstantive changes for clarity are also made in this final rule from that proposed.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Grain, Export.

For reasons set out in the preamble, Title 7, Part 800 of the Code of Federal Regulations, is amended as set forth below.

PART 800—GENERAL REGULATIONS WEIGHING PROVISIONS AND PROCEDURES

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 800.0 is amended by redesignating paragraph (b)(2) through (b)(105) as (b)(3) through (b)(106), and adding a new paragraph (b)(2) to read as follows:

§ 800.0 Meaning of terms.

* * *

(b) * * *

(2) *Additives*. Materials approved by the Food and Drug Administration of the Environmental Protection Agency and added to grain for purposes of insect and fungi control, dust suppression, or identification.

* * *

3. Section 800.88 is revised as follows:

§ 800.88 Loss of identity.

(a) *Lots*. Except as noted in paragraph (d) of this section, the identity of a lot of grain shall be considered lost if (1) a portion of the grain is unloaded, transferred, or otherwise removed from the carrier or container in which the grain was located at the time of the original inspection; or (2) a portion of grain or other material, including additives, is added to the lot after the original inspection was performed, unless the addition of the additive was performed in accordance with the regulations and the instructions. At the option of official personnel performing a reinspection, appeal inspection, or Board appeal inspection service, the identity of grain in a closed carrier or container shall be considered lost if the carrier or container is not sealed or if the seal record is incomplete.

(b) *Carriers and containers*. The identity of a carrier or container shall be considered lost when (1) the stowage area is cleaned, painted, treated, fumigated, or fitted after the original inspection was performed; or (2) the identification of the carrier or container has been changed since the original inspection was performed.

(c) *Submitted samples*. The identity of a submitted sample of grain shall be considered lost when (1) the identifying number, mark, or symbol for the sample is lost or destroyed or (2) the samples have not been retained and protected by official personnel as prescribed in the instructions.

(d) *Additives*.¹ If additives are applied during loading to outbound grain after sampling or during unloading to inbound grain before sampling for the purpose of insect or fungi control, dust suppression, or identification, the inspection certificate shall show a statement showing the type and purpose of the additive application.

4. Section 800.95 is revised as follows:

§ 800.95 Methods and order of performing weighing services.

(a) *Methods*. All Class X or Class Y weighing, checkweighing, checkloading, stowage examination, and other weighing services shall be performed by official personnel or approved weighers using approved weighing equipment and according to procedures prescribed in the regulations and the instructions.

(b) *Order of service*. Weighing services shall be performed, to the extent practicable, in the order in which requests are received. Official personnel must mark or stamp the date received on each written request for service. Precedence will be given to requests for weighing required by sections 5(a)(1) or 5(a)(2) of the Act.

5. Section 800.96 is revised as follows:

§ 800.96 Weighing procedures.

(a) *Inbound*. Inbound grain that is to be weighed must be routed directly from the carrier and cannot be cleaned, dried, or otherwise processed to remove or add other grain or material en route. Except as noted in paragraph (c) of this section, the identity of an inbound lot shall be considered lost when a portion of the lot is transferred or otherwise removed prior to weighing or a portion of grain or other material is added to the lot prior to weighing. When loss of identity occurs, no amount shall be shown in the "Net Weight" portion of the weight certificate for the lot.

(b) *Outbound*. Outbound grain that has been weighed must be routed directly from the scale to the carrier and cannot be cleaned, dried, or otherwise processed to remove or add other grain or material en route. Except as noted in paragraph (c) of this section, the identity of an outbound lot will be considered lost if a portion of the lot is transferred or otherwise removed from the lot after weighing or a portion of grain or other material is added to the lot after weighing. When loss of identity occurs, no amount shall be shown in the "Net

¹ Elevators, other handlers of grain, and their agents are responsible for the additive's proper usage and application. Compliance with this section does not excuse compliance with applicable Federal, State, and local laws.

Weight" portion of the weight certificate for the lot.

(c) *Exceptions—(1) Spills—(i) Outbound—(A) Replaced.* If a spill occurs in handling and loading of outbound grain and the spilled grain is retrieved, or is replaced in kind, and is loaded on board during the loading operations, the weight certificate shall show the weight of the grain that was physically loaded on board. Upon request of the applicant, an additional certificate may be issued by the agency or the field office to show the weight of the additional grain that was used to replace a spill.

(B) *Not replaced.* If a spill occurs in the handling and loading of outbound grain and the spilled grain is not retrieved or is not replaced during the loading operation, the weight certificate shall show the weight of the grain that was actually weighed, minus the estimated amount of the grain that was spilled. Upon request of the applicant, an additional certificate may be issued showing the estimated amount of grain that was spilled. The applicant may, upon request, have the total amount that was weighed shown on the weight certificate with the estimated amount of the spilled grain noted.

(ii) *Inbound.* If a spill occurs in the handling of inbound grain and the grain is not retrieved and weighed, the weight certificate shall show the weight of the grain that was actually unloaded from the carrier and a statement regarding the spill as prescribed in the instructions.

(2) *Additives.*¹ If additives are applied during loading to outbound grain after weighing or during unloading to inbound grain before weighing for the purpose of insect or fungi control, dust suppression, or identification, the weight certificate shall show (i) the actual weight of the grain after the application of the additive for inbound grain or the weight of the grain prior to the application of the additive for outbound grain, and (ii) a statement showing the type and purpose of the additive application as prescribed in the instructions.

(3) *Dust.* If dust is removed during the handling of grain, the weight certificate shall not be adjusted to reflect the weight of the removed dust.

(4) *Commingle carriers.* If grain from two or more identified carriers becomes mixed, (i) the combined weight of the grain shall be shown in the "Net Weight" block of one certificate with all

carrier identification shown in the identification of carrier section of the certificate, or (ii) upon request of the applicant, a certificate shall be issued for each carrier with the "Net Weight" block crossed out, and with the total combined weight unloaded and the identification of the other carrier(s) shown in the "Remarks" section.

(5) *Unremoved grain.* If, after unloading an inbound carrier, there is sound grain remaining in the carrier that could have been removed with reasonable effort, the weight certificate shall show the weight of the grain that was actually unloaded from the carrier and a statement regarding the grain remaining in the carrier.

6. Section 800.97 is revised as follows:

§ 800.97 Weighing grain in containers, land carriers, barges, and shiplots.

(a) *General.* The weighing of grain loaded or unloaded from any carrier shall be conducted according to this section and the instructions.

(b) *Procedure—(1) General.* If grain in a carrier is offered for inspection or weighing service as one lot, the grain shall be weighed and certificated as one lot. The identification of the carrier shall be recorded on the scale tape or ticket and the weight certificate.

(2) *Sacked grain.* If sacked grain is offered for weighing and the grain is not fully accessible, the request for weighing service shall be dismissed.

(3) *Part lots.* If a portion of an inbound lot of grain is unloaded and a portion is left in the carrier because it is not uniform in quality or condition, or the lot is unloaded in other than a reasonably continuous operation, the portion that is removed and the portion remaining in the carrier shall be considered as part lots and shall be weighed and certificated as part lots.

(c) *Certification of trucklots, carlots, and bargelots—(1) Basic requirement.* One official certificate shall be issued for the weighing of the grain in each truck, trailer, truck/trailer(s) combination, railroad car, barge, or similarly sized carrier. This requirement shall not be applicable to grain weighed as a combined lot under § 800.98.

(2) *Part-lot weight certificates.* A part-lot weight certificate shall show (i) the weight of the portion that is unloaded and (ii) the following statement: "Part-lot: The net weight stated herein reflects a partial unload."

(d) *Certification of shiplot grain—(1) Basic requirement.* The certificate shall show (i) if applicable, a statement that the grain has been loaded aboard with other grain, (ii) the official weight, (iii) the stowage or other identification of the grain, and (iv) other information

required by the regulations and the instructions.

(2) *Common stowage—(i) Without separation.* If bulk grain is offered for weighing as it is being loaded aboard a ship and is loaded without separation in a stowage area with other grain or another commodity, the weight certificate for the grain in each lot shall show that the lot was loaded aboard with other grain or another commodity without separation and the relative location of the grain.

(ii) *With separation.* If separations are laid between adjacent lots, the weight certificates shall show the kind of material used in the separations and the location of the separations in relation to each lot.

(iii) *Exception.* The common stowage requirements of this paragraph shall not be applicable to the first lot in a stowage area unless a second lot has been loaded, in whole or in part, in the stowage area before issuing the official weight certificate for the first lot.

(3) *Official mark.* If the grain is officially weighed in a reasonably continuous operation, upon request by the applicant, the following statement may be shown on the weight certificate: "Loaded under continuous official weighing."

7. Section 800.98 is revised as follows:

§ 800.98 Weighing grain in combined lots.

(a) *General.* The weighing of bulk or sacked grain loaded aboard, or being loaded aboard, or unloaded from two or more carriers as a combined lot shall be conducted according to this section and the instructions.

(b) *Weighing procedure—(1) Single lot weighing.* Single lots of grain that are to be weighed as a combined lot shall be weighed in one location. The grain loaded into or unloaded from each carrier must be weighed in accordance with procedures prescribed in the instructions. In the case of sacked grain, a representative weight sample shall be obtained from the grain in each carrier unless otherwise specified in the instructions.

(2) *Recertification.* Grain that has been weighed and certificated as two or more single lots may be recertified as a combined lot provided that (i) the grain in each single lot has been weighed in one location, (ii) the original weight certificates issued for the single lots have been or will be surrendered to the appropriate agency or field office, (iii) the official personnel who performed the weighing service for the single lots and the official personnel who are to recertify the grain as a combined lot determine that the weight

¹ Elevators, other handlers of grain, and their agents are responsible for the additive's proper usage and application. Compliance with this section does not excuse compliance with applicable Federal, State, and local laws.

of the grain in the lots has not since changed and, in the case of sacked grain, that the weight samples used as a basis for weighing the single lots were representative at the time of the weighing.

(3) *Grain uniform in quality.* An applicant may request that grain be weighed and certificated as a combined lot whether or not the grain is uniform in quality for the purpose of inspection under the Act.

(c) *Certification procedures—(1) General.* Each certificate for a combined-lot Class X or Class Y weighing service shall show the identification for the "Combined lot" or, at the request of the applicant, the identification of each carrier in the combined lot. The identification and any seal information for the carriers may be shown on the reverse side of the weight certificate, provided the statement "See reverse side" is shown on the face of the certificate in the space provided for remarks.

(2) *Recertification.* If a request for a combined-lot Class X or Class Y weighing service is filed after the grain in the single lots has been weighed and certificated, the combined-lot weighing certificate shall show (i) the date of weighing the grain in the combined lot (if the single lots were weighed on different dates, the latest of the dates shall be shown); (ii) a serial number, other than the serial numbers of the weight certificates that are to be superseded; (iii) the name of the elevator from which or into which the grain in the combined lot was loaded or unloaded; (iv) a statement showing the weight of the grain in the combined lot; (v) a completed statement showing the identification of any superseded certificate as follows: "This combined-lot certificate supersedes certificate Nos. _____, dated _____; and (vi) if at the time of issuing the combined-lot weight certificate the superseded certificates are not in the custody of the agency or field office, the statement "The superseded certificates identified herein have not been surrendered" shall be clearly shown, in the space provided for remarks, beneath the statement identifying the superseded certificates. If the superseded certificates are in the custody of the agency or field office, the superseded certificates shall be clearly marked "Void."

(3) *Part lot.* If a part of a combined lot of grain in inbound carriers is unloaded and a part is left in the carriers, the grain that is unloaded shall be certificated in accordance with the provisions in § 800.97(c)(2).

(4) *Official mark.* When grain is weighed as a combined lot in one

continuous operation, upon request by the applicant, the following statement shall be shown on the weight certificate: "Loaded under continuous official weighing," or "Loaded under continuous official inspection and weighing."

(5) *Further combining.* After a combined-lot weight certificate has been issued, there shall be no further combining and no dividing of the certificate.

(6) *Limitations.* No combined-lot weight certificate shall be issued (i) for any weighing service other than as described in this section or (ii) which shows a weight of grain different from the total of the combined single lot.

8. Section 800.99 is revised as follows:

§ 800.99 Checkweighing sacked grain.

(a) *General.* Each checkweighing service performed on a lot of sacked grain to determine the weight of the grain shall be made on the basis of one or more official weight samples obtained from the grain by official personnel according to this section and procedures prescribed in the instructions.

(b) *Representative sample.* No official weight sample shall be considered to be representative of a lot of sacked grain unless the sample is of the size prescribed in the instructions and has been obtained and weighed according to the procedures prescribed in the instructions.

(c) *Protecting samples and data.* Official personnel and other employees of an agency or the Service shall protect official weight samples and data from manipulation, substitution, and improper and careless handling which might deprive the samples and sample data of their representativeness.

(d) *Restriction on weighing.* No agency shall weigh any lot of sacked grain unless at the time of obtaining the official weight sample the grain from which the sample was obtained was located within the area of responsibility assigned to the agency. Upon good cause shown by the agency, the Administrator may grant an exception to this rule on a case-by-case basis.

(e) *Equipment and labor.* Each applicant for weighing services shall provide necessary labor for obtaining official weight samples and place the samples in a position for weighing and shall supply suitable weighing equipment approved by the Service, pursuant to the regulations and the instructions.

(f) *Disposition of official weight samples.* In weighing sacked grain in lots, the grain in the official weight samples shall be returned to the lots from which the samples were obtained.

(g) *Provisions by kinds of service.—*

(1) *"IN" movements.* Each checkweighing on an "IN" movement of sacked grain shall be based on an official weight sample obtained while the grain is at rest in the carrier or during unloading, in accordance with procedures prescribed in the instructions.

(2) *"OUT" movements (export).* Each checkweighing of sacked export grain shall be based on an official weight sample obtained as the grain is being loaded aboard the final carrier, as the grain is being sacked, or while the grain is at rest in a warehouse or holding facility, in accordance with procedures prescribed in the instructions.

(3) *"OUT" movements (other than export).* Each checkweighing of an "OUT" movement of nonexport sacked grain shall be based on an official weight sample obtained from the grain as the grain is being loaded in the carrier, or while the grain is at rest in the carrier, or while the grain is at rest in a warehouse or holding facility, or while the grain is being sacked, in accordance with procedures prescribed in the instructions.

(4) *"LOCAL" weighing.* Each checkweighing of a "LOCAL" movement of sacked grain shall be based on an official weight sample obtained while the grain is at rest or while the grain is being transferred, in accordance with procedures prescribed in the instructions.

§§ 800.100, 800.101, 800.102, and 800.103 [Removed]

8. Sections 800.100, 800.101, 800.102, and 800.103 are removed.

Dated: February 17, 1987.

D.R. Gallart,

Acting Administrator.

[FR Doc. 87-4481 Filed 3-3-87; 8:45 am]

BILLING CODE 3410-EN-M

Farmers Home Administration

7 CFR Part 1910

Commercial Credit Reports; Implementation Provisions for Processing Commercial Credit Reports

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) adds a new regulation concerning charging a fee for commercial credit reports. This action is necessary for obtaining commercial

credit reports under any program activity where this type of report is to be used. The intended effect is to establish the new procedures for ordering commercial credit reports with a new contractor and the fee to be collected to cover the cost of the service.

EFFECTIVE DATE: March 4, 1987.

FOR FURTHER INFORMATION CONTACT: Obediah G. Baker, Branch Chief, Multiple Family Housing Processing Division, Farmers Home Administration, Room 5337, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, Telephone (202) 382-1628.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal Agency management and Agency procedure. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits or contracts notwithstanding the exemption in 5 U.S.C. 553, with respect to such rules. This final action, however, is not published for proposed rulemaking since it involves only internal Agency management and Agency procedure, and publication for comment is unnecessary.

The Catalog of Federal Domestic Assistance programs affected by this action are:

- 10.404 Emergency Loans
- 10.405 Farm Labor Housing Loans and Grants
- 10.406 Farm Operating Loans
- 10.407 Farm Ownership Loans
- 10.410 Very Low and Low Income Housing Loans (Section 502 Rural Housing Loans)
- 10.415 Rural Rental Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Loan and Grants
- 10.419 Watershed Loans and Advances
- 10.422 Business and Industrial Loans
- 10.423 Community Facilities Loans.

For the reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V, 48 FR 29115, June 24, 1983, this program/activity is listed in the Catalog of Federal Domestic Assistance under 10.405 (Farm Labor Housing Loans and Grants), 10.418 (Water and Waste Disposal Loan and Grants), 10.419 (Watershed Loans and Advances), 10.422 (Business and Industrial Loans), 10.423 (Community Facility Loans), 10.424 (Industrial Development Grants) and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program". It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1910

Credit.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1910—GENERAL

1. The authority citation for Part 1910 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Subpart C is added to read as follows:

Subpart C—Commercial Credit Reports

Sec.

1910.101 Preface.

1910.102-1910.150 [Reserved]

Subpart C—Commercial Credit Reports

§ 1910.101 Preface.

FmHA Instruction 1910-C (available in any Farmers Home Administration (FmHA) office) describes the procedure to be used by FmHA in obtaining commercial credit reports. A nonrefundable fee, set forth in § 1910.106(d) of this Instruction will be collected from the applicant, general contractor or dealer contractor who is the subject of the report.

§§ 1910.102-1910.150 [Reserved]

Dated: February 11, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87-4480 Filed 3-3-87; 8:45 am]

BILLING CODE 3410-07-M

7 CFR Part 1980

Guaranteed Loan Programs; Administrative Provisions

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its General and Business and Industrial Loan Program (B&I) regulations pertaining to the administration of the guaranteed loan programs. The changes

are of two types: Those that are contained in various sections of the regulations and affect the public and those which are administrative and involve internal Agency procedures which do not affect the public. These amendments further Administration objectives to: (1) Assure more viable projects and (2) eliminate various loopholes and terminology which have caused the Agency considerable time and expense and potential increased liability for losses in the event of default. These actions are in response to recommendations by Agency and program managers to correct these deficiencies. The intended effect of the changes is to strengthen overall credit terms, evaluations and servicing requirements of the FmHA B&I guaranteed loan program specifically and other FmHA guaranteed programs generally.

EFFECTIVE DATE: March 4, 1987.

FOR FURTHER INFORMATION CONTACT: Dwight A. Carmon, Loan Specialist, Business and Industry Division, USDA, and FmHA, 14th and Independence Avenue, SW., Washington, DC 20250—Telephone (202) 475-3811.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291 and has been determined to be "non-major" since the annual effect on the economy is less than \$100 million and there will be no significant increase in costs or prices for consumers, individual industries, organizations, governmental agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The FmHA guaranteed programs and projects which are affected by this action are outlined in the Catalog of Federal Domestic Assistance (CFDA) and include: CFDA Number 10.422 Business and Industrial Loans, 10.404 Emergency Loans, 10.416 Soil and Water Loans, 10.406 Farm Operating Loans, and 10.407 Farm Ownership Loans.

The activities covered by this rule are subject to the requirements for intergovernmental consultation as stated in 7 CFR Part 3015 Subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities."

This final action has been reviewed in accordance with FmHA Instruction