

**7 CFR Part 32**

Mohair.

**7 CFR Part 36**

Administrative practice and procedure, Agricultural commodities, Food grades and standards, Reporting and recordkeeping requirements.

**7 CFR Part 51**

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

**7 CFR Part 52**

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

**7 CFR Part 53**

Cattle, Hogs, Livestock, Sheep.

**7 CFR Part 54**

Food grades and standards, Food labeling, Meat and meat products.

**7 CFR Part 56**

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

**7 CFR Part 58**

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

**7 CFR Part 70**

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

**7 CFR Part 160**

Administrative practice and procedure, Advertising, Forests and forest products, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

**PART 29—TOBACCO INSPECTION****PART 31—WOOL STANDARDS****PART 32—MOHAIR STANDARDS****PART 36—PROCEDURES BY WHICH THE AGRICULTURAL MARKETING SERVICE DEVELOPS, REVISES, SUSPENDS, OR TERMINATES VOLUNTARY OFFICIAL GRADE STANDARDS****PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS<sup>1 2</sup> (INSPECTION, CERTIFICATION, AND STANDARDS)****PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS<sup>3</sup>****PART 53—LIVESTOCK (GRADING, CERTIFICATION, AND STANDARDS)****PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)****PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS****PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS<sup>4</sup>****PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES****PART 160—REGULATIONS AND STANDARDS FOR NAVAL STORES**

Accordingly the interim final rule amending 7 CFR Parts 29, 31, 32, 51, 52, 53, 54, 56, 58, 70, and 160, which was published at 60 FR 62172 on December 4, 1995, and the interim final rule

<sup>1</sup> Among such other products are the following: Raw nuts, Christmas trees and evergreens; flowers and flower bulbs; and onion sets.

<sup>2</sup> None of the requirements in the regulations of this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to products covered in the regulations in this part.

<sup>3</sup> Among such other processed food products are the following: Honey; molasses, except for stockfeed; nuts and nut products, except oil; sugar (cane, beet, and maple); sirups (blended), sirups, except from grain; tea; cocoa; coffee; spices; condiments.

<sup>4</sup> Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

amending 7 CFR Parts 29, 31, 32, 36, 52, 53, 54, and 58, which was published at 62 FR 43430 on August 13, 1997, are adopted as final rules, without change.

Dated: June 24, 1998.

**Enrique E. Figueroa,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 98-17349 Filed 6-29-98; 8:45 am]

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**DEPARTMENT OF AGRICULTURE****Grain Inspection, Packers and Stockyards Administration****7 CFR Parts 800 and 801**

RIN 0580-AA62

**Official Testing Service for Corn Oil, Protein, and Starch**

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

**ACTION:** Interim rule with request for comment.

**SUMMARY:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) is extending the use of the currently approved near-infrared spectroscopy (NIRS) analyzers in its official inspection program to include testing of corn for oil, protein, and starch content. GIPSA is incorporating by reference the Corn Refiners Association Method A-20, Starch method, into the regulations and will use it as the chemical reference method for determining the starch content in corn. To recover the cost of providing this service, GIPSA is establishing a fee identical to the fees already established for other near-infrared spectroscopy measurements (wheat protein and soybean oil and protein). GIPSA is offering this service to meet a market demand for reliable official testing procedures created by anticipated increases in high-oil corn (HOC) production.

**DATES:** This interim rule is effective July 1, 1998. To be assured of consideration, written comments must be filed before July 30, 1998.

The incorporation by reference of Analysis for Starch in Corn, Method A-20, 2nd revision, April 15, 1986, Standard Analytical Methods of the Member Companies of the Corn Refiners Association, Inc., listed in the rule is approved by the Director of the Federal Register as of July 1, 1998.

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

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

**FOR FURTHER INFORMATION CONTACT:** John Giler, GIPSA, USDA, Room 1661-S, STOP 3632, Washington, DC, 20250-3632; telephone (202) 720-0252; or E-mail [jgiler@fgisdc.usda.gov](mailto:jgiler@fgisdc.usda.gov).

**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 USGSA 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 USGSA. 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 has determined 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 *et seq.*).

This rule establishes tolerances to expand the use of currently approved near-infrared spectroscopy analyzers to test corn for oil, protein, and starch content and to establish a fee identical to the fees already established for wheat protein and soybean oil and protein testing services. Currently, near-infrared spectroscopy analyzers are being used to determine protein in wheat and protein and oil in soybean in both domestic and export markets. There are 57 official agencies (49 private entities, 8 States) designated by GIPSA to perform official grain inspection services. In addition, there are 8 delegated States. Most of the agencies could be considered small entities under Small Business Administration criteria.

The extent to which these agencies will choose to provide this service is difficult to quantify because GIPSA is offering this service on a request basis and locations where service is requested

infrequently may make arrangements with a neighboring agency to provide the service (7 CFR 800.196(g)(1)). GIPSA believes that offering this service would have a beneficial effect on those agencies electing to provide the service.

For the 1998 crop year, the U.S. Feed Grains Council's production information estimated that approximately 1,250,000 acres were planted in high-oil corn, of which 40 to 50 percent is under contract. Currently, producers, grain handlers, exporters, and feedlot operators rely primarily on private laboratories to determine percent oil, protein, and starch in corn. Many of the producers, grain handlers, exporters, and feedlot operators may be considered small entities under Small Business criteria. Further, grain handlers and exporters are using this information to determine value and premiums. The extent to which these entities will request the official testing of corn for oil, protein, and starch or the impact of offering this service is difficult to quantify. GIPSA believes that corn producers, feedlot operators, grain handlers, and exporters will rely on the official system to provide reliable testing procedures and accurate results that the market can rely on to negotiate price, value, and premium.

Fees will be charged for these official services. The fees charged by GIPSA will be \$1.50 per test when the test is performed at the applicant's facility, \$8.00 per test if the test is performed elsewhere, and \$15.75 for an appeal. These fees are the same as fees charged for similar tests and their impact on applicants for services will vary depending upon usage since these tests are on a request basis.

**Information Collection and Recordkeeping Requirements**

In accordance with the Paperwork Reduction Act of 1995, the recordkeeping and reporting burden imposed by Parts 800 and 801 was previously approved by OMB under control number 0580-0013 and will not be affected by this rule.

**Background**

In its 1996-97 report, Value-Enhanced Corn Quality Report, dated April 1997, the U.S. Feed Grains Council estimated that value-enhanced corn (VEC) was produced on 2.3 to 2.8 million acres (representing 3.2 to 3.8 percent of the U.S. harvested acreage). VEC includes waxy corn, high-lysine and other essential amino acid corn, hard endosperm corn, popcorn, sweet corn, white corn, and high-oil corn. The report projects the U.S. acreage of VEC to remain essentially unchanged, with

the exception of high-oil corn, which is considered the fastest growing VEC produced in the marketplace. The report stated that more than 1 million acres of high-oil corn is projected for the 1998 crop year (up from virtually none in 1993), is expected to more than double (2.5 million acres) in 1999, and to reach 3 million acres by 2000. High-oil corn will continue to be a significant part of the VEC produced and traded in the marketplace.

High-oil corn is used by livestock feeders to replace animal fat previously added to livestock rations and to help the animals gain weight more quickly. U.S. No. 2 corn typically averages less than 4.5 percent oil content, while high-oil corn can contain up to 8.0 percent. At this time, depending on the oil content, high-oil corn premiums range from 5 to 24 cents per bushel. High-oil corn is almost exclusively grown through contracts with livestock feeders or companies that will export the grain.

For several years, high-oil corn processors and producers have expressed an interest in having corn officially analyzed for oil, protein, and starch content. GIPSA's goal is to provide the corn industry with accurate results that the market can rely on to negotiate price, value, and premium.

GIPSA investigated a near-infrared spectroscopy (NIRS) calibration for use with currently approved near-infrared transmittance (NIRT) analyzers using 92 corn samples representing oil, protein, and starch ranges of 4.0 to 8.5 percent, 8.0 to 12.0 percent, and 64 to 72 percent (dry basis), respectively. Calibration performance data were statistically analyzed for the sample set. The standard deviation of differences (SDD) between near-infrared spectroscopy oil values and official solvent oil extraction reference results, was 0.44. A comparison of NIRT analyzer protein values and official combustion nitrogen analyzer reference results yielded an SDD of 0.40. The SDD between near-infrared spectroscopy analyzer starch predictions and reference values obtained using Corn Refiners Association Method A-20, was 2.20. GIPSA has determined that this level of accuracy is commensurate with prospective official customer needs. To further assure the performance of the NIRT analyzer for corn measurements, GIPSA is establishing the maintenance tolerances for corn oil content at  $\pm 0.20$  percent mean deviation from the national standard NIRS instruments, which are referenced and calibrated to the FGIS solvent oil extraction method; for protein content at  $\pm 0.30$  percent mean deviation from the national standard NIRS instruments, which are

referenced and calibrated to the Combustion method, AOAC International Method 992.23; and for starch content at  $\pm 0.35$  percent mean deviation from the national standard NIRS instruments, which are referenced and calibrated to the Starch method, Corn Refiners Association Method A-20.

This rule incorporates by reference the Corn Refiners Association Method A-20, Starch method, into the regulations. GIPSA will use the Starch method as the chemical reference method for determining the starch content in corn.

GIPSA is announcing the implementation of corn oil, protein, and starch testing services as an official criterion effective July 1, 1998. Upon a request for service, official inspection personnel will determine corn oil, protein, and starch under the authority of the USGSA. Percent oil, protein, and starch will be reported to the nearest tenth percent on a dry matter basis (zero moisture basis) unless another moisture basis is requested.

GIPSA is required to collect fees for providing official testing service to cover, as nearly as practicable, GIPSA's costs for performing the service, including related administrative and supervisory costs. Testing procedures and time necessary to determine oil, protein, and starch in corn using the approved NIRT analyzers are the same as those required for NIRT wheat protein or NIRT soybean oil and protein determinations. Therefore, GIPSA has decided to collect fees identical to the fees established for NIRT wheat protein or NIRT soybean oil and protein testing services. These fees will be \$1.50 per test when the service is performed at an applicant's facility in an onsite FGIS laboratory; \$8.00 per test when an original inspection service is performed at a location other than an applicant's facility in an FGIS laboratory; and \$15.75 per test when an appeal inspection service is performed at a location other than an applicant's facility in an FGIS laboratory.

GIPSA is revising § 800.71 to establish fees for corn oil, protein, and starch testing services.

GIPSA is also revising § 801.7 to establish tolerances for corn oil, protein, and starch analyzers.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is unnecessary and contrary to 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) this rule merely expands

utilization of currently approved technology to offer additional services to the industry and establishes tolerances for that service; (2) the corn market year begins July 1, 1998, and the service should be in effect to allow its use at the beginning of the marketing year; and (3) this rule provides a 30-day opportunity for comment and all written comments timely received will be considered prior to finalization of the rule.

A 30-day comment period is deemed appropriate because the corn market year begins on July 1, 1998, and this rule should be made final as soon as possible during the beginning of the 1998 year.

#### List of Subjects in 7 CFR Parts 800 and 801

Grains, Incorporation by reference.

For the reasons set out in the preamble, 7 CFR Parts 800 and 801 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 800.71 is amended by revising Table 1(2) (i through x) and adding (xi) and revising Table 2(1)(v) and (2)(ii) in Schedule A of paragraph (a) to read as follows:

#### § 800.71 Fees Assessed by the Service.

(a) \* \* \*

#### Schedule A.—Fees for Official Inspection and Weighing Services Performed in the United States

Table 1.—\* \* \*

(2) * * *	
(i) Aflatoxin (other than Thin Layer Chromatography) .....	\$8.50
(ii) Aflatoxin (Thin Layer Chromatography method) .....	20.00
(iii) Corn oil, protein, and starch (one or any combination) .....	1.50
(iv) Soybean protein and oil (one or both) .....	1.50
(v) Wheat protein (per test) .....	1.50
(vi) Sunflower oil (per test) .....	1.50
(vii) Vomitoxin (qualitative) .....	7.50
(viii) Vomitoxin (quantitative) .....	12.50
(ix) Waxy corn (per test) .....	1.50
(x) Fees for other tests not listed above will be based on the lowest noncontract hourly rates.	
(xi) Other services	
(a) Class Y Weighing (per car-rer)	
(1) Truck/container .....	.30
(2) Railcar .....	1.25
(3) Barge .....	2.50

\* \* \* \* \*

Table 2.—\* \* \*

(1) \* \* \*

(v) Additional tests (excludes sampling)	
(a) Aflatoxin (per test—other than TLC method) .....	\$25.50
(b) Aflatoxin (per test—TLC method) .....	101.50
(c) Corn oil, protein, and starch (one or any combination) .....	8.00
(d) Soybean protein and oil (one or both) .....	8.00
(e) Wheat protein (per test) ....	8.00
(f) Sunflower oil (per test) ....	8.00
(g) Vomitoxin (qualitative) ....	26.00
(h) Vomitoxin (quantitative) ..	31.00
(i) Waxy corn (per test) .....	9.25
(j) Canola (per test—00 dip test) .....	9.25
(k) Pesticide Residue Testing <sup>3</sup> .	
(1) Routine Compounds (per sample) .....	200.00
(2) Special Compounds (per service representative) ....	100.00

(l) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.

(2) \* \* \*

(ii) Additional tests (assessed in addition to all other applicable fees)	
(a) Aflatoxin (per test, other than TLC) .....	\$25.75
(b) Aflatoxin (TLC) .....	111.00
(c) Corn oil, protein, and starch (one or any combination) .....	15.75
(d) Soybean protein and oil (one or both) .....	15.75
(e) Wheat protein (per test) ....	15.75
(f) Sunflower oil (per test) ....	15.75
(g) Vomitoxin (per test—qualitative) .....	36.00
(h) Vomitoxin (per test—quantitative) .....	41.00
(i) Vomitoxin (per test—HPLC Board Appeal) .....	128.00
(j) Pesticide Residue Testing <sup>3</sup> .	
(1) Routine Compounds (per sample) .....	200.00
(2) Special Compounds (per service representative) ....	100.00
(k) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	

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<sup>3</sup>If performed outside of normal business, 1½ times the applicable unit fee will be charged.

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#### PART 801—[AMENDED]

3. The authority for Part 801 continues to read:

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

4. Section 801.7 is revised to read as follows:

**§ 801.7 Reference methods and tolerances for near-infrared spectroscopy (NIRS) analyzers.**

(a) *Reference methods.* (1) The chemical reference protein determinations used to reference and calibrate official NIRS instruments shall be performed in accordance with "Comparison of Kjeldahl Method for Determination of Crude Protein in Cereal Grains and Oilseeds with Generic Combustion Method: Collaborative Study," July/August 1993, Ronald Bicsak, Journal of AOAC International Vol. 76, No. 4, 1993, and subsequently approved by the AOAC International as the Combustion method, AOAC International Method 992.23. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Director, Technical Services Division, Federal Grain Inspection Service, 10383 North Executive Hills Blvd., Kansas City, MO 64153-1394. Copies may be inspected at the above address or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, Suite 700, Washington, DC 20408.

(2) The chemical reference starch determination used to reference and calibrate official NIRS instruments shall be performed in accordance with the Corn Refiners Association Method A-20, Analysis for Starch in Corn, Second revision, April 15, 1986, Standard Analytical Methods of the Member Companies of the Corn Refiners Association, Inc. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Director, Technical Services Division, Federal Grain Inspection Service, 10383 North Executive Hills Blvd., Kansas City, MO 64153-1394. Copies may be inspected at the above address or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, Suite 700, Washington, DC 20408.

(b) *Tolerances* (1) *NIRS wheat protein analyzers.* The maintenance tolerances for the NIRS analyzers used in performing official inspections for determination of wheat protein content shall be  $\pm 0.15$  percent mean deviation from the national standard NIRS instruments, which are referenced and calibrated to the Combustion method, AOAC International Method 992.23.

(2) *NIRS soybean oil and protein analyzers.* The maintenance tolerances for the NIRS analyzers used in performing official inspections for determination of soybean oil shall be  $\pm 0.20$  percent mean deviation from the

national standard NIRS instruments, which are referenced and calibrated to the FGIS solvent oil extraction method; and for determination of protein content shall be  $\pm 0.20$  percent mean deviation from the national standard NIRS instruments, which are referenced and calibrated to the Combustion method, AOAC International Method 992.23.

(3) *NIRS corn oil, protein, and starch analyzers.* The maintenance tolerances for the NIRS analyzers used in performing official inspections for determination of corn oil shall be  $\pm 0.20$  percent mean deviation from the national standard NIRS instruments, which are referenced and calibrated to the FGIS solvent oil extraction method; for determination of protein content shall be  $\pm 0.30$  percent mean deviation from the national standard NIRS instruments, which are referenced and calibrated to the Combustion method, AOAC International Method 992.23; and for determination of starch content shall be  $\pm 0.35$  percent mean deviation from the national standard NIRS instruments, which are referenced and calibrated to the Starch method, Corn Refiners Association Method A-20.

Dated: June 19, 1998.

**David R. Shipman,**

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

[FR Doc. 98-16966 Filed 6-29-98; 8:45 am]

BILLING CODE 3410-EN-P

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 98-AEA-07]

**Amendment to Class E Airspace; Farmville, VA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Farmville, VA. The development of a Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Farmville Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rules (IFR) operations for aircraft executing the GPS Runway (RWY) 21 SIAP to Farmville Municipal Airport.

**EFFECTIVE DATE:** 0901 UTC, October 8, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA-520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553-4521.

**SUPPLEMENTARY INFORMATION:****History**

On May 15, 1998, a proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace at Farmville, VA, was published in the **Federal Register** (63 FR 27015). The development of the GPS RWY 21 SIAP for Farmville Municipal Airport requires the amendment of the Class E airspace at Farmville, VA. The proposal was to amend controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

**The Rule**

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends Class E airspace at Farmville, VA, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS RWY 21 SIAP to Farmville Municipal Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a