

Grading factors	Grades U.S. Nos. <sup>1</sup>			
	1	2	3	4
Minimum pound limits of				
Test weight per bushel .....	57.0	55.0	53.0	51.0
Maximum percent limits of				
Damaged kernels:				
Heat (part of total) .....	0.2	0.5	1.0	3.0
Total .....	2.0	5.0	10.0	15.0
Broken kernels and foreign material:				
Foreign material (part of total) .....	1.0	2.0	3.0	4.0
Total .....	3.0	6.0	8.0	10.0
Maximum count limits of				
Other material:				
Animal filth .....	9	9	9	9
Castor beans .....	1	1	1	1
Crotalaria seeds .....	2	2	2	2
Glass .....	1	1	1	1
Stones <sup>2</sup> .....	7	7	7	7
Unknown foreign substance .....	3	3	3	3
Cockleburrs .....	7	7	7	7
Total <sup>3</sup> .....	10	10	10	10

U.S. Sample grade is sorghum that:

- (a) Does not meet the requirements for U.S. Nos. 1, 2, 3, 4; or
- (b) Has a musty, sour, or commercially objectionable foreign odor (except smut odor); or
- (c) Is badly weathered, heating, or distinctly low quality.

<sup>1</sup> Sorghum which is distinctly discolored shall not grade higher than U.S. No. 3.

<sup>2</sup> Aggregate weight of stones must also exceed 0.2 percent of the sample weight.

<sup>3</sup> Includes any combination of animal filth, castor beans, crotalaria seeds, glass, stones, unknown foreign substance or cockleburrs.

**James E. Link,**

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

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BILLING CODE 3410-EN-P

## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Parts 800 and 810

RIN 0580-AA90

#### United States Standards for Soybeans

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

**ACTION:** Proposed rule.

**SUMMARY:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) proposes to revise the United States Standards for Soybeans to change the minimum test weight per bushel from a grade determining factor to an informational factor. Even though an informational factor, test weight per bushel will be reported on official certificates unless requested otherwise. GIPSA also proposes to change the

reporting requirements for test weight per bushel in soybeans from whole and half pounds with a fraction of a half pound disregarded to reporting to the nearest tenth of a pound. Additionally, GIPSA proposes to clarify the reporting requirements for test weight in canola. These changes would further help to ensure market-relevant standards and grades and to clarify reporting requirements.

**DATES:** Comments must be received on or before May 30, 2006.

**ADDRESSES:** We invite you to submit comments on this proposed rule. You may submit comments by any of the following methods:

- E-Mail: Send comments via electronic mail to [comments.gipsa@usda.gov](mailto:comments.gipsa@usda.gov).
- Mail: Send hardcopy written comments to Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1647-S, Washington, DC 20250-3604.
- Fax: Send comments by facsimile transmission to: (202) 690-2755.
- Hand Delivery or Courier: Deliver comments to: Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1647, Washington, DC 20250-3604.

• Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All comments should make reference to the date and page number of this issue of the **Federal Register**.

**Read Comments:** All comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Marianne Plaus, telephone (202) 690-3460 at GIPSA, USDA, ROOM 2429, 1400 Independence Avenue, SW., Washington, DC, 20250-2429; Fax Number (202) 720-1015.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This rule has been determined to be exempt for the purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

##### Executive Order 12988

This proposed 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 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 any irreconcilable conflict with this rule. There are no administrative procedures, which must be exhausted prior to any judicial challenge to the provisions of this proposed rule.

### Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action.

GIPSA has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. Under the provisions of the United States Grain Standards Act, grain exported from the United States must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA at 36 export elevators (including 4 floating elevators). All of these facilities are owned by multi-national corporations, large cooperatives, or public entities that do not meet the requirements for small entities established by the Small Business Administration. GIPSA is proposing to amend the soybean standards to change the minimum test weight per bushel from a grade determining factor to an informational factor. GIPSA also is proposing to change the reporting requirements for test weight per bushel in soybeans from whole and half pounds with a fraction of a half pound disregarded to reporting to the nearest tenth of a pound. Additionally, GIPSA is proposing to clarify the reporting requirements for test weight in canola. These proposed changes are needed to ensure market-relevant standards and to clarify reporting requirements. Further, the regulations and standards are applied equally to all entities. In addition to GIPSA, there are 58 official agencies that perform official services under the United States Grain Standards Act, and most of these entities do not meet the requirements for small entities.

The U.S. soybean industry, including producers (approximately 663,880), handlers (approximately 6,000 domestic elevators), traders (approximately 1,402 eligible soybean futures traders), processors (approximately 70 facilities), merchandisers, and exporters, are the primary users of the U.S. Standards for Soybean and utilize the official standards as a common trading language to market soybean. We assume that some of the entities may be small. Further, the United States Grain Standards Act (USGSA) (7 U.S.C. 87f-1) requires the registration of all persons engaged in the business of buying grain for sale in foreign commerce. In addition, those individuals who handle, weigh, or transport grain for sale in foreign commerce must also register. The USGSA regulations (7 CFR 800.30) define a foreign commerce grain business as persons who regularly engage in buying for sale, handling, weighing, or transporting grain totaling 15,000 metric tons or more during the preceding or current calendar year. At present, there are 92 registrants who account for practically 95 percent of U.S. soybean exports, which for fiscal year (FY) 2004 totaled approximately 22,544,688 metric tons (MT). While most of the 92 registrants are large businesses, we assume that some may be small.

### Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995, the existing information collection requirements are approved under OMB Number 0580-0013. An insignificant change in burden will result from the soybean informational factor change. However, any burden measurement, as a result of this change, will remain within the previously approved information collection requirements. Accordingly, no further OMB clearance is required under the Paperwork Reduction Act.

GIPSA is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

### Background

The U.S. Standards for Grain serve as the starting point to define U.S. grain quality in the marketplace. The United States Standards for Soybeans (7 CFR 810.1601-810.1605) were established in 1940 under the authority of the United States Grain Standards Act (7 U.S.C. 71 *et seq.*) and since establishment, minimum test weight per bushel has

been included as a mandatory grade determining factor. Test weight is the weight of a measured volume of grain (bulk density) and is expressed in pounds per Winchester bushel. In the current U.S. Standards for Soybeans (7 CFR 810.1604), the minimum allowable test weight per bushel is stated for each numerical grade. The grade table for soybeans (§ 810.1604) contains the minimum test weight limits for grades U.S. Nos. 1, 2, 3, and 4 as 56.0, 54.0, 52.0, and 49.0 respectively.

Over the past several years, GIPSA's Grain Inspection Advisory Committee has engaged in the discussion of test weight (TW), and in November 2003 passed the following resolution:

The Grain Inspection Advisory Committee supports GIPSA's efforts to assure the U.S. Standards for soybeans are meeting the needs of the U.S. soybean market. GIPSA should continue its efforts in this area by proposing to remove TW from the standards as a grade determining factor. Further GIPSA should propose changes to report soybean TW to the nearest tenth pound per bushel.

The specific issues for consideration in this proposed rule are: (1) Designation of test weight in soybeans as a non-grade determining informational factor; and (2) amending the definition to report test weight to the nearest tenth pound. While proposing to amend the standards, GIPSA will also clarify the regulations concerning the certification requirements for test weight in soybeans and canola.

### Designation of Minimum Test Weight Per Bushel

Since the establishment of the United States Standards for Soybeans in 1940, minimum TW has been included as a mandatory grade determining factor and has historically been perceived as a general indicator of overall soybean quality. Some perceive that a higher TW, or density, is indicative of a higher yield of oil and protein. Research indicates, however, that TW is not a good indicator of the oil and protein yield of processed soybeans (Ref. 1, 2). A University of Illinois study concludes that the correlation coefficients between TW and protein and oil content are as low as 0.077 and 0.016 respectively (Ref. 3). GIPSA's analysis of its own inspection data supports the researchers' findings. In recognition of protein and oil as the true determinants of value in soybean processing and the markets' need to identify these intrinsic properties, GIPSA incorporated tests for both soybean protein and oil as official criteria under the USGSA (54 FR 33702) in 1989.

As part of its evaluation of TW, GIPSA conducted a statistical review of

inspection data to determine the impact of removing TW as a grade determining factor on the certified grades. The review established that in over 400,000 soybean inspections, certified between January 1, 2001, and September 30, 2003, 99.5 percent of the official grades would have been unaffected by the removal of TW as a grading factor. In other words, the market should not anticipate grade inflation or deflation due to GIPSA's actions.

Although TW does not imply intrinsic quality, TW is of value as a measurement of stock and production, in stowage calculations, and in determining operational value. The USDA's Risk Management Agency and Farm Service Agency, as well as private auditors, use TW to verify stock and production. Soybean handlers use TW in stowage calculations to determine the appropriate container size for a specific quantity of soybeans. Some processors use TW to determine the operations value of soybean lots. For example, one processor explained that knowing the TW of a lot of soybeans allowed him to know the approximate amount of soybeans that would fit into a crusher and approximately how much flake would be produced.

Based on its findings, GIPSA proposes that the minimum TW per bushel be changed from a grade determining factor to a non-grade determining informational factor in the official U.S. Standards for Soybeans. Even though an informational factor, GIPSA will require the measurement and reporting of TW for each official soybean grade inspection. GIPSA's evaluation indicates that not all buyers of soybeans are interested in the TW information; consequently, GIPSA will also propose regulatory language to allow for an optional exemption in the certification reporting requirements.

#### Reporting and Certification of Minimum Test Weight Per Bushel

GIPSA proposes to revise § 810.102(d) of the United States Standards for Grain to report TW in soybeans to the nearest tenth of a pound. Presently, TW in soybeans is certified in whole and half pounds with fractions of a half pound disregarded. This change will bring the reporting requirements for TW into line with the reporting requirements for other factors in the Official Standards

for Soybeans, such as foreign material and moisture content.

#### Inspection Plan Tolerances

To reflect the proposed change of TW from a grade determining factor to a non-grade determining informational factor, GIPSA proposes to revise the tables pertaining to soybean grade limits in § 800.86 of the regulations. Shiplots, unit trains, and lash barge lots are inspected in accordance to a statistically based inspection plan (55 FR 24030; June 13, 1990). Inspection tolerances, commonly referred to as breakpoints, are used to determine acceptable quality. GIPSA's proposal to change TW from a grade determining factor to an informational factor necessitates removing soybean TW breakpoints from the Grade Limits and Breakpoints for Soybeans table and replacing them in the Breakpoints for Soybean Special Grades and Factors table.

#### Certification

As GIPSA proposes changes to the soybean standards for TW, it allows GIPSA to clarify the TW certification reporting requirements for both soybeans and canola in § 800.162(c). With regard to soybeans, GIPSA proposes to clarify the reporting requirements for test weight as a non-grade determining factor and the optional exemption for TW determination. The exemption will allow the applicant for inspection to request that TW not be determined, and therefore not reported. With regard to canola, GIPSA proposes to clarify that TW in canola is only determined and reported upon request of an applicant.

#### Proposed GIPSA Action

GIPSA proposes to revise § 810.1604, Grades and grade requirements for soybeans. It is proposed that minimum TW per bushel be eliminated from the grade chart as a mandatory grade determining factor, but be retained in the standards as a non-grade determining informational factor.

GIPSA proposes to revise § 810.102, Definition of other terms, by revising subparagraph (d), TW per bushel. It is proposed that TW in soybeans be reported to the nearest tenth of a pound per bushel.

GIPSA also proposes to revise § 800.86, Inspection of shiplot, unit train, and lash barge grain in single lots,

paragraph (c)(2) by reassigning TW from table 17 to table 18.

Finally, GIPSA proposes to incorporate clarification for the TW certification reporting requirements for both soybeans and canola in § 800.162(a) and § 800.162(c).

Comments, including data, views, and arguments are solicited from interested persons. Pursuant to section 4(b)(1) of the United States Grain Standards Act, as amended (7 U.S.C. 76(b)(1)), upon request, such information concerning changes to the standards may be presented orally in an informal manner. Also, pursuant to this section, no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation unless, in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.

#### References

- (1) Hill, L.D., "Changes in the Grain Standards Act," Grain Grades and Standards, 113-184.
- (2) West, V.J., "How Good Are Soybean Grades?," Illinois Farm Economics, No. 192, Extension Service in Agriculture and Home Economics, College of Agriculture, University of Illinois, May 1951, p. 1166.
- (3) Hill, L.D., "Improving Grades and Standards for Soybeans," p. 829.

#### List of Subjects

##### 7 CFR Part 800

Administrative practice and procedure, Grain.

##### 7 CFR Part 810

Export, Grain.

For reasons set out in the preamble, 7 CFR parts 800 and 810 are proposed to be 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. In § 800.86(c)(2), tables 17 and 18 are revised to read as follows:

##### § 800.86 Inspection of shiplot, unit train, and lash barge grain in single lots.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

TABLE 17.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR SOYBEANS

Grade	Maximum limits of—									
	Damaged kernels				Foreign material (percent)		Splits (percent)		Soybeans of other colors (percent)	
	Heat-damaged (percent)		Total (percent)							
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1 .....	0.2	0.2	2.0	0.8	1.0	0.2	10.0	1.6	1.0	0.7
U.S. No. 2 .....	0.5	0.3	3.0	0.9	2.0	0.3	20.0	2.2	2.0	1.0
U.S. No. 3 <sup>1</sup> .....	1.0	0.5	5.0	1.2	3.0	0.4	30.0	2.5	5.0	1.6
U.S. No. 4 <sup>2</sup> .....	3.0	0.9	8.0	1.5	5.0	0.5	40.0	2.7	10.0	2.3

<sup>1</sup> Soybeans which are purple mottles or stained shall be graded not higher than U.S. No. 3.

<sup>2</sup> Soybeans which are materially weathered shall be graded not higher than U.S. No. 4.

TABLE 18.—BREAKPOINTS FOR SOYBEAN SPECIAL GRADES AND FACTORS

Special grade or factor	Grade limit	Breakpoint
Garlicky .....	5 or more per 1,000 grams .....	2
Infested .....	Same as in § 810.107 .....	0
Soybeans of other colors .....	Not more than 10.0% .....	2.3
Moisture .....	As specified by contract or load order grade .....	0.3
Test Weight .....	As specified by contract or load order .....	-0.4

\* \* \* \* \*

3. In § 800.162, paragraph (a) is revised and paragraph (c) is added to read as follows:

**§ 800.162 Certification of grade; special requirements.**

(a) *General.* Except as provided in paragraph (c) of this section, each official certificate for grade shall show:

(1) The grade and factor information required by the Official U.S. Standards for Grain;

(2) The test weight of the grain, if applicable;

(3) The moisture content of the grain;

(4) The results for each official factor for which a determination was made;

(5) The results for each official factor that determined the grade when the grain is graded other than U.S. No. 1;

(6) Any other factor information considered necessary to describe the grain; and

(7) Any additional factor results requested by the applicant for official factors defined in the Official U.S. Standards for Grain.

\* \* \* \* \*

(c) *Test weight for canola and soybeans.* Official canola inspection certificates shall show, in addition to the requirements of paragraphs (a) and (b) of this section, the official test weight per bushel only upon request by the applicant. Official soybean inspection certificates shall show, in addition to the requirements of paragraphs (a) and (b) of this section, the official test weight per bushel unless the applicant requests that test weight not be determined. Upon request, soybean test weight results will not be determined and/or reported on the official certificate.

\* \* \* \* \*

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

4. The authority citation for part 810 is revised to read as follows:

**Authority:** Pub. L. 94-582, 90 Stat. 2067 as amended (7 U.S.C. 71 *et seq.*).

5. In § 810.102, paragraph (d) is revised to read as follows:

**§ 810.102 Definition of other terms.**

\* \* \* \* \*

(d) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic inches) as determined using an approved device according to procedures prescribed in FGIS instructions. Test weight per bushel in the standards for corn, mixed grain, oats, sorghum, and soybeans is determined on the original sample. Test weight per bushel in the standards for barley, flaxseed, rye, sunflower seed, triticale, and wheat is determined after mechanically cleaning the original sample. Test weight per bushel is recorded to the nearest tenth pound for corn, rye, soybeans, triticale, and wheat. Test weight per bushel for all other grains, if applicable, is recorded in whole and half pounds with a fraction of a half pound disregarded. Test weight per bushel is not an official factor for canola.

\* \* \* \* \*

6. Section 810.1604 is revised to read as follows:

**§ 810.1604 Grades and grade requirements for soybeans.**

Grading factors	Grades U.S. Nos.			
	1	2	3	4
	Maximum percent limits of:			
Damaged kernels:				
Heat (part of total) .....	0.2	0.5	1.0	3.0
Total .....	2.0	3.0	5.0	8.0
Foreign material .....	1.0	2.0	3.0	5.0
Splits .....	10.0	20.0	30.0	40.0

Grading factors	Grades U.S. Nos.			
	1	2	3	4
Soybeans of other colors <sup>1</sup> .....	1.0	2.0	5.0	10.0
Maximum count limits of:				
Other material:				
Animal filth .....	9	9	9	9
Caster beans .....	1	1	1	1
Crotalaria seeds .....	2	2	2	2
Glass .....	0	0	0	0
Stones <sup>2</sup> .....	3	3	3	3
Unknown foreign substance .....	3	3	3	3
Total <sup>3</sup> .....	10	10	10	10

U.S. Sample grade is Soybeans that:  
 (a) Does not meet the requirements for U.S. Nos. 1, 2, 3, or 4; or  
 (b) Have a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or  
 (c) Are heating or of distinctly low quality.

<sup>1</sup> Disregard for Mixed soybeans.

<sup>2</sup> In addition to the maximum count limit, stones must exceed 0.1 percent of the sample weight.

<sup>3</sup> Includes any combination of animal filth, castor beans, crotalaria seeds, glass, stones, and unknown substances. The weight of stones is not applicable for total other material.

**James E. Link,**  
*Administrator, Grain Inspection, Packers and Stockyards Administration.*  
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**BILLING CODE 3410-EN-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 25**

[Docket No. NM340; Notice No. 25-06-01-SC]

**Special Conditions: Airbus Model A380-800 Airplane, Design Roll Maneuver**

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

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This notice proposes special conditions for the Airbus A380-800 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. Many of these novel or unusual design features are associated with the complex systems and the configuration of the airplane, including its full-length double deck. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards for design roll maneuvers. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to

establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Airbus Model A380-800 airplane.

**DATES:** Comments must be received on or before May 15, 2006.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM-113), Docket No. NM340, 1601 Lind Avenue SW., Renton, Washington 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM340. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Holly Thorson, FAA, International Branch, ANM-116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-1357; facsimile (425) 227-1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this notice between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late, if it is possible to do so without incurring expense or delay. We may change the proposed special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

**Background**

Airbus applied for FAA certification/validation of the provisionally designated Model A3XX-100 in its letter AI/L 810.0223/98, dated August 12, 1998, to the FAA. Application for certification by the Joint Aviation Authorities (JAA) of Europe had been made on January 16, 1998, reference AI/L 810.0019/98. In its letter to the FAA, Airbus requested an extension to the 5-year period for type certification in accordance with 14 CFR 21.17(c). The request was for an extension to a 7-year period, using the date of the initial