Joint Explanatory Statement of the committee of conference for section 14201 stated the expectation that the cotton classification fee would be established in the same manner as was applied during the 1992 through 2007 fiscal years. Specifically, it states that the classification fee should continue to be a basic, uniform fee per bale fee as determined necessary to maintain cost-effective cotton classification service. Further, in consulting with the cotton industry, the Secretary should demonstrate the level of fees necessary to maintain effective cotton classification services and provide the Department of Agriculture with an adequate operating reserve, while also working to limit adjustments in the year-to-year fee.

Under the provisions of section 14201, a user fee (dollar amount per bale classed) is proposed for the 2012 cotton crop that, when combined with other sources of revenue, will result in projected revenues sufficient to reasonably cover budgeted costs—adjusted for inflation—and allow for adequate operating reserves to be maintained. Costs considered in this method include salaries, costs of equipment and supplies, and other overhead costs, such as facility costs and costs for administration and supervision. In addition to covering expected costs, the user fee is set such that projected revenues will generate an operating reserve adequate to effectively manage uncertainties related to crop size and cash-flow timing while meeting minimum reserve requirements set by the Agricultural Marketing Service, which require maintenance of a reserve fund amount equal to at least four months of projected operating costs.

The user fee proposed to be charged cotton producers for cotton classification in 2012 is $2.20 per bale, which is the same fee charged for the 2011 crop. This fee is based on the preseason projection that 14,475,000 bales will be classed by the United States Department of Agriculture during the 2012 crop year.

Accordingly, § 28.909, paragraph (b) would reflect the continuation of the cotton classification fee at $2.20 per bale.

As provided for in the 1987 Act, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909(c).

Growers or their designated agents receiving classification data would continue to incur no additional fees if classification data is requested only once. The fee for each additional retrieval of classification data in § 28.910 would remain at 5 cents per bale. The fee in § 28.910 (b) for an owner receiving classification data from the National database would remain at 5 cents per bale, and the minimum charge of $5.00 for services provided per monthly billing period would remain the same. The provisions of § 28.910(c) concerning the fee for new classification memoranda issued from the National Database for the business convenience of an owner without reclassification of the cotton will remain the same at 15 cents per bale or a minimum of $5.00 per sheet.

The fee for review classification in § 28.911 would be maintained at $2.20 per bale.

The fee for returning samples after classification in § 28.911 would remain at 50 cents per sample.

A 15-day comment period is provided for public comments. This period is appropriate because user fees are not changing and it is anticipated that the proposed fees, if adopted, would be made effective for the 2012 cotton crop on July 1, 2012.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and recordkeeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR part 28 is proposed to be amended to read as follows:

PART 28—[AMENDED]

1. The authority citation for 7 CFR part 28, Subpart D, continues to read as follows:

Authority: 7 U.S.C. 471–476.

2. In § 28.909, paragraph (b) is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $2.20 per bale.

* * * * *

3. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is $2.20 per bale.

* * * * *

Dated: April 4, 2012.

Robert C. Keeney,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2012–8677 Filed 4–10–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 810

RIN 0580–AB12

United States Standards for Wheat

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

ACTION: Proposed rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing to revise the U.S. Standards for Wheat (wheat standards) under the U.S. Grain Standards Act (USGSA) to change the definition of Contrasting classes (CCL) in Hard White wheat and change the grade limits for shrunken and broken kernels (SHBN). GIPSA believes that these proposed changes will help to facilitate the marketing of wheat.

DATES: Comments must be received on or before June 11, 2012.

ADDRESSES: You may submit written or electronic comments on this proposed rule to:

- *Mail:* Tess Butler, GIPSA, USDA, STOP 3642, 1400 Independence Avenue SW., Room 2530–B, Washington, DC 20250–3604.
- *Fax:* (202) 690–2173
- *Internet:* Go to *http://www.regulations.gov* and follow the on-line instruction for submitting comments.

All comments will become a matter of public record and should be identified as ''U.S. wheat standards proposed rule comments,'' making reference to the date and page number of this issue of the **Federal Register**. All comments received become the property of the Federal government, are a part of the public record, and will generally be posted to *www.regulations.gov* without change. If you send an email comment directly to GIPSA without going through *www.regulations.gov,* or you submit a comment to GIPSA via fax, the originating email address or telephone number will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Also, all personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

Electronic submissions should avoid the use of special characters, avoid any form of encryption, and be free of any

defects or viruses, since these may prevent GIPSA from being able to read and understand, and thus consider your comment.

GIPSA will post a transcript or report summarizing each substantive oral comment that we receive about this proposed rule. This would include comments about this rule made at any public meetings hosted by GIPSA during the comment period, unless GIPSA publically announces otherwise.

All comments will also be available for public inspection at the above address during regular business hours (7 CFR 1.27(b)). Please call the GIPSA Management and Budget Services support staff (202) 720–7486 for an appointment to view the comments.

FOR FURTHER INFORMATION CONTACT:

Patrick McCluskey at GIPSA, USDA, 10383 N. Ambassador Drive, Kansas City, MO, 64153; Telephone (816) 659–8403; Fax Number (816) 872–1258; email *Patrick.J.McCluskey@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Wheat is defined in the wheat standards as grain that, before the removal of dockage, consists of 50 percent or more common wheat (*Triticum aestivum* L.), club wheat (*T. compactum* Host.), and durum wheat (*T. durum* Desf.), and not more than 10 percent of other grains for which Standards have been established under the USGSA (7 U.S.C. 71–87k) and that, after the removal of dockage, contains 50 percent or more of whole kernels of one or more of these wheats. The wheat standards identify eight market classes: Durum (DU) wheat, Hard Red Spring (HRS) wheat, Hard Red Winter (HRW) wheat, Soft Red Winter (SRW) wheat, Hard White (HDWH) wheat, Soft White (SWH) wheat, Unclassed wheat, and Mixed wheat.

Wheat is consumed primarily as a human food but is also used for animal feeding and industrial purposes. Wheat acreage under cultivation in the U.S. has decreased gradually from 1980 to the present, dropping from a high of over 88 million planted acres in 1981 to approximately 59 million acres in 2009 (USDA–NASS Crop Production Track Records—April 2010). During the same period, U.S. wheat producers produced a high of 2.785 billion bushels in 1981 to 2.220 billion bushels in 2009, with a low of 1.605 billion bushels in 2002.

Under the USGSA (7 U.S.C. 76), GIPSA is authorized to establish and maintain the wheat standards and for other grains regarding kind, class, quality and condition. The wheat standards, which were established on August 1, 1917, were last revised in 1993 and 2006, and appear in the USGSA regulations at 7 CFR 810.2201—810.2205. The wheat standards facilitate the marketing of wheat and define U.S. wheat quality and commonly used industry terms in the domestic and global marketplace; contain basic principles governing the application of the wheat standards, such as the type of sample used for a particular quality analysis; and, specify grades, grade requirements, special grades and special grade requirements.

On November 27, 2009, GIPSA published an Advance Notice of Proposed Rulemaking (ANPR) in the **Federal Register** (74 FR 62257) requesting public comment on what revisions, if any, are needed to the current wheat standards. GIPSA received 13 comments from wheat producers, breeders, market development groups, industry associations, and exporters.

One comment from a trade association representing approximately 1,000 grain, feed, processing and grain-related firms comprising more than 6,000 facilities that handle more than 70 percent of U.S. grains and oilseeds urged GIPSA not to propose any major changes to the wheat standards that would adversely impact the marketing system or current priorities and operations of GIPSA.

GIPSA received several comments related to its official grain inspection services regarding mycotoxin testing, predicting protein quality, certifying protein content, certifying the actual grade when the ''or better'' option is specified, and quality control in rail and container shipments. GIPSA will take no action on these comments in this proposed rule, however, because the comments are outside the scope of this rulemaking, which covers only possible revisions to the wheat standards.

GIPSA received several general comments that recommended amendments to the standards. The general comments and GIPSA's discussion of those comments follow:

Commenters stated that GIPSA should (1) consider using a flexible, generic approach to grading that would allow uniform blending of any U.S. wheat classes with the classes identified appropriately on any official grain inspection certificate, (2) develop a generic approach that would allow blending of any classes of wheat with the classes identified appropriately on the export certificate, and/or (3) develop appropriate class names for specific class blends that are being demanded in the marketplace.

GIPSA does not believe that the blending of wheat would facilitate the marketing of wheat, as a buyer may purchase Mixed wheat, and GIPSA can certify the percentage of various market classes. GIPSA believes it is more appropriate that market participants handle this issue contractually. While flour mills blend classes of wheat for milling, GIPSA does not believe that wheat buyers would want wheat sellers to assume responsibility for blending wheat for milling, given that flour mills typically have their own quality standards for wheat used in their mill mixes. Therefore, GIPSA will not propose any revisions to the wheat standards based on this comment.

Commenters also stated that the U.S. should lead in integrating processing parameters into the grading system (*i.e.,* thousand kernel weight and wheat size distribution).

For many years, GIPSA has made available wheat kernel average weight and diameter determinations, as measured by the Single Kernel Characterization System (SKCS). The wheat industry, however, has been slow in its acceptance of average weight and diameter determinations. Because the industry has shown little interest in SKCS results, GIPSA will not propose any revisions to the wheat standards based on this comment.

Commenters also urged GIPSA to begin studying how a simple, precise and repeatable flour yield test can be incorporated into the wheat standards.

This comment recommends that GIPSA initiate a research project, which is beyond the scope of this rulemaking. Therefore, GIPSA will not propose any revisions to the wheat standards based on this comment.

Finally, commenters stated that GIPSA should study appropriate ways to incorporate mycotoxins as a grading factor and implement a mycotoxin testing check sample program with naturally contaminated material.

GIPSA is developing a mycotoxin check sample program similar to other check sample programs that it currently has in place. Because GIPSA believes that offering mycotoxin testing as Official Criteria, rather than including as a grade determining factor, facilitates the market's ability to discover the price/value relationship, GIPSA will not propose any revisions to the wheat standards based on this comment.

Three specific issues emerged from comments to the ANPR that GIPSA believes are pertinent to revising the wheat standards. GIPSA received comments from nine commenters representing a broad cross section of the wheat industry regarding the definition of contrasting classes in hard white wheat. GIPSA received one comment

from a wheat market development organization regarding the grade limits for shrunken and broken kernels in U.S. No. 1 and U.S. No. 2. Finally, GIPSA received a comment from an organization representing grain millers regarding the limits for insect damaged kernels and live insects. Based on the comments received from the industry, GIPSA proposes to revise the wheat standards as follows:

Contrasting Class Definition

Of the comments to the ANPR received by GIPSA on the issue of revising the CCL definition, six commenters favored revision, two commenters opposed revision and one commenter stated that it was not opposed to revision. Revising the definition of CCL for HDWH has been discussed by various industry groups since the 2006 rulemaking, at meetings of producer organizations, grain handling organizations, and international market developers. GIPSA did not receive any comments from international users of HDWH in response to the ANPR.

Effective May 1, 2006, GIPSA revised the definition of CCL for hard red winter wheat and hard red spring wheat by removing hard white wheat as contrasting in those two classes (70 FR 8233). Subsequently, GIPSA heard from wheat industry stakeholders that said GIPSA should do the same thing for the CCL definition of hard white wheat (*i.e.,* GIPSA should remove hard red winter wheat and hard red spring wheat from the definition of CCL in hard white wheat, and allow those classes to function only as wheat of other classes). Doing so would permit five percent hard red winter wheat and/or hard red spring wheat in U.S. No. 2 hard white wheat, where currently U.S. No. 2 hard white wheat may not contain more than two percent hard red winter wheat and/or hard red spring wheat. Notably, GIPSA considered class purity when hard white wheat was established as a separate market class, effective May 1, 1990 (54 FR 48735).

In the 2006 rulemaking GIPSA stated that there would be no functional downside from allowing five percent hard white wheat in hard red winter wheat or hard red spring wheat, (where the previous grade limit was 2% for U.S. No. 2) because hard white wheat protein quality is equivalent, polyphenol oxidase is not an issue, extraction rate is equivalent, and reduced concentration of bitter compounds in hard white wheat is not problematic for hard red wheat products. GIPSA does assume however, that there would be no functional downside in flour quality from allowing an additional three percent of hard red wheat in hard white wheat (beyond the two percent already allowed). International and domestic users of hard white wheat have demonstrated their desire for low polyphenol oxidase concentration and concomitant reduced bitter flavor in products made with white wheat (*e.g.,* various styles of Asian noodles) as evidenced from sales of white wheat produced by other exporting nations. GIPSA understands that domestic users in the U.S., such as bread baking companies, may not have the same sensitivity to diminution of class purity as international users.

U.S. producers of hard white wheat and/or their market development organizations have told GIPSA that they are penalized by elevator owners when taking hard white wheat to an elevator. Producers allege that elevator owners do not want to handle hard white wheat separately from hard red wheat, but are willing to purchase hard white wheat at a discount. In situations where producers contract with wheat milling companies or co-operatives to produce hard white this reportedly does not occur. GIPSA does not know whether revising the definition of contrasting classes for hard white wheat will result in a cessation of discounts when producers offer hard white wheat for sale to the grain elevator operators. GIPSA has heard from wheat industry stakeholders that without the relief provided by revising the contrasting classes definition, producers may forego planting hard white wheat, causing supply shortages for domestic users of hard white wheat such as bread baking companies, and hamper future efforts to export hard white wheat.

Production of hard white wheat has not been robust except for a brief period (2003–2005) when the Federal government paid a planting incentive to producers under the Farm Security and Rural Investment Act of 2002 (Sec. 1616). Production was 0.26 to 0.33 million metric tons in the 3 years prior to 2003, spiked to 1.1 million metric tons under the planting incentive, then generally decreased in the ensuing years, dropping to 0.70 million metric tons in 2009 (USDA crop production annual 2005–2010). GIPSA believes that reduced planting may be attributed to lack of incentive, small export demand, special handling to keep HDWH segregated from hard red winter wheat and hard red spring wheat, and alternative crops with greater profit potential.

If desired, buyers can contractually specify a maximum of two percent hard red wheat in a hard white wheat purchase. Because buyers have this backstop, GIPSA is therefore proposing to revise the wheat standards to change the definition of contrasting classes in hard white wheat so that hard red winter wheat and hard red spring wheat are no longer contrasting classes, and are considered only as wheat of other classes. The grade limits would remain unchanged. The following tables illustrate the current situation and proposed changes for contrasting classes.

TABLE I (CURRENT)
PRIMARY CLASS

Minor class	*DU*	*HRS*	*HRW*	*SRW*	*HDWH*	*SWH*	*UNCL*
DU		CCL	CCL	CCL	CCL	CCL	WOCL.
HRS	CCL		WOCL	WOCL	CCL	CCL	WOCL.
HRW	CCL	WOCL		WOCL	CCL	CCL	WOCL.
SRW	CCL	WOCL	WOCL		CCL	CCL	WOCL.
HDWH	CCL	WOCL	WOCL	WOCL		WOCL	WOCL.
SWH	CCL	CCL	CCL	WOCL	WOCL		WOCL.
UNCL	CCL	CCL	CCL	CCL	CCL	CCL.	

CCL: Contrasting class.
WOCL: Wheat of other Classes.

TABLE II (PROPOSED)
PRIMARY CLASS

Minor class	*DU*	*HRS*	*HRW*	*SRW*	*HDWH*	*SWH*	*UNCL*
DU		CCL	CCL	CCL	CCL	CCL	WOCL.
HRS	CCL		WOCL	WOCL	WOCL	CCL	WOCL.
HRW	CCL	WOCL		WOCL	WOCL	CCL	WOCL.
SRW	CCL	WOCL	WOCL		CCL	CCL	WOCL.
HDWH	CCL	WOCL	WOCL	WOCL		WOCL	WOCL.
SWH	CCL	CCL	CCL	WOCL	WOCL		WOCL.
UNCL	CCL	CCL	CCL	CCL	CCL	CCL.	

CCL: Contrasting class.
WOCL: Wheat of other Classes.

Shrunken and Broken Kernel Grade Limits

GIPSA received one comment from a wheat market development organization recommending that grade limits for SHBN should be more restrictive for U.S. No. 1 and U.S. No. 2 graded wheat, leaving the grade limits unchanged for U.S. No. 3, 4, and 5 graded wheat. The commenter indicated that foreign millers have often suggested that SHBN content be reduced in U.S. No. 1 and 2 graded wheat, to help improve the value of the wheat being purchased. While making the SHBN grade limits more restrictive would not change wheat quality or affect the amount of wheat available at those grades, GIPSA believes that more restrictive SHBN grade limits would more accurately reflect the quality of wheat moving throughout the marketing system, thus offering users of these standards the best possible information from which to define quality and end-product yield.

GIPSA analyzed SHBN data available for over 100,000 official export and domestic inspection samples for all wheat classes in market years 2005 through 2009 (summarized in Table 1) to project the availability of wheat by grade, under the current and proposed grade limits. Under the current grade limits, 100 percent would have graded U.S. No. 1 if SHBN had been the grade determining factor. Under the proposed grade limits, 95 percent of all samples would have graded U.S. No. 1 if SHBN had been the grade determining factor, a reduction of 5 percent. Under the proposed limits, 100 percent of the samples would have graded U.S. No. 2 if SHBN was the grade determining factor. While GIPSA's analysis shows a 5 percent grade deflation at the U.S. No. 1 grade, virtually all wheat is traded at U.S. No. 2 or better (2 o.b.). Under the proposed grade limits, GIPSA's analysis showing 100 percent of samples being graded 2 o.b. means zero net effect on the amount of wheat available for shipping at export or elsewhere in the value chain.

TABLE 1

U.S. grade	G.L. (%) current	% C.D.	G.L. (%) proposed	% C.D.
#1	3.0	100.0	2.0	95.0
#2	5.0	100.0	4.0	100.0
#3	8.0	100.0	8.0	100.0
#4	12.0	100.0	12.0	100.0
#5	20.0	100.0	20.0	100.0

G.L. (%): Grade Limit.
% C.D.: Cumulative Distribution.

Given the foregoing discussion, GIPSA is proposing to revise the standards to reduce the grade limits on SHBN for grades U.S. No. 1 and U.S. No. 2 graded wheat.

Insect Damaged Kernels and Live Insects

GIPSA received one comment recommending that the grade limit for insect damaged kernels (IDK) be restricted from a maximum of 31 IDK in 100 grams of wheat to 5 IDK in 100 grams of wheat. IDK is a factor on which Sample Grade is determined. The limit of 32 or more IDK is the defect action level established by the U.S. Food and Drug Administration (FDA). GIPSA determines IDK in accordance with FDA guidelines under a memorandum of understanding that is currently in effect between USDA and FDA. A party to a commercial transaction can contractually specify a lower maximum allowable level of IDK if desired. Accordingly, GIPSA will not propose a revision to the IDK limit based on this comment.

The commenter suggested that GIPSA not permit any live insects in wheat, whereas the current wheat standards apply a tolerance. (To receive the special designation ''infested,'' a kilogram sample must contain two or more live weevils, two or more live insects injurious to stored grain or a combination of the two.)

Grain standards define kind, wholesomeness and cleanliness, while allowing market participants to impose more restrictive conditions on the grain in commerce, if desired. The current wheat standard appears to be appropriate for international commercial trade, which encompasses stakeholders who are primary users of the standards. Export sales contracts for wheat frequently specify ''zero live insects''. If live insects are found, GIPSA reports the finding; and if fumigation of the lot is ordered, GIPSA witnesses the fumigation. GIPSA believes that the market deals effectively through contract specifications with live insects, and accordingly, will not propose revising the wheat standards regarding the live insect tolerance.

Proposed Action

GIPSA is issuing this proposed rule to invite comments and suggestions from all interested persons on how GIPSA can further enhance the wheat standards

to better facilitate the marketing of wheat.

GIPSA proposes to revise § 810.2202(b)(4) to read: ''Durum wheat, Hard Red Spring wheat, Hard Red Winter wheat, Soft Red Winter wheat, and Unclassed wheat in the class Soft White wheat.'' GIPSA also proposes to add a new sentence, § 810.2202(b)(5) to read: ''Durum wheat, Soft Red Winter wheat, and Unclassed wheat in the class Hard White wheat.''

GIPSA proposes to revise the table showing Grade and Grade Requirements for wheat in § 810.2204 to reduce the grading limits for shrunken and broken kernels to 2.0 and 4.0 percent for U.S. Nos. 1 and 2 graded wheat, respectively.

We invite comments, including data, views, and arguments for and against this proposed rule from all interested parties. Pursuant to section 4(b)(1) of the USGSA, as amended (7 U.S.C. 76(b)(1)), no standards established, or amendments or revocations of the standards, are to become effective less than 1 calendar year after promulgation unless, in the judgment of the Secretary of Agriculture, the public health, interest, or safety require that they become effective sooner.

Executive Order 12866 and Regulatory Flexibility Act

The Office of Management and Budget designated this rule as not significant for the purposes of Executive Order 12866.

GIPSA has determined that these proposed amendments would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612). The RFA 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.

Under the USGSA, grain exported from the U.S. must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA and delegated states at 59 export elevators (including four 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. For North American Industry Classification System (NAICS) code 424510 ''grain and field bean merchant wholesalers'' the Small Business Administration size standard is 100 or fewer employees. Most users of the official inspection and weighing services, and these entities that perform these services, do not meet the regulations for small entities. In addition to GIPSA, there are 56 official agencies that perform official services under the USGSA, and most of these entities do not meet the requirements for small entities.

GIPSA is proposing to revise the wheat standards to change the definition of contrasting classes in hard white wheat. GIPSA's proposal also recommends amendments to the grade limits of shrunken and broken kernels. GIPSA believes that these proposed changes to the wheat standards would facilitate the marketing of wheat.

The U.S. wheat industry, including approximately 159,527 wheat farms (USDA–2007 Census of Agriculture-updated), handlers, processors, and merchandisers are the primary users of the wheat standards and utilize the official standards as a common trading language to market wheat. The USGSA (7 U.S.C. 87f–1) requires that all persons engaged in the business of buying grain for sale in foreign commerce be registered with USDA. 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 138 registrants who account for practically 100 percent of U.S. wheat exports, which for fiscal year 2009 totaled approximately 21,096,894 metric tons. While most of the 138 registrants are large businesses, some entities may be small. GIPSA believes that this proposed rule would not adversely affect or burden these users, nor add any additional cost for entities of any size.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. The USGSA provides in section 87g (7 U.S.C. 87g) that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the USGSA. Otherwise, this rule would not preempt any State or local laws, or 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.

Executive Order 13175

This proposed rule has been reviewed with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. This rule would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), the existing information collection requirements are approved under the Office of Management and Budget (OMB) Number 0580–0013. No additional collection or recordkeeping requirements are imposed on the public by this proposed rule.

E-Government Compliance

GIPSA is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 CFR Part 810

Exports, grain.

For reasons set out in the preamble, GIPSA proposes to amend 7 CFR part 810 as follows:

PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

1. The authority citation for part 810 continues to read as follows:

Authority: 7 U.S.C. 71–87k.

2. Amend § 810.2202 by revising paragraph (b) to read as follows:

§ 810.2202 Definition of other terms.

* * * * *

(b) *Contrasting Classes.* Contrasting classes are:

(1) Durum wheat, Soft White wheat, and Unclassed wheat in the classes Hard Red Spring wheat and Hard Red Winter wheat.

(2) Hard Red Spring wheat, Hard Red Winter wheat, Hard White wheat, Soft Red Winter wheat, Soft White wheat, and Unclassed wheat in the class Durum wheat.

(3) Durum wheat and Unclassed wheat in the class Soft Red Winter wheat.

(4) Durum wheat, Hard Red Spring wheat, Hard Red Winter wheat, Soft Red Winter wheat, and Unclassed wheat in the class Soft White wheat.

(5) Durum wheat, Soft Red Winter wheat, and Unclassed wheat in the class Hard White wheat.

* * * * *

3. Amend § 810.2204 by revising paragraph (a) to read as follows:

§ 810.2204 Grades and grade requirements for wheat.

(a) Grades and grade requirements for all classes of wheat, except Mixed wheat.

GRADES AND GRADE REQUIREMENTS

Grading factors	Grades U.S. Nos.				
	1	2	3	4	5
Minimum pound limits of					
Test weight per bushel:					
Hard Red Spring wheat or White Club wheat	58.0	57.0	55.0	53.0	50.0
All other classes and subclasses	60.0	58.0	56.0	54.0	51.0
Maximum percent limits of					
Defects:					
Damaged kernels					
Heat (part of total)	0.2	0.2	0.5	1.0	3.0
Total	2.0	4.0	7.0	10.0	15.0
Foreign material	0.4	0.7	1.3	3.0	5.0
Shrunken and broken kernels	2.0	4.0	8.0	12.0	20.0
Total [1]	3.0	5.0	8.0	12.0	20.0
Wheat of other classes [2]	1.0	2.0	3.0	10.0	10.0
Contrasting classes	3.0	5.0	10.0	10.0	10.0
Total [3]	0.1	0.1	0.1	0.1	0.1
Stones					
Maximum count limits of					
Other material in one kilogram:					
Animal filth	1	1	1	1	1
Castor beans	1	1	1	1	1
Crotalaria seeds	2	2	2	2	2
Glass	0	0	0	0	0
Stones	3	3	3	3	3
Unknown foreign substances	3	3	3	3	3
Total [4]	4	4	4	4	4
Insect-damaged kernels in 100 grams	31	31	31	31	31

U.S. Sample grade is Wheat that:
(a) Does not meet the requirements for U.S. Nos. 1, 2, 3, 4, or 5; or
(b) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor) or
(c) Is heating or of distinctly low quality.

[1] Includes damaged kernels (total), foreign material, shrunken and broken kernels.
[2] Unclassed wheat of any grade may contain not more than 10.0 percent of wheat of other classes.
[3] Includes contrasting classes.
[4] Includes any combination of animal filth, castor beans, crotalaria seeds, glass, stones, or unknown foreign substance.

* * * * *

Alan R. Christian,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2012–8663 Filed 4–10–12; 8:45 am]

BILLING CODE 3410–KD–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0253; FRL–9658–6]

Approval and Promulgation of Air Quality Implementation Plan for 1997 8-Hour Ozone Standard; Arizona

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Arizona state implementation plan (SIP) that demonstrate attainment of the 1997 8-hour ozone national ambient air quality standards in the Phoenix-Mesa nonattainment area by June 15, 2009. These SIP revisions are the 2007 Ozone Plan developed by the Maricopa Association of Governments and adopted and submitted to EPA by the Arizona Department of Environmental Quality on June 13, 2007. EPA is proposing to approve the 2007 Ozone Plan based on our determination that the plan contains all the provisions required for areas classified as nonattainment under Part D, Subpart 1 of the Clean Air Act, including the demonstration of reasonably available control measures (RACM), reasonable further progress (RFP), emission inventories, transportation conformity motor vehicle emission budgets for 2008, and contingency measures to be