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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Chapter VIII

7 CFR Chapter I, Part 68

9 CFR Chapter II

Use of Direct Final Rulemaking

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

ACTION: Policy statement.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is implementing a new rulemaking procedure to expedite making noncontroversial changes to regulations. Rules that the agency judges to be noncontroversial and unlikely to result in adverse comments will be published as "direct final" rules. {"Adverse comments" are comments that suggest that a rule should not be adopted or suggest that a change should be made to the rule.} Such direct final rules will advise the public that no adverse comments are anticipated, and that unless written adverse comments or written notice of intent to submit adverse comments are received within 30 days, the revision made by the rule will be effective 60 days from the date the direct final rule is published in the **Federal Register**. This new policy should expedite the promulgation of routine or otherwise noncontroversial rules by reducing the time that would be required to develop, review, clear, and publish separate proposed and final rules.

ADDRESSES: If you wish to submit comments on this notice, please send them to George Wollam, USDA, GIPSA, room 0623-S, P.O. Box 96454, Washington, DC 20090-6454. Comments received may be inspected at

USDA, room 0623, South Building, 14 and Independence Ave SW, Washington, DC between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: George Wollam, address same as above, (202) 720-0292.

SUPPLEMENTARY INFORMATION: GIPSA is committed to improving the efficiency of its regulatory processes to fulfill agency missions in a manner that imposes the least necessary burden. In pursuit of this goal, GIPSA plans to employ the rulemaking technique known as "direct final rulemaking" to promulgate some of its rules.

The Direct Final Rule Process

Rules that the agency judges to be noncontroversial and unlikely to result in adverse comments will be published as direct final rules. Such direct final rules advise the public that no adverse comments are anticipated, and that unless written adverse comments or written notice of intent to submit adverse comments are received within 30 days, the revision made by the rule will be effective 60 days from the date the direct final rule is published in the **Federal Register**.

By "adverse comment" we mean comments that suggest that the rule should not be adopted or that suggest that a change should be made to the rule. A comment expressing support for the rule as published would obviously not be considered adverse. Neither would a comment suggesting that requirements in the rule should, or should not, be employed by GIPSA in other programs or situations outside the scope of the direct final rule.

In accordance with the rulemaking provisions of the Administrative Procedures Act (5 U.S.C. 553), this procedure gives the public general notice of GIPSA's intent to adopt a rule and gives interested persons an opportunity to participate in the rulemaking through submission of comments. The major feature of direct final rulemaking is that if GIPSA receives no written adverse comments within 30 days of the publication of a direct final rule, nor any written notice of intent to submit adverse comments, the rule will become effective without the need to publish a separate rule.

If GIPSA receives written adverse comments or written notice of intent to

submit adverse comments within 30 days of the publication of a direct final rule, a notice of withdrawal of the direct final rule will be published in the **Federal Register** and a proposed rule will be published establishing a comment period for the rule making action. Following the close of the comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if GIPSA receives no written adverse comments within 30 days of the publication of a direct final rule, nor any written notice of intent to submit adverse comments, the direct final rule will become effective 60 days following publication. However, GIPSA will publish a notice in the **Federal Register** indicating that no adverse comments were received on the direct final rule, and confirming that it is effective on the date indicated in the direct rule.

Determining When To Use Direct Final Rulemaking

Not all GIPSA rules are good candidates for direct final rulemaking. Many GIPSA rules address complex marketing and regulatory situations where the trade and public may have a variety of opinions to offer on the need for the rule, or possible alternative methods for achieving the purpose of the rule. In these cases, GIPSA plans to continue to publish a proposed rule and establish a comment period to allow submission of comments, followed by a final rule addressing the comments.

GIPSA plans to use direct final rulemaking on a case-by-case basis when we do not anticipate adverse comments. The decision to use direct final rulemaking for a rule would be based upon our experience with similar rules. If similar rules were published in the past as proposals that did not elicit adverse comments, we would consider publishing such rules in the future as direct final rules.

Dated: February 15, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

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