

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AG40

Federal Employees Health Benefits Program; HMO Plan Applications

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations that would clarify the policy under which it invites applications from comprehensive medical plans (HMO's) to participate in the Federal Employees Health Benefits (FEHB) Program. This clarification is necessary in order to ensure that OPM and the HMO's are providing the best possible service to FEHB enrollees.

DATES: Comments must be received on or before May 22, 1995.

ADDRESSES: Written comments may be sent to Lucretia F. Myers, Assistant Director for Insurance Programs, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; delivered to OPM, Room 4351, 1900 E Street NW., Washington, DC.; or FAXed to (202) 606-0633.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 606-0004.

SUPPLEMENTARY INFORMATION: On December 5, 1994, OPM published an interim regulation in the **Federal Register** (59 FR 62283) to clarify the policy under which it invites applications from comprehensive medical plans (HMO's) to participate in the FEHB Program. This year, OPM made a determination not to invite new plan applications, with a limited exception, for contract year 1996.

OPM received numerous written comments and phone calls concerning the regulation. All of the commenters object that OPM did not give HMO's sufficient notice of its determination not to accept applications for the 1996

contract year. They contend that many HMO's had already expended a substantial amount of time in preparation for the application process and that OPM's decision, therefore, has caused them undue hardship.

After careful consideration of the comments received, OPM has concluded that its timeframes had, in fact, been too compressed to allow for a thorough review of all the consequences of the decision not to invite applications. As a result, OPM has decided to accept both applications and benefit change proposals for contract year 1996. In addition, OPM is issuing this regulation as proposed rulemaking in order to provide the public with a longer comment period. Because the deadline for submission of applications is already past, OPM is extending the application due date for the 1996 contract year from January 31 to March 31, 1995.

E.O. 12866, Regulatory Review

This rule has been reviewed by OMB in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect OPM's administrative procedures.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend 5 CFR part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c-1; subpart L also issued under sec. 599C of Pub. L. 101-513, 104 Stat. 2064, as amended.

2. In § 890.203, paragraph (a)(1) is revised, paragraphs (a)(2) through (a)(4)

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are redesignated as paragraphs (a)(3) through (a)(5) respectively; newly designated paragraph (a)(5) is amended by revising the last sentence; a new paragraph (a)(2) is added; and a heading is added for paragraph (b) to read as follows:

§ 890.203 Application for approval of, and proposal of amendments to, health benefits plans.

(a) *New plan applications.* (1) The Director of OPM shall consider applications to participate in the FEHB Program from comprehensive medical plans (CMP's) at his or her discretion. If the Director of OPM determines that it is beneficial to enrollees and the Federal Employees Health Benefits Program to invite new plans to join the Program, OPM will publish a notice in the **Federal Register**.

(2) When invited to participate, CMP's should apply for approval by writing to the Office of Personnel Management, Washington, DC 20415. Application letters must be accompanied by any descriptive material, financial data, or other documentation required by OPM. Plans must submit the letter and attachments in the OPM-specified format by January 31, or another date specified by OPM, of the year preceding the contract year for which applications are being accepted. Plans must submit evidence demonstrating they meet all requirements for approval by March 31 of the year preceding the contract year for which applications are being accepted. Plans that miss either deadline cannot be considered for participation in the next contract year. All newly approved plans must submit benefit and rate proposals to OPM by May 31 of the year preceding the contract year for which applications are being accepted in order to be considered for participation in that contract year. OPM may make counter-proposals at any time.

(5) * * * The extent of the data and documentation to be submitted by a plan so certified by HHS, as well as by a non-certified plan, for a particular review cycle may be obtained by writing directly to the Office of Insurance Programs, Retirement and Insurance Group, Office of Personnel Management, Washington, DC 20415.

(b) *Participating plans.* * * *

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DEPARTMENT OF AGRICULTURE**Grain Inspection, Packers and Stockyards Administration****7 CFR Parts 800 and 810****RIN 0580-AA14****United States Standards for Barley**

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

ACTION: Proposed rule.

SUMMARY: In its periodic review of existing regulations, the Grain Inspection, Packers and Stockyards Administration (GIPSA) proposes to amend the United States Standards for Barley by: Modifying the classification system of barley to better reflect current marketing practices by establishing two classes, "Malting barley and Barley"; revising procedures to permit applicants the option of requesting either the malting standards or barley standards for malting types; revising the standards for Two-rowed Malting barley by removing the "U.S. Choice" grade designation and also combining the grading factors and limits for two- and six-rowed malting types onto a single grade chart; Amending the definition for suitable malting type to include other proprietary malting varieties used by private malting and brewing companies; revising the dockage certification procedure by reporting results in half and whole percent with a fraction less than one-half percent being disregarded; amending the definition of thins to require the use of a single sieve ($\frac{5}{64}$ x $\frac{3}{4}$ slotted-hole) only in the proposed class Barley and removing the grading limits from the standards; however, the level of thins will continue to be reported on the inspection certificate; revising the standards by removing the grading limits for damaged kernels, heat damaged kernels, and foreign material in the proposed class Barley; and eliminating the numerical grade restriction for badly stained and materially weathered from the standards. GIPSA further proposes to amend the inspection plan tolerances based on these proposed changes.

The objective of this review is to ensure that the barley standards are serving their intended purpose, are clear, and are consistent with GIPSA policy and authority.

DATES: Comments must be submitted on or before May 22, 1995.

ADDRESSES: Written comments must be submitted to George Wollam, GIPSA, USDA, Room 0623, South Building, PO Box 96454, Washington, DC, 20090-6454; FAX (202) 720-4628.

All comments received will be made available for public inspection at Room 0624 South Building, 1400 Independence Avenue, SW, Washington, D.C., during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, address as above, telephone (202) 720-0292; FAX (202) 720-4628.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

The Department is issuing this rule in conformance with Executive Order 12866.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have 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 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.

Regulatory Flexibility Act Certification

James R. Baker, Administrator, 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 (5 U.S.C. 601 et seq.) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities. Further, the regulations are applied equally to all entities.

Information Collection Requirements

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection requirements contained in the rule to be amended have been previously approved by OMB under control number 0580-0013.

Background

During December 1991, the Federal Grain Inspection Service (FGIS), which

is now part of GIPSA, distributed a discussion paper concerning the U.S. Standards for Barley. This paper addressed several issues relating to the standards and served as a starting point for discussions with producers, trade associations, processors, maltsters, brewers, handlers, and merchandisers to better understand their views on changes needed to improve existing standards. FGIS received positive feedback from the grain industry regarding the barley discussion paper; in fact, several industry officials suggested that FGIS develop and distribute similar documents before amending other marketing standards.

FGIS received a total of 13 written comments concerning the discussion paper: 1 from a malting company; 1 from a barley trade association that represents the major U.S. malting and brewing companies; 1 from a barley feed processor; 1 from a major feed grain association; 7 from producer organizations and associations; 1 from a grain handler; and 1 from a grain inspection/weighing association.

FGIS also reviewed the barley discussion paper with the FGIS Advisory Committee and the Grain Quality Workshop in January 1992. In addition, FGIS personnel participated in an industry sponsored forum in Pasco, Washington in May 1993 to gather further information on the need for changes to the barley standards. FGIS also considered ideas received during the normalcourse of business, recommendations from internal management and program reviews, and various other sources.

Based on the comments received and other available information, GIPSA is proposing eight changes to the barley standards that reflect current market needs and also serve to improve the effectiveness of the standards. The proposed amendments include: (1) Modifying the classification system of barley to better reflect current marketing practices by establishing two classes, "Malting barley and Barley"; (2) revising procedures to permit applicants the option of requesting either the malting standards or barley standards for malting types; (3) revising the standards for Two-rowed Malting barley by removing the "U.S. Choice" grade designation and also combining the grading factors and limits for two- and six-rowed malting types onto a single grade chart; (4) amending the definition for suitable malting type to include other proprietary malting varieties used by private malting and brewing companies; (5) revising the dockage certification procedure by reporting results in half and whole percent with