# Proposed Rules

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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.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Chapter I

### Grain Inspection, Packers and Stockyards Administration

### 7 CFR Chapter VIII

**[Docket Number FGIS–2000–001a]**

**RIN 0580–AA73**

## Request for Public Comments on How USDA Can Best Facilitate the Marketing of Grains, Oilseeds, Fruits, Vegetables, and Nuts in Today's Evolving Marketplace

**AGENCY:** Agricultural Marketing Service; Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The United States Department of Agriculture (USDA) invites comments from producers, handlers, processors, food manufacturers, exporters, consumers, scientists, industry representatives, and other interested persons on how USDA can best facilitate the marketing of grains, oilseeds, fruits, vegetables, and nuts in a market that includes both crops derived from biotechnology and other crops. USDA is seeking comment on current and anticipated market practices, and on the feasibility of and need for USDA's involvement in quality assurance or other programs to facilitate the marketing of these products.

This action is part of the Administration's biotechnology initiative announced last May. Its purpose is to lend order to the development of voluntary identity preservation and product segregation procedures to the extent they emerge from the private sector. (In the context of this notice, biotechnology refers to the use of recombinant DNA technology to alter or move genetic material for a plant to exhibit a desired trait.)

Modern biotechnology may present new marketing opportunities as well as challenges. As biotechnology offers the possibility of accelerating the development of value-added crops, such as high oleic soybeans and beta-carotene-rich rice, producers as well as others in the marketing system may have an interest in maintaining the identity of the value-added crops. Based on consumer preferences and our trading partners' requirements, some food companies are already buying raw materials that are not derived from biotechnology, or requiring their suppliers to avoid use of biotechnology-derived varieties or identify them as such. This has resulted in some segments of the market differentiating biotechnology derived crops from other crops from farm to supermarket. In this evolving marketplace, USDA is exploring how it can continue to foster the marketing of U.S. grains, oilseeds, fruits, vegetables, and nuts.

**DATES:** Comments must be received on or before February 28, 2001.

**ADDRESSES:** Interested persons are invited to submit written comments on this notice to Richard Hardy, GIPSA, USDA, 1400 Independence Avenue, SW, Room 0757–S, Washington, DC 20250–3650. Comments may also be sent by fax to (202) 720–2459 or filed via the Internet through the GIPSA homepage at www.usda.gov/gipsa.

It is our intention to have all comments on this advance notice of proposed rulemaking (ANPRM), whether mailed, faxed, or submitted via the Internet, available for viewing on the GIPSA homepage at www.usda.gov/gipsa in a timely manner.

Comments submitted in response to this ANPRM will also be available for viewing in room 0757–S from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m. Monday through Friday (except official Federal holidays) (7 CFR 1.27). Persons wanting to visit the USDA South Building to view comments received in response to this proposal are requested to make an appointment in advance by calling (202) 720–4848.

**FOR FURTHER INFORMATION CONTACT:** Marianne Plaus, Assistant to the Deputy Administrator, Federal Grain Inspection Service, GIPSA, 202–690–3460.

**SUPPLEMENTARY INFORMATION:** This action has been determined to be significant for purposes of Executive Order 12866, and therefore, has been reviewed by the Office of Management and Budget.

Accurate, reliable information on the quality, quantity, and condition of products being traded fosters the efficient marketing of agricultural commodities. Such information helps buyers know that they have received what they paid for and that suppliers receive due compensation. USDA facilitates the marketing of many products by making such information available through a variety of programs.

USDA's grade standards for grains, oilseeds, fruits, vegetables, and nuts provide a common language for trade by defining products and ranges for quality factors. The market uses the standards to measure the value or establish the price of agricultural commodities. USDA's grading and inspection services determine the quality and condition of commodities. These determinations are performed in accordance with applicable standards or product specifications using approved methodologies, and can be applied at any point in the marketing chain. The current testing technology for quality attributes, such as oil content for high oil corn, is rapid (usually taking less than 2 minutes) and reliable, yielding consistent results. In addition, USDA issues certificates describing the quality and condition of the graded products that are accepted as prima facie evidence in all Federal courts. U.S. grade standards, and the various grading and testing services offered by USDA, verify that the seller's product meets specified requirements, and that customers get the quality products they expect.

In addition, USDA administers a variety of audit-based certification programs in lieu of end-item testing. Under these programs, USDA audits a supplier's ability to meet system performance requirements or criteria that are based on nationally and internationally accepted standards and guidelines that have been validated by USDA.

USDA also carries out programs that combine testing, certification, and quality assurance processes. For example, USDA's seed program includes procedures and standards used by seed certifying agencies during the production and processing of the seed they certify for varietal purity.

The introduction of commodities derived from biotechnology may result in new opportunities and challenges, both for USDA, the Federal government as a whole, and American agriculture. Some consumers have expressed, for a variety of reasons, a preference for foods that are not bioengineered or do not contain bioengineered foods as ingredients. Further, some countries have established or are considering establishing labeling requirements for bioengineered foods. These market developments are prompting some food companies to differentiate crops derived from biotechnology from other crops in the food production system. Furthermore, as biotechnology offers the possibility of accelerating the development of value-added crops, such as high oleic soybeans and beta-carotene-rich rice, producers as well as others in the marketing system may have an interest in maintaining the identity of value-added crops.

The cost and complexity of differentiating crops derived from biotechnology from other crops varies by crop and the infrastructure supporting the marketing of each crop. Differentiation of crops derived from biotechnology from other crops requires analytical testing and information systems that can effectively and efficiently track and manage the complex logistics involved with preserving the identity of specific crops through the marketing process. The market's ability to supply a specific crop may hinge on a number of considerations: The potential market size and value, the cost of differentiating the specific crop from other crops, and the market's ability to preserve the crop identity at sufficient purity levels.

In the grain and oilseed markets, some companies are using traditional segregation practices to market value-added commodities. Others are using more costly and complicated identity preservation (IP) processes. Food companies are developing quality assurance processes involving various levels of testing and product tracking, which differ by company, customer needs, and crop, to source and deliver specified crops from the farm to the supermarket. In some instances, independent organizations are marketing services to review and verify the performance of these quality assurance processes.

USDA is issuing this advance notice of proposed rulemaking to invite comments from all interested persons on how USDA can best facilitate the marketing of grains, oilseeds, fruits, vegetables, and nuts in today's evolving marketplace. USDA is seeking comment on current market needs and practices, and the feasibility and desirability of USDA programs and services to facilitate the marketing of these products. All interested persons are encouraged to comment on the following issues related to this notice:

- In light of changes in the marketplace brought about by biotechnology, what specific programs or processes are being used to market grains, oilseeds, fruits, vegetables, and nuts in the domestic, export, and import markets? Please be specific, and include information on obstacles encountered in marketing these products.
- What additional costs and benefits are generally associated with the practices being used to market grains, oilseeds, fruits, vegetables, or nuts? Please provide details and quantifiable cost and benefit estimates.
- Would a set of U.S. standards upon which to base IP or other marketing systems facilitate market development? If so, are there any specific national or international standards or guidelines that should serve as the basis for the U.S. standards? What role should USDA have in establishing these standards?
- As more certifying companies and organizations evolve to review and verify the performance of food company IP systems, should USDA have a role in the accreditation of these certifying companies and organizations? Would a USDA accreditation of these certifying companies and organizations serve to facilitate marketing?
- USDA is in the process of developing a program for accrediting qualified commercial and public laboratories for the analytical detection of grains and oilseeds derived from biotechnology. Should USDA expand this program for other commercialized crops? Should USDA include laboratories outside the United States in the accreditation program? If so, how would this help facilitate the marketing of U.S. crops?
- Should USDA provide, for a fee, direct product certification for crops derived from biotechnology based on an audit-based quality assurance process? Should the same be done for other crops?
- Should USDA provide direct analytical detection services and certification for crops derived from biotechnology? Should the same be done for other crops?
- If USDA involvement (e.g., standards, certifying agent verification, direct certification, testing, etc.) is necessary, at what point of the marketing system should such involvement begin and end?
- How should a fee structure be determined for such services?
- Should such involvement be limited to U.S.-produced crops or expanded to imported crops?
- Should USDA establish definitions of crops derived from biotechnology or for crops not derived from biotechnology as part of the current U.S. quality grades and standards? If so, what technical capabilities, resources, data, etc., would USDA require?

USDA welcomes your comments on these and other relevant issues related to the marketing of grains, oilseeds, fruits, vegetables, and nuts in today's evolving marketplace.

**Authority:** 7 U.S.C. 71 *et seq.* and 7 U.S.C. 1621 *et seq.*

Dated: November 20, 2000.

**James R. Baker,**

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

**Michael D. Fernandez,**

*Associate Administrator, Agricultural Marketing Service.*

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## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Parts 3 and 240

**[INS No. 2083–00; AG Order No. 2337–2000]**

**RIN 1115–AF87**

## Delegation of Authority to the Immigration and Naturalization Service To Terminate Deportation Proceedings and Initiate Removal Proceedings

**AGENCY:** Immigration and Naturalization Service, Justice, and Executive Office for Immigration Review, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** Section 309(c)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 permits the Attorney General to terminate certain deportation proceedings and initiate removal proceedings. This rule delegates this authority to the Immigration and Naturalization Service (Service).

**DATES:** Written comments must be submitted on or before January 29, 2001.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 2083–00 on your