

# 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

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 810

#### Request for Public Comment on the United States Standards for Barley

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

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

**SUMMARY:** The Department of Agriculture's (USDA) Grain Inspection, Packers and Stockyards Administration (GIPSA) is reviewing the United States (U.S.) Standards for Barley under the United States Grain Standards Act (USGSA). To ensure that standards and official grading practices remain relevant, GIPSA invites interested parties to comment on whether the current barley standards and grading practices need to be changed.

**DATES:** Comments must be received on or before January 3, 2012.

**ADDRESSES:** You may submit your written or electronic comments on this notice to:

- *Internet:* Go to <http://www.regulations.gov> and follow the on-line instruction for submitting comments.
- *Mail:* Dexter Thomas, GIPSA, USDA, 1400 Independence Avenue, SW., Room 2530-S, Washington, DC 20250-3642.
- *Fax:* (202) 690-2173.

All comments will become a matter of public record and should be identified as "U.S. barley standards ANPR 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 <http://www.regulations.gov> without change. If you send an e-mail comment directly to GIPSA without going through <http://www.regulations.gov>, or you submit a comment to GIPSA via fax, the originating e-mail 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.

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 staff (202) 720-7486 for an appointment to view the comments.

**FOR FURTHER INFORMATION CONTACT:** Patrick McCluskey at GIPSA, USDA, 10383 N. Ambassador Dr., Kansas City, MO 64153; Telephone (816) 659-8403; Fax Number (816) 872-1258; e-mail [Patrick.J.McCluskey@usda.gov](mailto:Patrick.J.McCluskey@usda.gov).

#### 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 (OMB).

#### Background

Under the authority of the USGSA (7 U.S.C. 76), GIPSA establishes standards for barley and other grains regarding kind, class, quality and condition. The barley standards, established by USDA on August 24, 1926, were last revised in 1997 and appear in the USGSA regulations at 7 CFR 810.201-810.207. The standards facilitate barley marketing and define U.S. barley quality in the domestic and global marketplace. The standards define commonly used industry terms; contain basic principles governing the application of standards, such as the type of sample used for a particular quality analysis; specify grades, grade requirements, special grades and special grade requirements, such as garlicky barley and blighted barley. Official procedures for determining grading factors are

provided in GIPSA's Grain Inspection Handbook, Book II, Chapter 2, "Barley," which also includes standardized procedures for additional quality attributes not used to determine grade, such as dockage and moisture content. Together, the grading standards and testing procedures allow buyers and sellers to communicate quality requirements, compare barley quality using equivalent forms of measurement and assist in price discovery.

GIPSA's grading and inspection services are provided through a network of Federal, State, and private laboratories that conduct tests to determine the quality and condition of barley. These tests are conducted in accordance with applicable standards using approved methodologies and can be applied at any point in the marketing chain. Furthermore, the tests yield rapid, reliable and consistent results. In addition, GIPSA-issued certificates describing the quality and condition of graded barley are accepted as *prima facie* evidence in all Federal courts. U.S. barley standards and the affiliated grading and testing services offered by GIPSA verify that a seller's barley meets specified requirements, and ensure that customers receive the quality of barley they purchased.

In order for U.S. standards and grading procedures for barley to remain relevant, GIPSA is issuing this advance notice of proposed rulemaking to invite interested parties to submit comments, ideas, and suggestions on all aspects of the U.S. barley standards and inspection procedures.

**Authority:** 7 U.S.C. 71-87k.

#### J. Dudley Butler,

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

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