

with the policy and written agreement provisions.

Signed in Washington DC, on February 6, 1997.

Kenneth D. Ackerman,
Manager, Federal Crop Insurance
Corporation.

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Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

Removal of U.S. Grade Standards; Procedures for Development and Maintenance of Voluntary Grade Standards

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

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is adopting as a final rule, without change, its interim final rule removing the voluntary U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils from the Code of Federal Regulations (CFR). The voluntary standards and all subsequent revisions or new standards will be made available in a separate publication, and will appear as notices in the Federal Register for the public to comment on. This action is part of the National Performance Review program to eliminate unnecessary regulations.

In addition, this rule specifies in the CFR the procedures, which were set out in the February 29, 1996, interim rule, that GIPSA will follow in developing, issuing, revising, suspending or terminating voluntary U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils.

EFFECTIVE DATE: February 14, 1997.

FOR FURTHER INFORMATION CONTACT: Sharon Vassiliades, USDA, GIPSA, Room 0623-S, STOP 3649, 1400 Independence Avenue, S.W., Washington, D.C. 20250-3649; FAX (202) 720-4628.

SUPPLEMENTARY INFORMATION: In the February 29, 1996, Federal Register (61 FR 7687), GIPSA published an Interim Final Rule with Request for Comments announcing removal from the CFR of voluntary standards dealing with the U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils which may be used to describe the quality of these agricultural commodities as valued in the marketplace. No comments were received in response to this Interim Final Rule. GIPSA also will

ensure that the public will have an opportunity to comment on any future proposed, new, or revised voluntary standards by publishing such standards in the "Notices" section of the Federal Register.

Executive Order 12866

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

Effects on Small Entities

GIPSA has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Removal of the voluntary standards from the CFR will not adversely affect interested persons. On the contrary, the U.S. pulse industry (beans, peas, and lentils) is expected to benefit from this action because it will provide for more timely improvements to the bean, pea, and lentil standards. Furthermore, those persons who apply the standards and most users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act.

The primary user of pulse inspection services is the U.S. government. It is estimated that between 80 and 90 percent of all inspections are performed (directly or indirectly) at the request of either the USDA's Farm Service Agency or Foreign Agricultural Service, or the U.S. Agency for International Development. Approximately 20 percent of all inspections are performed at the request of major bean, pea, and lentil shippers who would not be considered small entities, as defined by the Small Business Administration (13 CFR 121.60); and about 3 percent of the service requests originate from other interested parties, such as producers. But regardless of who requests the service, the standards are applied equally to all entities. Use of the standards for Beans, Whole Dry Peas,

Split Peas, and Lentils is voluntary and small entities may avoid incurring any economic impact by not employing the standards. Although this action will remove standards for Beans, Whole Dry Peas, Split Peas, and Lentils from the CFR, small entities should see no changes as the standards will still be administered in a manner to ensure public input to their formulation. Further, no costs are expected to result from this action for handlers or producers and benefits derived from this action may be passed on to consumers.

Further, this final rule includes in the CFR procedures to be used by GIPSA in developing, issuing, revising, suspending, or terminating voluntary U.S. grade standards. These procedures provide for public input and participation and will not adversely affect small or large entities.

Paperwork Reduction Act of 1995

In accordance with the provisions of the Paperwork Reduction Act, the information collection requirements contained in Part 868 have been previously approved by the Office of Management and Budget under control number 0580-0013.

Background

GIPSA is delegated by the Secretary of Agriculture under the Agricultural Marketing Act of 1946 (AMA), to provide programs for Federal grading/certification services and to develop and establish efficient marketing methods and practices for designated agricultural commodities such as Beans, Whole Dry Peas, Split Peas, and Lentils. For many years, these agricultural programs have facilitated the marketing of agricultural commodities by developing official U.S. grade standards which provide uniform language that may be used to describe the characteristics of commodities as valued by the marketplace. The AMA standards are widely used in private contracts, government procurement, marketing communication and, for some commodities, consumer information. Through the years, the standards have been promulgated as regulations and codified in the CFR.

Rapid changes in consumer preferences, together with associated changes in commodity characteristics, processing technology, and marketing practices have out paced the revision or issuance of standards. As a result, industry and the marketplace could be burdened with outdated trading language. The President's regulatory review initiative provided an impetus to develop new approaches to more effectively meet the needs of U.S.

industry, government agencies, and consumers and still reduce the regulatory burden. To meet this initiative, the February 29, 1996, interim final rule (61 FR 7687) removed from the CFR regulations with respect to the official grade standards except those used to implement government price support. The regulations removed cover Beans, Whole Dry Peas, Split Peas, and Lentils. The grade standards for Rice will continue to appear in the CFR.

Procedures for Maintenance of Voluntary U.S. Grade Standards

To ensure that future voluntary U.S. grade standards will be developed, issued, and revised in a uniform manner that ensures a fair and open process, GIPSA is placing in the CFR the procedures it will follow in developing, issuing, revising, suspending or terminating voluntary U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils.

In developing or revising existing grade standards, the Administrator must first determine that a new or revised standard is needed to facilitate trade in a particular commodity. Second, because use of the standards is voluntary, there must be demonstrated interest and support from the affected industry or other interested parties. And third, the standards must be practical to use.

Initial requests for development or revision of a standard may come from the industry, trade, or consumer groups, State departments of agriculture, the U.S. Department of Agriculture, or others. Once a request has been received, GIPSA will coordinate procedures to gather information needed to move forward with the new or revised standards. After this process is completed, a notice of proposed standards change will be published in the Federal Register to solicit comment from any interested parties (normally 30 to 60 days). After evaluating the comments received from interested parties, GIPSA will determine whether to proceed, develop a new proposal, or terminate the process. The public will be informed through a news release and notice in the Federal Register.

In addition to publication in the Federal Register, upon request, GIPSA will distribute copies of each standard as a pamphlet or other means under the direction of the Administrator of GIPSA.

The above procedures, which were discussed and explained in the interim final rule published in the Federal Register on February 29, 1996 (61 FR 7687), are set forth in a new Subpart B titled Marketing Standards.

Good cause is found for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553). This action makes final an interim final rule removing voluntary U.S. grade standards. This action also specifies in the CFR the procedures, as discussed in the interim rule, which GIPSA will follow in developing, issuing, revising, suspending or terminating such standards. No comments were received concerning the interim final rule. No useful purpose would be served by delaying the effective date of this final rule.

List of Subjects in 7 CFR Part 868

Administrative practice and procedures, Agricultural commodities, Beans, Whole Dry Peas, Split Peas, and Lentils.

For the reasons set forth in the preamble, the interim rule published on February 29, 1996 (61 FR 7687), is confirmed as a final rule and 7 CFR Part 868 is amended by adding a new Subpart B titled Marketing Standards.

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for Part 868 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 et seq.)

2. A new Subpart B (§§ 868.101 through 868.103) is added to read as follows:

Subpart B—Marketing Standards

Sec.

868.101 General Information.

868.102 Procedures for establishing and revising grade standards.

868.103 Public notification of grade standards action.

§ 868.101 General information.

The Grain Inspection, Packers and Stockyards Administration (GIPSA) of the U.S. Department of Agriculture (USDA) facilitates the fair and efficient marketing of agricultural products by maintaining voluntary grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils, which provide a uniform language for describing the quality of these commodities in the marketplace. These standards may cover (but are not limited to) terms, classes, quality levels, performance criteria, and inspection requirements. Procedures contained in this part set forth the process which GIPSA will follow in developing, issuing, revising, suspending, or terminating the U.S. standards for Beans, Whole Dry Peas, Split Peas, and

Lentils. Communications about GIPSA standards in general should be addressed to the Administrator, GIPSA, USDA, 1400 Independence Avenue, S.W., Washington, D.C. 20250–3601.

§ 868.102 Procedures for establishing and revising grade standards.

(a) GIPSA will develop, revise, suspend, or terminate grade standards if it determines that such action is in the public interest. GIPSA encourages interested parties to participate in the review, development, and revision of grade standards. Interested parties include growers, producers, processors, shippers, distributors, consumers, trade associations, companies, and State or Federal agencies. Such persons may at any time recommend that GIPSA develop, revise, suspend, or terminate a grade standard. Requests for action should be in writing, and should be accompanied by a draft of the suggested change, as appropriate.

(b) GIPSA will:

- (1) Determine the need for new or revised standards;
- (2) Collect technical, marketing, or other appropriate data;
- (3) Conduct research regarding new or revised standards, as appropriate; and
- (4) Draft the proposed standards.

(c) If GIPSA determines that new standards are needed, existing standards need to be revised, or the suspension or termination of existing standards is justified, GIPSA will undertake the action with input from interested parties.

§ 868.103 Public notification of grade standards action.

(a) After developing a standardization proposal, GIPSA will publish a notice in the Federal Register proposing new or revised standards or suspending or terminating existing standards. The notice will provide a sufficient comment period for interested parties to submit comments.

(b) GIPSA will simultaneously issue a news release about these actions, notifying the affected industry and general public. GIPSA will also distribute copies of proposals to anyone requesting a copy or to anyone it believes may be interested, including other Federal, State, or local government agencies.

(c) All comments received within the comment period will be made part of the public record maintained by GIPSA, will be available to the public for review, and will be considered by GIPSA before final action is taken on the proposal.

(d) Based on the comments received, GIPSA's knowledge of standards,

grading, marketing, and other technical factors, and any other relevant information, GIPSA will decide whether the proposed actions should be implemented.

(e) If GIPSA concludes that the changes as proposed or with appropriate modifications should be adopted, GIPSA will publish the final changes in the Federal Register as a final notice. GIPSA will make the grade standards and related information available in printed form and electronic media.

(f) If GIPSA determines that proposed changes are not warranted, or otherwise are not in the public interest, GIPSA will either publish in the Federal Register a notice withdrawing the proposal, or will revise the proposal and again seek public input.

Dated: February 7, 1997.

David R. Shipman,

Acting Administrator.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 1602-92]

Classification of Certain Scientists of the Commonwealth of Independent States of the Former Soviet Union and the Baltic States as Employment-Based Immigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, an interim rule published in the Federal Register by the Immigration and Naturalization Service ("the Service") on October 19, 1995, that allows certain scientists and engineers from the former Soviet Union to apply for permanent residence under the Soviet Scientist Act of 1992. This is necessary to clearly identify those scientists who qualify for permanent resident status under the Soviet Scientists Immigration Act of 1992.

EFFECTIVE DATE: February 13, 1997.

FOR FURTHER INFORMATION CONTACT:

Michael W. Straus, Adjudications Officer, Immigration and Naturalization Service, Room 3214, 425 I Street NW., Washington, DC 20536, telephone (202) 514-5014.

SUPPLEMENTARY INFORMATION:

Background

The Soviet Scientists Immigration Act of 1992 (SSIA), Public Law 102-509, dated October 24, 1992, provides that up to 750 immigrant visas may be allotted under section 203(b)(2)(A) of the Immigration and Nationality Act (Act) to eligible scientists of the independent states of the former Soviet Union and the Baltic states, by virtue of their expertise in nuclear, chemical, biological, or other high-technology fields or their current work on nuclear, chemical, biological, or other high-technology defense projects. The provisions of the SSIA terminated on October 24, 1996.

On October 19, 1995, at 60 FR 54027-30, the Service published an interim rule with request for comments in the Federal Register. The October 19, 1995, interim rule revised a previous interim rule published on May 27, 1993, at 58 FR 30699-701, on the ground that revisions in the previous interim rule were necessary to improve the visa petition process, and responded to written comments submitted in response to the May 27, 1993, interim rule. Interested persons were invited to submit written comments on or before December 18, 1995 to the October 19, 1995, interim rule. The Service received one comment.

Comments

The following discussion summarizes the issues which have been raised relating to the interim rule and provides the Service's position on the issues.

Termination

The interim rule provides that the Service must approve an SSIA petition on or before October 24, 1996, or when the Service has approved a total of 750 petitions on behalf of eligible scientists, whichever date is earlier. See 8 CFR 204.10(a). The commenter contended that the Service's requirement that a visa petition filed under the SSIA be approved on or before October 24, 1996, would result in inequities due to the difference in processing times among the service centers. The SSIA, however, states that the Attorney General's authority to designate a class of eligible scientists from the former Soviet Union for purposes of section 203(b)(2)(A) of the Act terminates 4 years after the enactment date of the SSIA. The Service, therefore, has no authority to approve an SSIA petition after October 24, 1996.

Jurisdiction

The 1995 interim rule states that SSIA applicants must file the petition at a service center. The commenter objected, arguing that such a procedure could delay the petitioner's ability to obtain employment authorization and adjustment of status. The commenter suggested that, after a combined filing of an I-40 petition (for SSIA classification) and an I-485 application for adjustment of status at a local office, the I-140 petition could be forwarded to a service center for adjudication. The commenter contended that this would allow SSIA applicants to apply immediately for employment authorization and, thus, attract more qualified scientists from the former Soviet Union.

As noted in the interim rule, the Service has determined that centralizing the adjudication of SSIA petitions at service centers would enhance coordination with other government agencies in adjudicating these petitions. In addition, centralized adjudication makes sense in light of the expertise developed by the service centers in adjudicating these types of petitions. The Service believes that the SSIA has already created a sufficiently powerful inducement for qualified scientists to immigrate to the United States by waiving the job offer, labor certification, and minimum eligibility requirements under section 203(b)(2) of the Act. The fact that, under the interim rule, SSIA applicants who are present in the United States must have an approved SSIA petition before becoming eligible to apply for adjustment of status, and thus, for employment authorization under 8 CFR 274.a.12(c)(9), has little, if any, impact on the basic attractiveness of the SSIA to qualified scientists. Moreover, the provision requiring adjudication of SSIA petitions at service centers would have no effect on SSIA petitioners who are not present in the United States. Accordingly, no change will be made in the final rule.

Definition of Eligible Scientist

The interim rule amended the definition of eligible scientists and engineers to include those scientists or engineers who have expertise in a high technology field which is clearly applicable to the design, development, and production of ballistic missiles, nuclear, biological, chemical, or other high-technology weapons of mass destruction. See 8 CFR 204.10(d). The previous rule defined eligible scientist or engineers as those who have expertise in nuclear, chemical, biological, or other high technology fields. The commenter argued that the