

gathered from the pilot program, that less restrictive geographic service area requirements on designated official agencies would improve the quality of service provided to the American grain industry and facilitate the marketing of grain without undermining the integrity of the USGSA and the official system. Legislative authority was requested to permit more than one designated official agency to provide official services within a single geographic area.

Congress amended the USGSA in 2000 to give the Department discretion, under certain circumstances, to allow more than one designated official agency to provide official inspection services within a single geographic area. GIPSA is implementing this authority by revising the regulations under the USGSA. Under certain circumstances, more than one designated official agency can provide official inspection services within a single geographic area. This provides segments of the grain industry with more cost-effective and responsive official grain inspection and weighing services.

#### Comment Review

GIPSA received 3 comments during the 60-day comment period. One was from a private laboratory wanting an opportunity to do business as an official grain inspection agency. GIPSA infers from the private laboratory's comment that they are interested in becoming an official designated agency for the purpose of conducting domestic inspections pursuant to the USGSA. The commenter may apply for such designation, and must meet the statutory criteria under section 7f(1)(a) of the USGSA. The commenter may obtain further information by accessing GIPSA's Web site at: <http://www.usda.gov/gipsa>, or by calling GIPSA at (202) 720-8525.

One comment was from a professional association of official grain inspection and weighing agencies, and one was from a grain trade association, stating membership of 1,000 grain, feed, processing, and grain-related companies, approximately 70 percent of which are small entities. All three supported GIPSA's proposal, however, the trade association supports the proposal with the following comment: "We oppose including the phrase 'due to reasons other than seasonal shipping fluctuations' in proposed § 800.117(b)(2), Nonuse of Service, because it robs industry of its ability to effectively use the *strict 3-month non-use of service* under the Agency's Open Season pilot program \* \* \* to encourage the assigned designated official agency to provide more cost

effective and responsive service or possibly lose business to a competing official agency."

GIPSA is clarifying the new section 800.117(b)(2) to more accurately describe its intent. GIPSA has revised the criteria for "Nonuse of Service" to read, "\* \* \* due to reasons other than seasonal ice making waterways unnavigable." The inclusion of the phrase "due to reasons other than seasonal ice making waterways unnavigable" allows GIPSA to accomplish the intent of the nonuse exception program, but reduces the possibility that some official agencies will be at an advantage over others because of climatic conditions. GIPSA continually works to provide for cost-effective and responsive official inspection and weighing service, while implementing the USGSA requirements to provide for uniform official inspection and weighing, and carrying out assigned regulatory and service responsibilities.

#### Final Action

GIPSA revises the following: 7 CFR 800.81, 800.99, 800.116, 800.117, 800.118, 800.185, and 800.196 to implement changes in the USGSA. The changes allow sampling for official sample-lots, and weighing of sacked grain outside the geographical boundaries assigned to the designated official agency. Program criteria for nonuse of service, timely service, and barge probing is provided. Requests for original services allow qualified applicants to use another agency to provide service. Official personnel may operate outside of the area of responsibility assigned to them. The action allows exceptions to the designated areas of responsibility. The sections regarding certification are combined for a more logical sequence.

#### List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Grain.

■ For the reasons set out in the preamble, 7 CFR part 800 is amended as follows:

#### PART 800—GENERAL REGULATIONS

■ 1. The authority citation for part 800 continues to read as follows:

**Authority:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

■ 2. Section 800.81 is amended by revising paragraphs (a)(1) and (d) and the information collection parenthetical to read as follows:

#### § 800.81 Sample requirements; general.

(a) *Samples for official sample-lot inspection service*—(1) *Original official*

*sample-lot inspection service.* For original sample-lot inspection purposes, an official sample shall be obtained by official personnel; representative of the grain in the lot; and protected from manipulation, substitution, and improper or careless handling.

\* \* \* \* \*

(d) *Restriction on sampling.* Official personnel shall not perform an original inspection or a reinspection service on an official sample or a warehouseman's sample unless the grain from which the sample was obtained was located within the area of responsibility assigned to the agency or field office at the time of sampling, except as provided for in § 800.117, or on a case-by-case basis as determined by the Administrator.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0580-0013)

■ 3. Section 800.99 is amended by revising paragraph (d) to read as follows:

#### § 800.99 Checkweighing sacked grain.

\* \* \* \* \*

(d) *Restriction on weighing.* No agency shall weigh any lot of sacked grain unless at the time of obtaining the official weight sample the grain from which the sample was obtained was located within the area of responsibility assigned to the agency, except as otherwise provided for in § 800.117, or on a case-by-case basis as determined by the Administrator.

\* \* \* \* \*

■ 4. Section 800.116 is revised to read as follows:

#### § 800.116 How to request original services.

(a) *General.* Except as otherwise provided for in § 800.117, requests for original services shall be filed with an agency or field office authorized to operate in the area in which the original service is to be performed. All requests shall include the information specified in § 800.46. Verbal requests shall be confirmed in writing when requested by official personnel, as specified in § 800.46. Copies of request forms may be obtained from the agency or field office upon request. If the information specified by § 800.46 is not available at the time the request is filed, official personnel may, at their discretion, withhold service pending receipt of the required information. An official certificate shall not be issued unless the information as required by § 800.46 has been submitted, or official personnel determine that sufficient information