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.

[FR Doc. 00–30140 Filed 11–29–00; 8:45 am]

BILLING CODE 3410–EN–U

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

correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Kyle D. Latimer, Associate General Counsel, Office of the General Counsel, Immigration and Naturalization Service, 425 I Street, NW., Room 6100, Washington, DC 20536, telephone (202) 616–2604.

SUPPLEMENTARY INFORMATION:

Background

On April 24, 1996, the President signed into law the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104–132, 110 Stat. 1214 (AEDPA). Prior to that date, under section 212(c) of the Immigration and Nationality Act (Act), 8 U.S.C. 1182(c) (1994), certain lawful permanent resident (LPR) aliens who were returning from a voluntary, temporary stay abroad to a lawful unrelinquished domicile of seven consecutive years in the United States could, in the Attorney General's discretion, be admitted to the United States despite inadmissibility under section 212(a) of the Act, 8 U.S.C. 1182(a). Section 440(d) of AEDPA amended section 212(c) of the Act to bar from applying for a section 212(c) discretionary waiver of inadmissibility all aliens deportable ''by reason of having committed any criminal offense covered in section 241(a)(2)(A)(iii) [aggravated felonies], (B) [controlled substances], (C) [certain firearm offenses], or (D) [miscellaneous crimes], or any offense covered by section 241(a)(2)(A)(ii)[multiple criminal convictions] for which both predicate offenses are covered by section 241(a)(2)(A)(i).'' 110 Stat. 1277. The Attorney General subsequently determined in *Matter of Soriano*, 21 I&N Dec. 516 (BIA 1996, A.G. 1997), that the section 212(c) bars in AEDPA applied to all aliens in deportation proceedings with applications pending on April 24, 1996. Hence, many lawful permanent resident aliens in deportation proceedings who were eligible for section 212(c) relief were rendered ineligible by AEDPA.

On September 30, 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104–208, 110 Stat. 3009 (IIRIRA). Effective April 1, 1997, IIRIRA eliminated section 212(c) of the Act, replacing it with a similar form of relief called cancellation of removal. *See* 110 Stat. 3009–597 (eliminating section 212(c); 110 Stat. 3009–594–3009–595 (adding section 240A(b) of the Act, 8 U.S.C. 1229(b)). A conviction for an aggravated felony remained as a bar to cancellation of removal. However, convictions covered under the remaining sections were no longer bars to relief as they had been under AEDPA. The result was that many of those LPR aliens rendered ineligible by AEDPA for section 212(c) relief after April 24, 1996, would have been eligible for cancellation of removal had their removal proceedings commenced on or after April 1, 1997.

IIRIRA also eliminated the discretionary relief of suspension of deportation under former section 244 of the Act, 8 U.S.C. 1254(a), and replaced it with a similar, separate form of cancellation of removal under the new section 240A(b) of the Act. *See* 110 Stat. 3009–615 (eliminating former section 244); 110 Stat. 3009–594–3009–595 (adding section 240A(b) of the Act, 8 U.S.C. 1229(b)). Congress, moreover, limited the availability of both types of relief by, among other things, amending the rules relating to the time counted toward physical presence in the United States. Section 240A(d)(1) of the Act, 8 U.S.C. 1229(b)(d)(1), as added by IIRIRA, *see* 110 Stat. 3009–595, provides that (for purposes of that section) any period of continuous residence or physical presence ends when an alien is served with a Notice to Appear or when the alien commits a crime rendering him inadmissible under section 212 or removable under section 237 of the Act (the ''stop-time'' rule). Section 309(c)(5)(A) of IIRIRA, 110 Stat. 3009–627, as amended by section 203(a)(1) of the Nicaraguan Adjustment and Central American Relief Act, Pub. L. No. 105–100, Title II, 111 Stat. 2193, 2196 (NACARA), applies the stop-time rule in section 240A(d)(1) to Orders to Show Cause as well. Under the stop-time rule, many non-LPR aliens in deportation proceedings who were eligible for suspension of deportation were rendered ineligible by IIRIRA and NACARA because they had not accrued seven years of continuous physical presence prior to service of the Order to Show Cause. Some of these same aliens, however, may be eligible for relief in removal proceedings under section 240A(b).

What Is ''Repapering''?

Section 309(c)(3) of IIRIRA grants the Attorney General the discretion ''to terminate [deportation] proceedings in which there has not been a final administrative decision and to reinitiate [removal] proceedings under [IIRIRA].'' 110 Stat. 3009–626 This procedure is commonly referred to as repapering.

The Attorney General has decided to exercise the discretion granted to her in section 309(c)(3) of IIRIRA in individual cases on behalf of certain lawful permanent residents who are caught in the window of disadvantage between the enactments of AEDPA and IIRIRA and certain non-LPR aliens negatively affected by the stop-time rule in section 240A(d)(1) of the Act. This rule will permit an alien rendered ineligible for relief in deportation proceedings by the statutory changes described above, but who would be eligible for relief in removal proceedings, to seek termination of his or her deportation proceeding and initiation of removal proceedings in order to apply for relief under the current legal standards.

Who Is Eligible for Repapering?

In order to qualify for repapering under either category, a repapering applicant must be in deportation proceedings at the time of the application. By the express terms of the statute, repapering cannot occur when a final administrative decision has been made. Therefore, only aliens in deportation proceedings currently pending before the Immigration Court or the Board of Immigration Appeals (Board) are eligible for repapering. Furthermore, a deportation proceeding shall not be reopened for the purpose of repapering. However, if a deportation proceeding is reopened for an independent reason, an eligible alien may apply for repapering.

An LPR alien who seeks repapering must meet the eligibility requirements of former section 212(c) of the Act at the time of application for repapering but for the AEDPA bars to eligibility. Likewise, a non-LPR repapering applicant must meet the eligibility requirements for suspension of deportation under former section 244 of the Act at the time of application for repapering but for the application of the stop-time rule in section 240A(d)(1) of the Act. Repapering is intended to benefit those aliens rendered ineligible for relief by AEDPA or the stop-time rule. If an alien was statutorily ineligible for section 212(c) relief or suspension of deportation on some other basis or was denied relief as a matter of discretion, he or she will not be given a second opportunity for relief through repapering.

Repapering applicants must also be statutorily eligible for cancellation of removal under section 240A(a) or (b) of the Act at the time of application. If the alien is not eligible for cancellation of removal under current law in removal proceedings, there is no purpose for the alien to seek repapering. Although the requirements for cancellation of removal under section 240A(b) of the Act are

more restrictive than the requirements for suspension of deportation under prior law, through repapering these non-LPR aliens will at least have an opportunity to apply for relief under current law.

The alien must still be able to demonstrate the requisite existence of hardship in order to obtain relief—''extreme'' hardship under former section 244(a)(1) of the Act or ''exceptional and extremely unusual'' hardship under former section 244(a)(2) of the Act and current section 240A(b) of the Act. This will be a matter to be determined by the immigration judge. Therefore, this rule does not require a non-LPR alien to demonstrate hardship at the time of applying for repapering. However, in order to be eligible for repapering, such an alien must have a spouse, parent, or child who is a United States citizen or lawful permanent resident. After repapering has been granted and removal proceedings have begun, the alien will have the burden of demonstrating the requisite hardship to that family member at that time.

What Is the Relationship Between This Rule and the Recently-Published Rule on Section 212(c) Relief for Aliens in Deportation Proceedings Before April 24, 1996?

As discussed above, the enactment of AEDPA on April 24, 1996, substantially limited the availability of discretionary relief from deportation under former section 212(c) of the Act for lawful permanent resident aliens. However, in light of judicial decisions interpreting the language of AEDPA, certain lawful permanent resident aliens may be able to seek section 212(c) relief if they are eligible, notwithstanding the enactment of AEDPA. *See* Section 212(c) Relief for Certain Aliens in Deportation Proceedings Before April 24, 1996, 65 FR 44476 (July 18, 2000) (proposed Department of Justice rule concerning section 212(c) relief for lawful permanent residents who were already in deportation proceedings prior to the enactment of AEDPA).

Aliens who are eligible for relief under the more favorable standards of former section 212(c) of the Act in effect prior to the enactment of AEDPA are not eligible for repapering under this rule. Repapering only applies to aliens in deportation proceedings who *are* subject to the restrictions imposed by AEDPA and IIRIRA, as it is the repapering procedure that will allow them to apply for cancellation of removal under current law in removal proceedings.

How Does the Stop-Time Rule Apply to Repapered Cases?

Section 309(c)(5)(B) of IIRIRA states that, in a repapered proceeding, section 240A(d)(1) of the Act ''shall not apply to an order to show cause issued before April 1, 1997.'' 111 Stat. 2196. At first glance, this phrase may appear to be somewhat redundant, since all Orders to Show Cause were issued before April 1, 1997. However, this provision does not mean the stop-time rule is inapplicable in repapered proceedings.

Rather, the Department interprets section 309(c)(5)(B) of IIRIRA to mean that, once a proceeding is repapered, the fact that an Order to Show Cause had been issued in the terminated deportation proceeding is not relevant in determining whether the alien satisfies the time requirements for cancellation of removal in the new removal proceeding. However, the stop-time rule does apply with reference to the service of a Notice to Appear for the initiation of removal proceedings. A lawful permanent resident must still demonstrate 7 years of continuous residence—and a non-LPR alien must demonstrate 10 years of continuous physical presence—prior to service of the Notice to Appear or commission of the crime.

How Does One Apply for Repapering?

The Service has sole discretion in determining whether or not to repaper in a particular case. An alien shall apply for repapering by making a written request with the district counsel's office responsible for the proceeding. Neither the immigration judge nor the Board may terminate a deportation proceeding for the purpose of repapering absent a written motion from Service counsel.

Upon motion by Service counsel to terminate a deportation proceeding pending before the Immigration Court or the Board, for the purpose of repapering, the immigration judge or the Board shall terminate the proceeding. However, this rule provides that the immigration judge or the Board will not grant a Service motion to terminate deportation proceedings for repapering with respect to an alien who is granted relief from deportation.

In any case where a deportation proceeding is terminated for the purpose of repapering, the Service shall then expeditiously commence removal proceedings by preparing and serving a Notice to Appear on the alien and filing the Notice to Appear with the Immigration Court.

The application period to apply for repapering shall expire one year from the date that the Service publishes this rule as a final rule in the **Federal Register**. This deadline is necessary to ensure that deportation proceedings are not delayed for the purpose of accruing time in status, residence, or presence for eligibility for relief.

What Is the Procedure for Those Cases Previously Administratively Closed for Repapering?

Pursuant to instructions from the Service and the Executive Office for Immigration Review, many deportation proceedings involving aliens determined to be eligible to apply for repapering have already been administratively closed. To apply for repapering, once this rule is published as final, an alien shall make a request in writing with the district counsel's office responsible for his or her proceeding. If upon review the Service determines that the alien is eligible for repapering, the Service shall prepare and serve a Notice to Appear on the alien and file the Notice to Appear with the Immigration Court. The previous deportation proceeding before the Immigration Court or the Board shall be terminated as a matter of law on the date the Service files the Notice to Appear with the Immigration Court. If upon review the Service determines the alien is not eligible for repapering, then the deportation proceeding should be recalendared and continue.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant impact on a substantial number of small entities because of the following reason: This rule allows the Service to terminate deportation proceedings involving certain aliens and reinitiate removal proceedings, in order to allow these aliens to apply for cancellation of removal under current law. It will have no effect on small entities, as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice to be a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibility among the various levels of government. Therefore, in accordance with section six of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Immigration, Organization and functions (Government agencies).

8 CFR Part 240

Administrative practice and procedure, Immigration.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1101 note, 1103, 1252 note, 1324b, 1362; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp., p. 1002.

2. Section 3.2(c)(1) is amended by adding a sentence at the end of the paragraph, to read as follows:

§ 3.2 Reopening or reconsideration before the Board of Immigration Appeals.

* * * * *

(c) * * *

(1) * * * A motion to reopen for the purpose of repapering under subpart I of part 240 of this chapter shall not be granted.

* * * * *

3. Section 3.23(b)(3) is amended by adding a sentence at the end of the paragraph, to read as follows:

§ 3.23 Reopening or reconsideration before the Immigration Court.

* * * * *

(b) * * *

(3) * * * A motion to reopen for the purpose of repapering under subpart I of part 240 of this chapter shall not be granted.

* * * * *

PART 240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

4. The authority citation for part 240 continues to read as follows:

Authority: 8 U.S.C. 1103; 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1362; secs. 202 and 203, Pub. L. 105–100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105–277 (112 Stat. 2681); 8 CFR part 2.

5. In part 240, subpart I is added to read as follows:

Subpart I—Termination of Deportation Proceedings and Initiation of Removal Proceedings (Repapering) Under Section 309(c)(3) of Public Law 104–208

Sec.

§ 240.80 Authority.

The sole authority and discretion to terminate pending deportation proceedings and initiate removal proceedings against an alien (known as repapering), as granted to the Attorney General under section 309(c)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Div. C, Public Law 104–208, is delegated to the Service. Neither an immigration judge nor the Board of Immigration Appeals shall terminate a deportation proceeding for the purpose of repapering absent a written motion from the Service counsel. No appeal shall lie from the Service's denial of an application for repapering.

§ 240.81 Eligibility to request repapering.

(a) An alien may request repapering under this subpart if an alien is barred from obtaining relief from deportation in his or her pending deportation proceedings, but would be eligible to seek relief from removal if the alien were in removal proceedings. To be eligible to request repapering under section 309(c)(3) of IIRIRA, an alien must meet the following standards:

(1) If the alien is a lawful permanent resident, the alien must be:

(i) In deportation proceedings at the time of application for repapering without a final administrative order of deportation;

(ii) Statutorily eligible for relief under former section 212(c) of the Act at the time of application for repapering but for the eligibility bars imposed by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Public Law 104–132; and

(iii) Statutorily eligible for cancellation of removal under section 240A(a) of the Act at the time of application for repapering.

(2) If the alien is not a lawful permanent resident, the alien must be:

(i) In deportation proceedings at the time of application for repapering without a final administrative order of deportation;

(ii) Statutorily eligible for suspension of deportation under former section 244 of the Act at the time of application for repapering but for the application of the stop-time rule in section 240A(d)(1) of the Act; and

(iii) Statutorily eligible for cancellation of removal under section 240A(b) of the Act at the time of application for repapering.

(b) An applicant for repapering who is a lawful permanent resident is not required to have filed an application for relief under former section 212(c) of the Act. An applicant for repapering who is not a lawful permanent resident is not required to have filed an application for suspension of deportation, or to demonstrate the requisite hardship at the time he or she applies for repapering.

(c) The burden of proof is on the applicant to establish by a preponderance of the evidence that he or she is eligible for repapering.

§ 240.82 Application for repapering.

(a) To apply for repapering, an alien shall make a request in writing with the district counsel's office responsible for his or her proceeding. The request must include sufficient proof of eligibility for repapering. A request for repapering must be received by the district counsel's office no later than 1 year after

the Service publishes this rule in final form in the **Federal Register**.

(b) Should the district counsel's office determine that an alien requesting repapering is statutorily eligible and that his or her request warrants a favorable exercise of discretion, the Service will file a motion to terminate the deportation proceeding with the Immigration Court, or with the Board if the proceeding is pending with the Board. Upon the filing of such a motion, the immigration judge or the Board shall terminate the deportation proceeding, except as provided in paragraph (c) of this section.

(c) The immigration judge (or the Board, if the proceeding is pending before the Board) shall deny a motion to terminate the deportation proceeding for repapering if the alien is granted relief from deportation.

(d) In any deportation proceeding that was administratively closed because the alien was determined to be eligible to apply for repapering, the alien shall apply for repapering in accordance with paragraph (a) of this section. If upon review the Service determines that the alien is eligible for repapering, the Service shall prepare and serve a Notice to Appear on the alien and file the Notice to Appear with the Immigration Court. The previous deportation proceeding before the Immigration Court or the Board shall be terminated as a matter of law on the date the Service files the Notice to Appear with the Immigration Court.

(e) Once a deportation proceeding is terminated, the Service shall expeditiously initiate removal proceedings against the alien. No determination or action in the terminated deportation proceeding shall be binding in the removal proceeding.

Dated: November 15, 2000.

Janet Reno,

Attorney General.

[FR Doc. 00–30051 Filed 11–29–00; 8:45 am]

BILLING CODE 4410–10–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–107279–00]

RIN 1545–AY18

Rules Relating to General Definition of Dependent

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that amend the definition of ''authorized placement agency'' for purposes of determining whether a child placed for legal adoption in a taxpayer's home is a dependent of the taxpayer. A taxpayer who has a child placed for legal adoption in his or her home by an authorized placement agency will be affected by these regulations.

DATES: Written or electronically generated comments and requests for a public hearing must be received by February 28, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–107279–00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–107279–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue., NW., Washington, DC. Taxpayers may also submit comments electronically via the internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.ustreas.gov/tax_regs/regslist.html. The IRS will publish the time and date of any public hearing in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Elizabeth Kaye, (202) 622–4910; concerning submissions of comments and requests for a public hearing, Guy Traynor, (202) 622–7180 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains proposed amendments to § 1.152–2(c)(2) of the Income Tax Regulations (26 CFR part 1) relating to the general definition of a dependent.

On October 12, 1999, the IRS published final regulations under section 6109 regarding IRS adoption taxpayer identification numbers (TD 8839, 64 FR 51241). Those regulations provided, in part, that in order for an adoption taxpayer identification number (ATIN) to be assigned, a child must be placed for adoption by an ''authorized placement agency'', as defined in § 1.152–2(c)(2). Commentators expressed concern that because of this requirement, ATINs are not available in the case of independent adoptions as defined by state law. In general, independent adoptions take two forms. In one type, the biological parent(s) uses an attorney or other intermediary to place the child with the adoptive parents. In other independent adoptions, no intermediary is necessary because the adoptive parents and the biological parent(s) know one another.

The proposed regulations amend the definition of authorized placement agency to provide that an ''authorized placement agency'' is not limited to governmental and private organizations authorized by state law to place children for legal adoption, but also includes biological parents and other persons authorized by state law to place children for legal adoption.

These regulations are proposed to apply for taxable years beginning after December 31, 2000. Taxpayers may rely on these proposed regulations for guidance pending the issuance of the final regulations. If, and to the extent, future guidance is more restrictive than the guidance in the proposed regulations, the future guidance will be applied without retroactive effect.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written and electronic comments that are submitted timely to the IRS. The IRS and Treasury specifically request comments on the clarity of the proposed regulations and how it can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.