Final Rule

Accordingly, the regulations at 7 CFR § 722.73 are amended by revising paragraph (c) to read as follows:

§ 722.73 Rate of Penalty.

* * * * *

(c) The 1980 ELS cotton penalty rate is 86.0 cents per pound.

(Secs. 346, 347, 373, 375, 63 Stat. 674, as amended, 63 Stat. 675, as amended, 52 Stat. 65, 66, as amended, 7 U.S.C. 1346, 1347, 1373, 1375)

Signed at Washington, D.C. on July 29, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-23479 Filed 8-4-80; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

7 CFR Part 1446

[1980-Crop Peanut Warehouse Loan and Purchase Program Supplement]

1980-Crop Peanut Warehouse Loan and Purchase Program

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to make determinations and to set forth loan and purchase rates, premiums, and discounts for differences in type, quality, location and other factors applicable to 1980-crop quota and additional peanuts. This final rule is needed to make price support available to producers on 1980-crop peanuts.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Gypsy Banks [ASCS], (202) 447-6733.

SUPPLEMENTARY INFORMATION: The 1980-crop peanut loan and purchase program is authorized by the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act"), the Agricultural Adjustment Act of 1938, as amended, and the Commodity Credit Corporation Charter Act, as amended. The program is intended to stabilize market prices and to protect producers, handlers, processors, and consumers. The 1980 Crop Loan and Purchase Program Regulations, published by CCC in the **Federal Register** on February 21, 1980 (45 FR 11462), established the national average support level for the 1980 crop at $455 per ton for quota peanuts and $250 per ton for additional peanuts. Section 403 of the Act provides that appropriate adjustments may be made in the support price for differences in type, quality, location and other factors. The adjustments shall be made in such a manner so that the average support price shall, so far as practicable, be equal to the level of support for peanuts for the applicable crop year.

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of these regulations contained in 7 CFR 1446.38-.40 for need, currency, clarity and effectiveness will be made within the next five years. The title and number of the federal assistance program that this final rule applies to is: TITLE—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review was established by OMB Circular A-95, was not used to assure that units of local government are informed of this action.

On April 28, 1980, a Notice of Proposed Rulemaking entitled "Proposed Amendment to the 1980-Crop Peanut Loan and Purchase Program" was published in the **Federal Register** (45 FR 28148). This notice announced that the Commodity Credit Corporation ("CCC") was preparing to make determinations and issue regulations for 1980-crop peanuts, adjusting loan and purchase rates for quota and additional peanuts to reflect differences in type, quality, location, and other factors, and invited the public to submit written comments.

Twenty-one comments were received in response to the April 28 Notice of Proposed Rulemaking: 1 from a manufacturer, 4 from grower groups, 2 from general farm organizations, 3 from sheller associations, 2 from area marketing associations, 3 from shellers, 3 from State governmental agencies, 2 from State Extension Services, and 1 from an individual. Of the commentators responding, 13 recommended adoption of the loan rates and price differentials as proposed with Virginia type Sound Mature Kernels (SMK) priced 2 percent above Runner type SMK and Spanish type SMK priced one-half percent above Runner SMK. Seven respondents indicated that the present differentials have overpriced Spanish peanuts in comparison with Runner peanuts and recommended pricing Runner type SMK and Spanish type SMK the same, and pricing Virginia type SMK 3.9 cents above Runner type SMK and Spanish type SMK.

After considering all the comments received, it has been determined that the premiums, discounts, quality and location adjustments and other factors applicable to the support price for 1980-crop quota and additional peanuts shall remain the same as for the 1979 crop. However, it has further determined that the percentage factor used in calculating the loan value for the 1980 crop of additional peanuts will be decreased from 71.43 percent to 54.95 percent because of the decrease in the national average loan rate for 1980 crop of additional peanuts from $300 to $250 per ton. The sound mature kernel (SMK) value of Virginia type peanuts shall be 2 percent above and Spanish type one-half percent above the SMK value of Runner type peanuts, the same as for 1979 crop peanuts.

The historical objective of price support differentials has been to offer to eligible producers price support levels by type, quality, and location that are representative of the differences in market values between these types and qualities of peanuts. In addition, the statute authorizing the program requires that if any adjustments are made in the support level for any commodity for type, quality, or location, such adjustments shall be made in such manner that the average support for the commodity will, on the basis of the anticipated incidence of such factors, be equal to the national average support level. The type, quality, and location differentials which have been established are in accordance with this requirement.

Final Rule

Accordingly, 7 CFR Part 1446 is amended, effective for the 1980 crop of quota and additional peanuts, by revising §§ 1446.38 through 1446.40 to read as provided below. The material previously appearing in these sections remains in full force and effect as to the 1979 crop.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 63 Stat. 1051, as amended (7 U.S.C. 1421, 1441c, 1445).

§ 1446.38 Average support values by type for quota peanuts.

The support values by type per average grade ton of 1980-crop quota peanuts are:

Type:	*Per average grade ton*
Virginia	$451.69
Runner	459.09
Spanish	437.89
Valencia:	

Type:	Per average
Southwest area—suitable for cleaning and roasting	451.69
Southwest area—not suitable for cleaning and roasting	437.89
Areas other than Southwest	437.89

§ 1446.39 Calculation of support values for quota peanuts.

The support price per ton for 1980-crop quota peanuts of a particular type and quality shall be calculated on the basis of the following rates, premiums and discounts (with no value assigned to damaged kernels), except that the minimum support value for any lot of eligible peanuts of any type shall be 8 cents per pound of kernels in the lot:

(a) *Kernel value per ton excluding loose shelled kernels.* (1) The price per ton for each percent of sound mature and sound split kernels shall be:

Type:	Per percent
Virginia	$6.518
Runner	6.390
Spanish	6.422
Valencia	
Southwest area—suitable for cleaning and roasting	6.786
Southwest area—not suitable for cleaning and roasting	6.422
Areas other than Southwest	6.422

(2) The price per ton for each percent of other kernels shall be:

Type:	Per percent
All types	$1.40

(3) The premium per ton for each percent of extra large kernels in Virginia type peanuts shall be:

Type:	Per percent
Virginia extra large kernels	$0.45

However, no premium for extra large kernels shall be applicable to any lot of such peanuts containing more than 4 percent damaged kernels.

(b) *Value of loose shelled kernels per pound.* The price for each pound of loose shelled kernels shall be:

	Per pound
All types I450.07	

(c) *Foreign material discount.* For all types of peanuts, the discount per ton for foreign material shall be as follows:

Percent:	Discount
0–4	$0
5	1.00
6	2.00
7	3.00
8	4.00
9	5.00
10	6.00
11	7.00
12	8.50
13	10.00
14	11.50
15	13.00
16 and over	(1)

[1] For each full percent in excess of 15 percent deduct an additional $2.

(d) *Sound split kernel discount.* For all types of peanuts, the discount per ton for sound split kernels shall be as follows:

Peanuts containing sound split kernels of:	Discount
1 through 4 percent	$0
5 percent	1.00
6 percent	1.60
7 percent and over	(1)

[1] For each full percent in excess of 6 percent deduct an additional $0.80.

(e)(1) *Damaged kernel discount.* For all types of peanuts, the discount per ton for damaged kernels shall be as follows:

Peanuts containing damaged kernels of:	Discount
1 percent	$0
2 percent	3.40
3 percent	7.00
4 percent	11.00
5 percent	25.00
6 percent	40.00
7 percent	60.00
8 to 9 percent	80.00
10 percent and over	100.00

(2) Notwithstanding the above discount schedule, the damaged kernel discount for Segregation 2 peanuts transferred from additional to quota loan pools shall not exceed $25 per ton.

(f) *Price adjustment for peanuts sampled with other than a pneumatic sampler.* The support price per ton for Virginia-type peanuts sampled with other than a pneumatic sampler shall be reduced by $0.10 per percent sound mature and sound split kernels.

(g) *Mixed type discount.* Individual lots of farmer stock peanuts containing mixtures of two or more types in which there is less than 90 percent of any one type will be supported at a rate which is $10 per ton less than 90 percent of any one type will be supported at a rate which is $10 per ton less than the support price applicable to the type in the mixture having the lowest support price.

(h) *Location adjustments to support prices.* Farmers stock peanuts delivered to the associations for price support advances in the States specified, where peanuts are not customarily shelled or crushed, shall be discounted as follows:

	Per ton
1. Arizona	$25.00
2. Arkansas	10.00
3. California	33.00
4. Louisiana	7.00
5. Mississippi	10.00
6. Missouri	10.00
7. Tennessee	25.00

(i) *Virginia type peanuts.* Virginia type peanuts, to receive peanut price support as Virginia type, must contain 40 percent or more "fancy" size peanuts, as determined by a presizer with the rollers set at $^{3}\frac{1}{64}$ inch space. Virginia type peanuts so determined to contain less than 40-percent "fancy" size peanuts will be supported (but not classed) as though they were Runner type.

(j) *Discount for Aspergillus flavus mold (segregation 3 peanuts).* There will be no discount applied to segregation 3 peanuts for A. flavus mold when such peanuts are placed under loan at the additional loan rate. Should such peanuts later be transferred to a quota loan pool under § 1446.16 of these regulations, they will be discounted at the rate of $25 per net ton from the quota price support loan rate.

§ 1446.40 Calculation of support values for additional peanuts

The support price per ton for 1980-crop additional peanuts of a particular type and quality shall be calculated on the basis of 54.95 percent of the same rates, premiums, and discounts as are applicable to quota peanuts. This percentage was computed by dividing the national average support rate per ton for additional peanuts by the national average support rate per ton for quota peanuts.

Note.—This regulation has been determined to be not significant under the USDA criteria implementing Executive Order 12044 and only contains necessary operating decisions and requirements to implement the national average peanut price support rates announced on February 21, 1980. An approved Final Impact Statement is available from Gypsy S. Banks (ASCS) (202) 447-6733.

Signed at Washington, D.C., on July 24, 1980.

John W. Goodwin,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-23298 Filed 8-4-80; 8:45 am]

BILLING CODE 3410-05-M

Food Safety and Quality Service

7 CFR Part 2853

Meats, Prepared Meats, and Meat Products; Grading, Certification, and Standards

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends certain official United States standards for grades of meat and the related meat grading regulations. The changes provide that, generally, meat will be graded only in the form of carcasses or side and in the establishments in which the animals were slaughtered or initially chilled. Also, trimming procedures and conditions necessary for removal of yield grade designations are clarified and revised. These revisions are substantially the same as those proposed in the October 16, 1979, **Federal Register** except for one portion of that proposal which has been modified to reflect substantive comments and one portion which has been deleted. These changes are designed to increase the accuracy and uniformity of meat grade determinations

and to provide more accurate grade infromation to purchasers of meat.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Goodall, Deputy Director, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4727. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Mr. Goodall.

SUPPLEMENTARY INFORMATION:

Significance

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified as "significant."

Background

The Federal grading of meat is a voluntary service, provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), which is designed to facilitate the marketing of livestock and meat. The Federal grade designations indicate quality (a prediction of the palatability characteristics of the lean) and yield (an estimate of the yield of retail cuts that may be expected from a carcass). The costs of Federal meat grading are paid for by fees collected from the users of the service. During the 53 years that these services have been provided, they have offered to all qualified applicants, and they have served as a useful function to both industry and consumers.

In 1979, approximately 58 percent of the beef, 81 percent of the lamb, and 10 percent of the veal and calf producted on a commercial basis were federally graded—approximately 12.2 billion pounds of graded meat. The service was conducted in over 750 establishments by a staff of about 530 meat graders and supervisory personnel. Based on USDA estimates of the number of fed cattle marketed in 1979 and the quantity of beef graded by the Food Safety and Quality Service's (FSQS) meat grading service, it is estimated that approximately three-fourths of the fed beef producted was federally graded. Fed beef is the source of most of the fresh beef cuts reaching consumers through retail stores. Since Federal grades are used extensively by the meat industry and relatively wide spreads in price frequently result between grades, it is necessary that Federal meat grading continue to be conducted as accurately and uniformly as possible.

On January 23, 1978, the FSQS published in the **Federal Register** (43 FR 3140-3145) a proposed rule to revise certain official United States standards for grades of meat and the related meat grading regulations. The major changes recommended in the proposal were: (1) all meat from cattle and sheep would be graded only at the point of slaughter and only in carcass form, (2) beef carcasses would be required to be ribbed at least 30 minutes prior to being offered for grading, (3) kidneys and all kidney, pelvic, and heart fat would be required to be removed from beef carcasses before being offered for grading, (4) conditions under which the yield grade designations may be removed from grade-identified steer, heifer, cow, and bullock beef would be modified, and (5) the term "beef carcass," which includes "side" or "side," would be defined to specify an explanation of the manner in which it must be dressed before being presented for grading. In response to the proposal, testimony was received from 100 witnesses at 5 public hearing sessions and 496 written comments were received by the Department's Hearing Clerk. General reaction to that proposal was negative.

Evaluation of all comments and testimony indicated that much of the opposition to the proposed changes was not directed at the objectives of the proposed changes or the concepts involved but rather to deficiencies in the language of the proposal. Those providing comments and testimony also pointed out various problems associated with the proposed changes and suggested some substantive alternatives. The comments indicated that these problems would have placed undue hardship on certain groups, and this was not the intent of the requirements. Based upon the record established by the January 23, 1978 proposal and additional information made available to the Department, a new proposal was developed.

The proposed rule published in the January 23, 1978, **Federal Register** was withdrawn on October 12, 1979 (44 FR 58916), and the new proposal was published in the **Federal Register** (44 FR 59548-59551) on October 16, 1979. The proposal allowed a 60-day comment period which ended December 17, 1979. In response to requests made to the Department and in order to insure that all interested parties had adequate opportunity to comment, a notice was published in the **Federal Register** (45 FR 1049) on January 4, 1980, which reopened the comment period from January 4 through January 21, 1980.

The following major changes in the official United States standards for grades of meat and the related meat grading regulations were included in the new proposal:

(1) The term "beef carcass" was defined to specify an explanation of the manner in which it should be dressed before being presented for grading.

(2) All meat would be graded in the form of carcasses or sides and only in the establishments in which the animals were slaughtered (except for veal and calf carcasses, which would be graded only after the hide was removed and only in the establishments where such removal occurred). The proposal also provided for grading damaged sides and, upon approval of the FSQS, other exemptions would be authorized.

(3) Beef carcasses would be required to be ribbed at least 10 minutes prior to being offered for grading.

(4) The conditions were specified which would be required to be met for yield grade designations to be removed from gradedidentified beef.

(5) Certain practices designed to alter the ribeye or the fat cover over the ribeye of a beef carcass would be considered fraudulent and deceptive if the carcass was presented for grading.

These major changes are discussed hereinafter under the following subheadings: (1) Beef carcass definition, (2) Location and product form requirements, (3) Ribbing time requirement, (4) Yield grade designation removal, and (5) Alteration of fat cover.

Seventy-four comments were received concerning this proposal. However, 8 of these comments were second or third responses submitted to correct, change, or supplement earlier responses, leaving a total of 66 comments which were evaluated and considered in resolving the proposal. Fifty-six of the comments were from the meatpacking industry. Of these comments, 4 were from national associations, 3 were from regional associations, 7 were from State or local associations, and 42 were from separate industry sources. Five comments were from national or State livestock and farm organizations. Two consumer comments and three comments from government sources (congressional, State, and foreign) also were received.

Reactions to the proposal varied widely, although most comments were generally negative to one or more portions of the proposal. Many comments made reference to only part of the changes proposed or addressed issues which were not germane to the proposed changes. However, many of the comments were substantive and did raise considerations which the Department has carefully evaluated in the formulation of this final rule. The number of comments was significantly reduced from the 496 comments received on the January 23, 1978, proposal. This reduction may be attributed, in part, to the fact that the Department had carefully considered the comments and recommendations concerning that proposal, and these were reflected in the October 16, 1979, proposal.

Beef Carcass Definition

The proposal attempted to define, for purposes of the beef grading standards, the term "carcass." It was thought that a detailed definition would facilitate uniform application of the standards and prevent possible confusion as to what constitutes a beef carcass. The proposed definition also included an explanation of the manner in which a carcass should be dressed before it could be presented for grading. This proposed definition would have replaced the present carcass definition, "The commercially prepared or dressed body of any animal intended for human food," which is found in Subpart A of the present regulations (7 CFR 2853).

Comments received on the proposed carcass definition were overwhelmingly negative, and many commenters cited specific operational problems that would arise if such a definition was implemented and indicated that the specificity of the definition could prevent the grading of some carcasses which had only minor dressing or cutting deviations. For example, some comments indicated the difficulty of consistently leaving two or less tail vertebrae on the carcass during the dressing process. It is acknowledged that removal of the tail is not a critical aspect of the dressing procedure, and for normal market description purposes it is not necessary to remove it in such a specific manner. Other comments indicated that compliance with the proposed removal of the hind shank at the hock joint would seriously interfere with the mechanical removal of hides. Present dressing practices require that a small portion (approximately 2 inches or less) of the hind shank be left on the carcass to "anchor" the Achilles tendon to the carcass so that the extreme force applied during the hide removal process by downpull-type hide pullers will not pull the carcass off the rail.

Modification of the proposed carcass definition to accommodate the above-mentioned problems and other dressing deviations could satisfy objections raised by commenters. However, this would also increase compliance determination problems that could detract from the required time necessary for meat graders to make grade determinations. Accordingly, the Department will not adopt the proposed definition but will continue its efforts to establish an acceptable uniform carcass description.

Ribbing Time Requirement

Some industry comments opposed the proposed 10-minute minimum period between ribbing and presentation of carcasses for grading. Some were opposed to this requirement because they felt that it should be within the prerogative of the meatpacker to determine presentation time. Other comments indicated that higher costs due to cooler modifications or possible overtime could result from compliance with the requirement. Others felt that since factors such as breed, heredity, cooler temperature, and cooler humidity may influence the length of "bloom" of the grade determining factors, different time requirements for different establishments and/or individual carcasses would have to be recognized to assure uniform grading. In connection with these comments, the Department believes that a minimum time before presentation is needed to insure that the quality characteristics of the ribeye on properly chilled carcasses are evident to the point that appropriate grade determinations can be made on most carcasses when first presented for grading. It has been further determined, based upon the Department's experience, that the 10-minute minimum period between ribbing and presentation of carcasses for grading is necessary to achieve this result. Very few changes in the current operations of most plants should be required as most are already in, or are close to, compliance with this requirement. Therefore, the Department is adopting this requirement.

Location and Product Form Requirements

More comments addressed this proposed change than any of the other proposed changes. Opposition to grading only at point of slaughter and to grading only in carcass form was expressed by many respondents, although the comments were often related to specific instances that might qualify as exceptions to the proposed rule. Slaughterers who ship carcasses between company-owned plants felt they should be allowed to offer these carcasses for grading at the location of their choosing. Meat processors, who indicated they generally purchase ungraded cuts or carcasses, expressed concern that this amendment could greatly reduce their choice of suppliers, limit their ability to merchandise certain cuts in locations which may require grading, or limit their ability to produce product for government, State, or other purchase programs which require graded meat. Some comments from veal processors and slaughterers contained similar concerns and addressed problems unique to their segment of the industry. Although opposition to the changes in location and form requirements was expressed by some representatives of both the slaughtering and processing segments of the industry, other firms and organizations representing these segments and livestock producers supported the change.

As mentioned previously, some comments specifically addressed the possibility of qualifying as exceptions to the requirements. The Department recognizes certain industry practices which preclude either grading only at point of slaughter or only in carcass form. Although it is recognized that these practices occur to a very limited extent, they are accepted as necessary and should not prevent the grading of such products. Examples of such practices which have been brought to the attention of the Department are (a) the necessity of grading hindquarters from carcasses determined to be kosher from which the forequarters are removed and shipped before the carcasses are sufficiently chilled for normal presentation for grading, (b) instances where slaughterers actually chill carcasses in an establishment other than where they were slaughtered, (c) instances where veal processors skin and remove the foresaddle from hide-on carcasses and grade this portion, hold the hindsaddle with the hide-on to prevent extreme dehydration, and then at a later date, skin and present this portion for grading, and (d) instances in which grading cannot be provided in a timely manner to slaughter establishments.

In view of the above, the Department adopts with minor modifications the proposed regulation with respect to location and product form requirements. As adopted, meat of all eligible species shall be graded only in carcass form and only in the establishments in which the animals were slaughtered or initially chilled. However, if grading service cannot be provided in a timely manner to the slaughterer or if the Director of the Meat Quality Division determines that there is good cause for grading in some form other than carcass or for grading properly identified meat at some point other than the point of slaughter or initial chill, exemptions may be granted. Also, hindquarters from kosher carcasses may be graded if it can be shown that it was necessary to remove the forequarter prior to the time the entire carcass was sufficiently chilled to be eligible for a grade determination. Veal and calf carcasses shall be graded only in the establishment where the hide is removed and only after such removal occurs and they should be offered for grading in the form of carcasses. However, upon approval of the Director of the Meat Quality Division, foresaddles and hindsaddles may be offered for grading if it can be demonstrated that it was necessary to remove, grade, and market one portion of the carcass prior to the presentation of the other portion for grading. To facilitate implementation of this rule and to avoid interruptions of service after the effective date, requests for exemptions should be immediately submitted for consideration to the Director of the Meat Quality Division.

The general limitation of grading only carcasses and only at the point of slaughter or initial chill will have an impact on a very small percentage of the meat which is currently graded. At the present time, although meat may be graded in a number of forms other than carcass, less than one percent of the total volume of meat is graded in such forms. Although processors who need graded cuts for specific contracts will now have to purchase graded product, slauhterers will continue to have the option to apply the official grade identification to only those portions of the carcass which they choose. Thus, processors should still have the opportunity to obtain graded cuts. Adoption of this modified regulation will improve the uniformity of grade determinations by standardizing the conditions under which most meat is graded. This regulation also prevents the grading of cuts which often do not have all the grade determining factors present. However, except for a slight shift in forms or location of grading of some meat which does not currently conform with this regulation, it should have little, if any, economic impact on the industry.

Yield Grade Designation Removal

The proposed regulation would have permitted the removal of the yield grade designation from an officially graded carcass or cut of beef if the surface fat cover (natural or trimmed) is ¾ inch in thickness or less at any measured point. This proposed regulation received considerable comment from industry sources. Two areas received the majority of the comment: the degree of trim required to comply with the regulation and labeling problems associated with extending the requirement to subprimal cuts.

Many of the comments supported the replacement of the present regulation which requires "Substantial trimming" of external fat from specified cuts in order to remove yield grade designations. However, several industry comments indicated that the degree of trim required to permit yield grade designation removal was too stringent. These comments indicated that an "average" fat thickness, after trimming of ¾ inch with a maximum thickness of 1 inch, would be more acceptable and in keeping with current industry practices and cutting procedures. However, the Department believes that the ¾ inch maximum fat thickness, which it has uniformly applied to the "substantial" requirement of the present regulation, is acceptable to most users of the service and, more importantly, it can be more accurately and uniformly determined than an average fat cover over an entire surface area. In addition, the specificity of this provision improves the uniformity of the application of these trimming requirements and should facilitate compliance.

The proposed regulation also would have extended the maximum fat thickness requirement to subprimal cuts in order for yield grade designations to be removed. The comments on this portion of the proposal raised a new issue. Several industry comments focused on possible problems related to labeling. At present, all subprimal and retail cuts, and wholesale cuts which have been substantially trimmed of external fat may have the yield grade designation removed. The proposed change would have required that yield grade designations remain on carcasses and all cuts (other than retail) unless they complied with the specified fat thickness requirement. Industry comments pointed out that, under the current FSQS labeling requirements, for which no changes were proposed, by not continuing to allow subprimal cuts to be labeled with the quality grade designation only, considerable disruption of current industry cutting procedures would occur along with increased expenses associated with complying with the requirement. Current FSQS requirements allow packers to mix subprimal cuts of the same quality grade but with the same or differing yield grades and label shipping containers with the quality grade designation only. Conformance with the proposed regulation would result in the production problems mentioned in the comments. The Department did not specifically address this aspect of the change in either the January 1978 or October 1979 proposals. Also, of the 496 written and 100 oral comments received on the 1978 proposal which also included this provision, only 1 comment mentioned the possibility of this problem existing. Because this labeling change could have an adverse impact on the entire industry and eventually consumers of graded beef due to the disruption of industry cutting procedures and resultant increased production costs, the Department has determined that the proposed change should be revised to prevent this problem.

The revised regulation which is adopted permits the removal of the yield grade designation from officially graded carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts if the external fat (natural or trimmed) is ¾ inch in thickness or less. The wholesale cuts, or combinations thereof, which may qualify for yield grade designation removal by complying with the fat thickness requirement are: round, sirloin, short loin, rib, square-cut chuck, shank, plate, brisket, and flank. Yield grade designations may be removed from all other cuts without trimming of external fat. For labeling and other related purposes, the grade of items from which the yield grade may be removed may consist of the quality designation only. The specified ¾ inch maximum fat thickness will be determined by following the natural contour of the carcass or cut, as measured over the major muscles or bones—excluding the areas of fat at natural muscle junctions commonly referred to as "bridging." the adopted change more clearly specifies the conditions under which yield grade designations may be removed and also increases the items for which such removal is permitted. However, it does not require that yield grade designations be maintained on subprimal cuts as the proposed change required. Although the proposed change would have somewhat increased the information available to purchasers of graded meat, the Department feels that at the present time the cost of providing such information would be greater than the benefits to be derived. The adopted regulations will allow the industry the option to remove yield grade designations from carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts, when the maximum fat cover requirement is met, and yet, provide more complete information to purchasers to these items. The adopted regulation will also clarify the conditions which must be met for yield grade designations to be removed.

With regard to required trimming of subprimal cuts, the Department has determined that this subject will be further studied and, if necessary, will be proposed in a subsequent rulemaking proceeding. This will allow the benefits from this rule adopted to be derived immediately, without delaying a decision on the proposed change regarding trimming of subprimal cuts, until the impact regarding the extension of yield grade identification to subprimal cuts is fully determined.

Alteration of Fat Cover

The Department proposed to clarify the present regulation concerning alteration of the characteristics of the ribeye or the thickness of fat over the ribeye by preventing the grading of carcasses which had been unnecessarily altered, yet allowing the grading of carcasses trimmed to comply with Federal meat inspection requirements. Most comments generally supported this change although some concern was expressed that this would give individual graders arbitrary power to determine if a carcass is eligible for grading. Other comments addressed the possible problem of graders determining whether alternatons were done unnecessarily or to comply with meat inspection requirements. Also, some comments addressed the concern that trimming on the slaughter floor should be allowed rather than restricted, and that graders should be capable of making accurate grade determinations on carcasses so trimmed. Adoption of the amended regulation will not prevent carcasses which are trimmed to comply with Federal meat inspection requirements from being graded. However, the amended regulation, as adopted, should allow graders to continue to make accurate grade determinations and enable the Department to prevent unnecessary alterations of the grade determining factors on carcasses presented for grading.

Other Comments

In addition to comments which did not specifically relate to any of the proposed changes, a few comments were concerned with changes in the regulations dealing with appeal service (7 CFR 2853.19). The only change in this section was the deletion of ". . . wholesale cuts, or other subdivisions of meat originally graded as larger units; and veal and calf carcasses originally graded with hides on." As these items are no longer eligible for a grade determination under either the proposed or adopted changes, it is unnecessary to include them as items for which appeal service cannot be requested.

Options Considered

The following four options were considered by the Department in arriving at the decisions contained herein: (1) the status quo, (2) the January 23, 1978, proposal, (3) the October 16, 1979, proposal, (4) a modification of the October 16, 1979, proposal to reflect public comment. A brief outline of the four options considered follows:

1. *Option I—The Status Quo*—Specifies:

(1) Meat from cattle and sheep may be graded in the form of carcasses or some wholesale cuts.

(2) Yield grade designations may be removed from grade-identified wholesale cuts of beef when external fat cover is substantially trimmed. They may be removed from subprimal and retail cuts without trimming.

This option places no restriction on where meat can be graded. Specific dressing procedures are not outlined, and no minimum time interval between ribbing and grading is specified, although proper chilling is required. The regulations do not provide adequate authority to effectively control actions which alter the ribeye or the fat cover over the ribeye.

2. *Option II—January 23, 1978, Proposal*—Specified:

(1) All meat from cattle and sheep be graded only at the point of slaughter and only in carcass form.

(2) Beef carcasses be ribbed 30 minutes prior to presentation for grading.

(3) The kidneys and all kidney, pelvic and heart fat be removed from beef carcasses prior to grading.

(4) Yield grade designations may be removed from grade-identified beef carcasses and all cuts when the surface fat is trimmed to ½ inch or less.

(5) Beef carcasses be defined as the two sides of a slaughtered animal which result from splitting it lengthwise through its median plane and after removal of (1) the head, (2) the legs, (3) all viscera, including the kidneys and thymus gland, (4) all kidney, pelvic and heart fat, (5) the spinal cord, and (6) all but two tail vertebrae.

Actions designed to alter the ribeye or the fat cover over the ribeye are not explicitly stated as fraudulent in this option.

Opposition to and deficiencies in certain aspects of the January 1978 proposal led to its withdrawal on October 12, 1979, and the issuance of the current proposal on October 16, 1979. The current proposal was drafted in light of testimony received on the January 1978 proposal at five public hearings and during the comment period.

3. *Option III—October 16, 1979, Proposal*—Specified:

(1) All meat will be graded only as carcasses and only in establishments in which the animals are slaughtered (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in establishments where such removal occurs). Provisions will be made for grading damaged sides; and other exemptions may be granted upon special approval of the FSQS.

(2) Beef carcasses be ribbed a minimum of 10 minutes prior to presentation for grading.

(3) Yield grade designations may be removed from grade-identified beef carcasses and all cuts when the surface fat (natural or trimmed) is ¾ inch or less.

(4) Beef carcasses be defined as the two sides of a slaughtered animal which result from splitting it lengthwise through its approximate median plane and after removal of (1) the head, (2) the legs, (3) the viscera (removal of the kidneys and kidney, pelvic and heart fat is optional), and (4) all but two or less vertebrae.

(5) Certain practices designed to alter the ribeye or the fat cover over the ribeye of a beef carcass shall be considered fraudulent and deceptive.

4. *Option IV—October 16, 1979, Proposal Amended to Reflect Public Comment*—Specifies:

(1) All meat will be graded only as carcasses and only in the establishment in which the animal was slaughtered (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in the establishment where such removal occurs). Provisions will be made for grading damaged sides; and other exemptions may be granted upon special approval of the FSQS.

(2) Beef carcasses be ribbed a minimum of 10 minutes prior to presentation for grading.

(3) Yield grade designations may be removed from grade-identified beef carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts if the external fat (natural or trimmed) is ¾ inch or less. Yield grade designations may be removed from all other cuts without meeting the specified external fat requirements.

(4) Certain practices designed to alter the ribeye or the fat cover over the ribeye of a beef carcass shall be considered fraudulent and deceptive.

This option does not technically define a beef carcass as do Options II and III.

The option selected is Option IV. This option corrects deficiencies of, and provides clarification to, Options II and III. The adoption of this option will achieve most of the desired effects of Options II and III.

In consideration of the foregoing, certain sections of the regulations and standards appearing at 7 CFR Part 2853 as they relate to meats, prepared meats, and meat products are amended as set forth below.

Subpart A—Regulations

1. In Section 2853.1, the definitions for "Quality grade" and "Yield grade" are amended to read as follows:

§ 2853.1 Meaning of words.

* * * * *

Quality grade. A designation based on those characteristics of meat which predict the palatability characteristics of the lean.

* * * * *

Yield grade. A designation which reflects the estimated yield of retail cuts that may be obtained from a beef, lamb, yearling mutton, or mutton carcass.

2. The second sentence of § 2853.4 is amended to read as follows:

§ 2853.4 Kind of service.

* * * Class, grade, and other quality may be determined under said standards for meat of cattle, sheep, or swine in carcass form only, except upon approval by the Director upon his determination of good cause and provided that the meat can be identified in conformance with the standards. * * *

3. Section 2853.13, paragraph (b) is amended as follows:

§ 2853.13 Accessibility and refrigeration of products; access to establishments.

* * * * *

(b) Grading service will only be furnished for meat that a USDA grader determines is chilled so that grade factors are developed to the extent that a proper grade determination can be made in accordance with the official standards (Subpart B of Part 2853 (7 CFR Part 2853.102 *et seq.*)). To be eligible for grading, beef carcasses must be ribbed at least 10 minutes prior to being offered for grading. Meat that is presented in a frozen condition shall not be eligible for a grade determination. Meat of all eligible species shall be graded only in the establishment where the animal was slaughtered or initially chilled (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in the establishment where such removal occurs). The Director may grant prior approval for grading at a location other than the establishment of slaughter or initial chill upon notification to the Division if the Branch was unable to provide grading service in a timely manner and that the meat can be identified in conformance with the standards.

§ 2853.17 [Amended]

4. In Section 2853.17, paragraph (a), the words "and wholesale cuts" are deleted.

5. In Section 2853.17, paragraph (c), second sentence, the phrase "and eligible cuts from bull and bullock carcasses" is deleted.

6. Section 2853.19, paragraph (b) is amended as follows:

§ 2853.19 What is appeal service; marking products on appeal; requirements for appeal; certain determinations not appealable.

* * * * *

(b) Grade determinations cannot be appealed for any lot or product consisting of less than 10 similar units. Moreover, appeal service will not be furnished with respect to product that has been altered or has undergone any material change since the original service.

Subpart B—Standards; Carcass Beef

7. Section 2853.102 is revised as follows:

§ 2853.102 Scope.

These standards for grades of beef are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify phrasing of the standards, the words "carcass" and "carcasses" are used to also mean "side" or "sides."

§ 2853.103 [Amended]

8. In Section 2853.103, paragraph (b)(5), the last sentence is deleted.

9. In Section 2853.104, paragraphs (a), (g), and (i) are revised as follows:

§ 2853.104 Application of standards for grades of carcass beef.

(a) The grade of a steer, heifer, cow, or bullock carcass consists of separate evaluations of two general considerations: (1) The indicated yield of closely trimmed (½ inch fat or less), boneless retail cuts expected to be derived from the major wholesale cuts (round, sirloin, short loin, rib, and square-cut chuck) of a carcass, herein referred to as the "yield grade," and (2) characteristics of the meat which predict the palatability of the lean, herein referred to as the "quality grade." The grade of a bull carcass consists of the yield grade only. When officially graded, the grade of a steer, heifer, cow, or bullock carcass consists of both the quality grade and the yield grade. The yield grade designation may be removed from officially graded beef carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts on which the external fat (natural or trimmed) does not exceed ¾ inch in thickness. For purposes of these regulations, wholesale cuts, or combinations thereof, which can qualify for yield grade designation removal are: round, sirloin, short loin, rib, square-cut chuck, shank, brisket, plate, and flank. The yield grade designation may be removed from all other cuts without trimming of external fat. In instances where removal of the yield grade designation is permitted, the USDA grade may consist of the quality grade designation only.

* * * * *

(g) Beveling of the fat over the ribeye, application of pressure, or any other influences which may alter the characteristics of the ribeye or the thickness of fat over the ribeye prevent an accurate grade determination. Therefore, carcasses subjected to such influences shall not be eligible for a grade determination, and the presentation of such carcasses for an official grade determination shall be considered a fraudulent or deceptive practice in connection with the services requested for such carcasses. Carcasses that have had external fat removed in trimming for Federal meat inspection compliance may be graded only if the official grader determines that an accurate grade determination can be made. Although entire carcasses with more than minor amounts of lean removed from the major wholesale cuts (round, sirloin, short loin, rib, or square-cut chuck) shall not be eligible for a grade determination, the remaining portions of these carcasses which are unaffected by the removal of lean shall remain eligible for a grade determination provided a cross section at the 12th-13th rib is available and an accurate grade determination may be made.

* * * * *

(i) To meet the demand of export trade or changing trade practices, grading of carcasses ribbed other than between the 12th and 13th ribs may be approved by the Director. In such cases, grading shall be based on the requirements specified in these standards and shall be consistent with the normal development of grade characteristics in various parts of a carcass of the quality level involved. When an exception is granted for export trade, such carcasses shall be identified with the word "EXPORT" in such a manner that will clearly distinguish them from other officially graded beef.

* * * * *

§ 2853.105 [Amended]

10. In Section 2853.105, paragraph (b) is deleted and paragraph (c) designated as (b).

§ 2853.106 [Amended]

11. In Section 2853.106, paragraph (e)(1), first sentence, the words "and wholesale cuts" are deleted.

Veal and Calf Carcasses

12. Section 2853.112 is revised as follows:

§ 2853.112 Scope.

These standards for grades of veal and calf are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass" and "carcasses" are used also to mean "side" or "sides."

§ 2853.115 [Amended]

13. In section 2853.115, the first sentence in paragraph (d) is deleted; in the first sentence of paragraph (e), the words "or portions of such carcasses" are deleted; and in paragraph (g), the last sentence is deleted.

Lamb, Yearling Mutton, and Mutton Carcasses

14. Section 2853.123, paragraph (c)(5) is revised as follows:

§ 2853.123 Application of standards.

* * * * *

(c) * * *

(5) The yield grade descriptions are defined primarily in terms of carcasses. However, the yield grade standards also are applicable to the grading of sides.

* * * * *

§ 2853.127 [Amended]

15. In Section 2853.127, paragraph (b) is deleted and paragraph (c) designated as paragraph (b).

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624)

Done at Washington, D.C., on July 29, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-23478 Filed 8-4-80; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

10 CFR Part 445

Industrial Energy Conservation Program; Filing Annual Reports, Change of Date

AGENCY: Department of Energy.

ACTION: Notice of change of date.

SUMMARY: As required by 10 CFR § 445.25, the Department of Energy (DOE) is hereby providing public notice of a change in the date for filing annual reports on energy efficiency improvement and increased utilization of recovered materials with DOE. Reports required by identified corporations pursuant to 10 CFR § 445.22 and by sponsors of adequate reporting programs pursuant to 10 CFR § 445.23 must be received by DOE August 15, 1980. This change affects the operation of the program in 1980 only and is made to allow sufficient time for exempt corporations and sponsors of adequate reporting programs to meet the reporting requirements of 10 CFR Part 445 (45 FR 10194, February 14, 1980), following DOE's issuance today of the final list of exempt corporations and sponsors of adequate reporting programs.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT:

Tyler E. Williams, Jr., Office of Industrial Programs, Mail Stop 2H-085, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-2371.

Pamela M. Pelcovits, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9516.

Issued in Washington, D.C., July 25, 1980.

Worth Bateman,

Acting Under Secretary.

[FR Doc. 80-23476 Filed 8-4-80; 8:45 am]

BILLING CODE 6450-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 10]

Delegations of Authority To Conduct Program Activities in Field Offices

Correction

In FR Doc. 80-20857, appearing in the issue of Monday, July 14, 1980 at page 47122, please make the following correction to § 101.3-2.

1. On page 47124, the third column, the last two words in the second line now reading "Region VI" should read "Region IV".

2. On page 47125, the first column, under Part III, Section A, the 15th line from the bottom of the page, line "b" now reading "District Director . . . $75,000" should read "District Director . . . $750,000".

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 436

Disclosure Requirements; Prohibitions Concerning Franchising and Business Opportunity Ventures

AGENCY: Federal Trade Commission.

ACTION: Petitions for exemption filed by Automobile Importers of America, Inc. and American Motors Corporation have been granted.

SUMMARY: On April 18, 1980, the Commission published a request for public comment on petitions for exemption from the requirements of the Franchise Rule that had been filed by several automobile companies. After reviewing the public comment, the Commission has determined that the provisions of Part 436 shall not apply to the advertising, offering, licensing, contracting, sales or other promotion of dealerships for the sale of motor vehicles by the following companies: American Motors Corporation, Alfa Romeo, Inc.; American Honda Motor Co., Inc.; BMW of North America, Inc.; Fiat Motors of North America, Inc.; Isuzu Motors Limited; Jaguar Rover Triumph, Inc. [formerly British Leyland Motors, Inc.]; Lotus North America, Inc.; Mazda Motors of America, Inc.; Mitsubishi Motors Corporation; Nissan Motor Corporation in U.S.A.; Peugeot Motors of America, Inc.; Renault USA, Inc.; Rolls-Royce Motors, Inc.; Saab-Scania of America, Inc.; Subaru of America, Inc.; Toyota Motor Sales U.S.A., Inc.; Volvo of America Corporation; Delorean Motor Company; Hyundia Motor Company; Satra Corporation; U.S. Suzuki Motor Corporation; Yamaha Motor Corporation, U.S.A.; and POL MOT.

EFFECTIVE DATE: August 5, 1980.

ADDRESS: Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

John M. Tifford, PM-H-272, Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, DC, (202) 523-3814.