FR 50778, December 11, 1989. Canadian concurrence has been received for Channel 300B1 at coordinates 43–17–41 and 86–13–12 and for Channel 268A at coordinates 44–14–48 and 86–19–12. A counterproposal (RM–7292) to substitute Channel 268C3 for Channel 268A at Manistee is dismissed. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 30, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 89–549, adopted November 1, 1991, and released November 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street NW., Washington, DC 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 300A and adding Channel 300B1 at Muskegon and by removing Channel 300A and adding Channel 268A at Manistee.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–27897 Filed 11–19–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–388; RM–7229, RM–7569]

Radio Broadcasting Services; Crossville and Hilham, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountaintop Broadcasters, Inc., licensee of Station WEGE–FM, Channel 273A, Crossville, Tennessee, substitutes Channel 273C3 for Channel 273A at Crossville, Tennessee, and modifies Station WEGE–FM's license to specify operation on the higher powered channel. See 55 FR 36298, September 5, 1990. Channel 273C3 can be allotted to Crossville in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.7 kilometers (5.4 miles) north to accommodate Mountaintop's desired site. The coordinates for Channel 273C3 are North Latitude 36–01–25 and West Longitude 85–00–06. The proposal filed by Border Communications (RM–7569) requesting the allotment of Channel 274A to Hilham, Tennessee, is denied because Hilham is not a community for allotment purposes. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 30, 1991.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–388, adopted November 1, 1991, and released November 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Channel 273A and adding Channel 273C3 at Crossville.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–27896 Filed 11–19–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91–11; Notice 2]

RIN 2127–AD81

Federal Motor Vehicle Safety Standards; Rearview Mirrors—Reflectance

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: In response to a petition from Donnelly Corporation, this notice amends the requirements in Federal Motor Vehicle Safety Standard No. 111, *Rearview Mirrors*, with respect to average reflectance levels. The rule clarifies the intent and applicability of the requirements. It also updates the standard to better address current mirror designs and to remove a perceived restriction affecting the introduction of new mirror designs which may provide better glare protection.

DATES: *Effective Date*: The amendments become effective September 1, 1992. Vehicles manufactured before September 1, 1992 may comply with this rule's amendments, effective December 20, 1991.

Petitions for reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA no later than December 20, 1991.

ADDRESSES: Any petition for reconsideration should refer to the docket and notice number set forth in the heading of this notice and be submitted to: Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Boyd, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202) 366–6346.

SUPPLEMENTARY INFORMATION:

Background

Federal Motor Vehicle Safety Standard No. 111, *Rearview Mirrors*, is intended to reduce the number of crashes that occur because the driver of a motor vehicle does not have a clear and reasonably unobstructed view to the rear.

As initially promulgated, Standard No. 111's mirror construction requirements specified that the reflectance levels for mirrors be at least 35 percent (32 FR 2413, February 3,

1967). The standard further stated that for selective position prismatic mirrors, the reflectance level in the night driving position had to be at least 4 percent. A selective position prismatic mirror can be mechanically tilted to various setting positions. For each setting, there is a different surface with a different reflectance level. The first setting provides relatively high levels of reflectance, typically 85 to 90 percent, for day time driving; and the second setting provides much lower reflectance levels to reduce glare from the headlamps of following vehicles during nighttime driving. Installation of two-position selective position prismatic mirrors has been the principal method of enabling drivers to reduce glare during nighttime driving. Approximately 90 percent of vehicles are currently equipped with center-mounted interior mirrors of the selective position prismatic type.

The agency subsequently amended Standard No. 111's mirror construction requirement to specify that the "average" reflectance level of the reflective film used on any mirror must be at least 35 percent. (41 FR 36023, August 26, 1976)

Since that last amendment, the requirement for mirror construction in S11 has read as follows:

The average reflectance value of the reflective film employed by any mirror required by this standard, determined in accordance with SAE Recommended Practice J964a, August 1974, shall be at least 35 percent. If a mirror is of the selective position prismatic type, the reflectance value in the night driving position shall be at least 4 percent.

Several manufacturers, including General Motors, Chrysler, Ford, BMW, and Range Rover, have equipped vehicles with electrochromic mirrors. These mirrors electrically adjust their reflectance levels based on the amount of light striking the mirror and automatically vary the reflectivity. These manufacturers have apparently concluded that the standard is not design restrictive and does not preclude the use of electrochromic mirror technology.

However, other manufacturers have interpreted S11 as prohibiting low reflectance mirrors other than selective position prismatic ones. For instance, on June 12, 1990, Donnelly Corporation petitioned the agency to amend S11 to permit the installation of its electrochromic mirror. Along with electrically adjusting its reflectance levels based on the amount of light striking the mirror, this mirror maintains the reflectivity above the minimum of 35 percent during daytime conditions and the minimum of 4 percent during nighttime conditions. According to the petitioner, its automatically adjustable non-prismatic electrochromic mirror is not permitted to have a minimum night position less than 35 percent because S11 states the reflectance of 4 percent in the night driving position is only for selective position prismatic mirrors.

Donnelly therefore concluded that S11 should be modified to remove what it views as a design-specific requirement. It claimed that these mirrors improve vision and reduce glare during night driving. It also claimed that its mirror is the first commercially viable means for reducing glare for exterior mirrors. The petitioner further believed that when the requirement permitting selective position prismatic mirrors was issued, these were the only known glare reducing mirrors.

Notice of Proposed Rulemaking

On March 8, 1991, the agency issued a notice of proposed rulemaking (NPRM) proposing to amend S11 of Standard No. 111 to avoid express reference to selective position prismatic mirrors. (56 FR 9928.) The proposal explained the agency's tentative conclusion that an amendment was necessary to clarify the intent and applicability of the provision given its apparent ambiguity. The notice further explained that the amendment would remove a perceived design restriction affecting certain mirror designs.

The NPRM explained that such an amendment is consistent with the agency's philosophy of promulgating standards that are as performance-oriented as possible, consistent with the goal of obtaining specific types of safety performance. While the selective position prismatic mirror was the principal, perhaps only, known glare-reducing mirror technique when the standard was initially promulgated, new technologies are now available which offer other and perhaps improved means for glare reduction. Accordingly, the agency tentatively concluded that adopting the proposal would facilitate the production of new mirror designs that may improve motor vehicle safety. These new technologies may provide better glare protection because they automatically adjust reflectance levels based on the amount of light striking them. In addition, they may be practical for use as exterior mirrors.

The NPRM requested comments on several subissues related to section S11 and multiple reflectance mirrors. These included determining the appropriate wording of the regulatory text to obtain a performance oriented standard that is not design restrictive, eliminating the phrase "reflective film," and updating the section so that it refers to the Society of Automotive Engineers' (SAE) more recent Recommended Practice.

Comments to the NPRM and the Agency's Response

NHTSA received six comments in response to the NPRM. These were from mirror manufacturers (Donnelly and Gentex) and vehicle manufacturers (General Motors, Ford, Chrysler, and Toyota.) The majority of commenters agreed with the general proposal to amend section S11. Ford and Toyota commented about specific provisions in the proposal. The agency has considered the points raised by the commenters in developing the final rule. The agency's discussion of the more significant comments and other relevant information is set forth below.

General Comments

As explained above, S11's express reference to mirrors of the "selective position prismatic type" led to the proposal to amend the provision to clarify its intent and applicability. Accordingly, the proposal omitted reference to "selective position prismatic type" mirrors.

Donnelly, Gentex, General Motors, Ford, and Chrysler all agreed with the proposal's intent to make the standard more performance oriented by deleting language that is specific to certain designs or technologies. The only other commenter, Toyota, was silent about its overall view about the rulemaking.

Regulatory Text

The NPRM also proposed that a mirror provide a reflectance level of at least 35 percent when in its normal operating state and at least 4 percent when in its glare reducing state. In describing these requirements, the proposed regulatory text referred to the "day and night position or mode." The proposal also stated that when a multiple reflectance mirror is "not powered," that state would be considered as equivalent to the day position or mode.

Ford and Toyota were concerned that the proposal would restrict the installation of certain mirror designs that they believed provide adequate levels of safety. In describing its "electro/mechanical mirror," Ford explained that this powered selective prismatic type mirror uses power only to shift the mirror from one reflectance position to another but does not use any power while in either position to provide a reflectance level. Ford further explained that if the power failed, the

mirror could be manually repositioned to the high reflectance level. Ford was concerned that the proposed amendment would prohibit its mirror without providing any significant safety benefit because the failure mode of its mirror is the same as the normal operation of a conventional selective prismatic mirror. Toyota described its liquid crystal interior mirror, which when not powered (i.e., when the ignition key is withdrawn) defaults to the heavily tinted night setting.

"Day/Night Setting"

Ford requested that section S11 be modified to omit reference to the "day" and "night" positions or modes. It believed that the terms "day" and "night" are easily understood for mirrors with only two reflectance levels. Accordingly, Ford suggested that section S11 refer to "maximum" and "minimum" reflectance levels rather than day and night positions or modes.

After reviewing Ford's comment, the agency believes that the terms "day" and "night" help to clarify the reflectance modes described in the standard.

"Not powered"

Ford and Toyota expressed concern about problems involved in complying with the proposed requirement that the mirrors provide reflectance levels of at least 35 percent when they are "not powered." Ford stated that while this requirement is appropriate for mirrors which require electrical power to maintain the maximum reflectance mode, the provision is inappropriate for its powered selective prismatic mirror, which has a fail-safe capacity to shift the mirror to the maximum reflectance mode in case of power failure. Toyota stated that its liquid crystal interior mirror defaults to the low reflectance mode in case of power failure. It did not mention any fail-safe provisions for this mirror in case of power failure. Toyota commented that the requirement for high transmittance in the absence of power is not necessary because the only situation in which the mirror would not be powered is when the key is out of the ignition switch, a time when the mirror is not needed. Toyota further contended that the NPRM failed to justify this provision.

NHTSA agrees with Ford's comments and has modified the final rule so that mirror designs that ensure the viewing of images during all light conditions are not prohibited. Specifically, the final rule omits the phrase "not powered." The final rule also expressly specifies requirements for a fail-safe device permitting the driver to adjust the mirror to the high reflectance mode.

As for the phrase "not powered," NHTSA has determined that the proposal's intent to provide an electrical fail-safe condition can be met by specifying that a multiple reflectance mirror shall either be equipped with a means for the driver to adjust the mirror to a reflectance level of at least 35 percent in the event of electrical failure, or achieve such reflectance level automatically in the event of electrical failure. This language will permit mirror designs like Ford's electro/mechanical mirror, which can be manually adjusted to provide adequate images in case of power failure.

However, the amendment will not permit Toyota's current liquid crystal mirror, since the mirror cannot provide adequate images in the case of power failure. After reviewing the comments, the agency believes that multiple reflectance mirrors should be capable of providing adequate images in the event of electrical failure.

Toyota commented that the proposal should be modified so that its liquid crystal mirror is not prohibited. First, Toyota stated that the requirement for high transmittance in the absence of power is unnecessary, claiming that the only situation in which the mirror would not be powered is when the key is out of the ignition switch, a time when the mirror is not needed. Second, it stated that the preamble to the NPRM did not justify this provision.

In response to Toyota's argument that a high transmittance level is not needed in the absence of power, NHTSA notes that Toyota's liquid crystal mirror defaults to a heavily tinted reflected surface that is incapable of providing a proper image in normal daylight conditions. Accordingly, any time the mirror is not powered, the driver experiences significant reductions in rearward vision because the interior mirror cannot provide an adequate image. Contrary to Toyota's claim that the only time that a mirror would be unpowered is when the key is out of the ignition switch, the agency knows of other situations in which this mirror would be unpowered and thus would not be able to provide high reflectance levels necessary for day time driving. For instance, when there are connector faults or circuit board faults, the mirror would be unpowered, even though the vehicle could be operational. Given the expense of repairing or replacing a liquid crystal mirror, some car owners, particularly those of older cars, would likely be slow to have a failed mirror fixed.

The agency notes that Nippondenso, a supplier of electrical equipment for Toyota, described an opposite polarity fail-safe liquid crystal mirror in a Society of Automative Engineer's paper Fail-Safe Type Liquid Crystal Mirror for Automobiles (870637). This paper described the safety problem as "the breaking of the circuit wire." It also indicated that a fail-safe liquid crystal design "suitable for safe driving" has been achieved by using a liquid crystal layer which is aligned perpendicular rather than parallel to the substrate in the initial unpowered state.

In response to Toyota's second argument about the proposal's preamble not addressing the fail-safe issue, NHTSA notes that the regulatory text provided adequate notice about this issue, and that both Toyota and Ford expressed their views on it.

Given that safety standards are required to meet the need for motor vehicle safety, the rulemaking's overriding focus must be to ensure that mirrors are capable of providing adequate rearview vision at all times during the vehicle's operation. The agency does not believe it would be appropriate to permit new mirror designs with the potential for providing poorer safety performance than selective prismatic mirrors. Selective prismatic mirrors are always capable of providing adequate images because they are adjustable to the high reflectance position, while Toyota's liquid crystal mirror is not.

Reflective Film

The NPRM proposed to amend S11 by deleting reference to the "reflectance value of the reflective film" because this phrase had the potential of being unnecessarily design restrictive. The proposal explained that certain mirrors rely on a substance other than "film" for their reflectance.

Chrysler, which was the only commenter to address this matter, supported the proposal to eliminate the phrase about reflective film. Chrysler agreed with the proposal that there are other substances available that have the ability to reflect light which should be allowed for mirror applications.

Based on the proposal, the agency has decided to adopt the proposal to delete reference to the use of reflective film. Such a requirement had the potential to be design restrictive.

Society of Automotive Engineers (SAE) Recommended Practice

The NPRM proposed to amend S11 by updating it to refer to the SAE's more recent recommended practice. While

S11 currently refers to SAE Recommended Practice J964a, August 1974, the SAE reaffirmed the Recommended Practice without substantive change in October of 1984.

Chrysler, which was the only commenter to address this matter, supported the proposal to update the reference to the more recent SAE practice.

Based on the proposal, the agency has decided to adopt the proposal to update S11 to refer to the more recent SAE practice.

Leadtime

The NPRM explained the agency's tentative conclusion that there was "good cause" to propose an effective date 30 days after publication of the final rule. The agency reasoned that a longer leadtime was not necessary because this amendment would remove a restriction and facilitate the introduction of certain mirrors without imposing any mandatory requirement on manufacturers. The proposal also stated that the public interest would be served by not delaying the introduction of mirrors that may provide better performance without having any negative impact on safety.

Toyota stated that because the proposal would impose a new mandatory requirement on its vehicles equipped with the liquid crystal mirror, additional leadtime was necessary.

NHTSA believes that the amendment allows the present minimum safety performance to be met or exceeded by new technology and does not place new requirements on mirrors. Nevertheless, the agency believes that the 30-day effective date is too short to allow Toyota to comply with the clarification. Toyota apparently introduced a mirror design it believed was in compliance with the standard. Toyota should be given sufficient time to improve or replace a mirror that the agency assumes was designed in good faith during a time in which this rule needed to be clarified. Accordingly, the amendments become effective on September 1, 1992; however, vehicles manufactured before September 1, 1992 may comply voluntarily with this rule's amendments, effective 30 days after publication of this final rule.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has determined that this rule is not a major rule under Executive Order 12291 nor a significant rule within the meaning of the Department of Transportation's regulatory policies and procedures. A full regulatory evaluation is not required because the rule will have minimal economic impacts. The rule permits new mirror designs by removing a design restriction instead of imposing any new requirements on mirror or vehicle manufacturers. Therefore, the agency does not anticipate any significant additional costs or any cost savings.

Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the agency's evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. Vehicle manufacturers typically do not qualify as small entities. While some manufacturers of mirrors may be small entities, the agency believes that the amendment will not have a significant economic impact on them. This amendment will also affect small businesses, small organizations, and small governmental units to the extent that these entities purchase motor vehicles with new mirror designs. As the preceding discussion indicates, the agency's assessment is that this amendment will have no significant cost impact to the industry. Therefore, it will not result in a significant increase in consumer prices.

National Environmental Policy Act

As it is required to do under the National Environmental Policy Act of 1969, NHTSA has considered the environmental impact of this amendment and determined that this rule will not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism)

Further, this rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. It has been determined that it will have no Federalism implication that warrants preparation of a Federalism report.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA is amending § 571.111 of title 49 of the Code of Federal Regulations as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. In § 571.111, S11 is revised to read as set forth below effective on and after September 1, 1992, and may be used at the manufacturer's option before this date, effective December 20, 1991.

§ 571.111 Standard No. 111; Rearview mirrors.

* * * * *

S11. *Mirror Construction.* The average reflectance of any mirror required by this standard shall be determined in accordance with SAE Recommended Practice J964, OCT84. All single reflectance mirrors shall have an average reflectance of at least 35 percent. If a mirror is capable of multiple reflectance levels, the minimum reflectance level in the day mode shall be at least 35 percent and the minimum reflectance level in the night mode shall be at least 4 percent. A multiple reflectance mirror shall either be equipped with a means for the driver to adjust the mirror to a reflectance level of at least 35 percent in the event of electrical failure, or achieve such reflectance level automatically in the event of electrical failure.

* * * * *

Issued on: November 14, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91-27873 Filed 11-19-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 685

[Docket No. 910800-1251]

Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Announcement of effectiveness of collection-of-information requirements.

SUMMARY: NMFS announces the effectiveness of collection-of-information requirements, whereby vessel owners and partnerships or corporations must submit documentation together with limited entry permit and permit transfer applications for the pelagic fisheries of the western Pacific region.

EFFECTIVE DATE: Section 685.15 paragraphs (b)(2), (e)(5), and (f)(3),

published October 16, 1991 (56 FR 51849), are effective November 14, 1991.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California, (213) 514–6660.

SUPPLEMENTARY INFORMATION: A final rule to implement Amendment 4 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region was published October 16, 1991 (56 FR 51849). Section 685.15 paragraphs (b)(2), (e)(5), and (f)(3) contained collection-of-information requirements subject to the Paperwork Reduction Act that could not be enforced before the Office of Management and Budget (OMB) approved them. Delayed enforcement of those paragraphs was announced in the October 16, 1991, rule pending OMB approval.

Section 685.15 paragraph (b)(2) requires longline vessel owners to submit documentation with their permit applications that identifies the owner(s) of the vessel and demonstrates that the owner(s) meet one or more of the eligibility criteria. Paragraph (e)(5) requires a vessel owner to submit documentation of any changes in ownership of the vessel with a permit transfer application. Paragraph (f)(3) requires partnerships or corporations to submit documentation of a vessel transfer, including the name of each new owner and respective ownership share for each owner of the corporation or partnership obtaining the permit.

OMB has approved these collection-of-information requirements under OMB control number 0648–0204. Section 685.15 paragraphs (b)(2), (e)(5), and (f)(3) are effective November 14, 1991, and will be enforced from that date on.

Dated: November 14, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–27784 Filed 11–14–91; 2:45 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 56, No. 224
Wednesday, November 20, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[No. LS-91-007]

7 CFR Parts 53 and 54

Standards for Grades of Lamb, Yearling Mutton, and Mutton Carcasses and Standards for Grades of Slaughter Lambs, Yearlings, and Sheep

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Proposed rule.

SUMMARY: The Department has been requested by sheep producers to revise the yield grade standards for ovine carcasses. The request cited a recognition that many of the lambs being produced today are too fat to meet the desires of consumers for lean meat products. The feeling was that a revised yield grading system, that would be widely used by the lamb industry, is essential to ensure the efficient production and marketing of the type of lamb products consumers want. The Department concurs with this conclusion. Therefore, AMS is proposing to revise the official U.S. standards for grades of lamb, yearling mutton, and mutton carcasses (and the related standards for grades of slaughter lambs, yearlings, and sheep) to: (1) Require that ovine carcasses be identified for both quality and yield grade when officially graded; (2) require that most of the kidney and pelvic fat be removed from ovine carcasses prior to grading; (3) shift and narrow the fat thickness range in each yield grade; and (4) eliminate consideration of leg conformation score in determining the yield grade.

DATES: Comments must be received by December 20, 1991.

ADDRESSES: Comments must be submitted in duplicate, signed, include the address of the sender, and should bear reference to the date and page number of this issue of the **Federal Register**. The comments should include definitive information which explains and supports the sender's views. Send comments to: Herbert C. Abraham; Livestock and Meat Standardization Branch; Livestock and Seed Division; AMS–USDA; room 2603-South Building; P.O. Box 96456, Washington, DC 20090–6456.

Comments will be available for public inspection during regular business hours in room 2603-South Building; 14th Street and Independence Avenue, SW; Washington, DC.

In addition, a public meeting will be held to give interested parties an opportunity to present oral, as well as written, views, data, or arguments on this proposal. The public meeting will be held in Denver, Colorado, on December 10, 1991, beginning at 9 a.m., local time, and continue until all interested parties have had an opportunity to make their presentations. To facilitate conduct of the meeting, persons who wish to be heard are requested to notify the Livestock and Meat Standardization Branch on or before December 6, 1991, stating that they wish to make a statement and how much time they will need to present the statement. However, any person who wishes to be heard at the meeting will be afforded an opportunity to be heard, whether or not that person has given such advance notice. A written copy of the speaker's statement is requested and may be presented to the presiding official at the meeting.

FOR FURTHER INFORMATION CONTACT: Herbert C. Abraham, Livestock and Meat Standardization Branch—202/720–4486

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule regarding grade standards for ovine carcasses and slaughter ovines was reviewed pursuant to Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified as a non-major rule because (1) it would not have an annual effect on the economy of $100 million or more, (2) it would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (3) it would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

Effect on Small Entities

This proposed action was reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities as defined by the RFA because use of the grade standards is voluntary and the grades are applied equally to all size entities covered by these regulations. In addition, the standards would be of benefit as an improved communication tool to reflect consumer preferences efficiently back to producers.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act do not apply to this rulemaking since it does not require the collection of any information or data.

Background

Yield grades for ovine carcasses and slaughter ovines were promulgated by the Department in 1969 for use on a voluntary basis by users of the Federal grading service. The development of the standards was prompted by the Department's recognition of significant differences in the fatness of sheep and thus in retail yields and value of the ovine carcasses being produced. The yield grade standards for ovines were patterned in concept upon yield grades for beef which were adopted in 1965, and were based on research (Journal of Animal Science 26:896) specifically designed to provide a scientific basis for grading.

The value of the yield grades for beef was recognized by the industry soon after they were adopted, and the use of those grades on a voluntary basis grew steadily between 1965 and 1975. By 1975 the ability of the yield grades to segregate retail value differences among beef carcasses had been accepted by the industry. At that time, at the request of the beef industry, the quality and yield grades were "coupled" to require both quality and yield grade identification when beef carcasses were officially graded. This resulted in almost all beef carcasses which were Prime or Choice

quality and Yield Grades 1, 2, or 3 being graded. Purchasers of ungraded beef carcasses were usually aware that they were purchasing lower quality or fatter beef. Significant price spreads developed between some of the yield grades, an indication of the importance that purchasers placed on yield grades. Between 1975 and 1989 the average yield grades for graded beef carcasses improved noticeably, indicating the shift in production to meet the demands for leaner products. In 1989 the beef quality and yield grades were "uncoupled" to allow the industry the opportunity to adopt new trimming technologies without preventing the quality grading of beef. Some opponents of "uncoupling" felt this would be the end of yield grading. However, since they had proven their value while the grades were "coupled," the amount of beef being yield graded has actually increased since 1989.

Although the beef yield grades have become widely used, resistance within the industry to the use of yield grades for lamb carcasses has resulted in lamb yield grades for the most part being unused. This resistance was partly a result of the recognition that the yield grades would be difficult to apply without significantly slowing down the grading operation, and that a large percentage of lambs being produced were Yield Grade 4's and 5's which might be difficult to sell if identified as such. Experienced observers recognize that many of the Yield Grade 4's and 5's occur at least partly as the result of very large amounts of kidney and pelvic fat in some carcasses. As early as 1973, the Department recognized that changes in the yield grades would be of benefit to everyone from producers to consumers. However, lack of interest, if not outright opposition, by the industry resulted in no action being taken until the present time.

In recent years it has become increasingly clear that today's consumers are demanding less fat in all of the products they buy. The beef and pork industries recognized these trends and have made significant strides in recent years in offering leaner cuts of meet to consumers. The lamb industry has lagged in this regard and only recently has there been a consensus of opinion that some action must be taken to produce a leaner product. As a first step in producing a leaner product, they realized that there must be a method of identifying value differences in lamb carcasses so that everyone would be compensated on the basis of the desirability of the type of product they produced. A tool for doing this is yield grades.

As adopted in 1969 (**Federal Register**, January 8, 1969), the yield grades for ovine carcasses are based on: (1) The thickness of external fat over the ribeye; (2) the amount of kidney and pelvic fat inside the carcass, and (3) the leg conformation score. Use of the grades is voluntary on the part of the users of the grading service. Although a vast majority of the lamb carcasses which qualify for Prime and Choice are graded for quality, almost no lamb carcasses have been identified for yield grade in the 22 years of availability of the service. In their request to the Department, the lamb producers, represented by the American Sheep Industry Association (ASI), recognized that there would be no benefit derived if the yield grades were not used. Therefore, in order to assure their use, they requested that the regulations be changed to require that all ovine carcasses officially graded be identified for both quality grade and yield grade, thereby providing the industry with the most complete information available to identify differences in value.

The kidney and pelvic fat in the interior of the ovine carcass has little or no value to retailers and consumers. However, because it contributes to dressing percentage (carcass weight as a percent of live weight), it does provide an economic incentive to make lambs overfat when producers/feeders are paid on the basis of carcass weights without consideration of yield grade. Experienced observers know that sometimes the kidney and pelvic fat in a lamb carcass can exceed 10 percent of the carcass weight. The National Lamb Carcass Cutability Survey conducted by Colorado State University in 1987 (CSU 1987) confirmed this observation. Removal of this fat from the carcass would make it more attractive to purchasers of lamb carcasses and remove an incentive to produce excess fat. Therefore, ASI requested that the regulations be amended to require the removal of kidney and pelvic fat prior to grading of ovine carcasses. The actual weight and value of the retail cuts from a lamb carcass is the same whether the kidney and pelvic fat are present or removed. However, the percentage of retail cuts from a carcass is increased when the kidney and pelvic fat are removed because the same cuts come from a lighter weight carcass. Thus the per pound value of a carcass is greater for a carcass with the kidney and pelvic fat removed. Because of the decreased dressing percentage, and increased carcass value per pound, it will be necessary for the industry to make some adjustments in the way lambs and lamb carcasses are traded. However, the changes should be clearly in the favor of those producers of the more desirable kind of lambs. One argument against kidney and pelvic fat removal is that it is a better indication of seam fat in cuts than is external fat. There is some evidence to suggest that this might be true, especially in the shoulder. But the shoulder is the least valuable of the major cuts, and the benefits of kidney and pelvic fat removal far outweight the slight loss in predictability of seam fat.

The ASI request asked for the removal of "all" kidney and pelvic fat for ovine carcasses to be eligible for grading. Since removal of every bit of kidney and pelvic fat would not be feasible under some circumstances, the Department felt that some tolerance should be allowed for this requirement. Grading experts believed that 1.0 percent or more kidney and pelvic fat might be present when inexperienced evaluators may consider it all to be removed. Demonstration of kidney and pelvic fat removal from hot and chilled carcasses, followed by discussions with industry representatives, resulted in agreement that up to 1.0 percent of the carcass weight in kidney and pelvic fat should be allowed in carcasses eligible for grading. This requirement could be accomplished with minimal effort on the slaughter floor, but would require more work to achieve on chilled carcasses with large amounts of these fats. Allowing more than 1.0 percent to remain was not considered to be acceptable since larger amounts would have a significant effect on trimmed cut yields from the carcasses.

Leg conformation scores are a part of the percent ovine yield grades, but their contribution to predictions of yields of trimmed cuts (as shown by the B value for leg score in the yield grade equation) is recognized as being slight. Because leg conformation is determined by visual inspection, variation in application of this factor is subject to error which may exceed its value in grading, prompting ASI to suggest that leg score be dropped as a grade factor.

With most of the kidney and pelvic fat removed from the carcass, and leg conformation score dropped as a grade factor, only fat thickness over the ribeye is left as the basis for determining the yield grade of ovine carcasses. Based on evaluation of a number of research studies published in the Journal of Animal Science and elsewhere, it was concluded that this factor alone was of sufficient importance that it could be the basis of an accurate grading system. No

other factor which would lend itself to use in a grading system was considered to be of sufficient value to justify adding it as a factor. However, compared to the current grading system, ASI suggested that the grade lines be shifted and the fat thickness width for each grade be narrowed to be more meaningful. ASI originally suggested the following grade lines: Yield Grade 1—0.10 to 0.18 inch; Yield Grade 2—0.19 to 0.27 inch; Yield Grade 3—0.28 to 0.36 inch; Yield Grade 4—0.37 to 0.45 inch; and Yield Grade 5—9.46 inch and up.

Since receiving the initial request for revision of the grade standards, representatives of ASI and USDA have met to discuss the implications of the various changes proposed. In addition, two studies have been conducted, in conjunction with the lamb industry and land-grant universities, to ascertain the best way to apply the proposed standards. Information collected has been analyzed by Colorado State University and is available upon request. The ASI proposal had a range of 0.09 inch of fat in each yield grade. From a grading application standpoint a range of 0.10 in each grade would be much easier to apply. Since 0.25 inch of fat was considered to be the line between desirable and somewhat overfat lambs, this point was selected as the maximum fatness for Yield Grade 2. The other grades were scaled in 0.10 inch increments from that point. Also, carcasses with less than 0.10 inch of fat cannot be excluded from the grading system and therefore must be included in Yield Grade 1. Colorado State University and Texas A&M University have conducted a number of studies of lamb carcass cutability in cooperation with USDA. Based on those studies, it was decided to base the revised yield grades on a combination of boneless and semiboneless cuts trimmed to 0.10 inch of fat. Expected yields for each yield grade and further information on these studies is available and will be published separately.

One consideration in these studies was the possibility of using body wall thickness as an alternative to fat thickness over the ribeye to determine yield grade. It was believed that body wall thickness would be easier and more accurate for use in an electronic grading system (previous research by University of Wyoming researchers and others has shown that body wall thickness was nearly as good as fat over the ribeye in predicting yields). This could work if a constant body wall thickness could be associated with a given thickness of fat over the ribeye. However, observation of a number of carcasses, and subsequent analysis of a number of carcass measurements, showed that for a given fat thickness the carcass weight must be considered if body wall thickness is substituted. A grading system using body wall thickness and carcass weight is feasible, but it would require weighing of carcasses and making a measurement that is difficult to obtain rapidly. Such a grading system would be more complicated and more difficult to apply than the proposed grading system using only fat over the ribeye.

A major concern addressed in the studies conducted was the ability of Federal meat graders to rapidly and accurately apply the yield grades. An electronic measuring device and various probes and rulers were used to measure fat over the ribeye and the body wall thickness on both unribbed and ribbed lamb carcasses. These measurements were compared to visual evaluations of fat thickness made by trained evaluators. These studies supported the use of visual evaluations as an acceptable method of evaluating yield grade for most ovine carcasses. However, measurement of fat over the ribeye will improve accuracy, and it will be necessary for graders to develop their evaluation skill by measuring the fat on a number of carcasses over a period of time. Ribbing or slicing through the fat over the ribeye could increase the number of carcasses which can be graded without measuring or facilitate measurements for graders. Even under the best of circumstances, however, it must be recognized that the level of accuracy expected in quality grading cannot be achieved in yield grading. However, it is fully expected that yield grading will increase the time and costs of grading ovine carcasses only slightly, and that groups of carcasses sorted by yield grade will be very uniform in appearance even if there is some variation in measured fatness within groups and some overlap between groups. A major concern in application of yield grades is that the measures used to determine the grade must be a true reflection of the fatness of the carcass. Therefore, the standards will prohibit trimming of fat to influence the yield grade. Also, since the predicted yields would not apply to trimmed carcasses or small cuts, the standards will allow the removal of yield grade designations from all cuts or carcasses with a maximum of 0.25 inch of fat at any point or from all boneless subprimal or retail cuts.

The Department has developed a proposal to revise the ovine carcass standards to accomplish the goals stated by ASI in its request for revisions. The lamb industry is nearly unanimous in recognition of the need to reduce fatness on lamb carcasses. This recognition has been communicated through expression of support for the ASI request by a majority of the lamb industry. There is, not unexpectedly, some opposition to parts of the request from some segments of the industry, most notably in the lamb feeding segment.

The Department recognizes that kidney and pelvic fat removal will create some short-term problems for the industry which will result in some opposition to the proposed changes. However, the Department feels that the proposed changes are in the overall best long-term interests of both consumers and the entire lamb industry. Therefore, the following changes are proposed: (1) All ovine carcasses would be identified for both quality and yield grades when officially graded; (2) carcasses with more than 1.0 percent of their weight in kidney and pelvic fat would not be eligible for grading; (3) leg conformation scores would be dropped as a grade factor and the yield grade would be based on fat thickness over the ribeye, and (4) the fat thickness range for each yield grade would be as follows: Yield Grade 1—0.00 to 0.15 inch; Yield Grade 2—0.16 to 0.25 inch; Yield Grade 3—0.26 to 0.35 inch; Yield Grade 4—0.36 to 0.45 inch; and Yield Grade 5—0.46 inch fat and greater.

The standards for slaughter ovines, which are based on the ovine carcass standards, would be revised to reflect the changes proposed for the ovine carcass grade standards. Grades for slaughter ovines are intended to be directly related to the grades of the carcasses they produce.

List of Subjects

7 CFR Part 53

Grading and certification, Standards, Lambs, Yearlings, Sheep.

7 CFR Part 54

Grading and certification, Standards, Lamb, Yearling mutton, Mutton, Ovine carcasses, Meat and meat products.

Accordingly, it is proposed that certain sections of the standards appearing in 7 CFR part 54 as they relate to meats, prepared meats, and meat products, and certain sections of the standards appearing in 7 CFR part 53 as they relate to livestock, be revised as set forth below.

PART 53—LIVESTOCK (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for part 53 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, sec. 203, 205, as amended, 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622 and 1624)

2. 7 CFR 53.132 and 7 CFR 53.136 are revised to read as follows:

§ 53.132 Application of standards.

(a) *Grade factors.* Grades of slaughter ovines are intended to be directly related to the grades of the carcasses they produce. To accomplish this, these slaughter ovine grade standards are based on factors which are directly related to the quality grades and yield grades of ovine carcasses. The standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade standards are further divided into three sections applicable to slaughter lambs, slaughter yearlings, and slaughter sheep. There are four quality grades within each class—Prime, Choice, Good, and Utility for lambs and yearlings; and Choice, Good, Utility, and Cull for sheep. Also, there are five yield grades applicable to all classes of slaughter ovine, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability. When officially graded slaughter ovines are identified for both quality and yield grades.

(b) *General principles.* (1) The determination of the carcass grade that the slaughter animal will produce requires the exercise of well-regulated judgment. Each animal presents a different combination of the grade-determining factors. Animals frequently have characteristics associated with two or more grades. Therefore, a composite evaluation of all inherent physical characteristics is essential for accuracy in determining grade.

(2) The accurate determination of the grade of a slaughter ovine requires handling in addition to visual observation. The length and density of the fleece vary greatly with individuals, and the thickness and firmness of the flesh covering of wooled ovine can only be roughly estimated without handling. The technique used in handling usually varies with the degree of precision in mind as well as the experience of the grader. Experienced graders may find one quick handling statisfactory. This usually consists of placing one open hand over the back and ribs in simultaneous motion. The thumb extends just over the backbone, while the fingers, which are held close together, cover the rib section, and pressure is applied very lightly with a slight lateral and forward and backward motion. The generally accepted technique of handling ovines where time permits, and especially when noting slight differences between individuals, is to handle forward from the dock to neck with the open hand, fingers together, laid flat and with a slight lateral motion. Both hands may be used, one on each side, in a similar manner to determine the fleshing over the shoulders, ribs, and hips. Regardless of the method, considerable experience is necessary in handling ovine to accurately determine the grade.

(c) *Quality grades.* (1) The quality grade of a slaughter ovine is determined by a composite evaluation of two general considerations which influence carcass excellence: conformation and quality—fatness, maturity, and other indicators of differences in palatability of the lean flesh.

(2) Conformation refers to the general body proportions of the animal and to the ratio of meat to bone. Although primarily determined by the inherent muscular and skeletal systems, it is also influenced by the degree of fatness. However, external fat in excess of that normally left on retail cuts is not considered in evaluating conformation. The conformation descriptions included in each of the grade specifications refer to the thickness of muscling and to an overall degree of thickness and fullness of the animal. Slaughter ovines which meet the requirements for thickness of muscling specified for a grade will be considered to have conformation adequate for that grade despite the fact that, because of a lack of fatness, they may not have the overall degree of thickness and fullness described. Conformation is evaluated by averaging the conformation of the various component parts, giving special consideration to those parts of the body producing the more desirable cuts of meat—loin, hotel rack, and leg.

(3) In grading slaughter ovines, quality of the lean must be evaluated indirectly by considering the quantity, distribution, and type of fat or finish in relation to the maturity of the animal being graded. Finish is evaluated by noting variations in the fullness and apparent thickness of the fat covering over the back, loin, ribs, and legs. A high degree of desirable finish is evidenced by a firm, smooth layer of fat which is uniformly distributed over the body. To be eligible for the Prime or Choice grades, a slaughter ovine must have at least a very thin covering of external fat over the top of the shoulders and the outside of the legs, and the back must have at least a thin (approximately 0.07 inch) covering of fat.

(4) Although the market designation of slaughter ovines is usually made by classes, the quality standards are intended to apply to all classes without regard to sex condition. However, male animals which have thick, heavy necks and shoulders typical of uncastrated males are discounted in grade in proportion to the extent to which these characteristics are developed. Such discounts may vary from less than one-half a grade in young lambs in which such characteristics are barely noticeable, to as much as two full grades in mature rams in which such characteristics are very pronounced.

(d) *Yield grades.* (1) The yield grades for slaughter ovines (like the grades for ovine carcasses) are based on the thickness of fat over the ribeye. As the amount of external fat increases, the percent of retail cuts decreases and the numerical yield grade increases. The adjusted fat thickness range for each yield grade is as follows: Yield Grade 1—0.00 to 0.15 inch; Yield Grade 2—0.16 to 0.25 inch; Yield Grade 3—0.26 to 0.35 inch; Yield Grade 4—0.36 to 0.45 inch; and Yield Grade 5—0.46 inch and greater. On slaughter ovines which do not have a normal distribution of external fat, the fat thickness estimate over the ribeye may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the animal. In fact an evaluation of overall fatness, or direct estimation of yield grade may be preferred by experienced evaluators.

(2) The overall fatness of an animal can be determined best by giving particular attention to those parts on which fat is deposited at a faster-than-average rate. These include the back, loin, rump, flank, breast, and cod or udder. As ovines increase in fatness these parts become progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, particularly the legs. However, since an animal's thickness of muscling also affects the development of its various parts, this also needs to be considered when evaluating the degree of fatness. In thinly muscled ovines with a low degree of finish, the width of the back usually will be greater than the width through the center of the legs. Conversely, in thickly muscled ovines with a low degree of finish, the thickness through the legs will be greater than through the back and the back will be full and rounded. At an intermediate degree of fatness, ovine which are thinly muscled will be considerably wider through the back than through the leg and will be nearly

flat across the back. Thickly muscled ovines that have an intermediate degree of fatness will be about the same width through the legs as through the back and the back will appear only slightly rounded. Very fat ovines will be wider through the back than through the legs, but this difference will be greater in thinly muscled ovines than in those that are thickly muscled. As ovines increase in fatness, they also become deeper bodied because of large deposits of fat in the flanks and breast and along the underline.

(e) *Other considerations.* (1) Other factors, such as sex, heredity, and management also may affect the development of grade-determining characteristics in slaughter ovines. Although these factors do not lend themselves to descriptions in the standards, the use of factual information of this nature is justified in determining the grade of slaughter ovines. The ability to make proper allowances for the effects of genetic and management factors on the appearance of grade-determining characteristics must be developed through experience.

(2) Slaughter ovines qualifying for any particular grade may vary with respect to the relative development of their individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more typical of ovine in another grade. Because it is impracticable to describe the nearly infinite number of such recognizable combinations of characteristics, the standards describe only ovines which have a relatively similar development of the various quality and yield grade-determining factors and which are near the lower limits of quality or yield for the grade. However, examples of the extent to which superiority in quality-indicating characteristics may compensate for deficiencies in conformation, and vice versa, are indicated for each quality grade. In the slaughter lamb quality grade standards, the requirements are given for two maturity groups. In the yield grade standards, fat thickness descriptions are give for slaughter ovines which are near the maximum fatness for each of the first four yield grades.

§ 53.136 Specifications for official U.S. standards for grades of slaughter lambs, yearlings, and sheep (yield).

(a) *Yield Grade 1.* Yield Grade 1 slaughter lambs, yearlings, and sheep produce carcasses which have very high yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 1 (near the borderline between Yield Grade 1 and Yield Grade 2) will have only a slightly thin covering of external fat over the back, loin, and ribs, and a slightly thick covering of fat over the rump. They are slightly shallow through the flanks and the brisket and cod or udder have some evidence of fullness. In handling, the backbone, ribs, and ends of bones at the loin edge are slightly prominent. A carcass produced from slaughter ovines of this description might have 0.15 inch of fat over the ribeye.

(b) *Yield Grade 2.* Yield Grade 2 slaughter lambs, yearlings, and sheep produce carcasses with high yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 2 (near the borderline between Yield Grade 2 and Yield Grade 3) will have a slightly thick layer of external fat over the back, loin and ribs, and a thick covering of fat over the rump. They tend to be slightly deep and full through the flanks and the brisket and cod or udder are moderately full. In handling, the backbone, ribs, and ends of bones at the loin edge are readily discernible. A carcass produced from slaughter ovines of this description might have 0.25 inch of fat over the ribeye.

(c) *Yield Grade 3.* Yield Grade 3 slaughter lambs, yearlings, and sheep produce carcasses with intermediate yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 3 (near the borderline between Yield Grade 3 and Yield Grade 4) will have a thick covering of fat over the back and loin and a very thick covering of fat over the rump and down over the ribs. The flanks are deep and full and the brisket and cod or udder are full. In handling, the backbone, ribs, and ends of bones at the loin edge are difficult to distinguish. A carcass produced from slaughter ovines of this description might have 0.35 inch of fat over the ribeye.

(d) *Yield Grade 4.* Yield Grade 4 slaughter lambs, yearlings, and sheep produce carcasses with moderately low yields of boneless retail cuts. Ovines with characteristics qualyfing them for the lower limits of Yield Grade 4 (near the borderline between Yield Grade 4 and Yield Grade 5) will have a very thick covering of fat over the back and loin, and an extremely thick covering of fat over the rump and down over the ribs. The flanks are moderately deep and full and the brisket and cod or udder are full. In handling, the backbone, ribs, and ends of bones at the loin edge are not discernible. A carcass produced from slaughter ovines of this description might have 0.45 inch of fat over the ribeye.

(e) *Yield Grade 5.* Yield Grade 5 slaughter lambs, yearlings, and sheep produce carcasses with low yields of boneless retail cuts. Ovines of this grade consist of those not meeting the minimum requirements of Yield Grade 4 because of more fat.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for part 54 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, sec. 203, 205, as amended, 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622 and 1624)

2. 7 CFR 54.123 and 7 CFR 54.127 are revised to read as follows:

§ 54.123 Applications of standards.

(a) *Grade Factors.* (1) The grade of an ovine carcass is based on separate evaluations of two general consideration: Palatability—indicating characteristics of the lean and conformation, herein referred to as "quality," and the estimated percent of closely trimmed (0.10 inch fat or less), semi-boneless and boneless, major retail cuts to be derived from the carcass, herein referred to as "yield." The term "quality" has traditionally been used to refer only to the palatability-indicating characteristics of the lean without reference to conformation. Its use herein to include consideration of conformation is not intended to imply that variation in conformation are either directly or indirectly related to differences in palatability. When officially graded by a Federal meat grader, the grade of an ovine carcass shall consist of a combination of both a quality grade and a yield grade. The yield grade designation may be removed from officially graded ovine carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts on which the external fat (natural or trimmed) does not exceed 0.05 inch in thickness at any point. The yield grade designation may be removed from boneless subprimal cuts or retail cuts (bone-in or boneless) 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.

(2) The grade standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade section is divided further into three separate sections applicable to lamb, yearling mutton, and mutton carcasses. There are four quality grade within each class—Prime, Choice, Good, and Utility for

lamb and yearling mutton, and Choice, Good, Utility, and Cull for mutton. There are five yield grades applicable to all classes of ovine carcasses, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(3) To be eligible for grading, ovine carcasses cannot have more than 1.0 percent of their carcass weight in kidney and pelvic fat. If more than 1.0 percent of kidney and pelvic fat is present in the carcass naturally, the excess fat must be removed prior to offering it for grading. The fact considered in making this determination includes the kidney knob (kidney and surrounding fat) and the lumbar and pelvic fat in the loin and leg. The amount of these fats is evaluated subjectively and expressed as a percent of the carcass weight. Trimming of external fat for the purpose of altering the yield grade shall be considered a fraudulent or deceptive practice in connection with the services requested for such carcasses. Carcasses that have has external fat or lean removed for Federal meat inspection compliance may be graded only if the official grader determines that an accurate grade determination can be made. Entire carcasses with more than minor amounts of lean removed from the major wholesale cuts (leg, loin, rack, and shoulder) shall not be eligible for a grade determination. However, the portions of such carcasses not affected by lean removal shall be eligible for grading, provided an accurate grade determination can be made.

(4) Carcasses qualifying for any particular grade may vary with respect to the relative development of their individual grade factors, and there will be carcasses which qualify for a particular grade in which the development of some of these individual grade factors will be more typical of other grades. Because it is impractical to describe the nearly limitless number of such recognizable combinations of characteristics, the standards for each quality and yield grade describe only carcasses which have a relatively similar development of individual factors and which are also representative of the lower limits of each grade. In the quality grade standards, examples of the extent to which superiority in quality may compensate for deficiencies in conformation, and vice versa, are indicated for each grade. In the Prime and Choice grades certain minimum requirements for external fat covering also are indicated.

(b) *Quality grades.* (1) The quality grade of an ovine carcass is based on separate evaluations of two general considerations—the quality, or the palatability-indicating characteristics of the lean, and the conformation of the carcass.

(2) Conformation is the manner of formation of the carcass with particular reference to the relative development of the muscular and skeletal systems, although it also is influenced to some extent by the quantity and distribution of external finish. However, external fat in excess of that normally left on retail cuts is not considered in evaluating conformation. The conformation descriptions included in each of the grade specifications refer to the thickness of muscling and to an overall degree of thickness and fullness of the carcass. However, carcasses which meet the requirements for thickness of muscling specified for a grade will be considered to have conformation adequate for that grade despite the fact that, because of a lack of fatness, they may not have the overall degree of thickness and fullness described. The conformation of a carcass is evaluated by averaging the confirmation of its various component parts, giving consideration no only to the proportion that each cut is of the carcass weight but also to the general desirability of each cut as compared with other cuts. Superior conformation implies a high proportion of edible meat to bone and a high proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very thickly muscled, very wide and thick in relation of their length, and which have a very plump, full, and well-rounded appearance. Inferior conformation implies a low proportion of edible meat to bone and a low proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very thinly muscled, very narrow in relation to their length, and which have a very angular, thin, and sunken appearance.

(3) The quality of the lean flesh is best evaluated by consideration of its texture, firmness, and marbling, as observed in a cut surface, in relation to the apparent maturity of the animal from which the carcass was produced. However, in grading ovin carcasses, direct observation of these characteristics usually is not possible. Therefore, the quality of the lean is evaluated indirectly by giving consideration to the quantity of fat streakings within and upon the inside flank muscles in relation to the apparent evidence of maturity. Within each grade, the requirements for flank fat streakings increase progressively with evidences of advancing maturity. To facilitate the application of this principle, the relationship between flank fat streakings, maturity, and quality is shown in Figure 1. Flank fat streakings are categorized in descending order of quantity as follows: Abundant, moderately abundant, slightly abundant, moderate, modest, small, slight traces, practically devoid, and devoid. In addition, the standards specify a minimum degree of firmness of lean flesh and external fat for each grade and a minimum degree of external fatness for carcasses in the Prime and Choice grades. The different degrees of firmness in descending order of firmness are: Extremely firm, tends to be extremely firm, firm, tends to be firm, moderately firm, tends to be moderately firm, slightly firm, tends to be slightly firm, tends to be slightly soft, slightly soft, tends to be moderately soft, moderately soft, soft, and very soft.

BILLING CODE 3410-02-M

RELATIONSHIP BETWEEN FLANK FAT STREAKINGS, MATURITY AND QUALITY

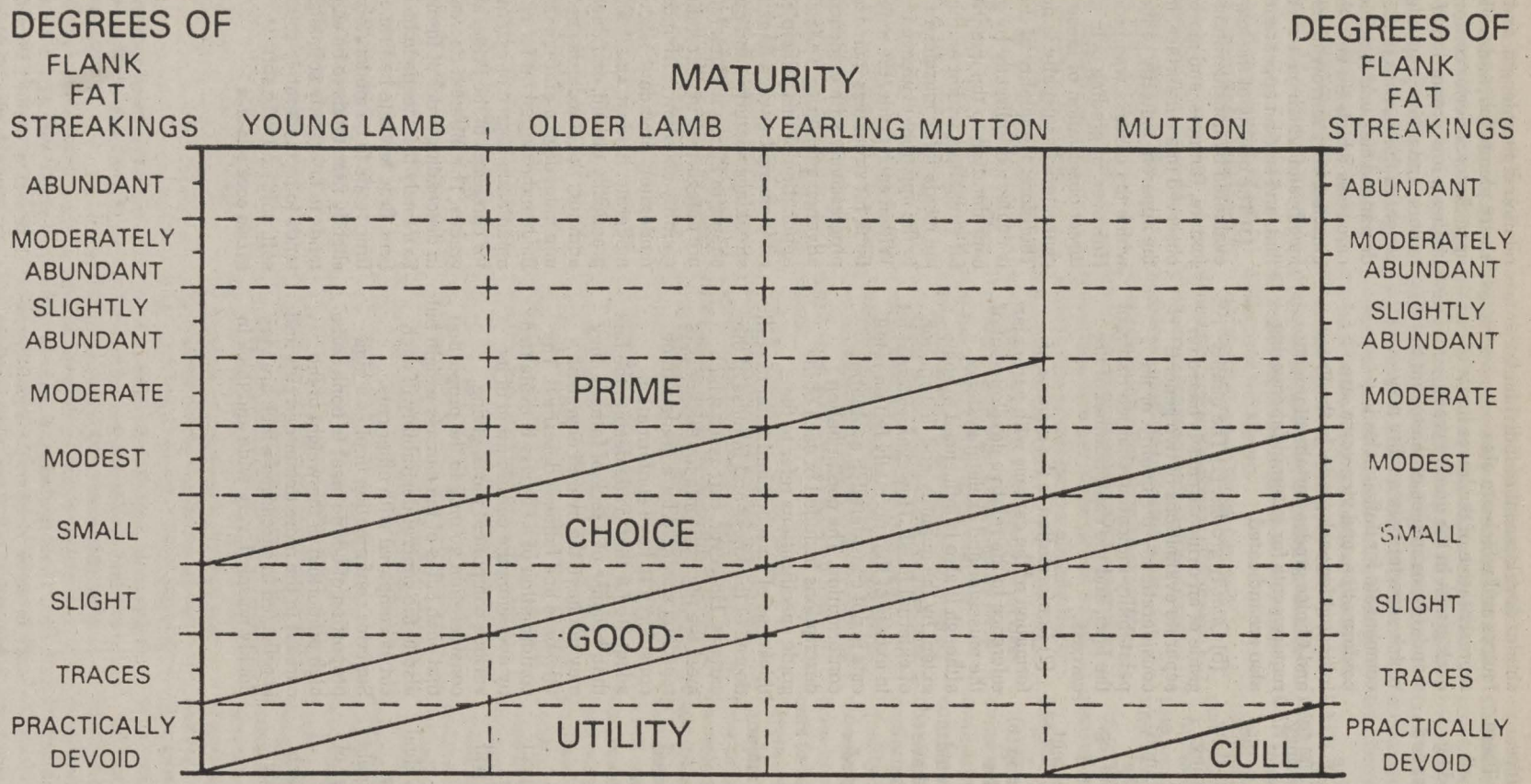

Figure 1

BILLING CODE 3410-02-C

(4) The quality standards are intended to apply to all ovine carcasses without regard to the apparent sex condition of the animal at time of slaughter. However, carcasses from males which have thick, heavy necks and shoulders typical of uncastrated males are discounted in quality grade in accord with the extent to which these characteristics are developed. Such discounts may vary from less than one-half grade in carcasses from young lambs in which such characteristics are barely noticeable to as much as two full grades in carcasses from mature rams in which such characteristics are very pronounced.

(c) *Yield grades.* (1) The yield grade of an ovine carcass is based on the amount of external fat present.

(2) The amount of external fat for carcasses with a normal distribution of this fat is evaluated in terms of its actual thickness over the center of the ribeye muscle and is measured perpendicular to the outside surface between the 12th and 13th ribs. On carcasses which do not have a normal distribution of external fat, the fat thickness measurement over the ribeye may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass. In determining the amount of this adjustment, particular attention is given to the amount of external fat on those parts where fat is deposited at a faster-than-average rate, particularly the rump, outside of the shoulders, breast, flank, and cod or udder. Thus, in a carcass which is fatter over these parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted upward. Conversely, in a carcass which has less fat over these parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted downward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of 0.05 inch is not uncommon. In some carcasses a greater adjustment may be necessary. As a guide in making these adjustments, the standards for each yield grade include an additional related measurement—body wall thickness, which is measured 5 inches laterally from the middle of the backbone between the 12th and 13th ribs. As the amount of external fat increases, the percent of retail cuts decreases—each 0.05 inch change in adjusted fat thickness over the ribeye changes the yield grade by one-half of a grade.

(3) When the ribeye is exposed for grading the official grader may estimate or measure the fat thickness, as necessary. On intact ovine carcasses, the official determination of the external fat thickness is made by probing with an approved measuring device. Also, visual evaluations of the fat thickness of intact carcasses may be made at the discretion of the official grader. Because small variations in fat thickness may change the final yield grade significantly, it is essential that an accurate fat thickness evaluation be made. Therefore, official graders are expected to take the time necessary to make accurate measurements when visual evaluations are in doubt. Applicants for grading can facilitate visual evaluations by cutting through the fat down to the lean over the ribeye on at least one side of the carcass after carcasses are properly chilled. Such a cut will greatly enhance both the speed and accuracy of yield grade evaluations.

(4) The adjusted fat thickness range for each yield grade is as follows: Yield Grade 1—0.00 to 0.15 inch; Yield Grade 2—0.16 to 0.25 inch; Yield Grade 3—0.26 to 0.35 inch; Yield Grade 4—0.36 to 0.45 inch; and Yield Grade 5—0.46 inch and greater. For carcass evaluation programs and other purposes when position within a yield grade is desired, each 0.01 inch change in fatness within these ranges would equate to a change of one-tenth of a yield grade. The following equation may be used to convert adjusted fat thickness to yield grade: Yield Grade = 0.4 + (10 × Adjusted fat thickness, inches).

(5) The yield grade standards for each of the first four yield grades list characteristics of a carcass with descriptions of the amount of external fat normally present on various parts of the carcass. These descriptions are not specific requirements—they are included only as illustrations of carcasses which are near the borderline between grades. For example, the characteristics listed for Yield Grade 1 represent a carcass which is near the borderline of Yield Grade 1 and Yield Grade 2. These descriptions facilitate the visual determination of the yield grade without making detailed measurements.

§ 54.127 Specifications for official U.S. standards for grades of carcass lamb, yearling mutton, and mutton (yield).

(a) The yield grade of an ovine carcass or side is determined on the basis of the adjusted fat thickness over the ribeye muscle between the 12th and 13th ribs. The adjusted fat thickness range for each yield grade is as follows: Yield Grade 1—0.00 to 0.15 inch; Yield Grade 2—0.16 to 0.25 inch; Yield Grade 3—0.26 to 0.35 inch; Yield Grade 4—0.36 to 0.45 inch; and Yield Grade 5—0.46 inch and greater.

(b) The following descriptions provide a guide to the characteristics of carcasses in each yield grade to aid in determining yield grades subjectively.

(1) *Yield Grade 1.* (i) A carcass in Yield Grade 1, which is near the borderline with Yield Grade 2, usually has only a thin layer of external fat over the back and loin and slight deposits of fat in the flanks and cod or udder. There is usually a very thin layer of fat over the top of the shoulders and the outside of the legs. Muscles are usually plainly visible on most areas of the carcass.

(ii) A carcass in Yield Grade 1 with the maximum amount of fat allowed would have an adjusted fat thickness of 0.15 inch. Such a carcass with normal fat distribution and weighing 55 pounds would also have a body wall thickness of about 0.75 inch, and one weighing 75 pounds would have a body wall thickness of about 0.85 inch.

(2) *Yield Grade 2.* (i) A carcass in Yield Grade 2, which is near the borderline with Yield Grade 3, usually has a slightly thin layer of fat over the back and loin and the muscles of the back are not visible. The top of the shoulders and the outside of the legs have a thin covering of fat and the muscles are slightly visible. There are usually small deposits of fat in the flanks and cod or udder.

(ii) A carcass in Yield Grade 2 with the maximum amount of fat allowed would have an adjusted fat thickness of 0.25 inch. Such a carcass with normal fat distribution and weighing 55 pounds would also have a body wall thickness of about 0.90 inch, and one weighing 75 pounds would have a body wall thickness of about 1.00 inch.

(3) *Yield Grade 3.* (i) A carcass in Yield Grade 3, which is near the borderline with Yield Grade 4, usually has a moderately thick covering of fat over the back. The top of the shoulders are completely covered, and the legs are nearly completely covered, although the muscles on the outside of the lower legs are visible. There usually are slightly large deposits of fat in the flanks and cod or udder.

(ii) A carcass in Yield Grade 3 with the maximum amount of fat allowed would have an adjusted fat thickness of 0.35 inch. Such a carcass with normal fat distribution and weighing 55 pounds would also have a body wall thickness of about 1.05 inches, and one weighing 75 pounds would have a body wall thickness of about 1.15 inches.

(4) *Yield Grade 4.* (i) A carcass in Yield Grade 4, which is near the borderline with Yield Grade 5, usually is

completely covered with fat. There usually is a very thick covering of fat over the back and a slightly thick covering over the shoulders and legs. There usually are large deposits of fat in the flanks and cod or udder.

(ii) A carcass in Yield Grade 4 with the maximum amount of fat allowed would have an adjusted fat thickness of 0.45 inch. Such a carcass with normal fat distribution and weighing 55 pounds would also have a body wall thickness of about 1.20 inches, and one weighing 75 pounds would have a body wall thickness of about 1.30 inches.

(5) *Yield Grade 5.* A carcass in Yield Grade 5 has an adjusted fat thickness of more than 0.45 inch. The external fat covering on most parts of the carcass is usually greater than that described for Yield Grade 4.

Done at Washington, DC, on November 15, 1991.

Daniel Haley,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-171-AD]

Airworthiness Directives; Boeing Model 737 and 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 737 and 757 series airplanes, which would require the reinforcement of the overhead stowage bins, and the replacement of certain drag link and tie rod assemblies. This proposal is promoted by testing which demonstrated that the bins are not able to withstand ultimate load at the current maximum allowable weight levels. This condition, if not corrected, could result in the bins separating from their attachments and injuring passengers in the event of an accident or emergency landing.

DATES: Comments must be received no later than January 10, 1992.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-171-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Pliny C. Brestel, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2783. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-171-AD." The post card will be date/time stamped and returned to the commenter.

DISCUSSION: Recent static and dynamic testing of the overhead stowage bins installed on certain Model 737 and 757 series airplanes was conducted at the Transportation Research Center in Ohio, and demonstrated that the bins are unable to withstand the 9g ultimate crashworthiness load when loaded to the current maximum allowable weights. The ultimate load is defined as the maximum load the airplane is expected to experience during its operational design life. The bins would only be expected to experience ultimate load in the event of an accident or an emergency landing. As a result of this testing, Boeing reviewed the bin design and concluded that the attachment of the drag link fitting is understrength. Core shear failure occurred where the drag link fitting is attached to the bin. Also, in some instances the drag link assembly and the tie rod assemblies are understrength. Failure of the tie rod assemblies, the drag link assembly, or the drag link fitting attachment could result in bins separating from the support structure during an accident or emergency landing.

The FAA has reviewed and approved Boeing Alert Service Bulletins 737-25A1283 and 757-25A0121, both dated September 19, 1991, which describe procedures for reinforcing the bins using a reinforced bin design for the drag link fitting attachment.

Boeing has advised the FAA that it is currently preparing Alert Service Bulletins 737—25A1291 and 757—25A0130, which will describe procedures for modification of the drag link and the tie rod assemblies using redesigned components. These service documents, however, are not expected to be released until December 1991.

Since the addressed unsafe condition is likely to exist on other airplanes of this same type design, an AD is proposed which would require the installation of a reinforcement for the overhead bins and the replacement of certain drag link and tie rod assemblies. The bin modification would consist of a doubler bonded to the interior of the bin, and attached with four through-bolts common to the drag link fitting. Installation of the reinforcement may require removal of the bins.

There are approximately 1,046 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 519 airplanes of U.S. registry would be affected by this AD. It would take approximately 112 manhours per airplane to modify the bins and replace the drag link and tie rod assemblies, at an average labor cost of $55 per manhour. Based on these figures, the cost impact of the AD on U.S. operators of Boeing Model 737 series airplanes is estimated to be $3,197,040.

There are approximately 361 Model 757 series airplanes of the affected design in the worldwide fleet. It is