

# Proposed Rules

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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

#### 7 CFR Part 70

[Docket No. PY-97-004]

#### Voluntary Poultry and Rabbit Grading Regulations

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) proposes to amend the regulations governing the voluntary poultry and rabbit grading programs. The proposed revisions would simplify the definition about feathers on poultry, provide an alternative grademark for poultry and rabbit products, provide for the use of a "Prepared From" grademark to identify specialized products that originate from officially graded poultry, change the sample plan used by graders, and increase the lighting intensity required at grading stations. From time to time, sections in the regulations are affected by changes in poultry processing technology. This rule updates the regulations to reflect these changes.

**DATES:** Comments must be received on or before January 30, 1998.

**ADDRESSES:** Send written comments to Douglas C. Bailey, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0259, 1400 Independence Avenue, SW, Washington, D.C. 20250-0259. Comments received may be reviewed at this location between 8:00 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays. State that your comments refer to Docket No. PY-97-004.

**FOR FURTHER INFORMATION CONTACT:** Rex A. Barnes, Chief, Grading Branch, 202-720-3271.

**SUPPLEMENTARY INFORMATION:** This proposed rule has been determined to be not significant for purposes of

Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

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

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities as defined in the RFA (5 U.S.C. 601). There are some 200 plants using the Agency's voluntary poultry grading services and many of them are small entities.

The definition *Free from protruding pinfeathers, diminutive feathers, or hairs* would be simplified by removing the words "pinfeathers" and "diminutive," words no longer commonly used when discussing feathers and poultry quality. Additionally, in the definition for *Ready-to-cook poultry*, the word "pinfeathers" would be changed to "feathers." These changes merely reflect current practices and should not have any additional economic impact on entities using voluntary poultry grading services.

One proposal would allow poultry and rabbit processors to use a shield displayed in three colors as an alternative form of the USDA grademark to officially identify USDA graded products. Similarly, another proposal would allow producers of products originating from A quality poultry, for which there are no U.S. grade standards, to use a "Prepared From" grademark on packaging materials. These proposals would give processors greater flexibility in packaging and marketing their products. Since it is at the processors' discretion to use these proposals, any economic impact caused by these proposals will be by the choice of the processors.

Changing the sampling plan would enable graders to select a more representative sample upon which to base grading decisions. The economic impact should be no greater than under the current sampling plan. Increasing the lighting intensity required at grading

stations would enhance the grader's ability to visually evaluate products. Both proposals would provide processors with fairer, more accurate evaluations. Better lighting could also help avoid the economic burden of reprocessing product or diverting product unnecessarily downgraded because of inadequate lighting. The costs, if any, for increasing the lighting intensity should be minor.

For the above reasons, the Agency has certified that this action would have no economic impact on small entities.

#### Background and Proposed Changes

Poultry and rabbit grading are voluntary programs provided under the Agricultural Marketing Act of 1946, as amended, and are offered on a fee-for-service basis. They are designed to assist the orderly marketing of poultry and rabbits by providing for the official certification of quality, quantity, class, temperature, packaging, and other factors. Changing processing technology requires that the regulations governing poultry and rabbit grading be updated.

Freedom from feathers is one of the factors considered in poultry grading. The definition *Free from protruding pinfeathers, diminutive feathers, or hairs* (§ 70.1) would be revised by removing the words "pinfeathers" and "diminutive." These words are no longer commonly used when discussing feathers and poultry quality. Nor are they needed to achieve the quality standards set by the regulations. To be consistent, in the definition *Ready-to-cook poultry*, the word "pinfeathers" would be changed to "feathers."

The Agency is proposing to permit the use of alternative grademarks (§ 70.51) so processors can have additional flexibility in packaging and marketing their products. Processors wanting to use a USDA grademark to identify their consumer-pack USDA graded poultry and rabbit products would have the option of using the current grademark or a proposed grademark containing horizontal bands of three colors. Processors who use USDA Grade A poultry to produce specialized poultry products, for which there are no U.S. grade standards, would be permitted to use a "Prepared From" grademark on the specialized products. The proposal would also reorganize the section for clarity.

The regulations contain a sampling plan to guide graders when they select samples upon which to base grading decisions (§ 70.80(b)). The sampling plan would be changed so that the sample size more closely reflects the size of the lot being sampled, thereby fostering a more representative sample of each lot.

The regulations also specify the lighting intensity required at grading stations in the processing plants (§ 70.110). The lighting intensity would be increased from 50-foot candles to 100-foot candles to improve the graders ability to visually evaluate the products being graded. This is the same intensity required by USDA's Food Safety and Inspection Service at all of their inspection stations.

Effective December 4, 1995, the voluntary U.S. grade standards were removed from the Code of Federal Regulations (CFR) as part of the National Performance Review program to eliminate unnecessary regulations and to improve those that remain in force. The voluntary standards will continue to be administered by AMS and will maintain their existing numbering system. Hence the voluntary poultry and rabbit grade standards are referred to as AMS 70.200 *et seq.* and AMS 70.300 *et seq.*, respectively.

#### List of Subjects in 7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

Accordingly, under the authority of Title 7, Chapter I, it is proposed that 7 CFR part 70 be amended as follows:

#### PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

1. The heading for part 70 is revised to read as set forth above.

1a. The authority citation for part 70 continues to read as follows:

**Authority:** 7 U.S.C. 1621–1627.

2. In § 70.1, the definition for *Ready-to-cook poultry* is amended by removing the word “pinfeathers” and adding in its place the word “feathers” and the definition for *Free from protruding pinfeathers, diminutive feathers, or hairs* is revised to read as follows:

##### § 70.1 Definitions.

\* \* \* \* \*

*Free from protruding feathers or hairs* means that a poultry carcass, part, or poultry product with the skin on is free from protruding feathers or hairs which are visible to a grader during an examination at normal operating speeds.

However, a poultry carcass, part, or poultry product may be considered as being free from protruding feathers or hairs if it has a generally clean appearance and if not more than an occasional protruding feather or hair is evidenced during a more careful examination.

\* \* \* \* \*

3. Section 70.51 would be revised to read as follows:

##### § 70.51 Form of grademark and information required.

(a) *Form of official identification symbol and grademark.* (1) The shield set forth in Figure 1 of this section shall be the official identification symbol for purposes of this part and when used, imitated, or simulated in any manner in connection with poultry or rabbits, shall be deemed prima facie to constitute a representation that the product has been officially graded for the purposes of § 70.2.

(2) Except as otherwise authorized, the grademark permitted to be used to officially identify USDA consumer-graded poultry and rabbit products shall be of the form and design indicated in Figures 2 through 4 of this section. The shield shall be of sufficient size so that the printing and other information contained therein is legible and in approximately the same proportion as shown in these figures.

(3) The “Prepared From” grademark in Figure 5 of this section may be used to identify specialized poultry products for which there are no official U.S. grade standards, provided that these products are approved by the Agency and are prepared from U.S. Consumer Grade A poultry carcasses, parts, or other products that comply with the requirements of AMS § 70.220. All poultry products shall be processed and labeled in accordance with 9 CFR part 381.

(b) *Information required on grademark.* (1) Except as otherwise authorized by the Administrator, each grademark used shall include the letters “USDA” and the U.S. grade of the product it identifies, such as “A Grade,” as shown in Figure 2 of this section. Such information shall be printed with the shield and the wording within the shield in contrasting colors in a manner such that the design is legible and conspicuous on the material upon which it is printed.

(2) Except as otherwise authorized, the bands of the shield in Figure 4 of this section shall be displayed in three colors, with the color of the top, middle, and bottom bands being blue, white, and red, respectively.

(3) The “Prepared From” grademark in Figure 5 of this section may be any one of the designs shown in Figures 2 through 4 of this section. The text outside the shield shall be conspicuous, legible, and in approximately the same proportion and close proximity to the shield as shown in Figure 5 of this section.

(c) *Products that may be individually grade marked.* The grademarks set forth in Figures 2 through 4 of this section may be applied individually to ready-to-cook poultry, rabbits, and specified poultry food products for which consumer grades are provided in the U.S. Classes, Standards, and Grades for Poultry and Rabbits, AMS §§ 70.200 and 70.300 *et seq.*, respectively, or to the containers in which such products are enclosed for the purpose of display and sale to household consumers, only when such products qualify for the particular grade indicated in accordance with the consumer grades.

BILLING CODE 3410-02-P



Figure 1



Figure 2



Figure 3

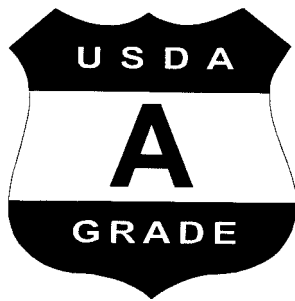


Figure 4

Prepared From

Poultry  
Figure 5

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4. In § 70.80, the table would be revised to read as follows:

**§ 70.80 General.**

\* \* \* \* \*

Containers in lot	Containers in sample
1-4 .....	All.
5-50 .....	4
51-100 .....	5
101-200 .....	6
201-400 .....	7
401-600 .....	8
For each additional 100 containers, or fraction thereof, in excess of 600 con- tainers.	Include one additional container.

5. In § 70.110, paragraph (b) would be revised to read as follows:

**§ 70.110 Requirements for sanitation, facilities, and operating procedures in official plants.**

\* \* \* \* \*

(b) With respect to grading services, there shall be a minimum of 100-foot candles of light intensity at grading stations; and acceptable means, when necessary, of maintaining control and identity of products segregated for quality, class, condition, weight, lot, or any other factor which may be used to distinguish one type of product from another.

Dated: November 20, 1997.

**Thomas A. O'Brien,***Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 97-31178 Filed 11-28-97; 8:45 am]

BILLING CODE 3410-02-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 97-NM-287-AD]

RIN 2120-AA64

**Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes**

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes. This proposal would require repetitive inspections to detect any discrepancy in the sealwire of the fireguards of the engine fire shut-off system, and repair, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent inadvertent closure of the fire shut-off valves due to ineffective or absent sealwires, which could result in in-flight engine shutdown.

**DATES:** Comments must be received by December 31, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-287-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Service B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** International Branch, ANM-116, FAA,

Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

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 shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered 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 postcard on which the following statement is made: "Comments to Docket Number 97-NM-287-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-287-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on all Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes. The RLD advises that it received reports of inadvertent closure of the fire shut-off valves, which resulted in engine flameouts during flight. Investigation by the manufacturer indicated that the sealwires (safety wires) of the engine fireguards may have been missing, or may not have operated correctly. Inadvertent closure of the fire shut-off valves due to ineffective or missing