It is impracticable to examine for positions associated with student-stipend programs because position incumbents are selected by the school where they are enrolled. When a non-Federal organization controls the selection process, there is no examination by a Federal agency.

Conforming Amendment

In 5 CFR 213.104, positions filled under single-agency authorities for fellowship and related programs are exempt from the service limits for making temporary appointments and the refilling of these positions by temporary appointment. We are adding the new appointing authorities to the list of exceptions cited in 5 CFR 213.104(b)(3)(ii).

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations apply only to appointment procedures used to appoint certain employees in Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees, Reporting and recordkeeping requirements.

James B. King,

Director, Office of Personnel Management.

Accordingly, OPM proposes to amend 5 CFR part 213 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; and 38 U.S.C. 4301 *et seq.*

2. In § 213.104 paragraph (b)(3)(ii) is revised to read as follows:

§ 213.104 Special provisions for temporary, intermittent, or seasonal appointments in Schedule A, B, or C.

* * * * *

(b) * * *

(3) * * *

(ii) Positions are filled under an authority established for the purpose of enabling the appointees to continue or enhance their education, or to meet academic or professional qualification requirements. These include the authorities set out in paragraphs (r) and (s) of § 213.3102 and paragraph (c) of § 213.3202, and authorities granted to individual agencies for use in connection with internship, fellowship, residency, or student programs.

* * * * *

3. In § 213.3102, paragraphs (r) and (s) are added to read as follows:

§ 213.3102 Entire executive civil service.

* * * * *

(r) Positions established in support of fellowship and similar programs that are filled from limited applicant pools and operate under specific criteria developed by the employing agency and/or a non-Federal organization. These programs may include: internship or fellowship programs that provide developmental or professional experiences to individuals who have completed their formal education; training and associateship programs designed to increase the pool of qualified candidates in a particular occupational specialty; professional/industry exchange programs that provide for a cross-fertilization between the agency and the private sector to foster mutual understanding, an exchange of ideas, or to bring experienced practitioners to the agency; residency programs through which participants gain experience in a Federal clinical environment; and programs that require a period of Government service in exchange for educational, financial or other assistance. Appointments under this authority may not exceed 4 years.

(s) Positions with compensation fixed under 5 U.S.C. 5351–5356 when filled by student-employees assigned or attached to Government hospitals, clinics or medical or dental laboratories. Employment under this authority may not exceed 4 years.

* * * * *

[FR Doc. 97–21048 Filed 8–8–97; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 56

[Docket No. PY–97–003]

Voluntary Shell Egg Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to amend the regulations governing the voluntary shell egg grading program. The proposed revisions would require electronic digital-display scales be provided to the grader; provide an alternative grademark for shell eggs; provide for the use of a ''Produced From'' grademark to officially identify products that originate from officially graded shell eggs; and remove the requirement for continuous overflow of water during the egg washing process. From time to time, sections in the regulations are affected by changes in egg processing technology. This rule updates the regulations to reflect these changes.

DATES: Comments must be received on or before October 10, 1997.

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 inspected 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–97–003.

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 almost 200 plants using the Agency's shell egg grading services and many of them are small entities.

The proposal to require electronic digital-display scales will affect some processors by requiring the purchase of one or more scales that cost from $150 to $1,000 each. This equipment will improve the accuracy of egg weight determinations, allowing processors to avoid the expense incurred when product is unnecessarily retained and re-processed.

One proposal to establish an alternative form of the USDA grademark

would allow shell egg processors to use a shield displayed in three colors to officially identify USDA graded eggs. Similarly, another proposal would allow producers of products originating from officially graded shell eggs to use a ''Produced From'' grademark on packaging materials. These proposals would have no adverse economic impact on processors.

The proposal to remove the requirement for the continuous overflow of water during egg washing would conserve water and energy resources, decrease operating expenses of processors, and lessen the environmental impact of shell egg processing. This is expected to have a significant positive economic impact on processors.

Other editorial-type changes would clarify or update the existing regulations and would have no economic impact on entities using voluntary shell egg grading services.

For the above reasons, the Agency has certified that this action will not have a significant impact on a substantial number of small entities.

The information collection requirement in § 56.37 to be amended by this rule has been previously approved by OMB and assigned OMB Control Number 0581–0127 under the Paperwork Reduction Act of 1980.

Background and Proposed Changes

Shell egg grading is a voluntary program provided under the Agricultural Marketing Act of 1946, as amended, and is offered on a fee-for-service basis. It is designed to assist the orderly marketing of shell eggs by providing for the official certification of egg quality, quantity, size, temperature, packaging, and other factors. Changing technology in egg processing requires that the regulations governing shell egg grading be updated.

Grading personnel certify egg weights according to the official U.S. weight classes. Today, the highly mechanized, state-of-the-art equipment used to package shell eggs weighs individual eggs with high precision to satisfy container weight requirements. For processors to receive fair, uniform, accurate weight certification, graders need to have similarly precise scales to certify egg weights. The Agency is proposing to amend § 56.17(a) by requiring plants to replace balance or spring-type scales for weighing individual eggs and consumer packages with electronic digital-display scales.

Many processors want to identify their consumer-pack USDA graded shell eggs, or products prepared from those eggs, with a USDA grademark. The Agency is proposing to amend § 56.36 to allow processors additional flexibility. The proposal would permit the use of a new grademark that contains horizontal bands of three colors. It would also provide for the use of a new ''Produced From'' grademark to officially identify products for which there are no U.S. grade standards (e.g., pasteurized shell eggs) that are produced from U.S. Grade AA or Grade A shell eggs. The proposal would also remove the option of using terms such as ''Federal-State Graded'' within the grademark because this option is no longer used. Finally, the proposal would clarify the organization and wording of § 56.36 and would correct references to § 56.36 that are in § 56.37 and § 56.40.

Egg wash tanks are designed to permit the continuous inflow of water and, when tank capacity is exceeded, the continuous outflow of water. Because some water is lost during egg washing due to evaporation and other causes, a continuous supply of fresh replacement water is required in order to maintain a proper volume of wash water. A continuous overflow of water is required by AMS to indicate that an adequate amount of fresh replacement water is being added. However, replacement water is not always of a sufficient volume to provide for continuous overflow, especially at the beginning of shifts or when the washing equipment is stopped and restarted. This situation, in addition to new washing and egg cleaning technologies and better production practices, brought the requirement for a continuous overflow into question. Therefore, AMS is proposing to amend § 56.76(e)(5) by omitting the requirement for a continuous overflow of water in shell egg washers.

List of Subjects in 7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that 7 CFR part 56 be amended as follows:

PART 56—VOLUNTARY GRADING OF SHELL EGGS

1. The heading for part 56 is revised to read as set forth above.

1a. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. In § 56.17, paragraphs (a)(2) and (a)(3) are revised and new paragraphs (a)(4) and (a)(5) are added to read as follows:

§ 56.17 Facilities and equipment for graders.

* * * * *

(a) * * *

(2) Electronic digital-display scales graduated in increments of 1/10-ounce or less for weighing individual eggs and test weights for calibrating such scales. Plants packing product based on metric weight must provide scales graduated in increments of 1-gram or less;

(3) Electronic digital-display scales graduated in increments of 1/4-ounce or less for weighing the lightest and heaviest consumer packages packed in the plant and test weights for calibrating such scales;

(4) Scales graduated in increments of 1/4-pound or less for weighing shipping containers and test weights for calibrating such scales;

(5) An acceptable candling light.

* * * * *

3. Section 56.36 is revised to read as follows:

§ 56.36 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 shell eggs, shall be deemed prima facia to constitute a representation that the product has been officially graded for the purposes of § 56.2.

(2) Except as otherwise authorized, the grademark permitted to be used to officially identify USDA consumer-graded shell eggs 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 Figures 2 through 4 of this section.

(3) The ''Produced From'' grademark in Figure 5 of this section may be used to identify products approved by the Agency for which there are no U.S. grade standards (e.g., pasteurized shell eggs) that are prepared from U.S. Consumer Grade AA or A shell eggs under the continuous supervision of a grader.

(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) The size or weight class of the product, such as ''Large,'' may appear within the grademark as shown in Figure 3 of this section. If the size or weight class is omitted from the grademark, it must appear prominently on the main panel of the carton.

(3) 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.

(4) The ''Produced 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.

(5) The plant number of the official plant preceded by the letter ''P'' must be shown on each carton or packaging material.

Figures to § 56.36

BILLING CODE 3410–02–P

Figure 1

Figure 2

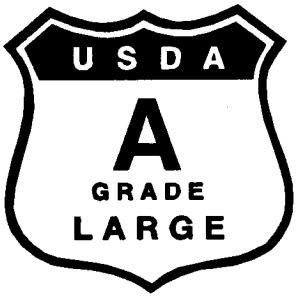

Figure 3

Figure 4

Figure 5

BILLING CODE 3410–02–C

4. In § 56.37, the first sentence is revised to read as follows:

§ 56.37 Lot marking of officially identified product.

Each carton identified with the grademarks shown in § 56.36 shall be legibly lot numbered on either the carton or the consumer package. * * *

5. In § 56.40, paragraph (a) is revised to read as follows:

§ 56.40 Grading requirements of shell eggs identified with consumer grademarks.

(a) Shell eggs to be identified with the grademarks illustrated in § 56.36 must be individually graded by a grader or by authorized personnel pursuant to § 56.11 and thereafter check graded by a grader.

* * * * *

6. In § 56.76, the first sentence in paragraph (e)(5) is revised to read as follows:

§ 56.76 Minimum facility and operating requirements for shell egg grading and packing plants.

* * * * *

(e) * * *

(5) Replacement water shall be added continuously to the wash water of washers. * * *

* * * * *

Dated: July 31, 1997.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 97–20901 Filed 8–8–97; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150–AF44

Reporting Requirements for Unauthorized Use of Licensed Radioactive Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing a notice of proposed rulemaking that was published in the **Federal Register** on January 31, 1996, regarding the intentional unauthorized use of licensed radioactive material by individuals. The majority of commenters stated that the costs of implementing the proposed rule would outweigh the benefits that might result from the rule. After reviewing these comments, the Commission has reconsidered the need for the proposed rule and is withdrawing it.

FOR FURTHER INFORMATION CONTACT: Mary L. Thomas, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone (301) 415–6230, E-mail MLT1@NRC.GOV.

SUPPLEMENTARY INFORMATION: On January 31, 1996, the NRC published a proposed amendment to 10 CFR part 20, in the **Federal Register** (61 FR 3334), that would have required licensees to report events involving intentional unauthorized use of licensed radioactive material to the NRC Operations Center within 24 hours of discovery.

Eighty-six comment letters were received on the proposed rule: 12 from power reactor licensees, 11 from industry representative groups, 8 from Agreement States, 14 from Agreement State licensees, 30 from NRC material licensees, 10 from private citizens, and one from a public interest group. Eighty-two of the commenters opposed the proposed rule; four were in favor of the proposed rule. In addition, comments were received from the Advisory Committee on Medical Uses of Isotopes (ACMUI) at a meeting held on February 22, 1996.

The commenters addressed the regulatory analysis, the severity level that would be assigned to violations for failure to report, and the backfit analysis as well as the proposed rule itself. Because the proposed rule is being withdrawn, only the comments received on the proposed rule itself are discussed here. All of the comments received on the rule are available for review in the NRC's Public Document Room.

Comment: Forty commenters stated that the concept presented in this rule was not consistent with the ALARA principle. They also stated that the rule would require every event of contamination and exposure to be reported regardless of the level of contamination or exposure. Several commenters argued that using a reporting threshold that included any ''allegedly intentional'' unauthorized use was too broad and would result in licensees spending more time and money than the 20 hours to evaluate an incident estimated in the proposed regulatory analysis for the proposed rule, and would detract from their ability to perform their other duties. They stated that this would place an undue burden on small licensees whose resources are already limited. Thirty-two commenters suggested that the requirement to report events where unauthorized use could not be ruled out within 48 hours be deleted. They stated that it was too vague, burdensome, and restrictive, and they would be forced to report every contamination to avoid a Severity Level III violation. Forty-nine commenters suggested that the NRC be more specific with respect to the type of events to be reported. Thirty-six commenters suggested that the proposed rule be withdrawn. They stated that basing a rulemaking on only two incidents was not justified. Of this group, 26 commenters stated that regulations already exist to cover such incidents, such as 10 CFR 30.10, Deliberate misconduct, 10 CFR 20.2201, Reports of theft or loss of licensed material, 10 CFR 20.2202, Notification of incidents, and 10 CFR 30.50(a), Reporting requirements.

Of the eight Agreement States that provided comments, all stated that the proposed rule should be withdrawn. One Agreement State commented that this rule may violate the intent of that State's Regulatory Reform Act of 1995 that requires the State's regulatory system not impose excessive, unreasonable, or unnecessary obligations.

Four comments were received in favor of the proposed rule. One commenter supported the proposed rule without changes; the other three supported the intent of the proposed rule but suggested changes to further clarify the intent and to make the rule less burdensome. As discussed below, the Commission recognizes that regulations already exist requiring reporting of events when certain established dose thresholds have been reached. The Commission believes that a requirement to report events below these established thresholds would not provide any additional protection and the cost would not be justified.

Response: The Commission examined the comments received on the proposed rule, and concluded that a sufficient basis does not exist to promulgate a rule at this time. The Commission recognizes that regulations already exist requiring reporting of events when certain dose thresholds have been reached. The established thresholds in these existing requirements capture any event where the occupational dose limits have been exceeded. Therefore, any additional protection achieved from reporting events below the established thresholds would be low and the costs of both the reporting by licensees and the subsequent follow-up actions by the NRC staff would not be justified. For the above reasons, the Commission is withdrawing the proposed rule.

Dated at Rockville, Maryland, this 4th day of August, 1997.