

**§ 70.5**

Charges or fees are based on time, travel, and expenses needed to perform the work.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981 as amended at 72 FR 11775, Mar. 14, 2007]

**§ 70.5 Nondiscrimination.**

The conduct of all services and the licensing of graders under these regulations shall be accomplished without regard to race, color, national origin, religion, age, sex, disability, political beliefs, sexual orientation, or marital or family status.

[71 FR 42012, July 24, 2006]

**§ 70.6 OMB control number.**

(a) *Purpose.* The collecting of information requirements in this part has been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0581-0127.

(b) *Display.*

SECTIONS WHERE INFORMATION COLLECTION REQUIREMENTS ARE IDENTIFIED AND DESCRIBED

70.3	70.36	70.76(b)(3)(ii)
70.4(a)	70.38(c)	70.77(a)(1)
70.5	70.38(d)	70.77(a)(4)
70.18	70.39	70.77(b)(1)
70.20(a)	70.40	70.77(b)(3)(ii)
70.22	70.50	70.91(a)
70.31(a)	70.61	70.91(c)
70.31(b)	70.62	70.92
70.34	70.73	70.101
70.35	70.76(b)(1)	70.102

[71 FR 42012, July 24, 2006]

**§ 70.8 Other applicable regulations.**

Compliance with the regulations in this part shall not excuse failure to comply with any other Federal, or any State, or municipal applicable laws or regulations.

[71 FR 42012, July 24, 2006]

**§ 70.10 Basis of grading service.**

(a) Any grading service in accordance with the regulations in this part shall be for class, quality, quantity, or condition or any combination thereof. Grading service with respect to determination of quality of products shall

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be on the basis of United States Classes, Standards, and Grades for Poultry and Rabbits. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications or specifications of the applicant, and such service, when approved by the Administrator, shall be rendered on the basis of such specifications.

(b) Whenever grading service is provided for examination of quality, condition, or for test weighing on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of containers indicated in the following table. The number of representative samples for large bulk containers (combo bins, tanks, etc.) may be reduced by one-half. For quality or condition, all of the poultry and rabbits in each representative sample shall be examined except for individual ready-to-cook carcasses weighing under 6 pounds in large bulk containers. For individual carcasses weighing under 6 pounds in large bulk containers, 100 carcasses shall be examined for quality or condition. Procedures for test weighing shall be in accordance with those prescribed by the Administrator.

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 containers.	Include one additional container.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42012, 42014, July 24, 2006]

**§ 70.11 [Reserved]**

**§ 70.12 Supervision.**

All grading service shall be subject to supervision at all times by the responsible State supervisor, regional director, and national supervisor. Such service shall be rendered in accordance with instructions issued by the Administrator where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders

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are available. Whenever the supervisor of a grader has evidence that such grader incorrectly graded a product, such supervisor shall take such action as is necessary to correct the grading and to cause any improper grademarks which appear on the product or containers thereof to be corrected prior to shipment of the product from the place of initial grading.

### § 70.13 Ready-to-cook poultry and rabbits and specified poultry food products.

(a) Ready-to-cook poultry or rabbit carcasses or parts or specified poultry food products may be graded only if they have been inspected and certified by the poultry inspection service of the Department, or inspected and passed by any other inspection system which is acceptable to the Department.

(b) Only when ready-to-cook poultry carcasses, parts, poultry food products, including those used in preparing raw poultry food products, have been graded on an individual basis by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader, and when poultry food products have been prepared under the supervision of a grader, when necessary the individual container, carcass, part, or poultry food product be identified with the appropriate official letter grademark. Checkgrading shall be accomplished in accordance with a statistical sampling plan prescribed by the Administrator. Grading with respect to quality factors for freezing defects and appearance of the finished products, when necessary, shall be done on a sample basis in accordance with a plan prescribed by the Administrator.

(c) Only when ready-to-cook rabbit carcasses or parts have been graded on an individual basis by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader, may the container or the individual carcass or part be identified with the appropriate official letter grademark. Checkgrading shall be accomplished in accordance with a statistical sampling plan prescribed by the Administrator. Grading with respect to quality factors for freezing defects and appearance of the finished products may be done on a

sample basis in accordance with a plan prescribed by the Administrator.

[71 FR 42012, July 24, 2006]

### § 70.14 Squabs and domesticated game birds; eligibility.

Squabs and domesticated game birds (including, but not being limited to, quail, pheasants, and wild species of ducks and geese raised in captivity) may be graded under the regulations in this part, only if they have been inspected and passed by the poultry inspection service of the Department or have been inspected by any other official inspection system acceptable to the Department.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42012, July 24, 2006]

### § 70.15 Equipment and facilities for graders.

Equipment and facilities to be furnished by the applicant for use of graders in performing service on a resident basis shall include, but not be limited to, the following:

(a)(1) An accurate metal stem thermometer.

(2) A drill with a steel bit to drill holes in frozen product for inserting the metal thermometer stem to determine temperature.

(3) Scales graduated in tenths of a pound or less for weighing carcasses, parts, or products individually in containers up to 100 pounds, and test weights for such scales.

(4) Scales graduated in one-pound graduation or less for weighing bulk containers of poultry and test weights for such scales.

(b) Furnished office space, a desk, and file or storage cabinets (equipped with a satisfactory locking device) suitable for the security and storage of official supplies, and other facilities and equipment as may otherwise be required. Such space and equipment must meet the approval of the national supervisor.

[71 FR 42012, July 24, 2006]

### § 70.16 Prerequisites to grading.

Grading of products shall be rendered pursuant to the regulations in this part