

# Rules and Regulations

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## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### 5 CFR Part 1655

#### Thrift Savings Plan Loans

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Final rule.

**SUMMARY:** The Executive Director of the Federal Retirement Thrift Investment Board (Board) is adopting as final the Board's interim Thrift Savings Plan (TSP) loan regulations without change. **DATES:** This final rule is effective April 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Patrick J. Forrest on (202) 942-1662.

**SUPPLEMENTARY INFORMATION:** The Board administers the Thrift Savings Plan (TSP), a defined contribution plan for Federal employees established by the Federal Employees' Retirement System Act of 1986, Pub. L. 99-335, 100 Stat. 514, codified as amended, largely at 5 U.S.C. 8401-8479.

On January 10, 1990, the Board published an interim rule with request for comments in the **Federal Register** (55 FR 978) which created 5 CFR part 1655 to govern the TSP loan program. On November 18, 1996, the Board published an interim rule with request for comments in the **Federal Register** (61 FR 58754) which amended the interim loan regulations to conform them with the Thrift Savings Plan Act of 1996, Pub. L. 104-208, and to codify improvements made to TSP loan procedures since 1990. The Board received no comments on either interim rule; therefore, we are adopting the interim regulations as final without change.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities

because they will affect only employees of the United States Government.

#### Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

#### Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, section 201, 109 Stat. 48, 64, the effect of these regulations on State, local, and tribal governments and on the private sector has been assessed. These regulations will not compel the expenditure in any one year of \$100 million or more by any State, local, or tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64-65, is not required.

#### Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), the Board submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in today's **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

Federal Retirement Thrift Investment Board  
**Roger W. Mehle,**  
*Executive Director.*

Accordingly, the interim rule adding 5 CFR part 1655 which was published at 55 FR 978 on January 10, 1990, and the portion of the interim rule amending 5 CFR part 1655 which was published at 61 FR 58754 on November 18, 1996, are adopted as final without change.

[FR Doc. 97-9533 Filed 4-11-97; 8:45 am]

BILLING CODE 6760-01-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 56 and 70

[Docket No. PY-97-001]

#### Egg, Poultry, and Rabbit Grading Increase in Fees and Charges

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

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is increasing the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges are increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

**EFFECTIVE DATE:** May 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Douglas C. Bailey, Chief, Standardization Branch, (202) 720-3506.

**SUPPLEMENTARY INFORMATION:** This rule has been determined not-significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

This 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), the AMS has considered the economic impact of this action on small entities.

There are more than 400 users of the Poultry Division's grading services. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). This rule raises the fees charged to all businesses for voluntary grading services for eggs, poultry, and rabbits. The AMS estimates that overall this rule will yield an additional \$1.2 million during fiscal year (FY) 1998. Without the fee increase, anticipated revenue will not cover program costs and projected FY 98 revenues for grading services are \$21.7 million with costs projected at \$23.1 million. Trust fund balances would be below appropriate levels. With a fee increase, projected FY 98 revenues are \$22.9 million with costs projected at \$23.1 million. The hourly resident rate will increase by approximately 5.5 percent while the hourly nonresident rate for grading service will increase by approximately 15.8 percent. The costs to

entities will be proportional to their use of service, so that costs are shared equitably by all users. Furthermore, entities are under no obligation to use these grading services.

The AMS has certified that this action will not have a significant impact on a substantial number of small entities, as defined in the RFA (5 U.S.C. 601).

The information collection requirements that appear in the sections amended by this rule have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act of 1980 as follows: § 56.52(a)(4)—No. 0581-0128; and § 70.77(a)(4)—No. 0581-0127.

**Background**

The Agricultural Marketing Act (AMA) of 1946 authorizes official grading and certification on a user-fee basis of eggs, poultry, and rabbits. The AMA provides that reasonable fees be collected from the user of the program services to cover, as nearly as practicable, the costs of services rendered. AMS regularly reviews these programs to determine if fees are adequate and if costs are reasonable. This rule will amend the schedule for fees and charges for grading services rendered to the egg, poultry, and rabbit industries to reflect the costs currently associated with the program.

In 1995 the egg products inspection program was transferred to the Food Safety and Inspection Service. In order to offset the loss of efficiencies and to avoid an increase in user fees for the remaining shell egg and poultry grading programs, AMS took several streamlining actions in supervisory and support activities. These actions included reducing the number of supervisory visits; consolidating and closing submanagement offices; consolidating the billing and support functions into two regional offices; realigning regional boundaries; and substantially reducing the Washington, DC headquarters staff. As a result, no fee increase was necessary due to the reorganization. However, increased salaries and other costs and a substantial shift from resident to nonresident grading services now require an increase in fees.

Employee salaries and benefits are major program costs that account for approximately 82 percent of the total operating budget. Materially affecting program costs were general and locality salary increases for Federal employees which, depending on locality, ranged from 3.09 to 6.25 percent in January 1995, 2.39 to 2.87 percent in January 1996, and 2.24 to 4.66 percent in January 1997. Also, from November

1994 through September 1997, salaries and fringe benefits of federally licensed State employees will have increased by about 7 percent. Further, since October 1993, standardization program costs must be recovered from grading program user fees. As a result, the hourly resident rate for grading services will increase by approximately 5.5 percent. The hourly resident rate covers graders' salaries, fringe benefits, and related costs.

Another factor affecting the current fee structure is the shift from resident to nonresident grading services. Historically, the majority of shell egg and poultry grading has been done on a resident basis according to the official U.S. quality grade standards. Today, however, a growing volume of shell eggs and poultry is being traded according to product-specific purchase specifications where USDA certification is required, and this work is done increasingly on a nonresident fee basis. This shift has increased the proportion of overhead costs necessary to administer the nonresident services. As a result, users of nonresident services are not supporting their share of the program's overhead costs under the present fee structure. For this reason, the hourly nonresident rate for grading service will increase by approximately 15.8 percent.

A recent review of the current fee schedule, effective since November 1, 1994, revealed that anticipated revenue will not adequately cover increasing program costs. Without a fee increase, projected FY 98 revenues for grading services are \$21.7 million with costs projected at \$23.1 million, and trust fund balances would be below appropriate levels. With a fee increase, projected FY 98 revenues are \$22.9 million with costs projected at \$23.1 million.

Service	Revised
<b>Resident shell egg and poultry grading</b>	
Administrative charges (supervision, other overhead and administrative costs) assessed on the volume of product handled:	
Per pound of poultry .....	.00033
Per 30-dozen case of shell eggs .....	.038
Minimum per month .....	225
Maximum per month .....	2,250
<b>Nonresident shell egg and poultry grading and Resident rabbit grading</b>	
Administrative charge based on 25% of grader's salary, minimum per month .....	225

Service	Revised
<b>Nonresident fee basis poultry, shell egg and rabbit grading</b>	
Regular time, rate per hour ....	38.96
Saturdays, Sundays, and legal holidays, rate per hour .....	43.24
<b>Appeal grading and Review of grader's decision</b>	
Rate per hour .....	30.56
Inauguration of resident grading service .....	310

**Comments**

Based on an analysis of costs to provide these services, a proposed rule to increase the fees for these services was published in the **Federal Register** (62 FR 4662) on January 31, 1997. Comments on the proposed rule were solicited from interested parties until March 3, 1997.

During the 30-day comment period, the Agency received five comments in opposition to the proposal; three from egg producers, one from a national egg industry organization, and one from a poultry processor. They expressed a general concern about the cost of the grading program. Several commentors encouraged AMS to find and implement additional cost-saving measures in lieu of a fee increase. Although AMS has implemented significant cost-saving actions over the past several years as described above and remains committed to controlling program costs wherever possible, implementation of the proposed fee increases remains necessary to ensure the financial stability of the grading program.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of the action until 30 days after publication in the **Federal Register**, because the proposed fees need to be implemented on an expedited basis in order to avoid financial losses in the grading program this fiscal year. Also, the effective date of the fee increase will be set to coincide with the next billing cycle beginning on May 1, 1997.

**List of Subjects**

*7 CFR Part 56*

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

*7 CFR Part 70*

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

For reasons set forth in the preamble, title 7, Code of Federal Regulations, parts 56 and 70 is amended as follows:

**PART 56—GRADING OF SHELL EGGS**

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

**Authority:** 7 U.S.C. 1621–1627.

2. Section 56.46 is amended by revising paragraphs (b) and (c) to read as follows:

**§ 56.46 On a fee basis.**

\* \* \* \* \*

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be \$38.96 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of \$43.24 per hour. Information on legal holidays is available from the Supervisor.

3. Section 56.47 is revised to read as follows:

**§ 56.47 Fees for appeal grading or review of a grader's decision.**

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant at an hourly rate of \$30.56 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

4. Section 56.52 is amended by revising paragraph (a)(4) to read as follows:

**§ 56.52 Continuous grading performed on resident basis.**

\* \* \* \* \*

(a) \* \* \*

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by \$0.038, except that the minimum charge per billing period shall be \$225 and the maximum charge shall be \$2,250. The minimum charge also applies where an approved application is in effect and no product is handled.

\* \* \* \* \*

5. Section 56.54 is amended by revising paragraph (a)(2) to read as follows:

**§ 56.54 Charges for continuous grading performed on a nonresident basis.**

\* \* \* \* \*

(a) \* \* \*

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of \$225 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

\* \* \* \* \*

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

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

**Authority:** 7 U.S.C. 1621–1627.

7. Section 70.71 is amended by revising paragraphs (b) and (c) to read as follows:

**§ 70.71 On a fee basis.**

\* \* \* \* \*

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be \$38.96 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of \$43.24 per hour. Information on legal holidays is available from the Supervisor.

8. Section 70.72 is revised to read as follows:

**§ 70.72 Fees for appeal grading, or examination or review of a grader's decision.**

The costs of an appeal grading, or examination or review of a grader's decision, will be borne by the appellant at an hourly rate of \$30.56 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, or examination or review of a grader's decision, discloses that a material error was made in the original determination, no fee or expenses will be charged.

9. Section 70.76 is amended by revising paragraph (a)(2) to read as follows:

**§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.**

\* \* \* \* \*

(a) \* \* \*

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of \$225

will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

\* \* \* \* \*

10. Section 70.77 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

**§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.**

\* \* \* \* \*

(a) \* \* \*

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by \$0.00033, except that the minimum charge per billing period shall be \$225 and the maximum charge shall be \$2,250. The minimum charge also applies where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of \$225 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

\* \* \* \* \*

Dated: April 7, 1997.

**Lon Hatamiya,**

*Administrator.*

[FR Doc. 97–9478 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–02–P

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 946**

[Docket No. FV97–946–1 IFR]

**Irish Potatoes Grown in Washington; Amended Assessment Rate**

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule decreases the assessment rate established for the State of Washington Potato Committee (Committee) under Marketing Order No. 946 for the 1997–98 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of Irish potatoes grown in Washington.