

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 Parts 56 and 70

[Docket No. PY-98-002]

RIN 0581-AB54

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to increase the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges need to be 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.

DATES: Comments must be received on or before August 10, 1998.

ADDRESSES: Send written comments, in duplicate, to Douglas C. Bailey, Chief, Standardization Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0259, room 3944-South, 1400 Independence Avenue, SW, Washington, DC 20250-0259.

Comments received may be inspected at this location between 8:00 a.m. and 4:30 p.m., Eastern Time, Monday thru Friday, except holidays. State that your comments refer to Docket No. PY-98-002.

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

There are about 400 users of Poultry Programs' grading services. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). This proposed rule will raise the fees charged to businesses for voluntary grading services for eggs, poultry, and rabbits. The AMS estimates that overall this rule would yield an additional \$1.5 million during FY 1999. The hourly resident rate for grading services will increase by approximately 4.1 percent while the hourly nonresident rate for grading service will increase by approximately 15 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 grading services as authorized under the Agricultural Marketing Act of 1946.

The AMS regularly reviews its user fee financed programs to determine if the fees are adequate. The existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance (four months of costs) as called for by Agency policy (AMS Directive 408.1). The Agency has engaged in streamlining efforts to reduce costs including staff and space reductions or closing of field offices. However, overall, costs are increasing despite these efforts.

Without a fee increase, revenue projections for FY 1999 would be \$19.8 million, with costs projected at \$22.3 million. The shortfall, if allowed to continue, would translate into an approximate 3.8 month operating reserve at the end of FY 1999 or \$7.1 million, which is less than Agency policy requires. With the fee increase, FY 1999 revenue is projected to be \$21.3 million and costs are projected at \$22.3 million. Trust fund balances would be \$8.5 million or 4.3 months.

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 to be amended by the proposed rule have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581-0128; and § 70.77(a)(4)—No. 0581-0127.

Background and Proposed Changes

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 users 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 proposal would 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.

Several streamlining actions to be completed in FY 1998 will result in cost savings. They include staff and space reductions or closing of field offices. However, overall, costs are increasing despite these efforts.

Employee salaries and benefits account for approximately 82 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 2.57 to 6.52 percent, depending on locality, became effective in January 1998 and has materially affected program costs. Another general and locality salary increase estimated at 3.0 percent is expected in January 1999. Also, from October 1997 through September 1999, salaries and fringe benefits of federally licensed State employees will have increased by about 6 percent. As a result, the hourly resident rate for grading services will increase by approximately 4.1 percent. The hourly resident rate covers graders' salaries, fringe benefits, and related costs.

Another factor affecting the current fee structure is the increased demand for grading services on a fee basis. Resident grading service is provided by a grader with a regular tour of duty in

a plant, while fee grading service is provided by a grader on an intermittent, as-needed basis. 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. In recent years, however, there has been an increase in the volume of shell eggs and poultry being traded according to product-specific purchase requirements where USDA certification is required, and this work is done predominantly on a fee basis. Fee services for many plants require more supervisory time and travel to staff, train, and supervise graders. As a result, a greater proportion of overhead costs for supervision and support staff must be charged to fee services. Rates to cover these costs were

only minimally raised in years prior to the last fee increase effective May 1, 1997. Current analysis shows that these rates need to be increased an additional 15 percent to totally support their fair share of the program's overhead costs.

Additionally, rates for appeal grading and review of a grader's decision are only occasionally used, currently accounting for less than \$5,000 revenue annually. A separate rate for this service would be discontinued and these services would be charged using fee service rates for the time required to perform such service. This amendment would simplify the rate structure and any change in revenue would be negligible.

A recent review of the current fee schedule, effective May 1, 1997,

revealed that anticipated revenue will not adequately cover increasing program costs. Without a fee increase, projected FY 1999 revenues for grading services are \$19.8 million, with costs projected at \$22.3 million, and trust fund balances would be \$7.1 million, below appropriate levels. With a fee increase, projected FY 1999 revenues would be \$21.3 million and costs are projected at \$22.3 million. Trust fund balances would be \$8.5 million or 4.3 months of operating costs.

The following table compares current fees and charges with proposed fees and charges for egg, poultry, and rabbit grading as found in 7 CFR Parts 56 and 70:

Service	Current	Proposed
Resident service:		
Inauguration of service	310	310
Hourly charges—Regular hours	26.56	27.64
Administrative charges—Poultry grading:		
Per pound of poultry00033	.00034
Minimum per month	225	225
Maximum per month	2,250	2,500
Administrative charges—Shell egg grading:		
Per 30-dozen case of shell eggs038	.040
Minimum per month	225	225
Maximum per month	2,250	2,500
Administrative charges—Rabbit grading:		
Based on 25% of grader's salary, minimum per month	225	250
Nonresident Service: ¹		
Hourly charges:		
Regular hours	26.56	27.64
Administrative charges:		
Based on 25% of grader's salary, minimum per month	225	250
Fee and appeal service:		
Hourly charges:		
Regular hours	38.96	44.80
Weekend and holiday hours	43.24	51.60

¹ For poultry and shell egg grading.

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, it is proposed that Title 7, Code of Federal Regulations, parts 56 and 70 be 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 revised to read as follows:

§ 56.46 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be \$44.80 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 \$51.60 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 on a fee basis at rates set forth in § 56.46, plus any travel and 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. In § 56.52, paragraph (a)(4) is revised to read as follows:

§ 56.52 Continuous grading performed on a 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 \$0.040, except that the minimum charge per billing period shall be \$225 and the maximum charge shall be \$2,500. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

5. In § 56.54, paragraph (a)(2) is revised 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 \$250 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 revised to read as follows:

§ 70.71 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(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 \$44.80 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 \$51.60 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, laboratory analysis, or examination or review of a grader's decision.

The costs of an appeal grading, laboratory analysis, or examination or review of a grader's decision, will be borne by the appellant on a fee basis at

rates set forth in § 70.71, plus any travel and additional expenses. If the appeal grading, laboratory analysis, 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. In § 70.76, paragraph (a)(2) is revised 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 \$250 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

10. In § 70.77, paragraphs (a)(4) and (a)(5) are revised 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 \$0.00034, except that the minimum charge per billing period shall be \$225 and the maximum charge shall be \$2,500. 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 \$250 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

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Dated: June 3, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98–15205 Filed 6–8–98; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AF80

Miscellaneous Changes to Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to correct several inconsistencies and to clarify certain sections of the regulations. The amendments would differentiate the requirements for the storage of spent fuel under wet and dry conditions, clarify requirements for the content and submission of various reports, and specify that quality assurance (QA) records must be maintained as permanent records.

DATES: The comment period expires August 24, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (<http://www.nrc.gov>). This site provides the availability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–6215; e-mail CAG@nrc.gov.

Certain documents related to this rulemaking, including comments received may be examined at the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

FOR FURTHER INFORMATION CONTACT: M. L. Au, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6181, e-mail mla@nrc.gov.