

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 56 and 70

[Docket No. PY-99-004]

RIN 0581-AB 54

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

**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:** October 1, 1999.

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

#### SUPPLEMENTARY INFORMATION:

##### A. Executive Order 12866

This action 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).

##### B. Regulatory Flexibility

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this action on small entities. It is determined that its provisions would not have a significant economic impact on a substantial number of small entities.

There are about 400 users of Poultry Programs' grading services. These

official plants can pack eggs, poultry, and rabbits in packages bearing the USDA grade shield when AMS graders are present to certify that the products meet the grade requirements as labeled. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). These 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 most recent review determined that the existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Without a fee increase, FY 2000 revenues for grading services are projected at \$22.0 million, costs are projected at \$23.4 million, and trust fund balances would be \$9.3 million. With a fee increase, FY 2000 revenues are projected at \$23.1 million, costs are projected at \$23.4 million, and trust fund balances would be \$10.5 million.

This action would raise the fees charged to users of grading services. The AMS estimates that overall, this rule would yield an additional \$1.1 million during FY 2000. The hourly resident rate for grading services will increase by approximately 4.2 percent, while the hourly rates for fee (nonresident) and appeal grading services will increase by approximately 8.0 percent. The costs to entities will be proportional to their use of service, so that costs are shared equitably by all users. The impact of these rate changes in a poultry plant would range from less than 0.003 to 0.05 cents per pound of poultry handled. In a shell egg plant, the range would be less than 0.04 to 0.4 cents per dozen eggs handled.

##### C. Civil Justice Reform

This action 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.

##### D. Paperwork Reduction

The information collection requirements that appear in the sections to be amended by this action 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 voluntary 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.

The 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 them.

A recent review of the current fee schedule, effective October 1, 1998, revealed that anticipated revenue will not adequately cover increasing program costs. Without a fee increase, FY 2000 revenues for grading services are projected at \$22.0 million, costs are projected at \$23.4 million, and trust fund balances would be \$9.3 million. With a fee increase, FY 2000 revenues are projected at \$23.1 million, costs are projected at \$23.4 million, and trust fund balances would be \$10.5 million.

Employee salaries and benefits account for approximately 81 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 3.54 to 4.02 percent, depending on locality, became effective in January 1999 and has materially affected program costs. Another general and locality salary increase estimated at 4.4 percent is expected in January 2000. Also, from October 1998 through September 2000, salaries and fringe benefits of federally licensed State employees will have increased by about 6 percent.

The impact of these cost increases was separately determined for resident grading service and fee grading service. To offset projected cost increases for resident grading service, the resident

hourly rate will be increased by approximately 4.2 percent. This hourly rate covers graders' salaries and benefits. Administrative volume charges that cover the cost of supervision for this service will also be increased as shown in the table below. To offset projected cost increases for fee and

appeal grading services, those rates will be increased by approximately 8.0 percent. The rate for fee service covers graders' salaries and benefits, and the cost of travel and supervision. The rate for an appeal grading or review of a grader's decision covers the time required to perform such service.

Appeal gradings are only done occasionally and account for less than \$5,000 revenue annually.

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 |
|--|---------|----------|
| <b>Resident Service (egg, poultry, rabbit grading)</b>       |         |          |
| Inauguration of service .....                                | 310     | 310      |
| Hourly charges:  |         |          |
| Regular hours .....  | 27.64   | 28.80    |
| Administrative charges—Poultry grading:                      |         |          |
| Per pound of poultry .....                                   | .00034  | .00035   |
| Minimum per month .....                                      | 225     | 225      |
| Maximum per month .....                                      | 2,500   | 2,625    |
| Administrative charges—Shell egg grading:                    |         |          |
| Per 30-dozen case of shell eggs .....                        | .040    | .044     |
| Minimum per month .....                                      | 225     | 225      |
| Maximum per month .....                                      | 2,500   | 2,625    |
| Administrative charges—Rabbit grading:                       |         |          |
| Based on 25% of grader's salary, minimum per month .....     | 250     | 260      |
| <b>Nonresident Service (egg, poultry, grading)</b>           |         |          |
| Hourly charges:  |         |          |
| Regular hours .....  | 27.64   | 28.80    |
| Administrative charges:                                      |         |          |
| Based on 25 of grader's salary, Minimum per month .....      | 250     | 260      |
| <b>Fee and Appeal Service (egg, poultry, rabbit grading)</b> |         |          |
| Hourly charges:  |         |          |
| Regular hours .....  | 44.80   | 48.40    |
| Weekend and holiday hours .....                              | 51.60   | 55.76    |

## 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** (64 FR 37886) on July 14, 1999. Comments on the proposed rule were solicited from interested parties until August 13, 1999. No comments were received during the 30-day comment period.

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 further financial losses in the grading program and the effective date of the fee increase will be set to coincide with the next billing cycle which is October 1, 1999.

## 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 are 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 \$48.40 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 \$55.76 per hour. Information on legal holidays is available from the Supervisor.

3. In § 56.52, paragraph (a)(4) is revised 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 \$0.044, except that the minimum charge per billing period shall be \$225 and the maximum charge shall be \$2,625. The minimum charge also applies where an approved application is in effect and no product is handled.

\* \* \* \* \*

4. 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 \$260 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

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

**Authority:** 7 U.S.C. 1621–1627.

6. 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 \$48.40 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 \$55.76 per hour. Information on legal holidays is available from the Supervisor.

7. 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 \$260 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

\* \* \* \* \*

8. 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 \$0.00035, except that the minimum charge per billing period shall be \$225 and the maximum charge shall be \$2,625. 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 \$260 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

\* \* \* \* \*

Dated: September 20, 1999.

**Kathleen A. Merrigan,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 99-24923 Filed 9-23-99; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 26

[Docket No. 99-11]

RIN 1557-AB60

## FEDERAL RESERVE BOARD

#### 12 CFR Part 212

[Docket No. R-0907]

## FEDERAL DEPOSIT INSURANCE CORPORATION

#### 12 CFR Part 348

RIN 3064-AC08

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

#### 12 CFR Part 563f

[Docket No. 99-36]

RIN 1550-AB07

### Management Official Interlocks

**AGENCIES:** Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; Office of Thrift Supervision, Treasury.

**ACTION:** Joint final rule.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC), Board of

Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), and Office of Thrift Supervision (OTS) (the Agencies) are revising their rules regarding management interlocks. The final rule conforms the interlocks rules to recent statutory changes, modernizes and clarifies the rules, and reduces unnecessary regulatory burdens where feasible, consistent with statutory requirements.

**EFFECTIVE DATE:** This joint rule is effective January 1, 2000.

### FOR FURTHER INFORMATION CONTACT:

OCC: Emily R. McNaughton, National Bank Examiner, Senior Policy Analyst, Core Policy Development (202) 874-5190; Jackie Durham, Senior Licensing Policy Analyst, Bank Organization and Structure (202) 874-5060; Sue E. Auerbach, Senior Attorney, Bank Activities and Structure (202) 874-5300; or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities (202) 874-5090. Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

**Board:** Thomas M. Corsi, Senior Counsel (202) 452-3275, or Andrew Baer, Attorney (202) 452-2246, Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for Deaf (TDD), Dorothea Thompson (202) 452-3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

**FDIC:** Curtis Vaughn, Examination Specialist, Division of Supervision, (202) 898-6759; or Mark Mellon, Counsel, Regulation and Legislation Section, Legal Division, (202) 898-3854, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

**OTS:** David Bristol, Senior Attorney, Business Transactions Division, Chief Counsel's Office (202) 906-6461; or Joseph M. Casey, Supervision Policy, (202) 906-5741, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

### SUPPLEMENTARY INFORMATION:

#### I. Background

The Depository Institution Management Interlocks Act (12 U.S.C. 3201-3208) (the Interlocks Act or Act) generally prohibits bank management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies (depository organizations). The scope of the prohibition depends on the size and location of the organizations involved. For instance, the Act prohibits