

# 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-05-001]

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

**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 March 31, 2005.

**ADDRESSES:** Send written comments to David Bowden, Jr., 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 may be faxed to (202) 690-0941.

State that your comments refer to Docket No. PY-05-001 and note the date and page number of this issue of the **Federal Register**.

Comments received may be inspected at the above location between 8 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Rex A. Barnes, Chief, Grading Branch, (202) 720-3271.

#### SUPPLEMENTARY INFORMATION:

##### Background and Proposed Changes

The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) 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.

A recent review determined that the existing fee schedule, effective January 1, 2004, will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance in FY 2006. Costs in FY 2006 are projected at \$31.9 million. Without a fee increase, FY 2006 revenues are projected at \$30.5 million and trust fund balances would be \$14.5 million. With a fee increase, FY 2006 revenues are projected at \$31.9 million and trust fund balances would remain at \$15.9 million.

Employee salaries and benefits account for approximately 82 percent of

the total operating budget. The last general and locality salary increase for Federal employees became effective on January 1, 2004 and it materially affected program costs. Projected cost estimates for that increase were based on a salary increase of 2.0 percent, however, the increase was actually 3.89 to 5.35 percent, depending on locality. A general and locality salary increase of 3.5 percent is scheduled for January 2005, and another increase estimated at 1.5 percent is expected in January 2006. Also, from October 2004 through September 2006, salaries and fringe benefits of federally-licensed State employees will have increased by about 6.0 percent.

The impact of these cost increases was determined for resident, nonresident, and fee services. To offset projected cost increases, the hourly resident and nonresident rate would be increased by approximately 5.8 percent and the fee rate would be increased by approximately 8.3 percent. The hourly rate for resident and nonresident service covers graders' salaries and benefits. The hourly rate for fee service covers graders' salaries and benefits, plus the cost of travel and supervision.

As shown in the table below, the minimum monthly administrative volume charge for resident poultry, shell egg, and rabbit grading would not be changed.

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, and rabbit grading)</b>		
Inauguration of service .....	310	310
Hourly charges:		
Regular hours .....	34.36	36.36
Administrative charges—Poultry grading:		
Per pound of poultry .....	.00037	.00039
Minimum per month .....	260	260
Maximum per month .....	2,755	2,875
Administrative charges—Shell egg grading:		
Per 30-dozen case of shell eggs .....	.048	.051
Minimum per month .....	260	260
Maximum per month .....	2,755	2,875
Administrative charges—Rabbit grading:		
Based on 25% of grader's salary, minimum per month .....	260	260

Service	Current	Proposed
<b>Nonresident Service (egg and poultry grading)</b>		
Hourly charges:		
Regular hours .....	34.36	36.36
Administrative charges:		
Based on 25% of grader's salary, minimum per month .....	260	260
<b>Fee and Appeal Service (egg, poultry, and rabbit grading)</b>		
Hourly charges:		
Regular hours .....	60.00	65.00
Weekend and holiday hours .....	69.32	75.12

**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).

**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 376 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 fees are adequate and if costs are reasonable. A recent review determined that the existing fee schedule, effective January 1, 2004, will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance in FY 2006. Costs in FY 2006 are projected at \$31.9 million. Without a fee increase, FY 2006 revenues are projected at \$30.5 million and trust fund balances would be \$14.5 million. With a fee increase, FY 2006 revenues are projected at \$31.9 million and trust fund balances would remain at \$15.9 million.

This action would raise the fees charged to users of grading services. The AMS estimates that overall, this rule would yield an additional \$1,400,000 during FY 2006. The hourly rate for resident and nonresident service would

increase by approximately 5.8 percent and the fee rate would increase by approximately 8.3 percent. The impact of these rate changes in a poultry plant would range from about 0.0075 to 0.10 cents per pound of poultry handled. In a shell egg plant, the range would be less than 0.037 to 0.466 cents per dozen eggs handled.

**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.

**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.

A 30-day comment period is provided for interested persons to comment on this proposed rule. This period is appropriate in order to implement, as early as possible in FY 2006, any fee changes adopted as a result of this rulemaking action.

**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 \$65.00 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 \$75.12 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 \$0.051, except that the minimum charge per billing period shall be \$260 and the maximum charge shall be \$2,875. 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

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

**Authority:** 7 U.S.C. 1621–1627.

5. 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 \$65.00 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 \$75.12 per hour. Information on legal holidays is available from the Supervisor.

6. In § 70.77, paragraph (a)(4) is 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 \$0.00039, except that the minimum charge per billing period shall be \$260 and the maximum charge shall be \$2,875. The minimum charge also applies where an approved application is in effect and no product is handled.

\* \* \* \* \*

Dated: February 24, 2005.

**Barry L. Carpenter,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 05–3929 Filed 2–28–05; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 413, 415, and 417

[Docket No. FAA–2000–7953; Notice No. 05–02]

RIN 2120–AG37

#### Licensing and Safety Requirements for Launch

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Availability of draft regulatory language; Notice of public meeting.

**SUMMARY:** The FAA is making available a draft of changes to the commercial space transportation regulations governing licensing and safety requirements for launch. We intend the changes to identify, codify, and maintain the successful safety measures that have been implemented at the federal launch ranges belonging to the Department of Defense and NASA. We are also establishing clear safety requirements for launches from non-federal launch sites. We will hold a public meeting on March 29–31, 2005, to give stakeholders an opportunity to get information about, and provide comments on, the draft regulatory language.

**DATES:** Send your comments to reach us by May 2, 2005. The FAA will host a facilitated public meeting in Washington, DC on March 29–31, 2005 from 8:30 a.m. to 4 p.m. each day.

**ADDRESSES:** The public meeting will take place in the Discovery I Conference Room of the Holiday Inn—Capitol at 550 C Street, SW., Washington, DC. Persons who are unable to attend the meeting and who wish to file written comments may send comments identified by Docket Number FAA–2000–7953 using any of the following methods:

*DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

*Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

*Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

*Fax:* 1–202–493–2251.

*Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* To read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Written comments to the docket will receive the same consideration as statements made at the public meeting.

**FOR FURTHER INFORMATION CONTACT:** For technical information: René Rey, (202) 267–7538. For legal information: Laura Montgomery, (202) 267–3150. If you would like to present a statement at the public meeting, have questions about the logistics of the meeting, or would like to arrange an accommodation, contact Brenda Parker, (202) 267–3674 before March 15, 2005.

#### SUPPLEMENTARY INFORMATION:

#### Licensing and Safety Requirements for Launch Amendments

The draft regulatory language includes changes to the commercial space transportation regulations governing licensing and safety requirements for launch. Some of the changes were originally part of a notice of proposed rulemaking published in 2000 (65 FR 63921, Oct. 25, 2000) (2000 NPRM). Other changes were part of a supplemental notice of proposed rulemaking published in 2002 (67 FR 49456, July 30, 2002) (2002 SNPRM).

The FAA revisited the issue of how much cost to attribute to the draft rule. The FAA found there would potentially be certain costs associated with FAA review of federal launch range implementation of the proposed requirements. In an attempt to be responsive to industry's concerns about costs, the FAA obtained an independent economic analysis from Science Applications International Corporation (SAIC). SAIC's analysis validated the FAA's estimates. Both reports are available in the docket.

In preparing the draft regulatory language, we have also made changes to the proposed language to clarify the FAA's position, respond to comments,