

## Agricultural Marketing Service, USDA

## § 70.91

multiplied by \$0.00045 beginning March 30, 2008, and \$0.00047 on or after January 25, 2009, except that the minimum charge per billing period shall be \$275 and the maximum charge shall be \$3,150 beginning March 30, 2008, and \$3,225 on or after January 25, 2009. 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 \$275 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

(b) *Other provisions.* (1) The applicant shall designate in writing the employees of the applicant who will be required and authorized to furnish each grader with such information as may be necessary for the performance of the grading service.

(2) AMS will provide, as available, an adequate number of graders to perform the grading service. The number of graders required will be determined by AMS based on the expected demand for service.

(3) The grading service shall be provided at the designated plant and shall be continued until the service is suspended, withdrawn, or terminated by:

(i) Mutual consent;

(ii) Thirty (30) days' written notice by either the applicant or AMS specifying the date of suspension, withdrawal, or termination;

(iii) One (1) day's written notice by AMS to the applicant if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service; or

(iv) Action taken by AMS pursuant to the provisions of §70.38 through §70.40.

(4) Graders will be required to confine their activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by AMS: *Provided*, That in no instance may the graders assume the duties of management.

[41 FR 23681, June 11, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 70.77, see the List of CFR Sections Affected, which appears in the

Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 70.78 Fees or charges for grading service performed under cooperative agreement.

Fees or charges to be made to an applicant for any grading service which differ from those listed in §§70.70 through 70.77, shall be provided for by a cooperative agreement.

#### GRADING CERTIFICATES

### § 70.90 Forms.

Grading certificates and sampling report forms (including appeal grading certificates and regrading certificates) shall be issued on forms approved by the Administrator.

[71 FR 42014, July 24, 2006]

### § 70.91 Issuance.

(a) *Resident grading basis.* Certificates will be issued only upon a request therefor by the applicant or the AMS. When requested, a grader shall issue a certificate covering product graded by such grader. In addition, a grader may issue a grading certificate covering product graded in whole or in part by another grader when the grader has knowledge that the product is eligible for certification based on personal examination of the product or official grading records.

(b) *Other than resident grading.* Each grader shall, in person or by an authorized agent, issue a grading certificate covering each product graded by such grader. A grader's name may be signed on a grading certificate by a person other than the grader if such person has been designated as the authorized agent of such grader by the national supervisor: *Provided*, That the certificate is prepared from an official memorandum of grading signed by the grader: *And provided further*, That a notarized power of attorney authorizing such signature has been issued to such person by the grader and is on file in the office of grading. In such case, the authorized agent shall sign both the agents name and the grader's name, *e.g.*, "John Doe by Mary Roe."

[71 FR 42014, July 24, 2006]