

§ 70.71

§ 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 \$74.08 beginning March 30, 2008, and \$77.28 on or after January 25, 2009, 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 \$86.68 per hour beginning March 30, 2008, and \$93.24 per hour on or after January 25, 2009. Information on legal holidays is available from the supervisor.

(d) Fees for audit services will be based on the time and expenses required to perform the audit. The hourly charge shall be \$87.56 beginning March 30, 2008, and \$89.20 on or after January 25, 2009, and shall include the time actually required to perform the audit, waiting time, travel time, travel expenses and any clerical costs involved in issuing a certificate.

(e) Audit services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of \$112.00 per hour beginning March 30, 2008, and \$116.08 per hour on or after January 25, 2009. Information on legal holidays is available from the Supervisor.

[70 FR 42256, July 22, 2005, as amended at 71 FR 42014, July 24, 2006; 72 FR 11775, Mar. 14, 2007; 73 FR 11519, Mar. 4, 2008]

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

The costs 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 § 70.71, plus any travel and additional expenses. If the appeal grading, or review of a grader's decision discloses that a material error was

7 CFR Ch. I (1–1–12 Edition)

made in the original determination, no fee or expenses will be charged.

[63 FR 52133, Sept. 30, 1998, as amended at 71 FR 42014, July 24, 2006]

§ 70.75 Travel expenses and other charges.

Charges are to be made to cover the cost of travel and other expenses incurred by the AMS in connection with rendering grading service. Such charges shall include the cost of transportation, per diem, and any other expenses.

[42 FR 2971, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, as amended at 46 FR 9, Jan. 2, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42014, July 24, 2006]

§ 70.76 Charges for continuous poultry grading performed on a non-resident basis.

Fees to be charged and collected for grading service on a nonresident grading basis shall be those provided in this section. The fees to be charged for any appeal grading shall be as provided in § 70.72.

(a) *Charges.* The charges for the grading of poultry and edible products thereof shall be paid by the applicant for the service and shall include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to the AMS. Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills will be rendered by the 10th day following the end of the billing period in which the service was rendered and are payable upon receipt.

(1) A charge for the salary and other costs, as specified in this paragraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. Base salary rates will be determined on a national average for all official plants operating in States under a Federal Trust Fund Agreement where Federal graders, State graders, or a

Agricultural Marketing Service, USDA

§ 70.77

combination of Federal and State graders are used, by averaging the salary rates paid to each Federal or State grader assigned to such plants. Charges to plants are as follows:

(i) For all regular hours of work scheduled and approved as an established tour of duty for a plant, the regular rate charge will be made. The regular rate charge will be determined by adding an amount to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System, retirement benefits, group life insurance, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs.

(ii) All hours worked by an assigned grader or another grader in excess of the approved tour of duty, or worked on a nonscheduled workday, or actually worked on a holiday in excess of the tour of duty, will be considered as overtime. The charge for such overtime will be 150 percent of the grader's base salary rate.

(iii) For work performed on a holiday which is within the established tour of duty approved for a plant, the added charge will be the same as the grader's base rate.

(iv) For work performed between 6 p.m. and 6 a.m., night differential charges (for regular, overtime, or holiday hours worked during this period) will be at the applicable rates established plus 10 percent of the base rate.

(v) For work performed on Sunday, Sunday differential charges (for regular, overtime, or holiday hours worked on Sunday) will be at the applicable rates established plus 25 percent of the base rate.

(vi) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in § 70.71.

(2) 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 designated locations 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 or § 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.

(5) When similar nonresident grading services are furnished to the same applicant under part 55 or part 56 of this chapter, the charges listed in this section shall not be repeated.

[41 FR 23681, June 11, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 70.76, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

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

Fees to be charged and collected for any grading service, other than for an appeal grading, on a resident grading basis, shall be those provided in this section. The fees to be charged for any appeal grading shall be as provided in § 70.72.