

## Agricultural Marketing Service, USDA

## § 56.49

### § 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 formulas specified in this section. For each calendar year or crop year, AMS will calculate the rate for grading or audit services, per hour per program employee using the following formulas:

(1) *Regular rate.* The total AMS grading or audit program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS grading or audit program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5 plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS grading or audit program personnel direct pay divided by direct hours which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(b)(1) For each calendar year, based on previous fiscal year/historical actual costs, AMS will calculate the benefits, operating, and allowance for bad debt components of the regular, overtime and holiday rates as follows:

(i) *Benefits rate.* The total AMS grading or audit program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* The total AMS grading or audit program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total AMS grading or audit program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

(2) The calendar year cost of living expenses and percentage of inflation factors used in the formulas in this section are based on the most recent Office of Management and Budget's Presidential Economic Assumptions.

(c) Fees for grading services will be based on the time required to perform the services. The hourly charges shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(d) Fees for audit services will be based on the time and expenses required to perform the audit. The hourly charge shall include the time actually required to perform the audit, waiting time, travel time, and any clerical costs involved in issuing an audit report.

[79 FR 67322, Nov. 13, 2014]

### § 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.

[63 FR 52133, Sept. 30, 1998]

### § 56.49 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

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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 8, Jan. 2, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42010, July 24, 2006]

### **§ 56.52 Charges for continuous 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 calculated as described in this part. The fees to be charged for any appeal grading shall be as provided in § 56.47.

(a) *Charges.* The charges for the grading of shell eggs 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 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 period in which the service was rendered and are payable upon receipt.

(1) When a signed application for service has been received, the State supervisor or the supervisor's assistant shall complete a plant survey pursuant to § 56.30. The costs for completing the plant survey shall be borne by the applicant on a fee basis as described in § 56.46. No charges will be assessed when the application is required because of a change in name or ownership. If service is not installed within 6 months from the date the application is filed, or if service is inactive due to an approved request for removal of a grader(s) for a period of 6 months, the application will be considered terminated, but a new application may be filed at any time. In addition there will be a charge of \$300 if the application is terminated at the request of the applicant for reasons other than for a change in location, within 12 months from the date of the inauguration of service.

(2) Charges for the cost of each grader assigned to a plant will be calculated as described in § 56.46, except that no charge will be assessed when the assigned grader is temporarily re-assigned 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 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