Age of separated employee at birthday before death	Multiplier
49	.4814
50	.5131
51	.5470
52	.5834
53	.6225
54	.6646
55	.7100
56	.7592
57	.8123
58	.8698
59	.9322

Age of separated employee at birthday before death	Multiplier by separated employee's year of birth	
	After 1966	From 1950 through 1966
With at least 30 years of creditable service—		
46	.4912	.5254
47	.5226	.5591
48	.5564	.5953
49	.5926	.6340
50	.6316	.6757
51	.6733	.7203
52	.7181	.7683
53	.7663	.8199
54	.8182	.8754
55	.8741	.9353
56	.9346	1.0000

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 54, 56, and 70

[Doc. #AMS–LP–18–0095]

Voluntary Grading of Meats, Prepared Meats, Meat Products, Shell Eggs, Poultry Products, and Rabbit Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is amending its regulations governing the voluntary grading and certification relating to meats, prepared meats, meat products, shell eggs, poultry products, and rabbit products. Amendments include changing terminology to scheduled and non-scheduled, billing of holidays, billing excessive hours over and above agreement hours, and removing the administrative volume charge. Amendments will standardize and align billing practices for services provided by the Livestock and Poultry Program.

DATES: This rule is effective October 1, 2019.

FOR FURTHER INFORMATION CONTACT: Julie Hartley, Chief, Business Operations Branch, Quality Assessment Division; Livestock and Poultry Program, Agricultural Marketing Service, U.S. Department of Agriculture; Room 3932–S, STOP 0258, 1400 Independence Avenue SW, Washington, DC 20250–0258; telephone (202) 720–7316; or email to *Julie.Hartley@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 13771

This action does not meet the definition of a significant regulatory action contained in section 3(f) of Executive Order 12866 and is not subject to review by the Office of Management and Budget (OMB). Additionally, because this rule would not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], AMS has considered the economic effect of this action on small entities and has determined that it will not have a significant economic impact on a substantial number of small business entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

AMS has determined that this rule will not have a significant impact on a substantial number of small entities, as defined by RFA, because the services are voluntary and provided on a fee-for-service basis and are not subject to scalability based on the business size.

Approximately 728 applicants subscribe to AMS's voluntary, fee-for-service activities that are subject to these regulations. The U.S. Small Business Administration's Table of Small Business Size Standards Matched to North American Industry Classification System Codes (NAICS) identifies small business size by average annual receipts or by the average number of employees at a firm. This information can be found in the Code of Federal Regulations (CFR) at 13 CFR 121.104, 121.106, and 121.201.

AMS requires that all applicants for service provide information about their company for the purpose of processing bills. Information collected from an applicant includes company name, address, billing address, and similar information. AMS started collecting information about the size of the business in May 2017, but it received

the majority of applications prior to May 2017. However, based on working knowledge of these operations, AMS estimates that roughly 25 percent of current applicants may be classified as small entities because they meet the small business requirements of having average annual receipts of $750,000 for beef and poultry producers and $15,000,000 for chicken egg producers as set forth in 13 CFR part 121's Small Business Size Standards by NAICS Industry table (sectors 31–33, subsector 311—food manufacturing). The effects of this rule are not expected to be disproportionately greater or lesser for small applicants than for larger applicants. As described above, these are voluntary, fee-for-service activities.

AMS is committed to complying with the E-Government Act of 2002 to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this action.

Congressional Review Act

Pursuant to the Congressional Review Act [5 U.S.C. 801 *et seq.*], the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Executive Order 12988

This action has been reviewed under Executive Order 12988, Civil Justice Reform and is not intended to have retroactive effect. The Act prohibits states or political subdivisions of a state to impose any requirement that is in addition to, or inconsistent with, any requirement of the Act. There are no civil justice implications associated with this rule.

Civil Rights Review

AMS has considered the potential civil rights implications of this rule on minorities, women, or persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. This action will not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Further, this action will not deny any persons or groups the benefits of the program or subject any persons or groups to discrimination.

Executive Order 13132

This action has been reviewed under Executive Order 13132, Federalism. This Order directs agencies to construe, in regulations and otherwise, a Federal statute to preempt state law only when the statute contains an express preemption provision. There are no federalism implications associated with this action.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this action will not change the information collection and recordkeeping requirements previously approved and will not impose additional reporting or recordkeeping burdens on users of these voluntary services.

The information collection and recordkeeping requirements of these parts have been approved by OMB under 44 U.S.C. chapter 35 and have been assigned OMB Control Number 0581–0128.

In September 2014, three separate OMB collections—OMB 0581–0127, OMB 0581–0124, and OMB 0581–0128—were merged, such that the current OMB 0581–0128 pertains to Regulations for Voluntary Grading, Certification, and Standards and includes 7 CFR parts 54, 56, and 70.

Background and Revisions

The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), hereinafter referred to as the ''Act,'' directs and authorizes the Secretary of Agriculture to facilitate the competitive and efficient marketing of agricultural products. AMS programs support a strategic marketing perspective that adapts product and marketing decisions to consumer demands, ensures quality, promotes a competitive and efficient domestic and international marketplace, and incorporates new technology. These services include AMS's grading program, which verifies that product meets USDA grade standards. At the request of the buyer or seller, products are officially graded by USDA allowing product application of the grademark or USDA shield. The grademark or USDA shield indicates that USDA has officially graded the product and it has met all the requirements of the designated quality standard. In addition, AMS provides direct certification of products, that meet end-user specifications, in the facilities that manufacture them. Specifications can be for commodities purchased by USDA for nutrition assistance programs, or to a third-party requirement. Product characteristics such as manner of cut, color, and other attributes can be directly examined by an AMS employee to determine if a specification has been met, and the product can be stamped and marketed as ''USDA Certified'' or ''USDA Accepted as Specified.'' This service ensures purchasers receive products that comply with their unique specification requirements. Grading and certification services are voluntary, with users paying for the cost of the requested service.

In 2013, AMS merged the Livestock and Seed Program and Poultry Programs to create the Livestock, Poultry, and Seed (LPS) Program. Prior to the merger, both Programs administered parallel grading and certification services to their respective industries with services provided on a fee-for-service bases. Following the merger, the LPS Program created the Quality Assessment Division (QAD) to oversee grading and certification services carried out by the Grading and Verification Division of the former Livestock and Seed Program and the Grading Branch of the former Poultry Programs. The QAD continues to bill customers with the billing rules specified in the regulations governing the grading of various commodities: 7 CFR part 54—Meats, Prepared Meats and Meat Products (Grading, Certification, and Standards); 7 CFR part 56—Voluntary Grading of Shell Eggs; and 7 CFR part 70—Voluntary Grading of Poultry Products and Rabbit Products.

To improve efficiency and reduce costs, QAD graders are cross-utilized between the commodities. Cross-utilization continues to increase as more customers request services for more than one commodity. Billing according to two sets of rules (one set of rules for part 54 and one set of rules for parts 56 and 70) is inefficient and causes customer confusion. These amendments will standardize the billing rules, remove customer confusion, and increase efficiency in billing administration allowing QAD to bill a customer for multiple services and products with one set of rules.

Standardize Language

Amendments will standardize language for providing service under an

agreement or on an as-needed basis. Services provided under part 54 currently use the terms ''commitment'' for services provided under an agreement and ''non-commitment'' for services provided on an as-needed basis. Services provided under parts 56 and 70 previously used the terms ''resident'' for services provided under an agreement and ''non-resident'' for services provided on an as-needed basis. Amended language for all parts will be ''scheduled'' for services provided under an agreement and ''unscheduled'' for services provided on an as-needed basis.

AMS will amend §§ 56.21 and 70.30 (redesignated § 70.31) to standardize the application for service language with that found in § 54.6. In addition to language currently in § 54.6, AMS published a final rule in the **Federal Register** on September 16, 2019 (84 FR 48551), to amend 7 CFR part 54, AMS–LP–16–0080. The amendments in AMS–LP–16–0080 would add items 5 and 6 to § 54.6(a). AMS will further amend § 54.6(a) by adding a subparagraph after item 6 stating that the applicant agrees to comply with the terms and conditions of the regulations. Standardized language includes the application requirements, items that must be included in the application, and the applicant's agreement to comply with the terms and conditions of the regulations.

In addition to amendments in the proposed rule for Amendments to the Regulations Governing Voluntary Grading of Meats, Prepared Meats, Meat Products, Shell Eggs, Poultry Products, and Rabbit Products published in the **Federal Register** (84 FR 10998) on March 25, 2019, item § 54.6(c) *Termination of Service* has been added to the regulatory language. This item was unintentionally omitted in the proposed rule and was previously § 54.6(c)(3), in the final rule published in the **Federal Register** to amend 7 CFR part 54, AMS–LP–16–0080.

AMS will redesignate §§ 70.30 through 70.37 as §§ 70.29 through 70.36, respectively, and add § 70.37 Types of service. The addition of § 70.37 will clarify and align the services AMS provides with § 56.28.

The amendments will revise §§ 54.28, 56.45, and 70.70 by updating the sections with current language and instructions for payment of services.

Billing of Holidays

Amendments will align holiday billing rules for all services with established policies for employee premium pay under authority of 5 U.S.C. chapter 55 and 5 CFR part 550. Amendments will revise §§ 54.1, 56.1, and 70.1 by adding the definition of observed legal holidays. The addition of observed legal holidays will establish the ''in lieu of holiday'' for a holiday that falls on a Saturday or Sunday. Amendments will also charge the holiday rate for hours worked on observed legal holidays.

Previously, services covered under part 54 were billed the holiday rate only on the actual holiday when worked, and if the actual holiday was not worked, no charge was applied. Additionally, holidays that fall on Saturday or Sunday but were observed on a Friday or Monday were billed at the commitment rate, not the holiday rate.

The amendments will revise § 54.27(c) for scheduled and non-scheduled bases to state the holiday hourly rate would be charged for hours worked on observed legal holidays. The impact analysis for services provided under this part would be less than a $50,000 increase in costs to the meat industry.

The following scenarios demonstrate how billing for hours worked on observed legal holidays will change under the amendments:

Scenario #1

A facility has a commitment agreement for 8 hours of service. Service is provided for 4 hours on a Friday, which is the observed legal holiday for an actual holiday that falls on Saturday.

- *Previously:* The facility is charged the commitment rate for 8 hours on the agreement.
- *Amended to:* The facility is charged the holiday rate for the 4 hours worked.

Scenario #2

A facility requests 8 hours of service (non-commitment) on a Friday, which is the observed legal holiday for an actual holiday that falls on Saturday.

- *Previously:* The facility is charged the non-commitment rate for 8 hours.
- *Amended to:* The facility is charged the non-commitment holiday rate for 8 hours.

Previously, services covered under parts 56 and 70 were billed the regular rate on the holiday even if the holiday was not worked, the holiday rate when service was provided on the grader's scheduled holiday,[1] and the overtime rate when service was provided on a holiday in excess of the hours stated on the agreement.

The amendments revise §§ 56.46, 56.52, 70.71, and 70.77 to state that the holiday hourly rate will be charged for hours worked on observed legal holidays. The impact for services provided under these parts would be minimal and to the benefit of the applicant in most cases. Impact analysis shows an average cost savings of $2,200 annually per applicant.

The following scenarios demonstrate how billing for hours worked on observed legal holidays are changing under the amendments:

Scenario #1

A facility has a resident agreement for providing service Monday–Friday, 8 hours each day. The actual holiday is a Monday and no service provided.

- *Previously:* The facility is charged the resident regular rate for 8 hours on the agreement.
- *Amended to:* The facility will not be charged.

Scenario #2

A facility has a resident agreement for providing service Monday–Friday, 8 hours each day. Service is provided on Monday, which is the observed legal holiday for an actual holiday that falls on Sunday.

- *Previously:* The facility is charged the resident regular rate for 8 hours on the agreement. The facility is charged the holiday rate if the grader claims it is his/her actual or in lieu of holiday worked.
- *Amended to:* The facility will only be charged the holiday rate.

Scenario #3

A facility has a resident agreement for providing service Monday–Friday, 8 hours each day. Service is provided for 10 hours on Monday, which is the observed legal holiday for an actual holiday that falls on Sunday.

- *Previously:* The facility is charged the resident regular rate for 8 hours on the agreement. The facility is charged the holiday rate if the grader claims it is his/her actual or in lieu of holiday worked, plus the overtime rate for 2 hours.
- *Amended to:* The facility will be charged the holiday rate for 10 hours.

AMS will further clarify and align rates charged for services. Amendments update §§ 54.27, 56.46, 56.52, 70.71, and 70.77 and include the specific rates charged to plants for scheduled and unscheduled services.

Billing Excessive Hours Over and Above Agreement Hours

AMS will align billing rates for services provided over and above agreement hours and following a reasonable amount of billed overtime.

[1] If the grader's scheduled day off falls on a legal holiday, the grader's holiday moves to the preceding or following day (thus becoming his or her scheduled holiday).

Previously, services under part 54 were charged the non-commitment rate, while services provided under parts 56 and 70 were charged the resident overtime rate for hours in excess of their agreement. AMS will align all services and use the unscheduled rate (the previous non-commitment or fee rate) when services are provided over and above their agreement and following a reasonable amount of billed overtime. This amendment affects only services provided under parts 56 and 70 and causes a higher rate to be charged to applicants who request additional staffing outside of the scheduled shifts for which AMS agreed to provide service. Impact analysis shows an average cost increase of $3,700 annually for applicants that request additional graders.

The following scenarios demonstrate how billing for additional staffing outside the agreed-upon scheduled shifts will change under the amendments:

Scenario #1

A facility has an agreement for providing service Monday–Friday, 8 hours each day. The facility uses service for 10 hours on Monday, Wednesday, and Friday and requests service to be provided for 6 hours on Saturday.

○ *Previously:* The facility was charged the overtime rate for 12 hours (service provided Monday, Wednesday, and Friday for 2 hours each day above the agreement, plus 6 hours on Saturday).

○ *Amended to:* The facility will be charged the overtime rate for 6 hours (service provided Monday, Wednesday, and Friday for 2 hours each day above the agreement) and the unscheduled rate for 6 hours of service provided on Saturday.

Scenario #2

A facility has an agreement for providing service Monday–Friday, 8 hours each day, 1st shift. The facility requests additional service to be provided for Monday–Friday, 8 hours each day on 2nd shift for 4 weeks.

○ *Previously:* The facility was charged the overtime rate for all additional hours of service provided.

○ *Amended to:* The facility will be charged the unscheduled rate for all hours of service provided on the 2nd shift.

Scenario #3

A facility has an agreement for providing service Monday–Friday, 8 hours each day. Through the holidays, the facility requests an additional grader to provide service for Monday–Friday, 8 hours each day.

○ *Previously:* The facility was charged the overtime rate for all hours of service provided by the additional grader.

○ *Amended to:* The facility will be charged the unscheduled rate for all hours of service provided by the additional grader.

Remove Administrative Volume Charge

Poultry and shell egg services provided under parts 56 and 70 were billed an administrative volume charge in addition to the hourly rates assessed for providing service. This charge was established to cover overhead costs associated with grading and certification services. In 2014, AMS incorporated new formulas for establishing yearly fee rates into all grading regulations; these new formulas do not include the administrative volume charge, nor do they allow for an increase to the administrative rate. The administrative volume charge was last increased in 2009, and it does not adequately cover overhead costs associated with these voluntary services. The amendments will remove the administrative volume charge altogether from §§ 56.52(a)(4) and 70.77(a)(4) and (5) and allow QAD to charge hourly rates that encompass all costs for providing service. This amendment affects only services provided under parts 56 and 70. QAD estimates that plants with a single or double shift scheduled (40 or 80 hours) will see a minor cost savings of $7,500 annually from the removal of the administrative charge and the creation of the new hourly rates, while plants with four shifts scheduled (160 hours) will see an increase of $32,000 annually.

Summary of Comments

A proposed rule to amend the Regulations Governing Voluntary Grading of Meats, Prepared Meats, Meat Products, Shell Eggs, Poultry Products, and Rabbit Products was published in the **Federal Register** (84 FR 10998) on March 25, 2019. Comments on the proposed rule were solicited from interested parties until May 24, 2019. AMS received four comments; two from industry organizations, one from a State Department of Agriculture, and one comment from an individual.

One commenter from an industry organization favored aligning administrative amendments and removing the administrative volume charge, providing this action is completed before the October 1, 2019, fee increase is effective. This industry organization commenter also requested, in the event the agency moves forward, the agency phase in a fee increase and work with state agencies providing service under a cooperative agreement. Two commenters, one from an industry organization and one from a State Department of Agriculture opposed moving forward with this action, citing fees charged by state agencies providing service under a cooperative agreement. Requirements of cooperative agreements are outside the scope of the regulations, though AMS is discussing cooperative agreements with State Departments of Agriculture. A fourth commenter was an individual that raised issues that were outside the scope of the regulation.

After reviewing the comments, AMS has determined that no changes to the proposed language are warranted.

List of Subjects

7 CFR Part 54

Meat, Meat grading, Meat products, Voluntary standards.

7 CFR Part 56

Eggs, Egg products, Shell egg grading, Shell egg inspections, Voluntary standards.

7 CFR Part 70

Poultry, Poultry grading, Poultry products, Rabbit, Rabbit grading, Voluntary standards.

For the reasons set forth in the preamble, 7 CFR parts 54, 56, and 70 is amended as follows:

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

■ 1. The authority citation for 7 CFR part 54 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 2. Amend § 54.1 by adding in alphabetical order a definition for ''observed legal holiday'' to read as follows:

§ 54.1 Meaning of words and terms defined.

* * * * *

Observed legal holiday. When a holiday falls on a weekend—Saturday or Sunday—the holiday usually is observed on Monday (if the holiday falls on Sunday) or Friday (if the holiday falls on Saturday).

* * * * *

■ 3. Revise § 54.6 to read as follows:

§ 54.6 How to obtain service.

(a) *Application.* (1) Any person may apply for service with respect to products in which he or she has a financial interest by completing the required application for service. In any case in which the service is intended to be furnished at an establishment not

operated by the applicant, the application must be approved by the operator of such establishment and such approval shall constitute an authorization for any employee of the Department to enter the establishment for the purpose of performing his or her functions under the regulations in this part. The application must include:

(i) Name and address of the establishment at which service is desired;

(ii) Name and mailing address of the applicant;

(iii) Financial interest of the applicant in the products, except where application is made by a representative of a Government agency in the representative's official capacity;

(iv) Signature of the applicant (or the signature and title of the applicant's representative);

(v) Indication of the legal status of the applicant as an individual, partnership, corporation, or other form of legal entity; and

(vi) The legal designation of the applicant's business as a small or large business, as defined by the U.S. Small Business Administration's North American Industry Classification System (NAICS) Codes.

(2) In making application, the applicant agrees to comply with the terms and conditions of the regulations in this part (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit. Any change in such status, at any time while service is being received, shall be promptly reported by the person receiving the service to the grading office designated by the Director or Chief to process such requests.

(b) *Notice of eligibility for service.* The applicant will be notified whether the application is approved or denied.

(c) *Termination of service.* If an applicant who terminates scheduled grading service requests service again within a 2-year period from the date of the initial termination, the applicant will be responsible for all relocation costs associated with the grader assigned to fulfill the new service agreement. If more than one applicant is involved, expenses will be prorated according to each applicant's committed portion of the official grader's services.

■ 4. Amend § 54.27 by revising paragraph (c) to read as follows:

§ 54.27 Fees and other charges for service.

* * * * *

(c) *Fees for service*—(1) *On a scheduled basis.* Minimum fees for service performed under a scheduled agreement or an agreement by memorandum will be based on 8 hours per day, Monday through Friday, excluding observed Federal legal holidays occurring Monday through Friday on which no grading and certification services are performed. The Agency reserves the right to use any grader assigned to the plant under a scheduled agreement to perform service for other applicants and no charge will be assessed to the scheduled applicant for the number of hours charged to the other applicant. Charges to plants are as follows:

(i) The regular hourly rate will be charged for hours worked in accordance with the approved tour of duty on the application for service between the hours of 6 a.m. and 6 p.m.

(ii) The overtime rate will be charged for hours worked in excess of the approved tour of duty on the application for service.

(iii) The holiday hourly rate will be charged for hours worked on observed legal holidays.

(iv) The night differential rate (for regular or overtime hours) will be charged for hours worked between 6 p.m. and 6 a.m.

(v) The Sunday differential rate (for regular or overtime hours) will be charged for hours worked on a Sunday.

(2) *On an unscheduled basis.* Minimum fees for service performed under an unscheduled basis agreement will be based on the time required to render the service, calculated to the nearest 15-minute period, including official grader's travel and certificate, memorandum, and/or report preparation time performed in connection with the performance of service. A minimum charge of one-half hour shall be made for service pursuant to each request notwithstanding that the time required to perform service may be less than 30 minutes. Charges to plants are as follows:

(i) The regular hourly rate will be charged for the first 8 hours worked per grader per day for all days except observed legal holidays.

(ii) The overtime rate will be charged for hours worked in excess of 8 hours per grader per day for all days except observed legal holidays.

(iii) The holiday hourly rate will be charged for hours worked on observed legal holidays.

* * * * *

■ 5. Revise § 54.28 to read as follows:

§ 54.28 Payment of fees and other charges.

Fees and other charges for service must be paid in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the service is furnished. Upon receipt of billing for fees and other charges for service, the applicant will remit by check, electronic funds transfer, draft, or money order made payable to the National Finance Center. Payment for the service must be made in accordance with directions on the billing statement, and such fees and charges must be paid in advance if required by the official grader or other authorized official.

PART 56—VOLUNTARY GRADING OF SHELL EGGS

■ 6. The authority citation for 7 CFR part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 7. Amend § 56.1 by adding in alphabetical order a definition for ''observed legal holiday'' to read as follows:

§ 56.1 Meaning of words and terms defined.

* * * * *

Observed legal holiday. When a holiday falls on a weekend—Saturday or Sunday—the holiday usually is observed on Monday (if the holiday falls on Sunday) or Friday (if the holiday falls on Saturday).

* * * * *

■ 8. Revise § 56.21 to read as follows:

§ 56.21 How application for service may be made; conditions of service.

(a) *Application.* (1) Any person may apply for service with respect to products in which he or she has a financial interest by completing the required application for service. In any case in which the service is intended to be furnished at an establishment not operated by the applicant, the application must be approved by the operator of such establishment and such approval shall constitute an authorization for any employee of the Department to enter the establishment for the purpose of performing his or her functions under the regulations in this part. The application must include:

(i) Name and address of the establishment at which service is desired;

(ii) Name and mailing address of the applicant;

(iii) Financial interest of the applicant in the products, except where

application is made by a representative of a Government agency in the representative's official capacity;

(iv) Signature of the applicant (or the signature and title of the applicant's representative);

(v) Indication of the legal status of the applicant as an individual, partnership, corporation, or other form of legal entity; and

(vi) The legal designation of the applicant's business as a small or large business, as defined by the U.S. Small Business Administration's North American Industry Classification System (NAICS) Codes.

(2) In making application, the applicant agrees to comply with the terms and conditions of the regulations in this part (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit. Any change in such status, at any time while service is being received, shall be promptly reported by the person receiving the service to the grading office designated by the Director or Chief to process such requests.

(b) *Notice of eligibility for service.* The applicant will be notified whether the application is approved or denied.

■ 9. Revise § 56.28 to read as follows:

§ 56.28 Types of service.

(a) *Noncontinuous grading service.* Service is performed on an unscheduled basis, with no scheduled tour of duty, and when an applicant requests grading of a particular lot of shell eggs. Charges or fees are based on the time, travel, and expenses needed to perform the work. This service may be referred to as unscheduled grading service. Shell eggs graded under unscheduled grading service are not eligible to be identified with the official grademarks shown in § 56.36.

(b) *Continuous grading service on a scheduled basis.* Service on a scheduled basis has a scheduled tour of duty and is performed when an applicant requests that a USDA licensed grader be stationed in the applicant's processing plant and grade shell eggs in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of scheduled service. Minimum fees for service performed under a scheduled agreement will be based on the hours of the regular tour of duty. Shell eggs graded under scheduled grading service are eligible to be identified with the official grademarks shown in § 56.36 only when processed and graded under the supervision of a grader or quality assurance inspector as provided in § 56.39.

(c) *Temporary grading service.* Service is performed when an applicant requests an official plant number with service provided on an unscheduled basis. The applicant must meet all facility, operating, and sanitary requirements of continuous service. Charges or fees are based on the time and expenses needed to perform the work. Shell eggs graded under temporary grading service are eligible to be identified with the official grademarks only when they are processed and graded under the supervision of a grader or quality assurance inspector as provided in § 56.39.

■ 10. Amend § 56.45 by revising paragraphs (a) and (b) to read as follows:

§ 56.45 Payment of fees and charges.

(a) Fees and charges for any grading service must be paid by the interested party making the application for such grading service, in accordance with the applicable provisions of this section and §§ 56.46 through 56.53, inclusive.

(b) Fees and charges for any grading service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, electronic funds transfer, draft, or money order made payable to the National Finance Center. Payment for the service must be made in accordance with directions on the billing statement, and such fees and charges must be paid in advance if required by the official grader or other authorized official.

* * * * *

■ 11. Amend § 56.46 by revising the section heading and paragraphs (a) introductory text and (c) to read as follows:

§ 56.46 Charges for service on an unscheduled 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 an unscheduled 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 services, per hour per program employee using the following formulas:

* * * * *

(c) Fees for unscheduled 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. Charges to plants are as follows:

(1) The regular hourly rate shall be charged for the first 8 hours worked per grader per day for all days except observed legal holidays.

(2) The overtime rate shall be charged for hours worked in excess of 8 hours per grader per day for all days except observed legal holidays.

(3) The holiday hourly rate will be charged for hours worked on observed legal holidays.

* * * * *

■ 12. Revise § 56.47 to read as follows:

§ 56.47 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 an unscheduled 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.

■ 13. Amend § 56.52 by revising the section heading, introductory text, and paragraph (a) to read as follows:

§ 56.52 Charges for services on a scheduled basis.

Fees to be charged and collected for any grading service, other than for an appeal grading, on a scheduled grading basis, will be determined based on the formulas 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 the National Finance Center. 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 are payable upon receipt.

(1) When a signed application for service has been received, the State supervisor or his designee will complete a plant survey pursuant to § 56.30. The costs for completing the plant survey will be charged to the applicant on an unscheduled 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 or graders(s) for a period of 6 months, the application will be considered terminated. 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. Minimum fees for service performed under a scheduled agreement shall be based on the hours of the regular tour of duty. The Agency reserves the right to use any grader assigned to the plant under a scheduled agreement to perform service for other applicants except that no charge will be assessed to the scheduled applicant for the number of hours charged to the other applicant. Charges to plants are as follows:

(i) The regular hourly rate shall be charged for hours worked in accordance with the approved tour of duty on the application for service between the hours of 6 a.m. and 6 p.m.

(ii) The overtime rate shall be charged for hours worked in excess of the approved tour of duty on the application for service.

(iii) The holiday hourly rate will be charged for hours worked on observed legal holidays.

(iv) The night differential rate (for regular or overtime hours) will be charged for hours worked between 6 p.m. and 6 a.m.

(v) The Sunday differential rate (for regular or overtime hours) will be charged for hours worked on a Sunday.

(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 § 56.46, plus actual travel expenses incurred by AMS.

(3) A charge at the hourly rates specified in § 56.46, plus actual travel expenses incurred by AMS for intermediate surveys to firms without grading service in effect.

* * * * *

§ 56.54 [Removed and Reserved]

■ 14. Remove and reserve § 56.54.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

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

Authority: 7 U.S.C. 1621–1627.

■ 16. Amend § 70.1 by adding in alphabetical order a definition for ''observed legal holiday'' to read as follows:

§ 70.1 Definitions.

* * * * *

Observed legal holiday. When a holiday falls on a weekend—Saturday or Sunday—the holiday usually is observed on Monday (if the holiday falls on Sunday) or Friday (if the holiday falls on Saturday).

* * * * *

§ 70.30 [Redesignated as § 70.29]

■ 17. Redesignate § 70.30 as § 70.29.

§ 70.31 [Redesignated as § 70.30 and Amended]

■ 18. Redesignate § 70.31 as § 70.30 and revise newly redesignated § 70.30 to read as follows:

§ 70.30 How application for service may be made; conditions of service.

(a) *Application.* (1) Any person may apply for service with respect to products in which he or she has a financial interest by completing the required application for service. In any case in which the service is intended to be furnished at an establishment not operated by the applicant, the application must be approved by the operator of such establishment and such approval constitutes an authorization for any employee of the Department to enter the establishment for the purpose of performing his or her functions under the regulations in this part. The application shall include:

(i) Name and address of the establishment at which service is desired;

(ii) Name and mailing address of the applicant;

(iii) Financial interest of the applicant in the products, except where application is made by a representative of a Government agency in the representative's official capacity;

(iv) Signature of the applicant (or the signature and title of the applicant's representative);

(v) Indication of the legal status of the applicant as an individual, partnership, corporation, or other form of legal entity; and

(vi) The legal designation of the applicant's business as a small or large business, as defined by the U.S. Small Business Administration's North American Industry Classification System (NAICS) Codes.

(2) In making application, the applicant agrees to comply with the terms and conditions of the regulations in this part (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit. Any change in such status, at any time while service is being received, shall be promptly reported by the person receiving the service to the grading office designated by the Director or Chief to process such requests.

(b) *Notice of eligibility for service.* The applicant will be notified whether the application is approved or denied.

§§ 70.32 through 70.37 [Redesignated as §§ 70.31 through 70.36]

■ 19. Redesignate §§ 70.32 through 70.37 as §§ 70.31 through 70.36, respectively.

■ 20. Add new § 70.37 to read as follows:

§ 70.37 Types of Service.

(a) *Noncontinuous grading service.* Service is performed on an unscheduled basis, with no scheduled tour of duty, and when an applicant requests grading of a particular lot of poultry or rabbit product. Charges or fees are based on the time, travel, and expenses needed to perform the work. This service may be referred to as unscheduled grading service. Poultry and rabbit products graded under unscheduled grading service are not eligible to be identified with the official grademarks shown in § 70.51.

(b) *Continuous grading service on a scheduled basis.* Service on a scheduled basis has a scheduled tour of duty and is performed when an applicant requests that a USDA licensed grader be stationed in the applicant's plant or warehouse and grade poultry and rabbit products in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of scheduled service. Minimum fees for service performed under a scheduled agreement shall be based on the hours of the regular tour of duty. Poultry and rabbit products graded under scheduled grading service are eligible to be identified with the official grademarks shown in § 70.51 only when processed and graded under the supervision of a grader.

(c) *Temporary grading service.* Service is performed when an applicant requests an official plant number with service provided on an unscheduled basis. The applicant must meet facility, operating, and sanitary requirements of continuous service. Charges or fees are based on the time and expenses needed

to perform the work. Poultry and rabbit products graded under temporary grading service are eligible to be identified with the official grademarks only when they are processed and graded under the supervision of a grader.

■ 21. Amend § 70.70 by revising paragraphs (a) and (b) to read as follows:

§ 70.70 Payment of fees and charges.

(a) Fees and charges for any grading service shall be paid by the interested party making the application for such grading service, in accordance with the applicable provisions of this section and §§ 70.71 through 70.78, inclusive.

(b) Fees and charges for any grading service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, electronic funds transfer, draft, or money order made payable to the National Finance Center. Payment for the service must be made in accordance with directions on the billing statement, and such fees and charges must be paid in advance if required by the official grader or other authorized official.

* * * * *

■ 22. Amend § 70.71 by revising the section heading, introductory text, and paragraph (c) to read as follows:

§ 70.71 Charges for services on an unscheduled basis.

Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on an unscheduled basis shall be based on the applicable formulas specified in this section.

* * * * *

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

(1) The regular hourly rate will be charged for the first 8 hours worked per grader per day for all days except observed legal holidays.

(2) The overtime rate will be charged for hours worked in excess of 8 hours per grader per day for all days except observed legal holidays.

(3) The holiday hourly rate will be charged for hours worked on observed legal holidays.

* * * * *

■ 23. Revise § 70.72 to read as follows:

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

§ 70.76 [Removed and Reserved]

■ 24. Remove and reserve § 70.76.

■ 25. Amend § 70.77 by revising the section heading, introductory text, and paragraph (a) to read as follows:

§ 70.77 Charges for services on a scheduled basis.

Fees to be charged and collected for any grading service, other than for an appeal grading, on a scheduled grading basis, will be determined based on the formulas in this part. The fees to be charged for any appeal grading will be as provided in § 70.71.

(a) *Charges.* The charges for the grading of poultry and rabbits and edible products thereof must be paid by the applicant for the service and will 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 National Finance Center. 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 are payable upon receipt.

(1) When a signed application for service has been received, the State supervisor or his designee will complete a plant survey pursuant to § 70.34. The costs for completing the plant survey will be borne by the applicant on an unscheduled basis as described in § 70.71. 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 or graders for a period of 6 months, the application will be considered terminated. 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 § 70.71. Minimum fees for service performed under a scheduled agreement will be based on the hours of the regular tour of duty. The Agency reserves the right to use any grader assigned to the plant under a scheduled agreement to perform service for other applicants and no charge will be assessed to the scheduled applicant for the number of hours charged to the other applicant. Charges to plants are as follows:

(i) The regular hourly rate will be charged for hours worked in accordance with the approved tour of duty on the application for service between the hours of 6 a.m. and 6 p.m.

(ii) The overtime rate will be charged for hours worked in excess of the approved tour of duty on the application for service.

(iii) The holiday hourly rate will be charged for hours worked on observed legal holidays.

(iv) The night differential rate (for regular or overtime hours) will be charged for hours worked between 6 p.m. and 6 a.m.

(v) The Sunday differential rate (for regular or overtime hours) will be charged for hours worked on a Sunday.

(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 plus actual travel expenses incurred by AMS.

(3) A charge at the hourly rates specified in § 70.71, plus actual travel expenses incurred by AMS for intermediate surveys to firms without grading service in effect.

* * * * *

Dated: September 12, 2019.

Bruce Summers,

Administrator.

[FR Doc. 2019–20123 Filed 9–20–19; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1970

[RUS–18–Agency–0005, RBS–18–None–0029, RHS–18–None–0026]

RIN 0572–AC44

Rural Development Environmental Regulation for Rural Infrastructure

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The United States Department of Agriculture (USDA) Rural Development (RD), comprised of the Rural Business-Cooperative Service