

Agriculture, Conservation, and Trade Act of 1990, as amended, mandates laboratory accreditation fees that cover the costs of the Accredited Laboratory Program. The same Act mandates annual payment of the fees on the anniversary date of each accreditation.

Every year, FSIS reviews the fees that it charges for providing overtime and holiday inspection services; voluntary inspection, identification, and certification services; and laboratory services. The Agency performs a cost analysis to determine whether the fees that it has established are adequate to recover the costs that it incurs in providing these services. In the Agency's analysis of projected costs for January 12, 2003 to January 10, 2004, the Agency has identified increases in the costs of providing voluntary base time inspection services and overtime and holiday inspection services. FSIS has also identified decreases in the costs of providing laboratory services because of greater efficiencies. The Agency is not changing the annual fee it charges for the Accredited Laboratory Program.

FSIS calculated the new fees for base time and overtime and holiday inspection services by adding the projected increase in salaries and inflation for 2003 to the actual cost of the services in 2002. The national and locality pay raise for Federal employees was a 4.1 percent increase effective January 2003. The Agency calculated inflation to be 2.1% for 2003. Section 10703 of the 2002 Farm bill authorizes the Secretary of Agriculture to set the hourly rate of compensation for FSIS employees exempt from the Fair Labor Standards Act (*i.e.*, veterinarians) working in establishments subject to the FMIA and PPIA at one and one-half times the employee's hourly rate of base pay. FSIS has adjusted the overtime fees to include the costs of time-and-a-half for all in-plant employees doing overtime work. Previously, veterinarians were limited to the time-and-a-half rate paid to employees at grade level GS-10, step 1. Finally, because of improvements in accessing data from the accounting system, the Agency has been able to estimate the employee benefits ascribable to overtime work and include these in the fee calculation. These costs were formerly only included in the base rate.

The previous and new fees are listed by type of service in Table 1.

TABLE 1.—PREVIOUS AND NEW FEES—PER HOUR PER EMPLOYEE—BY TYPE OF SERVICE

Service	Previous rate	New rate
Base time	\$42.64	\$43.64
Overtime & holiday	44.40	50.04
Laboratory	68.32	61.80

The differing proposed fee increase for each type of service is the result of the different amount that it costs FSIS to provide these three types of services. The differences in costs stem from various factors, including different salary levels of the program employees who perform the services. *See* Table 2.

TABLE 2.—CALCULATIONS FOR THE DIFFERENT TYPES OF SERVICES

Base time	Amount
Actual CY 2002 cost	\$22.54
Pay raise (4.1%)	0.92
Benefits	6.10
Travel, operating & lab costs, & inflation	2.26
Program overhead	4.27
Agency overhead	7.03
Allowance for bad debt	0.52
Total	43.64
Overtime and Holiday Inspection Services:	
Actual CY 2002 cost	30.10
Time & a half for veterinarians	2.73
Pay raise (4.1%)	1.35
Benefits	1.71
Travel, operating & lab costs, & inflation	2.26
Program overhead	4.27
Agency overhead	7.03
Allowance for bad debt	0.60
Adjustment for divisibility into quarter hours	(0.01)
Total	50.04
Laboratory Services:	
FY 2001 hourly salaries & benefits	32.05
Pay raises in 2002 & 2003	2.85
Travel & operating costs for 2002 & 2003	5.72
Program overhead	14.13
Agency overhead	6.32
Allowance for bad debt	0.74
Adjustment for divisibility by quarter hours	(0.01)
Total	61.80

The Agency must recover the actual cost of the services covered by this final rule. These fee increases are essential for the continued sound financial management of the Agency's costs. FSIS announced in its February 26, 2003, proposed rule [68 FR 8858] the fee changes provided for in this final rule.

The Agency believes that adequate notice has been given to affected parties. The Administrator has determined that these amendments should be effective less than 30 days after publication in the **Federal Register** in order for FSIS to recover the costs of the services provided and reduce the possibility of monetary losses for the Agency. Therefore, the changes in fees will be effective on June 29, 2003.

Proposed Rule and Comments

FSIS published a proposed rule [68 FR 8858] on February 26, 2003, stating that it was proposing changing fees for inspection services for CY 2003. The Agency provided for a thirty day comment period, ending March 28, 2003. FSIS received two comments on the proposed rule; one from a government employee and one from an industry group.

Comment: The Government commenter said that changes made in the administration of the Accredited Laboratory Program have depleted the surplus of funds in the Accredited Laboratory Program account. Consequently, the Agency should not decrease the amount it charges for the Accredited Laboratory Program.

Response: The Agency agrees with the comment and, therefore, will not amend its regulations to decrease the fee charged Accredited Laboratories.

The industry commenter raised several objections to raising fees for voluntary inspection services.

Comment: Contrary to the Agency's assertion, the increase for overtime and holiday inspection service is well beyond what the industry would anticipate for inflation and wage increases.

Response: The increase in fees result from inflation and greater salary costs that are not dissimilar to industry's. FSIS will now be reimbursing veterinarians a full time and half over their base rate of pay for holiday and overtime. This accounts in part for the size of the increase for overtime and holiday pay. The change in holiday and overtime pay for veterinarians was authorized by the 2002 Farm Bill.

Comment: FSIS has not considered the incremental cost per pound for mandatory overtime and holiday inspection.

Response: FSIS has considered the incremental cost per pound and acknowledges that it will differ from establishment to establishment, depending upon how much overtime and holiday inspection they use, and whether they use voluntary inspection services. This has been discussed in the economic analysis.