

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 391, 590, and 592

[Docket No. 02-034P]

RIN 0583-AC94

Changes in Fees for Meat, Poultry, and Egg Products Inspection Services—Calendar Year (CY) 2003

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to change the fees that it charges meat and poultry establishments, egg products plants, importers, and exporters for providing voluntary inspection services, overtime and holiday inspection services, identification services, certification services, and laboratory services. The Agency is proposing to raise the fees for voluntary base time and holiday and overtime inspection services. These increases in fees reflect, among other factors, the national and locality pay raise for Federal employees (proposed 4.1 percent increase effective January 2003) and inflation. FSIS is also proposing to decrease the fee for laboratory services because of greater efficiencies realized. The Agency is also proposing to decrease the annual fee for the Accredited Laboratory Program from \$1,500.00 to \$1,000.00.

DATES: The Agency must receive comments by March 28, 2003.

ADDRESSES: Submit one original and two copies of written comments to FSIS Docket Clerk, Docket #02-034P, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250-3700. All comments submitted in response to this proposal will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m.,

Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning policy issues, contact Daniel Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development and Evaluation, FSIS, U.S. Department of Agriculture, Room 112, Cotton Annex, 300 12th Street, SW, Washington, DC 20250-3700, (202) 720-5627, fax number (202) 690-0486.

For information concerning fees, contact Raymond M. Saunders, Director, Budget Division, Office of Management, FSIS, U.S. Department of Agriculture, 2158 South Building, 1400 Independence Avenue, SW, Washington, DC 20250-3700, (202) 720-3367, fax (202) 690-4155.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (FMIA)(21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA)(21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*) provide for mandatory Federal inspection of livestock and poultry slaughter at official establishments, and meat and poultry processing at official establishments and of egg products processing at official plants. FSIS bears the cost of mandatory inspection. Establishments and plants pay for inspection services performed on holidays or on an overtime basis.

In addition, under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*)(AMA), FSIS provides a range of voluntary inspection, certification, and identification services to assist in the orderly marketing of various animal products and byproducts. These services include the certification of technical animal fats and the inspection of exotic animal products, such as antelope and elk. FSIS is required to recover the costs of voluntary inspection, certification, and identification services.

Under the AMA, FSIS also provides certain voluntary laboratory services that establishments and others may request the Agency to perform. Laboratory services are provided for four types of analytic testing: microbiological testing, residue

chemistry tests, food composition tests, and pathology testing. FSIS must recover these costs.

Non-Federal analytical laboratories are qualified under the Accredited Laboratory Program to conduct analyses of official meat and poultry samples. The Food, 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 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 voluntary base time inspection services and overtime and holiday inspection services. FSIS has also identified decreases in the costs of laboratory services because of greater efficiencies. The Agency is also proposing to decrease the annual fee for participants in the Accredited Laboratory Program from \$1,500.00 to \$1,000.00 because of a surplus of accumulated funds.

FSIS calculated the proposed fees 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 is proposed to be 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 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 cover true 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