

system, the Agency has been able to estimate the employee benefits ascribable to overtime work and included these in the fee calculation. These costs were formerly included in the base rate.

The current and proposed fees are listed by type of service in Table 1.

TABLE 1.—CURRENT AND PROPOSED FEES—PER HOUR PER EMPLOYEE—BY TYPE OF SERVICE

Service	Previous rate	Proposed 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:	
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)

TABLE 2.—CALCULATIONS FOR THE DIFFERENT TYPES OF SERVICES—Continued

Total	61.80
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The Agency must recover the actual cost of voluntary inspection services covered by this proposed rule. These fee increases are essential for the continued sound financial management of the Agency's costs. FSIS plans to make the final rule effective as soon as possible. To expeditiously make this rulemaking effective so that the increased costs can be recovered in a timely fashion, and because the Agency has previously announced (65 FR 60093) that it would be reviewing these fees on an annual basis, the Administrator has determined that 30 days for public comment is sufficient.

Executive Order 12866 and Regulatory Flexibility Act

Because this final rule has been determined to be not significant, the Office of Management and Budget (OMB) did not review it under Executive Order 12866.

The Administrator, FSIS, has determined that this proposed rule would not have a significant economic impact, as defined by the Regulatory Flexibility Act (5 U.S.C. 601), on a substantial number of small entities.

Establishments and plants that seek FSIS services are likely to have calculated that the incremental costs of overtime and holiday inspection services would be less than the incremental expected benefits of additional revenues that they would realize from additional production.

Economic Effects

As a result of the proposed fees, the Agency expects to collect an estimated \$119 million in revenues for 2003, compared to \$101 million under the current fee structure. The costs that industry would experience by the raise in fees are similar to other increases that the industry faces because of inflation and wage increases.

The total volume of meat and poultry slaughtered under Federal inspection in 2001 was about 83 billion pounds (Livestock, Dairy, Meat, and Poultry Outlook Report, Economic Research Service, USDA, August 15, 2002). The total volume of U.S. egg product production in 2001 was about 2.319 billion pounds (2002 Agriculture Statistics, USDA). The increase in cost per pound of product associated with the proposed fees increases is, in general, \$.0002. Even in competitive industries like meat, poultry, and egg

products, this amount of increase in costs would have an insignificant impact on profits and prices.

The industry is likely to pass through a significant portion of the proposed fee increases to consumers because of the inelastic nature of the demand curve facing these firms. Research has shown that consumers are unlikely to reduce demand significantly for meat and poultry products, including egg products, when prices increase. Huang estimates that demand would fall by .36 percent for a one percent increase in price (Huang, Kao S., *A Complete System of U.S. Demand for Food*. USDA/ERS Technical Bulletin No 1821, 1993, p.24). Because of the inelastic nature of demand and the competitive nature of the industry, individual firms are not likely to experience any change in market share in response to an increase in inspection fees.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule: (1) Preempts State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5, 381.35, and 590.300 through 590.370, respectively, must be exhausted before any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA, PPIA, or EPIA.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this proposed rule, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at <http://www.fsis.usda.gov>. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv