

is communicated via fax to over 300 organizations and individuals. 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 fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720-5704.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedures Act, 5 U.S.C 553, it is the practice of the Administrator to offer interested parties the opportunity to comment on proposed regulations. However, the extended effective date in this interim final rule does not establish any new rules. In addition, this interim final rule must be published in the **Federal Register** prior to January 1, 2000, because that is the current effective date in the regulations. Therefore, the Administrator has determined that publication of a proposed rule is impracticable, unnecessary, and contrary to the public interest under 5 U.S.C. 553(b)(B). For the same reasons, the Administrator waives the 30-day delayed effective date under 5 U.S.C. 553(d).

Paperwork Requirements

There is no paperwork associated with this action.

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection, Nutrition.

9 CFR Part 381

Food labeling, Nutrition, Poultry and poultry products.

For the reasons discussed in the preamble, FSIS is amending parts 317 and 381 of the Federal meat and poultry products inspection regulations as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority for part 317 continues to read as follows:

Authority: 21 U.S.C. 601-695; 7 CFR 2.18, 2.53.

§ 317.363 [Amended]

2. Section 317.363 is amended by removing the phrase "through January 1, 2000" in paragraph (b)(3) introductory text and (b)(3)(i) and replacing it with "through January 1, 2003".

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451-470; 7 CFR 2.18, 2.53.

§ 381.463 [Amended]

4. Section 381.463 is amended by removing the phrase "through January 1, 2000" in paragraph (b)(3) introductory text and (b)(3)(i) and replacing it with "through January 1, 2003".

Done at Washington, DC, on: December 21, 1999.

Thomas J. Billy,
Administrator.

[FR Doc. 99-33530 Filed 12-27-99; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 391

[Docket No. 99-045F]

Fee Increase for Meat and Poultry Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is increasing the fees that FSIS charges meat and poultry establishments, importers, and exporters for providing voluntary inspection services, overtime and holiday inspection services, identification services, certification services, and laboratory services. These fee increases reflect the increased cost of inspection, the national and locality pay raise for Federal employees (proposed 4.8 percent effective January 2000), the increased laboratory costs, and the applicable travel and operating costs. The fee increases will be effective January 1, 2000. At this time, FSIS is not

amending the fee for the Accredited Laboratory Program.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: For information concerning policy issues, contact Daniel L. 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, (202) 720-5627, fax number (202) 690-0486.

For information concerning fee development, contact Michael B. Zimmerer, Director, Financial Management Division, Office of Management, FSIS, U.S. Department of Agriculture, Room 2130-S, 1400 Independence Avenue, SW., Washington, DC 20250, (202) 720-3552.

SUPPLEMENTARY INFORMATION:

Background

On November 10, 1999, FSIS published a proposed rule (64 FR 61223) to increase the fees that FSIS charges meat and poultry establishments, importers, and exporters for providing voluntary inspection services, overtime and holiday inspection services, identification services, certification services and laboratory services. FSIS provided 30 days for public comment, ending the comment period on December 10, 1999.

FSIS received one comment from a Canadian firm in response to the proposal. The concerns raised by the commenter addressed inspections performed by the Animal and Plant Health Inspection Service, and therefore, do not fall within the scope of this rulemaking.

The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) provide for mandatory inspection by Federal inspectors of meat and poultry slaughtered or processed at official establishments. Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry. The cost of mandatory inspection (excluding such services performed on holidays or on an overtime basis) is borne by FSIS.

In addition to mandatory inspection, FSIS provides a range of voluntary inspection, certification, and identification services for meat and poultry. Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), FSIS provides these services to assist in the orderly marketing of various animal products and byproducts not subject to the FMIA

or the PPIA. These services include the certification of technical animal fats and the inspection of exotic animal products. FSIS is required to recover the costs of voluntary inspection, certification, and identification services.

FSIS also provides certain voluntary laboratory services that establishments or others may request FSIS to perform. The cost of these services, which are provided under the Agricultural Marketing Act of 1946, must be recovered by FSIS. Laboratory services are provided for four types of analytic testing. These are: Microbiological testing, residue chemistry tests, food composition tests, and pathology testing.

FSIS is making final the proposed regulations by amending 9 CFR 391.2 to increase the base time fee for providing meat and poultry voluntary inspection, identification, and certification services from \$37.00 per hour per program employee to \$37.88 per hour per program employee (an increase of 2.38%). FSIS is also amending § 391.3 to increase the rate for providing meat and poultry overtime and holiday inspection services from \$36.84 per hour per program employee to \$39.76 per hour per program employee (an increase of 7.93%). Additionally, FSIS is amending § 391.4 to increase the rate for meat and poultry laboratory services from \$50.88 per hour per program employee to \$58.52 per hour per program employee (an increase of 15.02%).

The increase in base time and overtime and holiday time rates is proportional to the salary increase and the inflation index rate recommended by the Office of Management and Budget for overhead costs (applicable travel and operating costs). The increase in laboratory services relative to the other two fees is due to (1) an increase in the direct costs of laboratory services and (2) a decrease in the hours of activity. The lower the usage, the higher the fee, because there are less hours over which to distribute the overhead costs.

To recover the increased costs in an expeditious manner, the Administrator has determined that these amendments should be effective less than 30 days after publication in the **Federal Register**. Therefore, the fee increases will be effective January 1, 2000.

Executive Order 12866 and Regulatory Flexibility Act

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

The Administrator, FSIS, has determined that this action will not

have a significant economic impact on a substantial number of small entities as defined by the *Regulatory Flexibility Act* (5 U.S.C. 601). The fee increases provided for in this document reflect a small increase in the costs currently borne by those entities which elect to utilize certain inspection services *voluntarily*. These voluntary services are generally sought by larger establishments because of larger production volume or because of greater complexity and diversity in the products they produce; the small establishments do not seek these services perhaps because they cannot afford them. Therefore, the small establishments are not likely to be affected adversely by the increases.

The extent of incremental adverse impact is estimated from the percentage increases in base time and overtime and holiday rates. The increase in base time rate from \$37.00/hour to \$37.88/hour amounts to 2.38 percent. The overtime and holiday services rate from \$36.84 to \$39.76 amounts to 7.93 percent or about 8 percent. These increases are consistent with similar increases in wages and overtime rates in the private sector. For example, according to the Bureau of Labor Statistics web site, the average wage, including overtime, in the poultry slaughtering and processing industry (SIC 2015) increased by about 5 percent (from \$344.73 per week in July 1998 to \$361.70 in July 1999). The average hourly wage, excluding the overtime rate, increased by 4 percent during the same period. The increase in laboratory fees of 15.02 percent (from \$50.88/hour to \$58.52/hour) reflects an increase in the direct cost of these services to FSIS, coupled with lower usage by industry.

The economic impact of the increase in the fees on small businesses in the meat and poultry industries would depend on the structure of these industries. Data from the U.S. Bureau of the Census, Survey of Industries, 1994, indicate that the meat industry is dominated by small firms and establishments relative to the poultry industry. For example, based on the U.S. Small Business Administration's (SBA) definition of small business by the number of employees (fewer than 500), 96 percent of 1,226 firms comprising the meat industry (SIC 2011) are small. Similarly, 90 percent of individual meat establishments or plants in this industry are small. In 1994, these small businesses accounted for 19 percent of total employment in this industry. Their share of payroll was 18 percent of the total payroll of \$2.777 billion and their revenues were 16 percent of the total revenues of \$55.814 billion. In contrast, the poultry industry

is comprised of relatively larger firms and establishments. For example, 51 percent of 567 establishments in this industry are large, according to the SBA definition. This industry has 332 firms with 207,875 workers and a payroll of \$3.5 billion. The estimated revenue of this industry amounted to \$27.111 billion in 1994.

FSIS believes that the small establishments in the meat and poultry industry will not be affected adversely by the increases in the fees for four reasons. First, the fee increases are voluntary so that the establishments do not have to seek the services of FSIS inspector program personnel. Second, establishments that seek FSIS services are likely to have calculated that the incremental costs of voluntary inspection services would be less than the incremental expected benefits of additional revenues they would realize from additional production. Third, the industry is likely to pass through the costs to consumers without significantly losing its market because price elasticity of demand for meat and poultry is inelastic. For example, Huang (1993) analyzed demand for meats and other products containing meat and poultry. Huang concluded that the price elasticity was -0.36 , i.e., an increase in price of meat or poultry products by one percent would be associated with a decrease in its demand by only 0.36 percent. (Huang, Kao S., *A Complete System of U.S. Demand for Food*, USDA/ERS Technical Bulletin No. 1821, 1993, p.24). In short, consumers are unlikely to reduce their demand for meat and poultry significantly when meat or poultry prices are increased by a few pennies a pound. Finally, the supply of beef and poultry products is likely to be very price elastic because, as noted above, there are hundreds of firms in these industries. Any single producer cannot raise the price of its products without losing its market share significantly.

Executive Order 12988

This final rule has been reviewed by FSIS under Executive Order 12988, Civil Justice Reform. This 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 and 381.35 of the FMIA and PPIA regulations, respectively, must be exhausted prior to any judicial challenge of the application of the provisions of this final rule, if the challenge involves any decision of an

FSIS employee relating to inspection services provided under the FMIA or PPIA.

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 final rule, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. 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 fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720-5704.

List of Subjects in 9 CFR Part 391

Fees and charges, Government employees, Meat inspection, Poultry products.

PART 391—FEES AND CHARGES FOR INSPECTION AND LABORATORY SERVICES

1. The authority citation for part 391 continues to read as follows:

Authority: 7 U.S.C 138f; 7 U.S.C. 394, 1622 and 1624; 21 U.S.C. 451 *et seq.*; 21 U.S.C. 601-695; 7 CFR 2.18 and 2.53.

2. Sections 391.2, 391.3, and 391.4 are revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be \$37.88 per hour per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5 and 381.38 shall

be \$39.76 per hour per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12 and 362.5 shall be \$58.52 per hour per program employee.

* * * * *

Done in Washington, DC on December 21, 1999.

Thomas J. Billy,
Administrator.

[FR Doc. 99-33667 Filed 12-27-99; 8:45 am]

BILLING CODE 3410-DM-P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

12 CFR Part 1102

[Docket No. AS99-1]

Appraisal Subcommittee; Appraiser Regulation; Disclosure of Information

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council ("ASC").

ACTION: Final rules.

SUMMARY: The ASC is adopting amendments to its regulations governing the public disclosure of information to reflect changes to the Freedom of Information Act ("FOIA") as a result of the enactment of the Electronic Freedom of Information Act Amendments of 1996 ("E-FOIA"). among other things, the new rules implement expedited FOIA processing procedures; implement processing deadlines and appeal rights created by E-FOIA; and describe the expanded range of records available to the public through the ASC's Internet World Wide Web site (<http://www.asc.gov>).

EFFECTIVE DATE: January 12, 2000.

FOR FURTHER INFORMATION CONTACT:

Marc L. Weinberg, General Counsel, at (202) 872-7520 or marcwl@asc.gov; Appraisal Subcommittee; 2000 K street, NW, Suite 310; Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Authority and Section-by-Section Analysis

E-FOIA, Public Law 104-231, amended the Freedom of Information Act ("FOIA"), 5 U.S.C. 552. Among other things, E-FOIA requires agencies to promulgate regulations that provide for expedited processing of certain requests for records. On October 22, 1999, the ASC proposed for comment these amendments to its related regulations in 12 CFR part 1102, subpart

D (1999) ("subpart") to implement E-FOIA. In addition, the ASC proposed changes to the subpart on fees and fee waivers, and portions of this subpart have been reorganized. These proposals were published for comment on November 1, 1999, at 64 FR 58800. No comments were received, and the ASC is adopting the proposed amendments as published, with the exception of a few minor stylistic and non-substantive changes.

Section 1102.300 has been expanded to clarify the purpose and scope of the various sections found within the subpart. Section 1102.301 has been amended to incorporate several E-FOIA definitions. Section 1102.302 remains unchanged. Section 1102.303 has been updated to reflect changes in the ASC's office address and staff organization. Current § 1102.304, which incorporated by reference the FOIA regulations of the Federal Financial Institutions Examination Council ("FFIEC"), has been deleted. New § 1102.304 specifies records that must be published in the **Federal Register** under FOIA. Section 1102.305 identifies the ASC's Internet World Wide Web site as the primary source of ASC information and describes the information that is made available over the Internet as required by E-FOIA. The section also sets out the categories of information that are publicly available upon request. The ASC notes that the records provided over the Internet cover a much smaller scope than those available by request. E-FOIA only requires the ASC to place on the Internet records created after November 1, 1996. The ASC, however, is increasing the resources available over the Internet on its World Wide Web site.

Section 1102.306 describes the ASC's procedures for processing FOIA requests. This section essentially is new because it no longer incorporates by reference the FFIEC's FOIA rules. It also reflects the changes required by E-FOIA. Because of the small size of the ASC and the dearth of FOIA requests received, the ASC has determined not to provide multitrack processing. The amendments, however, would provide expedited processing where a requester has demonstrated a compelling need for the records, or where the ASC has determined to expedite the response. The time limit for expedited processing is set at ten business days, with expedited procedures available for an appeal of the ASC's determination not to provide expedited processing. Under E-FOIA, there are only two types of circumstances that can meet the compelling need standard: Where failure to obtain the records