

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 Part 391

[Docket No. 95-004P]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations to increase the fees charged by FSIS to provide overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services to meat and poultry establishments, importers, and exporters. The proposed fees reflect the increased costs of providing these services which are primarily due to the 1995 Federal salary increases allocated by Congress under the Federal Employees Pay Comparability Act of 1990.

DATES: Comments must be received on or before May 12, 1995.

ADDRESSES: Submit written comments in triplicate to Diane Moore, FSIS Docket Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700. All comments should refer to Docket Number 95-004P. Oral comments as provided under the Poultry Products Inspection Act should be directed to Mr. William L. West, at (202) 720-3367. Any person desiring an opportunity for oral presentation of views as provided under the Poultry Products Inspection Act must make such request to Mr. West so that arrangements may be made for such views to be presented. A record will be made of all views orally presented. All comments submitted in response to this proposal will be available for public inspection in the FSIS Docket Room

from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William L. West, Director, Budget and Finance Division, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700, (202) 720-3367.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) provide for mandatory inspection by Federal inspectors of meat and poultry slaughtered and/or processed at official establishments. Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry products. The costs of mandatory inspection (excluding such services performed on holidays or on an overtime basis) are borne by FSIS.

In addition to mandatory inspection, FSIS provides a range of voluntary inspection and certification services (9 CFR 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5). The costs of voluntary inspection are totally recoverable by the Federal Government. These services, set forth in Subchapter B—Voluntary Inspection and Certification Service, are provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) to assist in the orderly marketing of various animal products and byproducts not subject to the Federal Meat Inspection Act or the Poultry Products Inspection Act.

Each year, the fees charged by FSIS for voluntary inspection services provided to operators of official meat and poultry establishments, importers, or exporters are reviewed and a cost analysis¹ is performed to determine whether such fees are adequate to recover the costs FSIS incurs in providing the services. The fees charged are for overtime and holiday inspection,

voluntary inspection, identification, certification, or laboratory services.

Based on the projected Fiscal Year 1995 cost analysis, FSIS is increasing the fees for voluntary services. These increased costs are attributable to the average FSIS national and locality pay raise of 3.2 percent for Federal employees effective January 1995; the increasing number of employees covered by the Federal Employees Retirement System and are subject to the Federal Insurance Contributions Act tax; and increased health insurance costs.

FSIS is proposing to increase the fees charged for overtime and holiday inspection, voluntary inspection, identification, certification and laboratory services to meat and poultry establishments.

Section 307.5 of the Federal meat inspection regulations (9 CFR 307.5) provides that FSIS shall be reimbursed for the cost of meat inspection on holidays or on an overtime basis at the rate specified in 9 CFR 391.3, currently \$31.80 per hour, per program employee. Similarly, 9 CFR 381.38 of the poultry products inspection regulations provides that FSIS shall be reimbursed for the cost of poultry inspection on holidays or on an overtime basis at the rate specified in 9 CFR 391.3, currently \$31.80 per hour, per program employee. FSIS is proposing to increase the fee set forth in § 391.3 to \$32.96 per hour, per program employee.

The base time rate for providing voluntary inspection and certification services is currently \$31.12 per hour, per program employee, as specified in § 391.2. The overtime and holiday rate for voluntary inspection services is currently \$31.80 per hour, per program employee, as specified in § 391.3. As stated above, these fees would be increased to \$31.92 per hour and \$32.96 per hour, per program employee, respectively.

The rate for laboratory services is currently \$52.04 per hour, per program employee, as specified in § 391.4. FSIS is proposing to increase the fee set forth in section 391.4 to \$52.92 per hour, per program employee.

Executive Order 12866

This proposed rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. The proposed fee

¹ The cost analysis is on file with the FSIS Docket Clerk. Copies may be requested free of charge from the FSIS Docket Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700.

increases reflect the increased costs of providing certain inspection services due primarily to the 1995 increase in salaries of Federal employees allocated by Congress under the Federal Employees Pay Comparability Act of 1990. Because FSIS is required to recover the reimbursable portion of the increase in employee salaries, FSIS is only providing a 30-day comment period for this proposed rule.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of this proposed rule, all applicable administrative procedures must be exhausted. Under the Federal Meat and Poultry Products Inspection Acts, the administrative procedures are set forth in 7 CFR part 1.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, 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 fees provided for in this document will reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

List of Subjects in 9 CFR Part 391

Fees and charges, Meat inspection, Poultry products inspection.

For the reasons set out in the preamble, 9 CFR part 391 is proposed to be amended as set forth below.

PART 391—FEES AND CHARGES FOR INSPECTION SERVICES

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

Authority: 21 U.S.C. 601 *et seq.*, 460 *et seq.*; 7 CFR 2.17(g) and (i), 2.55; 7 U.S.C. 394, 1622, and 1624.

2. Sections 391.2, 391.3, and 391.4 would be 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 \$31.92 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 \$32.96 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 \$52.92 per hour, per program employee.

Done at Washington, DC, on April 5, 1995.

Michael R. Taylor,

Administrator, Food Safety and Inspection Service.

[FR Doc. 95-8938 Filed 4-11-95; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94-AWA-3]

Proposed Modification of the Atlantic City International Airport Class C Airspace Area; NJ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would modify the Class C airspace area at Atlantic City International Airport, Atlantic City, NJ. This proposed action would delete the 1-mile exclusion around Nordheim Flying K Airport because of its closure, and return this airspace to the surface area of the Class C airspace. In addition, this proposed action would reduce controller workload.

DATES: Comments must be received on or before June 13, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-200], Airspace Docket No. 94-AWA-3, 800 Independence Avenue, SW., Washington, DC 20591.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: William C. Nelson, Airspace and

Obstruction Evaluation Branch (ATP-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9295.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94-AWA-3." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3485.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.