

conditions, such as homelessness or migrancy.

* * * * *

(4) *Nutritional risk priority system.* The competent professional authority shall fill vacancies which occur after a local agency has reached its maximum participation level by applying the following participant priority system to persons on the local agency's waiting list. Priorities I through VI shall be utilized in all States. The State agency may, at its discretion, expand the priority system to include Priority VII. The State agency may set income or other sub-priority levels within any of these seven priority levels. The State agency may expand Priority III, IV, or V to include high-risk postpartum women. The State agency may place pregnant or breastfeeding women and infants who are at nutritional risk solely because of homelessness or migrancy in Priority IV; children who are at nutritional risk solely because of homelessness or migrancy in Priority V; and postpartum women who are at nutritional risk solely because of homelessness or migrancy in Priority VI, OR, the State agency may place pregnant, breastfeeding or postpartum women, infants, and children who are at nutritional risk solely because of homelessness or migrancy in Priority VII.

* * * * *

(vii) *Priority VII.* Individuals certified for WIC solely due to homelessness or migrancy and, at State agency option, and in accordance with the provisions of paragraph (e)(1)(iii) of this section, previously certified participants who might regress in nutritional status without continued provision of supplemental foods.

* * * * *

Dated: April 11, 1995.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 95-9657 Filed 4-18-95; 8:45 am]

BILLING CODE 3410-30-U

Food Safety and Inspection Service

9 CFR PARTS 318, 381 and 391

[Docket No. 94-033F]

RIN 0583-AB87

Reduction of Accreditation Fees for FSIS Accredited Laboratories

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Confirmation of interim rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is confirming the interim regulations amending provisions of the Federal meat and poultry products inspection regulations to reduce the fees charged participants in the Agency's voluntary Accredited Laboratory Program (ALP). Non-Federal analytical laboratories are qualified under the ALP to conduct analyses of official meat and poultry samples. The payment by laboratories of annual accreditation fees that cover the costs of the ALP is mandated by the Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 Farm Bill), as amended. FSIS determined late last year that reduced ALP administrative expenditures for fiscal year 1995 would enable the Agency to charge a smaller accreditation fee than it did last year. Since the amount of the laboratory accreditation fee is set forth in the regulations, the regulations had to be changed before the Agency could charge a different fee. To meet fee billing deadlines, FSIS found it necessary to publish the fee reduction rule on an interim basis.

The Agency also took the opportunity to make some editorial corrections to the regulations.

EFFECTIVE DATE: April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Jess Rajan, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 516A, Annex Building, 300 12th Street SW., Washington DC 20250-3700, (202) 205-0679.

SUPPLEMENTARY INFORMATION:

Background

Section 1327 (7 USC 138f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (PL 101-624), as amended, known as the 1990 Farm Bill, requires USDA to charge a nonrefundable accreditation fee for laboratories seeking accreditation by the Secretary under the authority of the FMIA or PPIA. The fee is required to be in an amount that offsets the cost of the ALP administered by FSIS under the authority of the FMIA and PPIA.

Fees are billed annually on a per-accreditation basis at a rate that is established by regulation (9 CFR 391.5). The ALP regulations define an accreditation to be a determination by FSIS that a laboratory is qualified to analyze official samples of meat and poultry products for the presence and amount of four food chemistry analytes or a determination that a laboratory is qualified to analyze official samples of product for the presence and amount of one of several classes of chemical

residue. The per-accreditation fee for fiscal year 1994 was \$3,500.

FSIS projected late last year that the expenses of administering the ALP during fiscal year 1995 would be less than the expenses for fiscal year 1994. The reduction came about because of management savings and, to a lesser extent, a smaller enrollment in the ALP than anticipated. The Agency determined that the smaller overall cost of running the program meant that it could reduce the fee per accreditation. The Agency determined that, for fiscal year 1995, the fee for original accreditations and renewals would be \$2,500.

In order to meet billing deadlines for accreditation renewals, avoid rebates for renewals paid for at the old rate, and avoid unnecessary administrative burdens on the Government and industry, the Agency found it necessary to promulgate an interim rule with request for comments on December 27, 1994 (59 FR 66446), effective the same date. The interim rule amended the administrative provisions of the Federal meat and poultry inspection regulations to change the fee. Also, some editorial corrections were made to the ALP regulations.

The interim rule provided a 30-day comment period ending January 26, 1995. During this period one comment was received from a trade association favoring the fee reduction.

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule reduces the accreditation fees for non-Federal analytical chemistry laboratories accredited under the Federal Meat and Poultry Products Inspection Acts and regulations promulgated thereunder.

States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any requirements with respect to federally inspected premises and facilities, and operations of such establishments, that are in addition to, or different than, those imposed under the FMIA or PPIA. States and local jurisdictions are also preempted under the FMIA and PPIA from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat or poultry products that are in addition to, or different than,

those imposed under the FMIA or the PPIA, as well as preempted from imposing, under the PPIA for poultry products, certain storage and handling requirements. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat or poultry products that are misbranded or adulterated under the FMIA or PPIA or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. States and local jurisdictions may also make requirements or take other actions, that are consistent with the FMIA and PPIA, with respect to any other matters regulated under the FMIA and PPIA.

Under the FMIA and the PPIA, States that maintain meat and poultry inspection programs must impose requirements that are at least equal to those required under the FMIA or PPIA. These States may, however, impose more stringent requirements on such State-inspected products and establishments.

This final rule will have no retroactive effect and applicable administrative procedures must be exhausted before any judicial challenge to the application of these provisions. Those administrative procedures are set forth in 9 CFR §§ 306.5, 318.21(h), 381.35, and 381.153(h).

Effect on Small Entities

Most of the entities accredited by FSIS that will be affected by this final rule are large, independent laboratories or official meat packing establishments or States that own or operate accredited laboratories.

There are currently approximately 150 laboratories in the FSIS accredited laboratory program. About three quarters of these are large entities, with respect to the volume of business, or part of such entities as large business corporations, State universities, or State governments. These laboratories provide analytical services to large and small establishments for analysis of official samples.

Participation in the Agency's Accredited Laboratory Program is voluntary. The principal burden of the final rule on laboratories will be the fee charged for FSIS accreditation (\$2,500 per accreditation, of which a laboratory may have more than one) and the minimal billing and accounting costs. This fee is substantially lower than the fee previously charged.

Some large laboratories have multiple accreditations for food chemistry and chemical residues, while many small

laboratories are accredited only for food chemistry. Thus, smaller laboratories (small entities) tend to pay smaller amounts of accreditation fees than large laboratories. Balanced against these costs are the revenues from analyzing official samples, which are likely to be greater because firms can be expected to pass much of the costs of obtaining accreditation to clients, and the enhancement of income from other services provided by the laboratories because of their status as "accredited by FSIS." As a result, the net effect of this rulemaking on both small and large laboratories will not be significant. The user-fee costs for having official samples analyzed by accredited laboratories are passed on to the establishments doing business with accredited laboratories, or absorbed by the official establishment if the establishment has an in-house accredited laboratory. Establishments using the laboratories benefit from the earlier marketing of product released from official retention. Because of the accreditation fee reduction authorized by this final rule, the overall benefits to the meat and poultry industry, including both small and large establishments, from using accredited laboratories can be expected to increase very modestly.

It is possible that some small laboratories that are not now participating in the ALP may choose to apply for the program because of the lower fee. If they did so, a larger number of accredited laboratories would be available for use by official establishments, including small establishments, than there are at present.

For these reasons, the net effects of the final rule, though beneficial, are not likely to be significant on a substantial number of small entities.

List of Subjects

9 CFR Part 318

Meat inspection, Laboratory accreditation.

9 CFR Part 381

Poultry and poultry products inspection, Laboratory accreditation.

9 CFR 391

Fees and charges for inspection services, Laboratory accreditation fees.

Final Rule

For the reasons discussed in the preamble:

§ 318.21 [Amended]

1. In part 318, the revisions of § 318.21(c)(3)(ix)(A)(1), (A)(2), (B), and

(C) published December 27, 1994 (59 FR 66446), are confirmed as final.

§ 381.153 [Amended]

2. In part 381, the revisions of § 381.153(c)(3)(ix)(A)(1), (A)(2), (B), and (C) published December 27, 1994 (59 FR 66446), are confirmed as final.

§ 391.5 [Amended]

3. In part 391, the revision of § 391.5 published December 27, 1994 (59 FR 66446), is confirmed as final.

Done at Washington, DC, on: April 12, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95-9592 Filed 4-18-95; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-123-AD; Amendment 39-9172; AD 95-06-02]

Airworthiness Directives; Boeing Model 747 Series Airplanes, Excluding Airplanes Equipped With Pratt & Whitney PW4000 and General Electric CF6-80C2 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in the applicability statement of the above-captioned airworthiness directive (AD) that was published in the **Federal Register** on March 14, 1995 (60 FR 13618). A typographical error in the applicability statement of the AD resulted in a reference to airplane line numbers that are inaccurate.

DATES: Effective April 13, 1995.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of April 13, 1995 (60 FR 13618, March 14, 1995).

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW, Renton, Washington 98055-4056; telephone (206) 227-2776; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Airworthiness Directive (AD) 95-06-02, amendment 39-9172, applicable to certain Boeing Model 747 series