

the injury to or loss of property or the damages claimed.

**§ 177.106 Authority to adjust, determine, compromise, and settle.**

(a) The General Counsel of OPM, or his or her designee, is delegated authority to consider, ascertain, adjust, determine, compromise, and settle claims under the provisions of 28 U.S.C. 2672, and this part. The General Counsel, in his or her discretion, has the authority to further delegate the responsibility for adjudicating, considering, adjusting, compromising, and settling any claim submitted under the provisions of 28 U.S.C. 2672, and this part, that is based on the alleged negligence or wrongful act or omission of an OPM employee, with the exception of claims involving personal injury. All claims involving personal injury will be adjudicated, considered, adjusted, compromised and settled by the Office of the General Counsel.

**§ 177.107 Limitations on authority.**

(a) An award, compromise, or settlement of a claim under 28 U.S.C. 2672, and this part, in excess of \$25,000 can be effected only with the prior written approval of the Attorney General or his or her designee. For purposes of this paragraph, a principal claim and any derivative or subrogated claim will be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised, or settled under this part, only after consultation with the Department of Justice when, in the opinion of the General Counsel of OPM, or his or her designee:

- (1) A new precedent or a new point of law is involved; or
- (2) A question of policy is or may be involved; or
- (3) The United States is or may be entitled to indemnity or contribution from a third party and OPM is unable to adjust the third party claim; or
- (4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

(c) An administrative claim may be adjusted, determined, compromised, or settled under 28 U.S.C. 2672, and this part, only after consultation with the Department of Justice when, OPM is informed or is otherwise aware that the United States or an employee, agent, or cost-type contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

**§ 177.108 Referral to Department of Justice.**

When Department of Justice approval or consultation is required, or the advice of the Department of Justice is otherwise to be requested, under § 177.107, the written referral or request will be transmitted to the Department of Justice by the General Counsel of OPM or his or her designee.

**§ 177.109 Final denial of claim.**

Final denial of an administrative claim must be in writing and sent to the claimant, his or her attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial. But, it must include a statement that, if the claimant is dissatisfied with the OPM action, he or she may file suit in an appropriate United States district court not later than 6 months after the date of mailing of the notification.

**§ 177.110 Action on approved claim.**

(a) Payment of a claim approved under this part is contingent on claimant's execution of a Standard Form 95 (Claim for Damage, Injury or Death); a claims settlement agreement; and a Standard Form 1145 (Voucher for Payment), as appropriate. When a claimant is represented by an attorney, the Voucher for Payment will designate both the claimant and his or her attorney as payees, and the check will be delivered to the attorney, whose address is to appear on the Voucher for Payment.

(b) Acceptance by the claimant, his or her agent, or legal representative, of an award, compromise, or settlement made under 28 U.S.C. 2672 or 28 U.S.C. 2677 is final and conclusive on the claimant, his or her agent or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented, and constitutes a complete release of any claim against the United States and against any employee of the Federal Government whose act or omission gave rise to the claim, by reason of the same subject matter.

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**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**9 CFR Part 130**

[Docket No. 98-045-3]

**Veterinary Services User Fees; Pet Food Facility Inspection and Approval Fees; Correction**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** We are correcting an error in the rule portion of a final rule concerning user fees for the inspection and approval of pet food manufacturing, rendering, blending, digest, and spraying and drying facilities. The rule replaced hourly rate user fees for those services with flat rate user fees. The final rule was published in the **Federal Register** on June 20, 2000 (65 FR 38179-38182, Docket No. 98-045-2), and is effective on July 20, 2000.

**EFFECTIVE DATE:** July 20, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Service Enhancement Unit, MRPBS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737-1232; (301) 734-8351.

**SUPPLEMENTARY INFORMATION:** On June 20, 2000, we published in the **Federal Register** a final rule that amended the user fee regulations to replace the hourly rate user fees for the inspection and approval of pet food manufacturing, rendering, blending, digest, and spraying and drying facilities with flat rate user fees that would cover the cost of all inspections required for annual approval.

In the rule portion of the final rule, the flat rate user fee for the renewal of approval of pet food spraying and drying facilities was listed as \$162.00 for all inspections required during the year. As explained in the **SUPPLEMENTARY INFORMATION** section of the final rule, the correct flat rate user fee for this service is \$162.50. This document corrects that error.

In Docket No. 98-045-2, published on June 20, 2000 (65 FR 38179-38182), make the following correction: On page 38181, in § 130.11, in the table, under the column User Fee, correct "\$162.00" to read "\$162.50".

Done in Washington, DC, this 14th day of July 2000.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00-18366 Filed 7-19-00; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Food Safety and Inspection Service**

**9 CFR Part 590**

[Docket No. 99-012F]

RIN 0583-AC71

**Fee Increase for Egg Products Inspection—Year 2000**

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is increasing the fees that it charges egg product plants for providing overtime and holiday inspection services. These fee increases reflect the total cost of inspection, including the national and locality pay raise for Federal employees, inflation, applicable overhead costs, and other inspection costs.

**EFFECTIVE DATE:** July 30, 2000.

**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, (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**

The Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*) provides for the inspection of egg products by Federal inspectors at official plants. Federal inspection protects the health and welfare of consumers by ensuring that egg products are wholesome, not adulterated, and properly labeled and packaged.

The Agricultural Marketing Service (AMS) was responsible for

administering the EPIA from its enactment in 1970 until 1995. At that time, the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354; 7 U.S.C. 6981) delegated food safety responsibilities to the Under Secretary of Agriculture for Food Safety. The Department subsequently revised its regulations to transfer egg product inspection functions under the EPIA to FSIS. AMS retained only those functions related to their shell egg surveillance program. The regulations governing the inspection of eggs and egg products (9 CFR Part 590) were transferred to Part 9 of the Code of Federal Regulations on December 31, 1998 (63 FR 72352).

FSIS bears the cost of mandatory inspection. However, the EPIA specifies that plants pay for overtime and holiday inspection services (21 U.S.C. 1053). There has not been a change in overtime and holiday fees for egg products inspection services since the transfer of program functions from AMS to FSIS in May 1995. AMS established and implemented the current fees in November 1994. These fees reflect only the direct costs of inspection at that time and are insufficient to recover FSIS's current costs for delivery of inspection service.

In order to recover the full cost of inspection, FSIS is increasing its rates to charge overtime and holiday fees for egg products inspection services that are the same as overtime and holiday fees for meat and poultry inspection. The Agency is making the fees for meat, poultry, and egg inspection services the same because these services are indistinguishable from a cost standpoint. Although these fee increases are large, they reflect the total cost of inspection, including national and locality pay raises for Federal employees, inflation, applicable overhead costs, and other inspection costs. The current and new FSIS overtime and holiday inspection services fees for egg products plants are reported in Table 1.

**TABLE 1.—CURRENT AND NEW FEES FOR OVERTIME AND HOLIDAY INSPECTION SERVICES FOR EGG PRODUCTS PLANTS**

Service (\$/hr.)	Current	New
Overtime Inspection Services .....	26.16	39.76
Holiday Inspection Services .....	17.44	39.76

Table 2 shows salary, overhead, and other inspection costs for Fiscal Year

(FY) 1998, and the projected added inflation and Federal pay increases for FY 1999 and FY 2000 used to obtain the total amount from which the new rates are derived. These costs are the total costs for meat, poultry, and egg products inspection services. Overhead costs are the indirect costs for administration and management associated with providing inspection services. Other inspection costs include direct costs for travel and laboratory support costs associated with inspection services.

**TABLE 2.—COMPONENTS OF FEE INCREASE—AGENCY TOTAL INSPECTION COSTS**

Component	\$Thousand	Percent
Direct Salaries	57,242	56.86
Inflation and Pay Increase	7,951	7.90
Overhead .....	22,197	22.05
Other Inspection Costs (Travel and Laboratory Support) .....	13,282	13.19
<b>Total .....</b>	<b>100,672</b>	<b>100</b>

Beginning with the Federal fiscal year 2001, FSIS intends to annually review its fees for overtime and holiday egg products inspection services, as well as fees for meat and poultry inspection services, to allow for necessary adjustments on a fiscal year basis. The fiscal year approach is an accepted accounting principle that will facilitate more consistent and timely proposals to adjust both fees and assist the Agency and affected industry in planning for these fee adjustments. The Agency intends to explore the possibility of publishing a three to five year plan of fee rate adjustments based on estimates of cost escalation.

FSIS loses from \$80,000 to \$100,000 in revenue for every two-week period that the final rule is delayed in being published. 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 increases in fees will be effective July 30, 2000.

**Proposed Rule and Comments**

On March 3, 2000, FSIS published a proposed rule (65 FR 11486) to increase the fees that it charges egg products plants for providing overtime and holiday inspection services. FSIS initially provided 60 days for public comment, ending on May 2, 2000. In response to a request for more time to