

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

9 CFR Parts 97 and 130

[Docket No. 00-087-2]

Fee Increases for Overtime Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are changing our hourly rates for Sunday, holiday, or other overtime work performed by employees of the Animal and Plant Health Inspection Service (APHIS) for any person, firm, or corporation having ownership, custody, or control of animals, poultry, animal byproducts, germ plasm, organisms, vectors, plants, plant products, or other regulated commodities or articles subject to inspection, laboratory testing, certification, or quarantine under the regulations. We are increasing these overtime rates for each of the fiscal years 2002 through 2006 to reflect the anticipated costs associated with providing these services during each year. Establishing the overtime rate changes in advance will allow users of APHIS' services to incorporate the rates into their budget planning. We are also making several nonsubstantive changes to the regulations that correct errors or inconsistencies.

EFFECTIVE DATE: August 11, 2002.

FOR FURTHER INFORMATION CONTACT: For information concerning Agricultural Quarantine and Inspection program operations, contact Mr. Colonel Locklear, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737-1236; (301) 734-8372.

For information concerning Veterinary Services program operations, contact Dr. Karen James-Preston, Assistant Director, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1236; (301) 734-3261.

For information concerning user fee development, contact Ms. Kris Caraher, Accountant, User Fees Section, Financial Management Division, MRPBS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737-1231; (301) 734-8351.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR chapter III and 9 CFR chapter I, subchapters D and G, require inspection, laboratory testing, certification, or quarantine of certain animals, poultry, animal byproducts, germ plasm, organisms, vectors, plants, plant products, or other regulated commodities or articles intended for importation into, or exportation from, the United States. With some exceptions, when these services must be provided by an Animal and Plant Health Inspection Service (APHIS) employee on a Sunday or on a holiday, or at any other time outside the APHIS employee's regular duty hours, the Government charges an hourly overtime fee for the services in accordance with 7 CFR part 354 and 9 CFR part 97.

Based on changes to the costs associated with providing inspection, laboratory testing, certification, and quarantine services outside of an employee's normal tour of duty, we determined that adjustments to the overtime rates in 7 CFR part 354 and 9 CFR part 97 were necessary in order for APHIS to recover the full cost of providing these services. Therefore, we proposed to set hourly overtime rates for inspection, laboratory testing, certification, and quarantine services provided outside of an employee's normal tour of duty for fiscal years 2002 through 2006. Our proposal was published in the **Federal Register** on April 22, 2002 (67 FR 19524-19534, Docket No. 00-087-1). The proposed overtime rates were based on our costs of providing the services, including direct labor costs, area delivery costs, billing and collection costs, program direction and support costs, agency/management support costs, central/

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departmental charges, and a reserve component, plus adjustments for inflation and anticipated annual increases in the salaries of employees who provide the services.

We also proposed to make the several nonsubstantive changes to the regulations to correct errors or inconsistencies.

We solicited comments concerning our proposal for 60 days ending June 21, 2002. We did not receive any comments by that date. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Effective Date

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This is a full cost recovery program. In order to allow for orderly implementation and maximum recovery of costs, the rule will be effective on August 11, 2002, which is the beginning of a pay period. This effective date will provide users of overtime services with more than 2 weeks time to take the new rates into account in their operational and budget planning.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

APHIS charges hourly overtime rates to individuals, firms, and corporations requesting inspection, testing, certification, or quarantine services at laboratories, border ports, ocean ports, rail ports, quarantine facilities, and airports outside of the regularly established hours of service. These overtime rates vary depending on what type of service is performed and whether the service is performed on Sundays or on Saturdays, holidays, or weekdays. There is one overtime rate schedule for inspection, laboratory testing, certification, or quarantine of animals and animal or agricultural products or articles and another schedule for commercial airline inspection services.

Prior to the effective date of this final rule, APHIS charged \$39.36 per hour per employee for services provided to

owners and operators of aircraft outside of the regularly established hours of service on a Sunday, and \$30.64 per hour per employee for services provided to owners and operators of aircraft outside the employee's regular tour of duty on a holiday or any other period. APHIS charged \$47.96 per hour per employee for those services performed

at the request of all users except owners and operators of aircraft on Sundays, and \$37.84 per hour per employee for services performed at the request of all users except owners or operators of aircraft on a holiday or any other time outside the employee's regular tour of duty. Those rates were established in 1993.

This final rule establishes overtime rates for inspection, laboratory testing, certification, or quarantine services performed by an employee outside of his or her regularly scheduled tour of duty for fiscal years 2002 through 2006. Table 1 shows the hourly overtime rates for fiscal years 2002 through 2006.

TABLE 1.—OVERTIME RATES
[Per Hour]

	Outside employee's normal tour of duty	Aug. 11, 2002–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
Inspection, testing, certification, or quarantine of animals and animal or agricultural products.	Monday–Saturday and holidays.	\$45.00	\$46.00	\$48.00	\$49.00	\$51.00
Commercial airline inspection services.	Sundays	59.00	61.00	63.00	65.00	67.00
	Monday–Saturday and holidays.	36.00	37.00	39.00	40.00	41.00
	Sundays	48.00	49.00	51.00	53.00	55.00

The percentage increase in hourly overtime rates for fiscal year (FY) 2002 over the overtime rates established in 1993 is shown in table 2. Because the

overtime rates for FY 2002 reflect cost increases incurred since 1993, the increase in overtime rates is highest for this year. Table 2 also lists the average

annual percentage increase in the overtime rates from fiscal years 2002 through 2006.

TABLE 2.—PERCENTAGE INCREASE IN HOURLY OVERTIME RATES

Rate category	Outside of employee's normal tour of duty	Current hourly overtime rate*	FY 02 hourly overtime rate	Increase in FY 02 rate over current rate (%)	Average annual increase for FY 02–06 (%)
Inspection, testing, certification, or quarantine of animals and animal or agricultural products.	Monday–Saturday and holidays.	\$37.84	\$45.00	18.9	3.2
Commercial airline inspections services	Sundays	47.96	59.00	23.0	3.3
	Monday–Saturday and holidays.	30.64	36.00	17.5	3.3
	Sundays	39.36	48.00	22.0	3.5

* "Current hourly overtime rate" refers to those rates established in 1993.

Overtime services performed for all users, except owners and operators of aircraft, outside of regularly scheduled hours of operation on Monday through Saturday or on holidays account for three-fourths of all overtime hours. During fiscal years 1998 through 2000,

overtime services performed for all users, except owners and operators of aircraft, outside of regularly scheduled hours of operation on Monday through Saturday or on holidays averaged 286,749 hours per year, or 76 percent of all overtime hours. The average hours of

overtime services performed annually during fiscal years 1998 through 2000 for each overtime rate category are shown in table 3, along with each rate category's percentage of that total.

TABLE 3.—AVERAGE ANNUAL OVERTIME HOURS
[Fiscal Years 1998 Through 2000]

Rate category	Outside of employee's normal tour of duty	Average annual overtime hours (FY 98–00)	Percentage of total
Inspection, testing, certification, or quarantine of animals and animal or agricultural products.	Monday–Saturday and holidays	286,749	76
Commercial airline inspection services	Sundays	28,165	7
	Monday–Saturday and holidays	45,857	12
	Sundays	18,398	5
Total	379,169	100

Because the number of overtime hours in each rate category is unknown for FY 2002 and beyond, the impact of this rule on APHIS' revenues in those years is also unknown. Total overtime hours for all rate categories combined have shown a steady increase from 341,336 hours in FY 1998 to 390,600 hours in FY 1999 and 405,570 hours in FY 2000. This increase would suggest that the use of overtime services will continue to increase in the future, especially given that world trade is also likely to increase. In this regard, it is unlikely that demand for overtime services will lessen as a result of the rate increases.

Furthermore, we do not anticipate users of APHIS' services to alter their planned imports and exports in order to avoid the new overtime rates, given the low value in absolute dollar terms of the rate increases. In none of the four categories, for example, does the increase in rates exceed \$11.04 in any one year. The average annual increase in overtime rates between the rate

established in 1993 and the rate for FY 2006 is only \$2.63 for all users of overtime services, except for commercial airline inspection services, that are performed outside of regularly scheduled hours of operation on Monday through Saturday or on holidays.¹ As shown in table 3, this overtime rate category accounts for 76 percent of all overtime hours. In many cases, the overtime rate increases for inspection, laboratory testing, certification, or quarantine services performed outside of an employee's normal tour of duty represent only a small portion of the dollar value of the plants, animals, or other commodities for which they are performed. For example, the cost of purchasing and importing a breeding-grade animal into the United States can range between \$1,500 and \$5,000 per head, an amount that would suggest that the overtime rate increases would be a relatively insignificant factor in an importer's decision regarding if and when an

animal should be imported. Indeed, the average annual increase in overtime rates through FY 2006 of \$2.63 for users of overtime services, except for commercial airline inspection services, that are performed on weekdays and Saturdays or on holidays is equivalent to less than 1 percent of the value of an animal worth \$2,000.

Assuming that annual overtime hours in fiscal years 2002 through 2006 match those for fiscal year 2000, this rule will generate approximately \$19 million more in revenues over that 5-year period than would be generated under the rates established in 1993 (see table 4).² The additional revenue generated by the changes in the hourly overtime rates corresponds to cost increases associated with providing inspection, laboratory testing, certification and quarantine services on Sundays, holidays, or at any other time outside an employee's normal tour of duty, and will allow APHIS to recover the full cost of providing these services.

TABLE 4.—ADDITIONAL REVENUES FROM NEW OVERTIME RATES—BASED ON FY 2000 OVERTIME HOURS
[In Millions]

Rate category	Outside of employee's normal tour of duty	Aug. 11, 2002–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Total
Inspection, testing, certification, or quarantine of animals and animal or agricultural products.	Monday–Saturday and holidays. Sundays	\$1.13 0.16 0.12	\$2.57 0.37 0.28	\$3.20 0.43 0.37	\$3.51 0.49 0.41	\$4.14 0.54 0.46	\$14.55 1.99 1.64
Commercial airline inspection services.	Monday–Saturday and holidays. Sundays	0.08	0.18	0.22	0.25	0.29	1.02
Total	1.49	3.40	4.22	4.66	5.43	19.20

This rule has the potential to affect any private individual or business entity dealing with plants, animals, poultry, germ plasm, animal products, organisms, vectors, aquaculture, or the testing of these items, including importers, exporters, brokers, dealers, animal exhibitors, laboratories, universities, and individuals who travel with their pets. Affected individuals and entities will incur higher costs. The number of individuals and businesses that could be adversely affected by this action depends on the ability of any one

individual or business entity to absorb the increased costs or pass them on. This information is not available.³ However, in many cases, some entities that pay overtime fees to APHIS, such as brokers, will be unaffected because they are able to pass those fees on to their clients. Furthermore, the amount of the overtime rate increases, both in absolute dollar terms and in percentage terms of the dollar value of the affected plants or animals, suggest that the economic impact on most individuals and entities will be minimal.

Small Entity Impact

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities, such as small businesses, organizations, and governmental jurisdictions. All entities affected by the overtime rate increases, both large and small, will incur higher costs.

It is reasonable to assume that most businesses affected by this rule are small in size. This is because most U.S. businesses in general are small, based on the standards of the U.S. Small

¹ Users of APHIS' services during overtime periods are typically charged for between 3 and 6 hours of overtime per service request. As a practical matter, therefore, the actual impact for users of each service request would typically be 3 to 6 times the rate increase for 1 hour of overtime service. However, the year-to-year hourly overtime rate increases are so low in absolute dollar terms that these rate increases should not cause most users to alter their planned imports and exports.

² Because this rule is being published after the start of FY 2002, the FY 2002 column of the table projects additional revenues for only one-half of that fiscal year, assuming that the number of overtime hours would be spread evenly throughout the year. For FY 2002, therefore, we used one-half the number of annual overtime hours worked during FY 2000 to calculate the additional revenue generated by the FY 2002 overtime rates over the current rates. Given that this rule becomes effective

with less than 6 months remaining in FY 2002, the actual revenues generated in FY 2002 are expected to be less than those indicated in the table for FY 2002.

³ Even if a list of the current users of APHIS' services during overtime hours were available, those users may be unwilling, for proprietary reasons, to provide the financial data needed to assess their ability to absorb the increased costs.

Business Administration (SBA). In 1997, for example, there were 5,769 U.S. firms in NAICS 541710, a classification comprised of firms primarily engaged in conducting research and experimental development in the physical, engineering, or life sciences, including agriculture and veterinary subjects. Of those 5,769 firms, 4,607 were in operation for all of 1997 and, of those, all but 28 had fewer than 500 employees, the SBA's small entity criterion for firms in that NAICS category.⁴ Accordingly, most of the businesses potentially affected by this rule are likely to be small in size. However, for the reasons discussed above, the overtime rate increases will not have a significant economic impact on those businesses.

Alternatives

One alternative to this rule would be to make no changes to the current overtime rates for inspection, laboratory testing, certification, or quarantine services performed by an employee on a Sunday or holiday or any time outside of his or her regular tour of duty. We do not consider leaving the current overtime rates unchanged to be a reasonable alternative because we would not recover the full cost for providing these services during overtime periods. This alternative would place the burden of increased costs for overtime services on the general taxpayer instead of the users of those services.

Another alternative to this rule would be to either exempt small businesses from the overtime rate increases or establish a different overtime rate schedule for small businesses. Every business, including small businesses, using a Government service needs to pay the cost of that service, rather than having other businesses pay a disproportionate share or having those costs passed on to the general public. Therefore, we do not consider exempting small businesses from these overtime rates or establishing a different user fee schedule for small businesses a viable option because it would not allow for the full recovery of our costs from all users of the overtime services.

Cost-Benefit Analysis

The benefit of user fees is the shift in the payment for services from taxpayers as a whole to those persons who are receiving the Government service.

⁴ Source: SBA and U.S. Census Bureau.

While taxes may not change by the same amount as the change in user fee collections, there is a related shift in the appropriation of taxes to Government programs that allows those tax dollars to be applied to other programs that benefit the public. Therefore, there will be a relative savings to taxpayers as a result of the changes in the hourly overtime rates.

The administrative cost involved in obtaining these savings will be minimal. APHIS already has a user fee program and a mechanism for collecting user fees in place; this rule will simply update the existing fees in that system. Accordingly, increases in administrative costs will be small. Because the savings to taxpayers are sufficiently large and the administrative costs will be small, it is likely that the net gain in reducing the burden on taxpayers as a whole will outweigh the cost of administering the user fee program with the updated user fees contained in this rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all 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.

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and

recordkeeping requirements, Travel and transportation expenses.

9 CFR Part 97

Exports, Government employees, Imports, Livestock, Poultry and poultry products, Travel and transportation expenses.

9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Tests.

Accordingly, we are amending 7 CFR part 354 and 9 CFR parts 97 and 130 as follows:

TITLE 7—[AMENDED]

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 is revised to read as follows:

Authority: 7 U.S.C. 8311; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.3.

2. In § 354.1, paragraph (a) is amended as follows:

a. By revising the introductory text of paragraph (a)(1) to read as set forth below.

b. By revising paragraph (a)(1)(iii) to read as set forth below.

c. In paragraph (a)(2), by revising the first sentence to read as set forth below.

§ 354.1 Overtime work at border ports, sea ports, and airports.

(a)(1) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal byproducts, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and subchapter D of chapter I, title 9 CFR, who requires the services of an employee of the Animal and Plant Health Inspection Service on a Sunday or holiday, or at any other time outside the regular tour of duty of that employee, shall sufficiently in advance of the period of Sunday, holiday, or overtime service request the Animal and Plant Health Inspection Service inspector in charge to furnish the service during the overtime or Sunday or holiday period, and shall pay the Government at the rate listed in the following table, except as provided in paragraphs (a)(1)(i), (ii), and (iii) of this section:

OVERTIME FOR INSPECTION, LABORATORY TESTING, CERTIFICATION, OR QUARANTINE OF PLANTS, PLANT PRODUCTS, ANIMALS, ANIMAL PRODUCTS OR OTHER REGULATED COMMODITIES

Outside the employee's normal tour of duty	Overtime rates (per hour)				
	Aug. 11, 2002–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
Monday through Saturday and holidays	\$45.00	\$46.00	\$48.00	\$49.00	\$51.00
Sundays	59.00	61.00	63.00	65.00	67.00

* * * * *

(iii) The overtime rate to be charged owners or operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of the aircraft, for work performed outside of the regularly established hours of service is listed in the following table:

OVERTIME FOR COMMERCIAL AIRLINE INSPECTION SERVICES¹

Outside the employee's normal tour of duty	Overtime rates (per hour)				
	Aug. 11, 2002–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
Monday through Saturday and holidays	\$36.00	\$37.00	\$39.00	\$40.00	\$41.00
Sundays	48.00	49.00	51.00	53.00	55.00

¹ These charges exclude administrative overhead costs.

(2) A minimum charge of 2 hours shall be made for any Sunday or holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or her, or which is performed by an employee on his or her regular workday beginning either at least 1 hour before his or her scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty.

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TITLE 9—[AMENDED]

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

3. The authority citation for part 97 is revised to read as follows:

Authority: 7 U.S.C. 8311; 49 U.S.C. 80503; 7 CFR 2.22, 280, and 371.4.

4. Section 97.1 is amended as follows:
a. By revising paragraph (a), introductory text, and paragraph (a)(3) to read as set forth below.

b. In paragraph (b), by revising the first sentence to read as set forth below.

§ 97.1 Overtime services relating to imports and exports.

(a) Any person, firm, or corporation having ownership, custody, or control of

animals, animal byproducts, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this subchapter and subchapter G of this chapter, and who requires the services of an employee of the Animal and Plant Health Inspection Service on a Sunday or holiday, or at any other time outside the regular tour of duty of the employee, shall sufficiently in advance of the period of Sunday or holiday or overtime service request the Animal and Plant Health Inspection Service inspector in charge to furnish the service and shall pay the Government at the rate listed in the following table, except as provided in paragraphs (a)(1), (a)(2), and (a)(3) of this section:

OVERTIME FOR INSPECTION, LABORATORY TESTING, CERTIFICATION, OR QUARANTINE OF ANIMALS, ANIMAL PRODUCTS OR OTHER REGULATED COMMODITIES

Outside the employee's normal tour of duty	Overtime rates (per hour)				
	Aug. 11, 2002–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
Monday through Saturday and holidays	\$45.00	\$46.00	\$48.00	\$49.00	\$51.00
Sundays	59.00	61.00	63.00	65.00	67.00

* * * * *

(3) The overtime rate to be charged owners or operators of aircraft at airports of entry or other places of

inspection as a consequence of the operation of the aircraft, for work performed outside of the regularly

established hours of service is listed in the following table:

OVERTIME FOR COMMERCIAL AIRLINE INSPECTION SERVICES¹

Outside the employee's normal tour of duty	Overtime rates (per hour)				
	Aug. 11, 2002–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
Monday through Saturday and holidays	\$36.00	\$37.00	\$39.00	\$40.00	\$41.00
Sundays	48.00	49.00	51.00	53.00	55.00

¹ These charges exclude administrative overhead costs.

(b) A minimum charge of 2 hours shall be made for any Sunday or holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or her, or which is performed by an employee on his or her regular workday beginning either at least 1 hour before his or her scheduled tour of duty or which is not in direct continuation of

the employee's regular tour of duty.

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PART 130—USER FEES

5. The authority citation for part 130 is revised to read as follows:

Authority: 5 U.S.C. 5542; 7 U.S.C. 1622, 8303, 8304, 8306–8308, 8310, 8311, 8313, 8315, and 8316; 21 U.S.C. 136 and 136a; 31

U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.4.

6. In § 130.7, paragraph (a), the table is revised to read as follows:

§ 130.7 User fees for import or entry services for live animals at land border ports along the United States–Canada border.

(a) * * *

Type of live animal	Unit	User fee		
		Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
Animals being imported into the United States				
Breeding animals (Grade animals, except horses):				
Sheep and goats	per head	\$0.50	\$0.50	\$0.50
Swine	per head	0.75	0.75	0.75
All others	per head	3.25	3.25	3.25
Feeder animals:				
Cattle (not including calves)	per head	1.50	1.50	1.50
Sheep and calves	per head	0.50	0.50	0.50
Swine	per head	0.25	0.25	0.25
Horses (including registered horses), other than slaughter and in-transit.				
Poultry (including eggs), imported for any purpose	per head	27.00	28.00	29.00
Registered animals (except horses)	per load	47.00	48.00	50.00
Slaughter animals (except poultry)	per head	5.50	5.75	6.00
	per load	24.00	24.00	25.00
Animals transiting ¹ the United States				
Cattle	per head	1.50	1.50	1.50
Sheep and goats	per head	0.25	0.25	0.25
Swine	per head	0.25	0.25	0.25
Horses and all other animals	per head	6.50	6.75	6.75

¹ The user fee in this section will be charged for in-transit authorizations at the port where the authorization services are performed. For additional services provided by APHIS, at any port, the hourly user fee rate in § 130.30 will apply.

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“§ 130.21(a)” and adding the citation “§ 130.30(a)” in its place.

§ 130.50 Payment of user fees.

* * * * *

(b) * * *

(3) * * *

(i) * * *

8. In § 130.50, paragraph (b)(3)(i), the table is revised to read as follows:

OVERTIME FOR FLAT RATE USER FEES^{1,2}

	Outside of the employee's normal tour of duty	Overtime rates (per hour)				
		Aug. 11, 2002–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
Rate for inspection, testing, certification or quarantine of animals, animal products or other commodities. ³	Monday–Saturday and holidays.	\$45.00	\$46.00	\$48.00	\$49.00	\$51.00
Rate for commercial airline inspection services. ⁴	Sundays	59.00	61.00	63.00	65.00	67.00
	Monday–Saturday and holidays.	36.00	37.00	39.00	40.00	41.00

OVERTIME FOR FLAT RATE USER FEES^{1 2}—Continued

	Outside of the employee's normal tour of duty	Overtime rates (per hour)				
		Aug. 11, 2002–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
	Sundays	48.00	49.00	51.00	53.00	55.00

¹ Minimum charge of 2 hours, unless performed on the employee's regular workday and performed in direct continuation of the regular workday or begun within an hour of the regular workday.

² When the 2-hour minimum applies, you may need to pay commuted travel time. (See § 97.1(b) of this chapter for specific information about commuted travel time.)

³ See § 97.1(a) of this chapter or 7 CFR 354.3 for details.

⁴ See § 97.1(a)(3) of this chapter for details.

* * * * *

Done in Washington, DC, this 19th day of July, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02-18844 Filed 7-24-02; 8:45 am]

BILLING CODE 3410-34-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 313

RIN 3064-AC40

Procedures for Corporate Debt Collection

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is issuing a new regulation governing procedures for corporate debt collection. The Debt Collection Improvement Act of 1996 requires agencies to promulgate regulations on this subject. The regulation sets forth the procedures the FDIC will follow in collecting debts owed to the United States. These procedures include collection of debts through administrative offset, salary offset, administrative wage garnishment and tax refund offset.

EFFECTIVE DATE: August 26, 2002.

FOR FURTHER INFORMATION CONTACT:

Manuel A. Palau (202) 898-8829 of the Legal Division; Connie Brindle (202) 416-7224 of the Division of Finance; or David Harrington (202) 942-3396 of the Division of Administration. The FDIC's main office is located at 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

This rule implements changes to the law made by the Debt Collection Improvement Act of 1996 (DCIA). The DCIA requires federal agencies to collect debts owed to the United States under

regulations prescribed by the head of the agency, and standards prescribed by the Department of Justice and the Department of the Treasury. 31 U.S.C. 3711. These standards, known as the Federal Claims Collection Standards (FCCS), became effective on December 22, 2000. 31 CFR chapter IX and parts 900 through 904.

The DCIA also requires agencies, prior to collecting debts owed to the United States by administrative offset, to: (1) adopt without change regulations on collecting debts by administrative offset promulgated by the Department of Justice or Department of the Treasury (FCCS); or (2) prescribe agency regulations for collecting such debts by administrative offset, which are consistent with the FCCS. 31 U.S.C. 3716. The agency regulations protect the minimum due process rights that must be afforded to the debtor when an agency seeks to collect a debt by administrative offset, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

The FDIC has decided to issue its own agency regulations for debt collection and administrative offset, in part to account for the FDIC's status as an independent regulatory agency. The regulations are, however, consistent with the FCCS, as required by the DCIA. The salary offset portion of the regulations has been submitted to and approved by the Office of Personnel Management (OPM), as required by 5 U.S.C. 5514. In addition, the tax refund offset provisions of the regulations satisfy the requirement in 31 CFR 285.2(c) that the FDIC adopt agency regulations authorizing its collection of debts by administrative offset in general and tax refund offset in particular. The administrative wage garnishment provisions of the regulations satisfy the requirement in 31 CFR 285.11(f) that the FDIC adopt regulations for the conduct

of administrative wage garnishment hearings consistent with 31 CFR 285.11.

In addition to these legal authorities, the FDIC is issuing these regulations pursuant to 12 U.S.C. 1819(a), which authorizes the FDIC to adopt such reasonable regulations as it deems necessary to carry out its corporate functions and duties.

II. Discussion of the Rule

A. Subpart A—Scope, Purpose, Definitions and Delegations of Authority

The regulations apply only to debts owed to the United States which arise out of FDIC transactions and functions in its corporate capacity, including, but not limited to: employee or former employee matters such as travel-related claims, claims arising out of the travel card program, and erroneous overpayments; agency contracting activities involving corporate operations; and debts related to requests for documents under the Freedom of Information Act (FOIA). These regulations do not apply to debts owed to or payments made by the FDIC in connection with the FDIC's receivership, liquidation, supervision, enforcement, or insurance responsibilities, nor do they limit or affect the FDIC's authority pursuant to 12 U.S.C. 1819(a) and 1820(a).

When the FDIC Director of the Division of Administration (DOA) or Director of the Division of Finance (DOF) determines that it is appropriate to initiate debt collection or seek administrative offset to collect that debt, the Director shall conform to the procedural standards for collecting debts set forth in the FCCS. 31 CFR parts 900 through 904. The FCCS establish standards governing the following areas of the debt collection process: prompt demand of payment of the claim from the debtor; review of the existence or amount of a debt claimed, upon the debtor's demand for a final agency determination; standards for collecting debts in installment payments; the required assessment of