



**NFPA**

*The Food Safety People*

NATIONAL

FOOD

PROCESSORS

ASSOCIATION

April 5, 1999

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98-052P  
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Lloyd R. Hontz

FSIS Docket Clerk  
Docket #98-052P  
Room 102, Cotton Annex  
300 12th Street, SW  
Washington, DC 20250-3700

**[Docket No. 98-052P] Fee Increase for Inspection Services;  
64 Federal Register 10402; March 4, 1999**

Dear Ms. Moore:

NFPA is the voice of the \$430 billion food processing industry on scientific and public policy issues involving food safety, nutrition, technical and regulatory matters and consumer affairs. NFPA's three laboratory centers, its scientists and professional staff represent food industry interests on government and regulatory affairs and provide research, technical services, education, communications and crisis management support for the association's U.S. and international members, who produce processed and packaged foods, drinks and juices. NFPA has been the broader food industry's leading advocate for the adoption of the Hazard Analysis Critical Control Point (HACCP) system as the best mechanism available to enhance the safety of our nation's food supply.

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**General Comments**

Every year for many years, FSIS has requested a fee increase for inspection services. This annual process has almost become a ritual, performed by rote. It has become so routine that apparently minimal effort is expended in preparing the analysis to support the need for fee increases, leaving an inadequate basis for public comment.

However, this year, with most establishments operating under the pathogen reduction/HACCP regulation and with the Federal budget situation growing steadily worse, we believe the Agency should go beyond the annual ritual and clearly focus on the big picture of inspection resource allocation, of which overtime and holiday inspection service is a small part. NFPA recognizes effort expended to date, but exhorts the Agency to expeditiously take steps to maximize the efficient use of its limited inspection resources. NFPA would object strongly to any use of ever-increasing inspection fees as a back door to user fees for meat and poultry inspection.

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**NFPA OBJECTS TO AUTOMATIC INSPECTION SERVICES FEE INCREASES, WHICH TEND TO MINIMIZE INCENTIVE TO MAXIMIZE EFFICIENT UTILIZATION OF EXISTING INSPECTION RESOURCES**

NFPA fears that the ability to seek and obtain, almost automatically, annual fee increases allows the Agency to delay full consideration of improvements in the inspection program that could limit the need to collect fees for the overtime and holiday inspection services covered by the proposed increases. We therefore urge the Agency to expedite its consideration of other options to address funding needs for the meat and poultry inspection program.

**FSIS SHOULD SERIOUSLY CONSIDER ALL OPTIONS FOR DEALING WITH EXISTING AND EXPECTED FUTURE BUDGET CONSTRAINTS**

We realize that the Agency is in the midst of the most sweeping and fundamental overhaul in the history of the meat and poultry inspection program. We recognize that there are numerous conflicting forces, as well as a host of elements and facets of issues, which must all be coordinated into a modern inspection system that enhances the safety of the Nation's meat and poultry supply. Nevertheless, we continue to believe the Agency is overlooking one ready opportunity to improve efficiencies.

While the Agency, quite appropriately, is devoting considerable effort to test new inspection models for slaughter operations and also has announced plans to test models involving a new category of in-distribution inspector, we are concerned that options for immediate change in certain further processing operations are receiving no obvious attention at this time.

NFPA notes recent reports that the budget crunch is leading the Agency to cut a significant number of temporary inspector positions. This prospect leads some to believe that industry productivity could be adversely impacted by unavailability of inspection personnel in the coming year. We believe that tight budgets are here to stay.

With that in mind, we suggest that continuing to allocate inspection resources for processing operations in the same manner as in the past is unsupportable scientifically or otherwise and is therefor unacceptable. As noted below, we believe the Agency's intensive and expensive inspectional coverage of processing operations yields no obvious public health benefit in comparison with virtually identical operations inspected by FDA.

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The vast majority of NFPA members who are subject to the regulatory jurisdiction of FSIS conduct further processing rather than slaughter operations. Most of those members also manufacture products regulated by the FDA. NFPA has long argued that there is no scientific justification for the extreme disparity of inspectional oversight provided by FDA and FSIS for essentially identical processing operations.

Canning operations and frozen foods operations are two prime examples of the unfortunate and unnecessary differences. Canned vegetable soup and frozen vegetarian lasagna entrées are inspected by FDA no more frequently than once a year. Yet if these products, produced on the same production lines, by the same people, using the same procedures, are altered to include a small amount of previously-inspected meat sufficient to prepare vegetable beef soup or frozen meat lasagna, then they become subject to the daily inspection mandate of the FSIS. There are no public health considerations that justify this level of inspection, especially for firms operating under HACCP.

**HACCP SETS A SOLID FOUNDATION FOR MORE EFFICIENT ALLOCATION OF INSPECTION RESOURCES**

The disparity noted above is even more untenable with the implementation of mandatory HACCP by the meat and poultry industry. The Agency's move to HACCP has clarified the roles of the industry and the Agency. The industry is responsible for assuring the safety of their products and the Agency is responsible for overseeing the fact that the industry is assuming its responsibility. We believe that the HACCP-based inspection system, which incorporates this shift of responsibility from the Agency to the industry, obviates the need for continuous surveillance by an on-site inspector. We believe that now is the opportune time for the Agency to take advantage of opportunities for more efficient inspection allocation that HACCP presents.

HACCP regulations require establishments to maintain records to document their adherence to SSOPs and the HACCP plan. Under current regulations, the Agency now has available prompt and severe remedies, including suspension or even withdrawal of inspection, which can be invoked against establishments that fail to meet their regulatory obligations.

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**NFPA BELIEVES THAT NOW, RATHER THAN LATER, FSIS SHOULD BE SERIOUSLY CONSIDERING THE ELIMINATION OF OVERTIME AND HOLIDAY INSPECTION FEES FOR FURTHER PROCESSING ESTABLISHMENTS THAT ARE OPERATING UNDER MANDATORY HACCP**

Nearly a year ago, the Agency acknowledged in a document circulated to the National Advisory Committee on Meat and Poultry Inspection (NACMPI) that due to constraints imposed by having to operate within rigidly defined shifts and by having to pay for overtime inspection outside of normal shifts of operation, "...many establishments are less productive than they might otherwise be." Indeed, some establishments routinely incur inspection overtime costs in excess of \$10,000 per month. It is also a fact of life that such fees add to the cost of doing business, which makes domestic plants less competitive than foreign processors who are not subject to those fees. This can cost American jobs. In response to the Agency document, a subcommittee of the NACMPI recommended that under a risk-based inspection system there would be no need for continuation of the concept of shifts of inspection coverage or for the assessment of inspection overtime fees.

NFPA notes that the Agency has ample current authority to visit processing plants less frequently than daily. In fact, as noted in another discussion paper distributed during a June, 1997 public meeting on HACCP-Based Meat and Poultry Inspection Concepts, the Agency during one two-week period in June of 1996 did not conduct daily visits to nearly 7 percent (394 plants) of approximately 7,000 processing establishments. Situations requiring immediate attention at other plants, temporary staffing shortages and other unanticipated events led Agency officials to conclude that assignment of inspection personnel to other plants or operations was of a higher priority than for the plants that were not visited. We are not aware that any problems were caused by the inability of the Agency to visit these plants every day.

These facts make obvious the justification for major change in the manner of further processing inspection. We recognize that it takes time and effort to formulate a new plan for inspection. NFPA notes its willingness and desire to work with the Agency on a risk-based inspection system for further processing that will make more efficient use of the Agency's limited resources.

In the interim, FSIS should at a minimum utilize all options at its disposal to assure that budget constraints do not hinder plant productivity. As an initial matter, since HACCP (and SSOP) records are at least as reliable as TQC records, FSIS should immediately permit HACCP establishments to operate outside of their normal inspection hours without the requirement for overtime inspection.

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**CONCLUSION**

In summary, NFPA urges the Agency to eliminate the need for continual increases in fees for overtime and holiday inspection by acting wherever possible to eliminate the need for overtime and holiday inspection. Particularly for further processing operations, NFPA urges that the Agency devote serious attention to eliminating the concept of "shifts of inspection" and "overtime and holiday inspection service." In the interim, processing plants operating under HACCP should not be hindered by the shortages of inspection personnel that can and should be anticipated.

Sincerely,

A handwritten signature in black ink, appearing to read "Lloyd R. Hontz". The signature is written in a cursive style with a long horizontal flourish at the end.

Lloyd R. Hontz  
Director, Food Inspection Issues

LHNlh

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