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

98-052P
98-052P-21
Bernard F. Shire

RE: Proposed Rule: Fee Increase for Inspection Services

The **American Association of Meat Processors (AAMP)** is submitting the following comments concerning a Proposed Rule from FSIS that would increase the fees that FSIS charges meat and poultry establishments, plants, importers and exporters for providing voluntary inspection, identification and certification services; laboratory services; and overtime and holiday services. FSIS also is proposing to reduce the fee it charges for the Accredited Laboratory Program.

AAMP is a national trade organization whose members are meat and poultry processors, slaughterers, home food service companies, caterers, retailers, wholesalers, as well as suppliers and consultants to the meat and poultry industry. Most of its members are small and medium-sized businesses, many of them family-owned.

The **Federal Meat Inspection Act (FMIA)** and the **Poultry Products Inspection Act (PPIA)** provide for mandatory federal inspection of slaughter and processing of certain livestock and poultry, with the cost paid for by American taxpayers (not FSIS!). If this inspection is carried out on an overtime basis or on holidays, plant operators have to pay the cost. In addition to the mandatory inspection, FSIS provides "voluntary" inspection, certification and identification services, including the inspection of what the Agency calls "exotic" animal products. FSIS is required by current law to recover the costs of those services.

AAMP Strongly Opposes Fee Increases

FSIS is proposing to raise the fees for these voluntary services. The American Association of Meat Processors (AAMP) strongly opposes the proposed increases, for reasons we will detail below. As we understand it, base time inspection fee would rise from \$32.88 to \$37.00 an hour, an increase of 9%. Overtime and holiday inspection fees would jump from \$33.76 an hour to \$36.84, also a 9% increase. Laboratory fees would go up from \$48.56 to \$50.88 an hour.

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Many of AAMP's members are small, family-owned businesses. It is a struggle for many of them to make profit as it is, and for many small business people, the difference between a small profit and lack of profit is a thin line.

Some Inspectors Abuse Overtime, Holiday Fees

But we have even stronger objections to this fee increase. The fact is that in practice, there are instances where USDA inspectors are abusing the inspection system and plant operators by collecting overtime and holiday inspection fees that are not warranted. In the past and the present, we have dealt with situations where AAMP members were overcharged for voluntary inspection services. When these overcharges were brought to the attention of USDA inspection officials and reimbursement of these charges were requested, the Agency moved with the speed of a glacier to make situations right.

In one case, an operator had to wait many months while FSIS officials at the District and Washington levels "tossed the ball back and forth" between them before settling an overcharge case. It was only because AAMP kept on the Agency that the matter was settled properly. We believe the Agency philosophy was to move as slowly as possible to rectify the situation, in hopes that the meat processor would give up.

There are also cases where one inspector normally does voluntary inspection, yet during a holiday period, for some reason, it takes two inspectors, including an Inspector-in-Charge and a Veterinarian show up for the work. We have been told by people inside the Agency, including at the field level, that this kind of abuse takes place. By the way, our sources inside the Agency condemn this kind of abuse and say it should not take place. Instead of allowing these kinds of incidents to occur, FSIS needs to clean up its procedures, instead of coming with its hand out for more money.

Inspectors are also continuing to collect overtime for the time they spend doing pre-operational sanitation before a company formally begins its operations for the day. This overtime is unwarranted, FSIS continues to defend it. The fact is that under the HACCP regulation, FSIS requires plants to have Sanitation Standard Operating Procedures (SSOP's) and inspectors to check them during pre-op and operational periods. If it is required by FSIS, then it should be paid for as part of regular inspection, not added on as overtime.

USDA Needs To Drop Overtime Inspection Fees

USDA-FSIS speaks proudly about the new meat/poultry inspection system it has been putting into place, the **Pathogen Reduction/Hazard Analysis Critical Control Point Regulation**. One question that has been raised by HACCP is whether the traditional overtime inspection arrangement should continue. We think that under HACCP, overtime must come to an end. Plants should be able to operate whenever they want, since there is no need for inspectors to be

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carrying out duties in a traditional “command-and-control” manner in all plants. The **National Advisory Committee on Meat & Poultry Inspection** has recommended to **Agriculture Secretary Dan Glickman** that overtime under HACCP be dropped. If that recommendation is carried out, as it should be, there is no justification for FSIS to ask for an increase in overtime fees.

Small Entities Use Voluntary Services

In the proposed Rule, FSIS argues that these increases will not have a significant economic impact on a substantial number of small business entities, because the small entities don't use those services, they are mostly used by large establishments. That is not true. Many small establishments that slaughter or process bison, ostriches and other non-amenable species are forced to pay FSIS hourly inspection fees. They have no choice.

FSIS admits that data from the **U.S. Bureau of the Census, Survey of Industries, 1994**, indicates that the beef industry has more small firms and establishments than does the poultry industry. Using the **U.S. Small Business Administration's** definition of a small business, fewer than 500 employees (which we think is a big unrealistic number, but we'll go along with it for now), 96% of the 1,226 firms comprising the beef industry are small (that number is also low).

Similarly, FSIS admits that 90% of the individual meat establishments or plants in the industry are small. In 1994, these small businesses accounted for 19 percent of total employment in this industry, their share of payroll was 18% of the total of \$2.777 billion and their revenues were 16% of the total revenues of \$55.814 billion (all USDA figures). These are very substantial sums, and show how much the small industry contributes to the economic well being of the U.S.

Small Establishments Will Be Hurt “In the Pocketbook” By USDA

But FSIS cannot justify its belief that small establishments wouldn't be affected. To say that use of the services is “voluntary” and that establishments don't have to use the services is like saying that plant operators should get rid of all their cutting, sawing, grinding and refrigeration equipment, and use nothing but knives, outdoor fires for smoking and blocks of ice to cool product. The argument that plants have determined that the benefits of the services outweigh the costs can't be proven, especially when people both inside and outside the industry are saying that the USDA description of “amenable” species is outdated and needs to be revised.

FSIS is in no position to speculate about how the increased costs of inspection will be paid for. Small firms especially cannot just pass increased costs on to consumers like large firms can, because they have a smaller amount of business and sales to spread costs over. FSIS has no basis at all to claim that prices would go up only a few pennies a pound because of these fee increases. But even if they do increase by that amount, such an increase will be damaging to small establishments that have a difficult time as it is competing with large firms.


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The USDA argument that small businesses will be forced to hold down price increases because of the “existence of hundreds of firms in these industries” is a naive, uneducated view of economics. USDA-FSIS understands large meat processing businesses with their long lines and large number of employees working on one product. But the Agency has no understanding of small firms, who make small amounts of a large number of products, including non-amenable species.

National Advisory Committee Recommends All Species Be Inspected

What USDA continues to call “exotic” species are not so exotic anymore. Right now, a number of state inspection programs inspect such “exotic” species as buffalo, ostrich, emu and other animals. So it mystifies us as to why USDA has limited itself to inspecting what it calls the “amenable” species. We understand that the Department is limited by law right now as to what it inspects. But the National Advisory Committee on Meat & Poultry Inspection has recommended to Secretary of Agriculture Dan Glickman that all species be inspected. The meat and poultry industry has changed a lot in recent years, and is undergoing continuing changes today. It is important that FSIS and other regulators keep up with industry changes, including such basic things as inspecting the products that the industry produces.

The American Association of Meat Processors (AAMP) appreciates the opportunity to comment on this proposed regulation. AAMP is willing to provide additional information or answer any questions the Agency may have about our views and comments.

Sincerely,

Bernard F. Shire, Director
Legislative & Regulatory Affairs

cc: Thomas E. Dewig, AAMP President
Thomas J. Billy, FSIS Administrator