Proposed Rules

Federal Register
Vol. 61, No. 129
Wednesday, July 3, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 11

[Docket No. 96–037–1]

Horse Protection; Public Meetings

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meetings.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service (APHIS) is hosting a series of public meetings to discuss proposed enforcement changes to the current Horse Protection Act. These proposals have been developed and are outlined in the APHIS ''Strategic Plan'' for Horse Protection. The development of the strategic plan is in line with our commitment to ensure appropriate care for horses regulated under the Horse Protection Act. We are reviewing the current regulations and standards promulgated under the Horse Protection Act, and are seeking recommendations and opinions from affected industries and other concerned members of the public to determine which revisions are necessary and appropriate in order to further reduce the incidence of soring and improve enforcement.

DATES: The first meeting will be held in Murfreesboro, TN, on July 26, 1996. The second meeting will be held in St. Louis, MO, on August 2, 1996. The third meeting will be held in Sacramento, CA, on August 16, 1996. Each meeting will be held from 7:30 a.m. until 6 p.m.

ADDRESSES: The public meetings will be held at the following locations:

1. Murfreesboro, TN: Middle Tennessee State University, Loop Drive, James Union Building, Tennessee Room, Murfreesboro, TN, (615) 898–2797. If traveling from Nashville, take I–24 to exit 78, then head east on Highway 96 (Old Fort Parkway) to Memorial Boulevard (Highway 231). Turn right on Clark Boulevard, then left onto Greenland Drive. Park in the Greenland Drive parking lot and take the shuttle bus to the James Union Building.
2. St. Louis, MO: The Adams Mark Hotel, Fourth and Chestnut, St. Louis, MO, (314) 241–7400. If traveling from Lambert International Airport, take I–70 east to the Gateway Arch exit. The Adams Mark Hotel is located at the corner of Fourth and Chestnut.
3. Sacramento, CA: Red Lion Hotel, Red Lion Ballroom, Sierra and Cascade Sections, 2001 Point West Way, Sacramento, CA, (916) 929–8855. The Red Lion Hotel is at the corner of Point West Way and Arden Way.

FOR FURTHER INFORMATION CONTACT: Dr. John V. Zisk, Director, Horse Protection, Animal Care Staff, REAC, APHIS, USDA, 4700 River Road Unit 84, Riverdale, MD 20737–1234, (301) 734–7833. Copies of the ''Strategic Plan'' are available through this office.

SUPPLEMENTARY INFORMATION: The practice known as ''soring'' is the causing of suffering in show horses to affect their performance in the show ring. Under the Horse Protection Act (HPA) (11 U.S.C. *et seq.*), the Animal and Plant Health Inspection Service (APHIS) is responsible for eliminating the practice of soring, by prohibiting the showing or selling of sored horses.

APHIS believes the regulations and standards established in accordance with the HPA may need to be updated, and APHIS officials have proposed program changes through a ''Strategic Plan.'' In this plan, we have reviewed which areas of enforcement may require a change in regulations and standards based on our experience and knowledge of the program. In developing these proposed changes and conducting this review, APHIS is seeking recommendations and opinions regarding the following: The enforcement of the HPA by USDA-certified horse industry organizations; the certification status of horse industry organizations; uniform systems of rules, regulations, and penalties; training and research. As a forum for such recommendations and opinions, APHIS will hold three meetings to gather input from the public, including equine protection organizations and members of affected industries, such as the walking horse industry and related equine organizations. The meetings will include four workshops facilitated by trained APHIS facilitators, as follows:

(1) Self-regulatory enforcement of the HPA by USDA-certified horse industry organizations;

(2) USDA certifications of horse industry organizations;

(3) Uniform rules, regulations, and penalty systems; and

(4) Training and research under the HPA.

In these workshops, group participation will be used to develop recommendations within specific topic areas. After the workshops have concluded, each workshop group will report its recommendations to the entire meeting.

APHIS will consider the recommendations received in developing any revisions to the current HPA regulations and standards. The Agency will initiate rulemaking for any changes deemed appropriate.

Each of the workshops will be conducted twice at each meeting, once in the morning and once in the afternoon. Participants who intend to attend a full 1-day meeting are asked to register for only one workshop for the morning and a different workshop for the afternoon. Attendance may be limited for some workshops because of space availability.

Registration will be held the day of each meeting between 7:30 a.m. and 8:30 a.m. at the entrance of the general assembly meeting rooms. The general sessions will begin at 8:30 a.m. Any person who is unable to attend the meetings, but who wishes to comment on any of the topics covered by the four workshops, may send written comments to the person listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 27th day of June 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–16997 Filed 7–2–96; 8:45 am]

BILLING CODE 3410–34–P

Food Safety and Inspection Service

9 CFR Part 391

[Docket No. 96–013P]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to increase the fees FSIS charges meat and poultry establishments, importers, and exporters for providing voluntary inspection, identification, and certification services and overtime and holiday services. These fee increases are based upon the Agency's analysis of projected costs for fiscal year 1996, which identifies increased costs resulting from the January 1996 FSIS national and locality pay raise average of 2.4 percent for Federal employees and increased health insurance costs.

FSIS also is proposing to reduce the fees charged for providing laboratory services to meat and poultry establishments. The Agency's analysis of projected costs for fiscal year 1996 identified decreased costs resulting from the use of automated equipment for testing laboratory samples and for other inspection related services not covered under the base time, overtime, and holiday costs.

DATES: Comments must be received on or before: August 2, 1996.

ADDRESSES: Submit an original and two copies of written comments concerning this proposed rule to: FSIS Docket Clerk, Docket #96–013P, Room 4352, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700. Persons preferring to present oral comments should contact William L. West at (202) 720–3367. FSIS's cost analysis and comments will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 1 p.m. and from 2 p.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. William L. West, Director, Budget and Finance Division, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700, (202) 720–3367.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) provide for mandatory inspection by Federal inspectors of meat and poultry slaughtered and/or processed at official establishments. Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry products. The costs of mandatory inspection (excluding such services performed on holidays or on an overtime basis) are borne by FSIS.

In addition to mandatory inspection, FSIS provides a range of voluntary inspection services. Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), FSIS provides these services to assist in the orderly marketing of various animal products and byproducts not subject to the FMIA or the PPIA. The costs of voluntary inspection are totally recoverable by the Federal Government.

Each year, FSIS reviews the fees it charges meat and poultry establishments, importers, and exporters for providing voluntary inspection, identification, and certification services, as well as overtime and holiday services, and performs a cost analysis to determine whether such fees are adequate to recover the costs FSIS incurs in providing the services. In its analysis of projected costs for fiscal year 1996, FSIS has identified increases in the costs of providing voluntary inspection, identification, and certification services, as well as overtime and holiday services. These increases are attributable to the average FSIS national and locality pay raise of 2.4 percent for Federal employees effective January 1996 and increased health insurance costs.

Accordingly, FSIS is proposing to amend § 391.2 to increase the base time rate for providing voluntary inspection, identification, and certification services from $31.92 per hour, per program employee, to $32.88 per hour, per program employee. FSIS is proposing to amend § 391.3 to increase the rate for providing overtime and holiday services from $32.96 per hour, per program employee, to $33.76 per hour, per program employee.

In its analysis of projected costs for fiscal year 1996, FSIS also has identified a decrease in the cost of providing laboratory services to meat and poultry establishments resulting from the use of automated equipment for testing laboratory samples and for other inspection services not covered under the base time, overtime, and holiday costs, such as travel expenses. Therefore, FSIS proposes to amend § 391.4 of the regulations to reduce the fee charged for providing laboratory services from $52.92 per hour, per program employee, to $48.56 per hour, per program employee.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. The proposed fee increases for voluntary inspection, identification, and certification services, overtime, and holiday inspection services primarily reflect the 1996 increase in salaries of Federal employees allocated by Congress under the Federal Employees Pay Comparability Act of 1990. The proposed fee decrease for laboratory services reflects the use of automated equipment for testing laboratory samples and other inspection related services not covered under the base time, overtime, and holiday costs such as travel expenses.

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The fee increases provided for in this document will reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services and a decrease in program support costs.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted by the FMIA and the PPIA from proposing any regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect. There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this proposed rule. However, the administrative procedures are set forth in 7 CFR part 1.

List of Subjects in 9 CFR Part 391

Fees and charges, Meat inspection, Poultry products inspection.

For the reasons set out in the preamble, 9 CFR part 391 is proposed to be amended as set forth below.

PART 391—FEES AND CHARGES FOR INSPECTION SERVICES

1. The authority citation for part 391 is revised to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 394, 1622, and 1624; 21 U.S.C. 451 *et seq.* 21 U.S.C. 601–695; 7 CFR 2.18 and 2.53.

2. Sections 391.2, 391.3, and 391.4 would be revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $32.88 per hour, per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5, and 381.38 shall be $33.76 per hour, per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $48.56 per hour, per program employee.

Done at Washington, DC, on June 27, 1996.

Michael R. Taylor,

Administrator, Food Safety and Inspection Service.

[FR Doc. 96–17000 Filed 7–2–96; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 218 and 250

[Regulation R; Docket No. R–0931]

Relations With Dealers in Securities Under Section 32, Banking Act of 1933; Miscellaneous Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board is proposing to amend its regulations to remove Regulation R concerning relations with dealers in securities under section 32 of the Banking Act of 1933, which the Board believes is no longer necessary. The Board also is proposing to amend its regulations to remove an interpretation of section 32 of the Glass-Steagall Act, which the Board believes is no longer necessary. This interpretation explains the position of the Board regarding the application of the prohibitions of section 32 to bank holding companies.

DATES: Comments must be received by August 2, 1996.

ADDRESSES: Comments should refer to Docket No. R–0931 and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Docket No. R–0931, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments addressed to Mr. Wiles may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room MP–500 between 9 a.m. and 5 p.m., except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Richard M. Ashton, Associate General Counsel (202/452–3750), or Thomas M. Corsi, Senior Attorney (202/452–3275), Legal Division. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act)

Section 303(a) of the CDRI Act (12 U.S.C. 4803(a)) requires the Board, as well as the other federal banking agencies, to review its regulations and written policies in order to streamline and modify these regulations and policies to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. The Board has reviewed its interpretations of section 32 of the Glass-Steagall Act (12 U.S.C. 78) with this purpose in mind, and, as is explained in greater detail in the text that follows, proposes to amend these interpretations in a way designed to meet the goals of section 303(a).

Substantive Provisions of Regulation R

The Board's Regulation R (12 CFR Part 218) implements section 32 of the Glass-Steagall Act. Section 32 prohibits officer, director and employee interlocks between member banks and firms ''primarily engaged'' in underwriting and dealing in securities, and authorizes the Board to exempt from this prohibition, under limited circumstances, certain interlocks by regulation. Currently, Regulation R restates the statutory language of section 32, and sets forth the only exemption adopted by the Board since passage of the Glass-Steagall Act. The Board also has codified in the CFR 14 interpretations of the substantive provisions of section 32 and the regulation.[1] The Board also has issued other interpretations of section 32 that are contained in the Federal Reserve Regulatory Service (FRRS).

The exemption in Regulation R, adopted by the Board in 1969, permits interlocks between member banks and securities firms whose securities underwriting and dealing activities are limited to underwriting and dealing in only securities that a national bank would be authorized to underwrite and deal in. The adoption of the express exemption was apparently based on the assumption that the literal language of the section 32 prohibition could at least arguably cover bank-eligible securities activities.

Subsequently, in orders approving applications under the Bank Holding Company Act (12 U.S.C. 1841 et seq.), the Board interpreted the prohibitions of section 20 of the Glass-Steagall Act, which prohibits a member bank from being affiliated with a firm engaged principally in underwriting and dealing in securities, as not applying on their face to underwriting and dealing in securities that may be underwritten and dealt in directly by a state member bank. In these decisions, the Board also expressed the view that section 32 similarly did not cover an interlock between a member bank and a firm that was not engaged in securities activities covered by section 20.[2] Accordingly, in light of the Board's more recent view of the scope of section 32, the express exemption from the provisions of section 32 for bank-eligible securities activities is no longer necessary.[3] Moreover, the Board has never adopted any other exemption to the interlocks provision and historically, requests that the Board create new exemptions have been infrequent and have been uniformly denied.[4]

Since the exemption in Regulation R is no longer necessary, and it is not necessary to have a substantive regulation solely to restate a statutory provision, the Board is proposing to rescind Regulation R.

Bank Holding Company Interpretation of Section 32 of the Glass-Steagall Act

With one exception, the 14 interpretations of section 32 now contained in the CFR, would be retained and transferred to 12 CFR Part 250,

[1] 12 CFR 218.101–218.114.

[2] This interpretation has been upheld by the courts. *Securities Industry Association* v. *Board of Governors of the Federal Reserve System*, 839 F.2d 47, 62 (2d Cir. 1988), *cert. denied*, 486 U.S. 1059 (1988).

[3] The Board is proposing to adopt a new interpretation of section 32 to clarify this point.

[4] A footnote to Regulation R that dates to 1936 makes it clear that a broker who is engaged solely in executing orders for the purchase and sale of securities on behalf of others in the open market is not engaged in the business referred to in section 32. The Board has since authorized bank holding companies to engage in this activity directly, reiterating that securities brokerage is not a proscribed activity under either sections 32 or 20 of the Glass-Steagall Act. *BankAmerica Corporation*, 69 Federal Reserve Bulletin 105 (1983). The courts upheld the Board's interpretation. *Securities Industry Assn.* v. *Board of Governors*, 468 U.S. 207 (1984). The removal of Regulation R does not affect this interpretation.