

105.D.45–47, 105.E through 105.I, 105.J.1, 105.K, 105.L; 109 Definitions (except for “Carbon Regeneration Unit”, “Commercial Boiler”, “Commercial Industrial Furnace”, “Consignee”, “Containment Building”, “Designated Facility”, “EPA Acknowledgement of Consent”, Item 7 of “Hazardous Waste”, Item 2 of “Incinerator”, Item 12 of “Industrial Furnace”, “Infrared Incinerator”, the phrase “containment building” in “Miscellaneous Unit”, “Partial Closure”, the phrase “and that is not a containment building” in “Pile”, “Plasma Arc Incinerator”, “Primary Exporter”, “Receiving Country”, “Sludge Dryer”, “Solid Waste”, “Transit Country” and “Waste Reduction”), 111; Chapter 3, Sections 303, 305.B–E, 307, 309 (except 309.L.3.b), 311.B&E, 313, 315.A–D, 317, 319, 321 (except 321.C.2.i), 322, 323.A, 323.B introductory paragraph, 323.B.1, 323.B.2 (except 323.B.2.e), 323.B.4, 325 and 329; Chapter 5, Sections 501, 505, 507 through 513, 515 (except for 515.25), 516, 517 (except 517.V), 519, 520, 521 through 532, 533 (except 533.B), 534 and 536; Chapter 7, Section 701; Chapter 9, Sections 901 through 923; Chapter 11, Sections 1101 (except 1101.B&F), 1103 introductory paragraph, 1103.B (except the phrase “For the purposes of compliance with LAC 33:V.Chapter 22, or”), 1105, 1107 (except 1107.A.4 and 1107.D.5), 1108, 1109 (except 1109.E.1.d, E.8 and E.9), 1111.A, 1111.B.1 introductory paragraph (except the phrase “to a treatment, storage, or disposal facility within the United States”), 1111.B.1.a–c, 1111.B.1.d (except the phrase “within the United States”), 1111.B.1.e (except the phrase “within the United States”), 1111.B.1.f, 1111.B.2 (except the phrase “for a period of at least three years from the date of the report” and the third and fourth sentences), 1111.C–D, 1113, 1115 through 1121; Chapter 13, Sections 1301 through 1305, 1307.A introductory paragraph (except last sentence), 1307.B, 1307.C (except last sentence), 1307.D, 1307.E (except the phrase “and, for exports, an EPA Acknowledgement of Consent” at 1307.E.2), 1307.F (except the phrase “and, for exports, an EPA Acknowledgement of Consent” at 1307.F.2), 1307.G (except 1307.G.4), 1307.H, 1309, 1311, 1315 through 1323; Chapter 15, Sections 1501 through 1517, 1519 (except 1519.B.8 and 1519.D), 1521 through 1527, 1529 (except 1529.B.12–19), 1531; Chapter 17, Sections 1701 through 1745; Chapter 19, Sections 1901 (except 1901.C&D), 1903, 1905.A–G, 1907, 1909.A–C, 1911, 1913, 1915.A–C, 1917 and 1919; Chapter 21, Sections 2101 (except 2101.D), 2103 through 2117; Chapter 23, Sections 2301, 2303 (except 2303.K), 2304 through 2309, 2311 (except the phrase “the waste and the pile satisfy all applicable requirements of LAC 33:V.Chapter 22, and” at 2311.A), 2313, 2315 and 2317; Chapter 25, Sections 2501, 2503.A through 2503.J, 2503.K (except 2503.K.1.o), 2503.L–N, 2504 through 2509, 2511.A introductory paragraph (except the phrase “the waste and landfill meet all applicable requirements of LAC 33:V.Chapter 22, and”), 2511.A.2 (except the phrase “or LAC 33:V.4321 for interim status facilities”), 2511.B, 2513 through 2517, 2519 (except 2519.F), 2521 (except 2521.B.2) and 2523;

Chapter 26, Sections 2601, 2602 and 2603 (except 2603.F.1); Chapter 27, Sections 2701, 2703 (except for 2703.I&J), 2705 through 2713, 2715 introductory paragraph (except the phrase “the waste and the treatment zone meet all applicable requirements of LAC 33:V.Chapter 22, and”), 2715.A&B, 2717 through 2723; Chapter 29, Sections 2901, 2903 (except 2903.I), 2904 through 2911, 2913 introductory paragraph (except the phrase “the waste and impoundment satisfy all applicable requirements of LAC 33:V.Chapter 22, and”), 2913.A.1, 2913.A.2 (except the phrase “or for interim status facilities”), 2915 and 2917; Chapter 31, Sections 3101, 3103, 3105 (except 3105.D), 3107 through 3121; Chapter 32, sections 3201 through 3207; Chapter 33, Sections 3301, 3303 (except 3303.C&D), 3305 through 3313, 3315 (except for 3315.K), 3317 through 3322, 3323 (except the phrase “or its successor agency” at 3323.D) and 3325; Chapter 35, Sections 3501 through 3505, 3507 (except the phrase “1803, 1911” at 3507.C), 3509 through 3527; Chapter 37, Sections 3701, 3703, 3705 (except the last sentence of 3705.D), 3707.A–F, 3707.G (except the phrase “and financial test and guarantee, except that the financial test and guarantee may not be combined” in the second sentence), 3707.H, 3707.I (except the phrase “, and for facilities subject to LAC 33:V.3525 * * * LAC 33:V.3525.B.2”, and the two occurrences of the phrase “or that the owner or operator has failed * * * LAC 33:V.3525”), 3709 through 3713, 3715 (except 3715.F.8), 3717 through 3719; Chapter 40, Sections 4001 through 4025, 4027 (except 4027.C), 4029 through 4093; Chapter 41, Sections 4101, 4103, 4105 introductory paragraph, 4105.A, 4105.B (introductory paragraph), 4105.B.1 introductory paragraph (except the phrase “except that”), 4105.B.1 (except 4105.B.1.a&b), 4105.B.2, 4105.B.4–14, 4105.C, 4105.E, 4107 through 4113, 4115.A (except the reference “22,”), 4115.B, 4137, 4139.A.1, 4139.A.2 (except 4139.A.2.b&c), 4139.B.1, 4139.B.4, 4143, 4145; Chapter 43, Sections 4301 (except the last sentence of 4301.E), 4302, 4303 through 4305, 4307 through 4335, 4337 through 4349, 4351 through 4355, 4357 (except 4357.B.8–14), 4359 through 4365, 4367 through 4375, 4377 (except 4377.B.4), 4379 (except the phrase “and LAC 33:V.4705” at 4379.C), 4381 through 4395, 4397, 4399 (except 4399.A.6.i), 4401, 4403 (except for the phrase “and after receiving the certification required under LAC 33:V.4393.B.2 for facilities subject to LAC 33:V.4393” and the two occurrences of the phrase “or that the owner or operator has failed * * * LAC 33:4393” in 4403.H), 4405 through 4411, 4413, 4417 through 4429, 4431 through 4445, 4447 through 4455, 4457.A, 4457.B (except the first occurrence of 4457.B.2), 4459 (except the phrase “the waste and impoundment satisfy all applicable requirements of LAC 33:V.Chapter 22.” at 4459.A), 4461, 4462 (except 4462.H), 4463 through 4470, 4471 (except the phrase “the waste and pile satisfy all applicable requirements of LAC 33:V.Chapter 22 and”), 4472 through 4476, 4477 through 4493, 4495 through 4499, 4501 (except 4501.D.3), 4502, 4503 (except the phrase “and landfill meet all applicable requirements of LAC

33:V.Chapter 22, and the waste” at 4503.A introductory paragraph), 4505 through 4509, 4511 introductory paragraph, 4511.A–D, 4511.E (except the two occurrences of the reference “and F”), 4512, 4513 through 4522, 4523 (except the phrase “and LAC 33:V.Chapter 30 * * * LAC 33:V.109” at the end of the paragraph), 4525 through 4534, 4535 through 4547, 4549 through 4559, 4561 through 4589, 4591 through 4601; Chapter 49, Sections 4901.A through 4901.F, 4901.G (except the entries for EPA Hazardous Waste Numbers K042 and 151 in Table 6), 4903 through 4907, Appendices A through D.

Louisiana Administrative Code, Title 33, Part V, Hazardous Waste and Hazardous Materials, Amendments for July 1995—March 1996; Chapter 1, Sections 109 “Designated facility”, 109 “Partial Closure”, 109 “Solid Waste”; Chapter 3, Sections 305.A, 309.L.3.b, 321.C.2.i, 323.B.2.e, 323.B.4.c, Chapter 5, Section 533.B; Chapter 7, Section 706; Chapter 11, Section 1101.B; Chapter 25, Section 2521.B.2; Chapter 26, Section 2603.F.1; Chapter 28, Sections 2801 through 2809; Chapter 41, Sections 4115.C, 4139.B.2&3; Chapter 49, Sections 4901.G Table 6 (entries for EPA Hazardous Waste Numbers K042 and 151 only), Appendix A (entry for 2,6-Toluenedine only) and Appendix B (paragraphs 8.2 and 8.2.5 through 8.2.5.4).

Copies of the Louisiana regulations that are incorporated by reference are available from Office of the State Register, P.O. Box 94095, Baton Rouge, LA 70804-9095.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 260

[Docket No. 971128280-7280-01; I.D. 090997C]

Inspection and Certification Fees and Charges

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of inspection fees.

SUMMARY: NMFS announces changes in its fees and charges for voluntary fishery products inspection, grading, and certification services. NMFS increased the basic fee for full-time in-plant inspection services by \$1.95, making the hourly rate \$44.40. This fee reflects increases in salary and includes a 3-percent base salary increase and varying locality pay increases effective January 1998. NMFS is continuing its separate fee structure for facilities with less than full-time contract services.

DATES: These fee changes are effective on December 29, 1997.

FOR FURTHER INFORMATION CONTACT:

Richard V. Cano, Chief, Seafood Inspection Division, 301-713-2355.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) authorizes the voluntary fishery products inspection, grading, and certification program, as well as "assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered." Reorganization Plan No. 4 of 1970 delegated these authorities to NMFS. Regulations at 50 CFR 260.70 authorize the Secretary of Commerce to review and revise annually the rates for voluntary fishery products inspection, grading, and certification services by publishing a notice of fee changes in the **Federal Register**. NMFS' annual review of the projected income and costs for its various services serves as the basis for determining the fees as set forth below.

Effective October 1, 1997, the National Seafood Inspection Program (Program) increased the basic fee for full-time in-plant inspection services by \$1.95, making the hourly rate \$44.40. This fee reflects increases in salary,

general operating, and overhead costs that are charged by NMFS and NOAA.

The basic fee will continue to apply to establishments contracting for 40 hours of inspection service per week. However, to recover estimated additional costs associated with servicing contract establishments receiving less than full-time inspection services, the fee for establishments with Type 1 and Type 3 contracts from 25 to 39 hours per week will be 5 percent above the basic fee; and for establishments with contracts less than 25 hours per week, the fee will be 10 percent above the basic fee.

NMFS' annual analysis of the actual costs and projected revenue for Type 2 and Type 3 services indicates that these fees are determined by adding factors of 60 and 35 percent, respectively, to the Type 1 service fee. Similarly, to ensure cost recovery, the fee for the Hazard Analysis Critical Control Point (HACCP)-based service is calculated by adding a factor of 65 percent to the Type 1 service fee.

Users of in-plant (Type 1) services are advised that the Program will charge for

certain label reviews. There is a mechanism to permit pre-approval on labels reviewed by facilities that have demonstrated an adequate understanding of basic labeling requirements and proper use of the Program's marks. Charges for label review will be assessed at the consultative rate to those facilities not given pre-approval authority.

The Program will continue to require that new users of inspection services, except label review services, that are not under contract prepay via certified check, money order, Master Card or VISA, or maintain a surety (bond or check) equivalent to 3 months of estimated inspection services. Current users not under contract that have a record of late or nonpayment as determined by each Regional Inspection Branch will also be required to prepay or submit a surety. Prepayment is recommended for all non-contract users.

Effective October 1, 1997, the fees and charges for Type 1, 2, and 3 fishery products inspection services (except Alaska) are as follows.

	Per hour
a. Type 1—In-Plant Inspection Services	
Non-HACCP 40 Hr/Wk Contracts:	
Regular time	\$44.40
Overtime	66.60
Sunday and legal holidays	88.80
Non-HACCP 25-39 Hr/Wk Contracts:	
Regular time	46.62
Overtime	69.93
Sunday and legal holidays	93.24
Non-HACCP <25 Hr/Wk Contracts:	
Regular time	48.84
Overtime	73.26
Sunday and legal holidays	97.68
HACCP Contracts:	
Regular time	73.26
Overtime	109.89
Sunday and legal holidays	146.52
b. Type 2—Lot Inspection—Officially and Unofficially Drawn Samples	
Regular time	\$71.04
Overtime	106.56
Sunday and legal holidays	142.08
c. Type 3—Miscellaneous Inspection and Consultative Services	
40 Hr/Wk Contracts:	
Regular time	\$59.94
Overtime	89.91
Sunday and legal holidays	119.88
25-39 Hr/Wk Contracts:	
Regular time	62.94
Overtime	94.41
Sunday and legal holidays	125.87
Under 25 Hr/Wk Contracts and Non-contract Consultative Services:	
Regular time	65.93
Overtime	98.90
Sunday and legal holidays	131.87

The basis for determining the appropriate fee to be charged is as follows:

A. Type 1—In-Plant Inspection Services

1. *Regular time*—Services provided during any 8-hour shift.

2. *Overtime*—Services provided in excess of 8 hours per shift per day.

In addition to any hourly service charge, a night differential fee of \$2.25 per hour will be charged for each hour of service provided after 6 p.m. and before 6 a.m. Similarly, a Sunday differential fee of \$5.75 per hour will be charged for each hour of service provided between midnight Saturday and midnight Sunday. A cost of living allowance (COLA) fee of \$2.25 per hour will be charged for services in Puerto

Rico; \$5.75 per hour will be charged for services in American Samoa and Alaska.

b. Type 2 and 3—Lot Inspection and Miscellaneous Services

1. *Regular time*—Services provided within the inspector's normal work schedule, Monday through Friday.

2. *Overtime*—Services provided outside the inspector's normal work schedule, Monday through Friday, and on Saturdays.

It is the intent of the authorizing legislation and the policy of the Program to charge fees to recover, as nearly as possible, the costs of providing inspection services. Therefore, the hourly rates charged to contract lot inspection users who provide complete and acceptable inspection facilities will

be those delineated under Type 1. In all other cases, contract lot inspection users will be charged Type 3 rates.

Analytical Services

Applicants requesting specific analyses to be performed in a NMFS laboratory will be charged at the following rates. Shipping costs for samples will also be assessed. Analyses performed in a private laboratory will be charged at the current rate of that laboratory. Charges based on these fees will be in addition to any hourly rates charged for lot, miscellaneous, and consultative inspection service as well as to any hourly rates charged for inspection services provided under a contract.

	Per analysis
Microbiology	
Total aerobic plate count	\$19.00.
Presumptive coliform	15.00.
Confirmed total/fecal coliforms	15.00 additional.
<i>E. coli</i>	15.00 additional.
<i>Staph. aureus</i>	54.00.
<i>Salmonella</i> BAM Method:	
Step 1	40.00.
Step 2	18.00 additional.
Step 3	26.00 additional.
<i>Listeria</i> :	
Presumptive	28.00.
Confirmed	42.00.
Chemistry:	
Histamine	120.00.
Indole	90.00.
Ammonia	66.00.
Sodium Bisulfite	108.00.
Isoelectric Focusing: (Species Identification)	108.00.
Methylmercury	225.00.
Chlorinated pesticides	300.00.
Polychlorinated biphenyls	300.00.
Domoic acid	90.00.
Bioassay	
Paralytic Shellfish Poison: (minimum of 3 samples)	150.00 per sample

Notes on Analytical Services

Sampling time and travel time where applicable will be assessed using the Type 2 rates. Mileage costs will be assessed at the current rate. For other analyses not shown or not frequently requested, the charge will be assessed at the Type 3 hourly rate of \$65.93 (2-hour minimum) or separately established based on the particular issues of the case involved. All charges are per sample.

Charges for services provided in Alaska by NMFS Inspectors will be at the rates specified below, plus cost of living allowances.

The rates outlined below for the State of Alaska are for services provided by cross-licensed State of Alaska inspectors. The rates charged in the State of Alaska are subject to change based on information supplied by the Alaska Department of Environmental Conservation.

STATE OF ALASKA

	Aleutian Chain, Bris- tol Bay, Dillingham (per hour)	Southeast & South Central, An- chorage, Kenai, Ju- neau, Ketchikan (per hour)	Remainder of Alaska, including Kodiak (per hour)
TYPE 1:			
Non-HACCP:			
Regular Time	\$55.88	\$46.10	\$49.38
Overtime	83.82	69.15	74.07
Sunday/Holiday	111.76	92.20	98.76
HACCP:			
Regular Time	83.82	69.15	74.07
Overtime	125.75	103.73	111.05
Sunday/Holiday	167.64	138.30	148.14
TYPE 2:			
Regular Time	95.00	78.37	83.95
Overtime	142.50	117.56	125.92
Sunday/Holiday	190.00	156.74	167.90
TYPE 3:			
Regular Time	83.82	69.15	74.07
Overtime	125.73	103.74	111.11
Sunday/Holiday	167.64	138.03	148.14

A. Classification Under Executive Order 12866

This action is taken under the authority of 50 CFR 260.70 and has been determined to be not significant for purposes of E.O. 12866.

B. Regulatory Flexibility Act Analysis

The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and delayed effectiveness are inapplicable because this rule falls within the proprietary exception of subparagraph (a)(2) of section 553. Further, no other law requires that a notice of proposed rulemaking and an

opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable.

C. Paperwork Reduction Act of 1980

These regulations will impose no information collection requirements subject to the Paperwork Reduction Act of 1980.

D. E.O. 12612

This rule does not contain policies with sufficient Federalism implications

to warrant preparation of a Federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 260

Food grades and standards, Food labeling, Seafood.

Authority: 16 U.S.C. 742e and 7 U.S.C. 1622, 1624.

Dated: December 17, 1997.

David L. Evans,

*Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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