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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 92–174–2]

RIN 0579–AA67

Import/Export User Fees

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending user fees for certain import- and export-related services we provide for live animals and birds, animal products, organisms and vectors, and germ plasm and veterinary diagnostic services. We are also establishing user fees for certain import- and export-related services we provide for live animals and birds, and animal products and byproducts. We are also making several miscellaneous changes, such as amending the definitions of certain words. These actions are necessary to help ensure that we recover our costs and to simplify and clarify the application of user fees for the public. These actions are taken in accordance with the Food, Agriculture, Conservation, and Trade Act of 1990, as amended, which gives us the authority to set and collect these user fees.

EFFECTIVE DATE: June 6, 1996.

FOR FURTHER INFORMATION CONTACT: For information concerning services provided for live animals and birds, and germ plasm, contact Dr. Gary S. Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–3294.

For information concerning services provided for animal products and byproducts, organisms and vectors, contact Dr. Kathleen Akin, Senior Staff Veterinarian, Import/Export Products, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–7830.

For information concerning services provided for veterinary diagnostics, contact Dr. James E. Pearson, Acting Director, National Veterinary Services Laboratories, P.O. Box 844, Ames, IA 50010; (515) 239–8266.

For information concerning fees, contact Ms. Barbara Thompson, Chief, Financial Systems and Services Branch, Budget and Accounting Division, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–5901.

SUPPLEMENTARY INFORMATION:

Background

The Food, Agriculture, Conservation and Trade Act of 1990, as amended (referred to below as the Farm Bill), authorizes the Secretary of Agriculture, among other things, to prescribe and collect fees to reimburse the Secretary for the cost of carrying out the provisions of the Federal animal quarantine laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance (section 2509(c)(1) of the Farm Bill). The Secretary of Agriculture is also authorized, under section 2509(c)(2) of the Farm Bill, to prescribe and collect fees to recover the costs of carrying out certain veterinary diagnostics services.

The user fee regulations in 9 CFR part 130 (referred to below as the regulations) prescribe user fees that the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) collects for various services that APHIS provides. The regulations currently include user fees for: (1) Providing quarantine, importation, and entry services within the United States for imported animals; (2) conducting certain veterinary diagnostics services; (3) endorsing export health certificates for animals; (4) providing certain inspection and supervision services within the United States for animals intended for export; and (5) conducting certain veterinary inspections outside the United States.

Our user fees are calculated to recover the full cost of providing the service for which the user fee is charged. The cost of providing a service includes direct labor costs and a pro rata share of administrative support, agency overhead, and Departmental charges.

On May 26, 1995, we published in the Federal Register (60 FR 27913–27924, Docket No. 92–174–1) a proposal to amend the regulations by revising and adding new hourly, minimum, and flat rate user fees in the regulations. We proposed to increase most of the hourly, minimum, and flat rate user fees for import-related services in §§ 130.2, 130.3, 130.5, 130.6, 130.7, and 130.9 of the regulations and for export-related services in §§ 130.9 and 130.21 of the regulations. For services performed on overtime, we proposed to add new premium hourly rate user fees, to replace the practice of charging two separate hourly rates (see §§ 130.5, 130.9 and 130.21 of the regulations). We proposed to add a new minimum user fee in § 130.3 of the regulations. We proposed to add a new § 130.10 for hourly, minimum, and flat rate user fees for pet birds. We proposed to add new requirements for special mail handling to be paid for by the user in §§ 130.14 through 130.18 of the regulations. We proposed to add a new fee for nonendorsed export health certificates in § 130.20 of the regulations. Additionally, we proposed to accept credit cards in certain locations as an optional payment method. We also proposed to make several other changes to simplify and clarify the regulations.

We solicited comments concerning our proposal for 60 days ending July 25, 1995. We received 60 comments by that date. They were from veterinarians, representatives of agricultural industries, exporters, producers, a State department of livestock, a Member of Congress, and other interested parties.

Summary of Changes Made in Response to Comments

We are making the following changes in response to the comments we received. We are combining the services covered under § 130.4 with the services covered under § 130.5. Section 130.4 covers inspection services at privately operated permanent import-quarantine facilities. Under § 130.4, a flat rate user fee is charged for each animal quarantined at the facility. Section 130.5 covers inspection services at privately operated temporary import-quarantine facilities. Under § 130.5, an hourly user fee is charged for animals quarantined at the facility. We are adding quarter-hour

and minimum user fee rates to premium user fees added in §§ 130.5, 130.9, and 130.21. We are clarifying § 130.20(a) and § 130.20(b)(1) to specify that the user fees listed in § 130.20(b)(1) for endorsing export health certificates which require tests or vaccinations are charged for endorsements when tests or vaccinations are required. We are changing ''APHIS veterinarian'' to ''designated APHIS employee'' and changing ''requested'' to ''requested and reviewed'' in § 130.20(d) of this final rule. In addition, we are revising the text of footnote 9 to reflect the availability of lists for APHIS offices that accept cash or credit cards. Footnotes to text or tables in §§ 130.7, 130.8, 130.10, 130.14, and 130.15 have been revised to add clarity. The comments and responses are discussed below by topic.

General Comments

One commenter opposed the entire proposed rule. All of the other commenters opposed some portion of the proposed rule. Twelve commenters included the following positive comments concerning user fees and the services APHIS provides. Several commenters expressed an understanding of our need to increase user fees or supported user fees which cover costs. Several expressed appreciation for the services APHIS provides, such as APHIS' role in disease control and maintenance of a healthy and robust livestock industry in the United States, helping export business in the United States, and negotiating import- and export-related issues with foreign countries. One commenter supported modest increases in certain user fees as proposed.

1. Taxes and Budget Deficit

Nine commenters expressed concerns about taxes and the budget deficit. Some commenters expressed more than one concern; specific concerns follow.

Two commenters stated that APHIS was assessing taxes of its own volition. Six commenters stated that the APHIS user fee is a tax, not a fee.

A tax is money paid to support government operations that benefit the general public. A user fee is money collected for a specific service provided to a readily identifiable recipient. The 1990 Farm Bill authorizes USDA to prescribe and collect user fees to reimburse the cost of carrying out certain import- and export-related services for animals, animal products, and veterinary diagnostics. The Farm Bill further states that ''Any person for whom an activity related to the importation, entry, or exportation of an animal, article, or means of conveyance or relating to veterinary diagnostics, is performed pursuant to the section, shall be liable for payment of fees assessed.'' Generally speaking, no one is required to conduct any business or endeavor which is regulated by APHIS. However, anyone who does so must comply with APHIS requirements. In this manner, all users ask for service from APHIS. The APHIS user fees herein are designed to recover and fund the cost of providing specific services. As such, the APHIS user fee is a fee for specific services provided to a certain portion of the public and, therefore, is not a tax.

Three commenters stated that our services are already paid for by taxes, and therefore, we should not charge fees for them. One commenter suggested that we should fund increases in the costs through other methods.

After the passage of the 1990 Farm Bill, Congress reduced APHIS' appropriations (i.e., tax revenue) by the estimated costs of providing these import- and export-related services. Congress authorized APHIS to recover all costs associated with these services by establishing and charging user fees. Consequently, any increases in our costs must be recovered by increasing the user fees we charge. Otherwise, we would have to reduce or discontinue the service or use funds appropriated for other purposes, to the detriment of the program from which the funds were reallocated.

One commenter stated that APHIS user fees should not be used for general Federal budget deficit reduction. One commenter questioned what will be done with revenues.

The user fees are not being used for general Federal budget deficit reduction in the sense that the revenue does not fund or offset general government operations. The user fees collected pay for the actual user fee services provided and will allow APHIS to continue providing import- and export-related and veterinary diagnostic services. The user fees our Agency collects for these services are deposited into user fee accounts, and the salaries of veterinarians, animal health technicians, and other APHIS personnel who perform these services are paid from this account. An employee who spends a portion of his work time on user fee activities and a portion on other activities is paid the appropriate percentage of his salary with user fee revenue. In addition, a pro rata share of administrative support, agency overhead, and Departmental charges is paid from this account.

Two commenters questioned user fees as they relate to other APHIS services. One commenter questioned charging user fees for certain services when other services are provided at no cost. The commenter referenced free rabies vaccination clinics on reservations.

The Farm Bill identified specific program areas for the implementation of user fees, generally related to the importation and exportation of animals and animal products. APHIS does not have the authority under the Farm Bill to charge fees for other services, such as rabies vaccinations, which we provide on reservations to protect public health.

2. Fee Calculations

We received several comments related to how we calculated our user fees. One commenter was concerned about the methods used to calculate the fees and the possibility that the user fees are underwriting other APHIS services. Several comments questioned whether we should include certain cost factors, for example, agency overhead charges, in calculating user fees. Other comments stated that we would recover more money from our proposed user fees than it costs to provide APHIS services.

As described in the proposal, the user fees were calculated to recover the full cost of providing the service for which the fee is charged. ''Full cost'' includes not only the direct labor of the veterinarian, animal health technician, or other APHIS personnel providing the service, but a pro rata share of administrative support, agency overhead, and Departmental charges. These additional indirect and overhead costs are included as directed in the Office of Management and Budget (OMB) Circular A–25, User Charges, and in accordance with generally accepted cost accounting principles.

Had Congress intended for APHIS to recover only direct labor costs, the authorizing language would have specified that and Congress would have continued to give APHIS appropriations to fully fund all indirect and overhead costs associated with import- and export-related services. The comments that we may be underwriting other services and that we will recover more money than it costs to provide the service would only be true if the Farm Bill authorized us to only recover direct costs. However, because we are authorized to fully recover all costs, our fees include all appropriate direct, indirect, and overhead costs.

3. Trade Concerns

Twenty-eight commenters expressed concern about the increases in user fees and the possible subsequent decrease in exports.

We realize that payment of the proposed user fees will increase the up-front cost of doing business for importers and exporters. However, before this time, users have been subsidized by the taxpayers in general, in that those who receive services from APHIS have not been charged the full cost for services. As explained above, appropriations from taxes are not available to fund these services. To continue providing import- and export-related and veterinary diagnostic services, APHIS must charge user fees which will recover the costs of providing services. We attempt to minimize the cost of our services to keep APHIS user fees at the lowest possible level. We do not anticipate that exports will decline significantly as a result of these increases in user fees.

Many commenters stated that our proposed user fees would make it difficult or impossible for U.S. products to compete in the international marketplace. Examples of the issues raised included the following: U.S. products will be less competitive, the increased user fees will be a deterrent to international trade, exportation of animals will become unprofitable, and there will be a decrease in export activity. Many of these comments mentioned trade related issues with Canada.

Although some countries do not currently charge for import- and export-related services, user fees for these services are being adopted by more and more countries. In fact, as of May 3, 1995, Canada charges user fees for certain import- and export-related animal health services (see May 3, 1995, Canada Gazette Part II, Vol. 129, No. 9, SOR/DORS/95–198). Therefore, we do not believe that U.S. exporters are at a competitive disadvantage compared with exporters in other countries.

4. Other Countries' Requirements

Two commenters raised the following concerns related to the requirements other countries impose on U.S. exports. One commenter questioned why it costs significantly more to export animals to Canada as opposed to exporting animals to the European Union.

APHIS costs for export-related services depend on the importing countries' requirements. Canada has significantly different paperwork requirements than most other countries in the world. Often, more work is required on the part of APHIS employees to ensure the animals being exported have met all of Canada's paperwork requirements. In those instances, the user fees for animals being exported to Canada may be higher than for animals exported to the rest of the world.

One commenter suggested that APHIS should seek elimination of import- and export-related testing procedures which are not science- or risk-based and which may add unnecessary costs to import- and export-related procedures.

According to the World Trade Organization (WTO), as established by the Uruguay Round of the General Agreement on Tariffs and Trade, and the North American Free Trade Agreement (NAFTA), effective January 1995, import- and export-related requirements must be science- and risk-based. Along with the United States, many countries are revising their requirements to comply with WTO and NAFTA. In addition, APHIS continually negotiates with other countries to achieve less onerous import requirements for U.S. exporters. Since our costs vary depending on the requirements imposed by the importing country, when other countries lessen their import requirements, our user fees may decrease. For example, if a country were to no longer require tests or were to allow more animals on a single export health certificate, the average amount of time it would take to provide endorsement services would decrease and the user fees charged could decrease.

5. Improve Services to Lower Costs

Six commenters suggested that we lower costs and simplify paperwork requirements. Five commenters suggested that we review and improve services. Specific suggestions included privatizing services, automating services, streamlining tests, increasing field staff, and basing user fees on speed of service.

APHIS continually strives to improve efficiency in operations. APHIS seeks to eliminate duplication of services and to utilize employees better without jeopardizing the quality of our work in carrying out the provisions of the Federal animal quarantine laws. Most paperwork services and the related costs associated with imports and exports are required by the importing country and we cannot do anything directly to change those requirements. However, as explained above, we do try to negotiate with other countries to make requirements less onerous. If we propose to eliminate a service for which we have a user fee, then we will also propose to eliminate the user fee. Likewise, if in the future we propose to add a service, then we may also propose to add a user fee for the service. If we propose in the future to substantially change a service for which we charge a user fee, then we will recalculate the user fee for the service to reflect those changes.

6. Economic Analysis

One commenter stated that we should have included a small business impact statement in the proposed rule.

A regulatory flexibility analysis, which includes a small business impact statement, was included in the proposed regulations at 60 FR 27919–27920.

One commenter stated that the costs used in our economic analysis did not provide an accurate picture of how importers assess costs related to importing animals. The commenter specified that these costs are generally broken down into the following three areas: the purchase price of the animal, freight charges, and importing or exporting expenses.

The costs used in the economic analysis performed for the regulatory flexibility analysis for the proposal included all of these expenses. As stated in the proposal, the figures shown in the analysis included purchase and import costs, including freight. Therefore, we are making no changes as a result of this comment.

7. Effective Date

Three commenters suggested that we delay the effective date of the final rule.

We understand the commenters' desire to make business plans and not have business affected by increases in our user fees. Our proposal signaled our intention to revise the import- and export-related service user fees. The proposal was published in the Federal Register on May 25, 1995, and open for public comments for 60 days. This rule will not take effect until 30 days after the date it is published in the Federal Register. This delay should give the commenters and others adequate time to prepare.

8. Independent Review

One commenter suggested that a review team should be established to conduct an independent user fee review.

APHIS monitors user fees regularly and reviews user fees at least annually to ensure that they continue to correspond with our costs. In addition, outside reviews are performed by the Office of the Inspector General and the General Accounting Office (GAO).

9. Privately Owned Import Quarantine Facilities (§§ 130.4 and 130.5)

One commenter pointed out that inspection services for animals provided for privately owned permanent import quarantine facilities under § 130.4 are

similar to those provided for privately owned temporary import quarantine facilities under § 130.5, and stated that having different user fees for similar services is unfair. The commenter stated that depending on the number of animals being imported, the user fees could be less for the services provided under § 130.5 during the regular tour of duty and on overtime than the user fee for the same services if provided under § 130.4. The commenter asked if APHIS is recovering all the import-related costs from the hourly user fee charged under § 130.5; and if so, why is there such a difference between that hourly user fee and the per head flat rate user fee plus reimbursable overtime proposed under § 130.4 which can be higher.

The commenter is correct that depending on the number of animals being imported, if service must be provided on overtime, then the per head user fees charged under § 130.4 can be higher than the hourly user fees charged under § 130.5. We have evaluated this situation and have determined that based on the similar nature of the services being provided, animals that are imported into a permanent facility should be charged at the same rate as those imported into a temporary facility. As suggested by the commenter, we are making the fees the same. We are making this change by eliminating § 130.4 and including privately owned permanent import quarantine facilities under § 130.5.

10. Overtime and Premium User Fees (§§ 130.5, 130.9, and 130.21)

One commenter stated that charging both reimbursable overtime and the flat rate user fee under § 130.4 is double charging for the time spent by USDA personnel.

As explained above, we are eliminating § 130.4 and these services will now be covered under § 130.5. Under § 130.5, during overtime, only the premium rate user fee will be charged.

One commenter asked if there are any quarter- or half-hour premium user fee rates for the premium hourly user fee. We are adding quarter-hour and minimum rates for each of the new premium user fees. Not listing such rates was an oversight in the proposal. For periods of less than an hour, the quarter-hour premium rate will be multiplied by 2 or 3 for half and three quarters of an hour, respectively. Therefore, we are not adding half-hour premium rates. The premium user fee will become the new hourly overtime charge for import- and export-related services; it will apply to services provided under §§ 130.5, 130.9, and 130.21 and replace our previous policy of charging a user fee at the hourly rate (per 9 CFR part 130) plus reimbursable overtime at the hourly rate (per 9 CFR part 97).

One commenter protested that the proposed premium user fee is an increase over the current overtime rate.

While the hourly rate for the premium user fee is higher than the hourly reimbursable overtime rate, application of the premium user fee will decrease the overall user fee charges because the premium user fee will be charged in lieu of both the hourly user fee and reimbursable overtime. Therefore, we are making no changes based on this comment.

One commenter questioned how the new premium user fee will apply. Another commenter, stating that work for which the user fees are charged usually takes 15 minutes, protested the minimum time charged for the work during overtime.

For clarification, in §§ 130.5, 130.9, and 130.21 we will add that the procedures for applying the new premium user fee rates will follow the procedures for applying reimbursable overtime as prescribed under 9 CFR part 97 with regard, for example, to call-backs, continuation, commuted travel time, and maximum travel times. For example, when 9 CFR part 97 prescribes a 2 hour minimum, that 2 hour minimum will be charged at the premium user fee rate. This is consistent with United States Code, Title 5 Government Organizations and Employees, Subchapter V Premium Pay, section 5542 (referenced in the authority citation for this final rule), which states that ''unscheduled overtime work performed by an employee on a day when work was not scheduled for him, or for which he is required to return to his place of employment, is deemed at least 2 hours in duration.'' Because employees are entitled to a 2 hour minimum of pay in these circumstances, we must charge a minimum of 2 hours in order to recover the cost of providing that service on overtime.

11. Import Fee (§ 130.7)

One commenter stated that the user fee charged in § 130.7 would not fully recover costs if an APHIS veterinarian had to travel to a port to perform the inspections. The commenter suggested that we change this flat rate user fee to an hourly user fee to fully recover costs.

The commenter is correct that, as calculated, the user fees may not cover the costs of providing import and entry services at any given air or ocean port. These user fees were calculated based on the average time required for an APHIS employee to provide import or entry services at all ports. The occasional inspections which require an APHIS veterinarian to travel to a limited port, as designated in 9 CFR part 92, were one of the many factors considered in calculating the user fees. To reflect past experience, the calculation for these user fees included 2 hours of travel time for 1 percent of the estimated importations. We are making no changes based on this comment. However, we will consider this for future revisions to the user fees. All user fee changes will be published in the Federal Register for public comment.

12. Germ Plasm User Fees (§ 130.8)

One commenter questioned the statement in the proposal that empty germ plasm containers that have been exported are presented for inspection when returned to the United States. The commenter asked if there was a protocol in place to ensure that these containers are presented for inspection.

APHIS employees review ship manifests to determine which items need to be held for inspection. The empty germ plasm containers are listed on the ship manifests, held, and inspected.

One commenter suggested charging an hourly user fee for import germ plasm inspections because the time spent performing the inspections at the port is usually 3 hours; this time would not be covered by the flat rate user fee.

The calculation for the user fee for imported germ plasm considered inspection at all ports. These user fees were calculated on the average direct labor hours required for the inspections nationwide. We surveyed APHIS employees performing the inspections and visited ports to determine the amount of direct labor required for the inspections. Therefore, we are making no changes based on this comment. However, we will consider this for future revisions. All user fee changes will be published in the Federal Register for public comment.

One commenter suggested we charge the same amount for endorsing export health certificates for each group of five embryo donor pairs.

We have determined that there is a marginal cost decrease to endorse additional groups of donor pairs on the same export health certificate. User fees are calculated to recover only the cost of services. Therefore, the proposed tiered user fee rate, with a lower fee for additional groups of donor pairs on the same certificate, is appropriate. We are making no changes based on this comment.

13. User Fees for Endorsing Export Health Certificates (§ 130.20)

The May 26, 1995, proposed rule also proposed to raise user fees for endorsing export health certificates for the exportation of animals and animal products. APHIS employees endorse export health certificates in accordance with the regulations in 9 CFR part 91. An APHIS endorsement certifies that animals and animal products being exported from the United States are free from communicable diseases.

Most of the comments we received addressed these user fees. The commenters were opposed to any fee increases. The comments raised the following issues.

User Fee Increases

According to most of the commenters, proposed user fees for endorsement of export health certificates are too high, and the increases are not justified.

We understand that some of the proposed user fees for endorsement of export health certificates are significantly higher than the previous user fees. The reason is that the previous user fees were based on estimates and were set too low. The original user fees for export health certificates implemented in January 1992 were calculated using the best information available at that time. Since that time, APHIS has separately identified, through our accounting system, costs for services for which user fees are authorized. Our accounting data and a deficit of over $1 million for each fiscal year from 1992 through 1994 for export-related user fee services shows that the previous user fees have not been recovering our costs. Our proposed user fees were calculated based on more accurate information, including all of the costs of providing our services, than was available when we calculated our previous user fees.

In addition to our accounting data, we surveyed APHIS locations nationwide where export health certificates are endorsed to identify the amount of direct labor time APHIS employees spend providing these services. Direct labor activities may include the following: Telephone time for providing information about the export health certification process, mailing information to customers, protocol research, review of paperwork such as health certificates, verification of laboratory test results, confirmation that the importing country's requirements have been met, paperwork completeness review, certification statements review, endorsement/signing, placing an official seal on documents if needed, and completing APHIS paperwork related to the endorsement. Many of the activities listed above must be performed to make it possible for APHIS employees to endorse the export health certificates. Some endorsements are for exportations which are routine and require relatively little time. Other endorsements require more work and therefore take more time. Further, endorsements of export health certificates of the same certificate category take different amounts of time because import requirements differ for each importing country. On average, when no tests or vaccinations are required, direct labor time for endorsing export health certificates varies, by category, between 14 and 22 minutes, for example, endorsements for poultry take 18 minutes. On average, when verification of tests or vaccinations is required, direct labor time for endorsing export health certificates varies, based on the number of tests, between 45 and 65 minutes for the first animal on the certificate.

After estimating the average direct labor time involved in endorsing export health certificates, direct labor costs were calculated. To calculate the direct labor costs, we used the actual salary of each individual that provides the services and weighted these costs according to the number of export health certificates endorsed at each location to arrive at the average direct labor rate per hour, $34.06. This includes salary and benefits.

The average number of minutes per endorsement is multiplied by the average direct labor rate to arrive at the total direct labor cost in each certificate category.

User fee calculations were based on the direct labor costs and a pro rata share of support costs, agency overhead, and Departmental charges. Costs were assigned directly to a service only when the cost was directly related to providing that service. Where an expense was attributable to several or all categories of service, it was pro-rated among the categories based on historic direct labor staff hours. This calculation provided the raw fee.

As explained in the proposal, we rounded the raw fees up to the nearest quarter. We rounded them off to simplify collection and accounting. We rounded our user fees up, rather than down, because if we were to round down, even if only by pennies, the user fees would not fully recover our costs. If there is a shortfall for a service category, we cannot recover it by charging a higher user fee for another service category.

We compared the resulting user fees and the revenue they generate to the costs of these activities for reasonableness. Adjustments were made for anticipated changes in volume, based on past changes and other factors such as current market and economic conditions.

We put as much of our supporting data in the proposed rulemaking as possible. However, it was not feasible to include all the materials used to develop the user fees. Therefore, as stated in the proposed rulemaking, we made it available for inspection at our headquarters in Riverdale, MD.

Many of the comments related to the proposed increases in poultry health certificates. Therefore, we have included an example of the calculation for the user fee for endorsing export health certificates for poultry. The average amount of time it takes to endorse an export health certificate for poultry is 18 minutes, which can include any of the direct labor activities listed above. Using the average direct labor rate per hour of $34.06, the direct labor cost for 18 minutes is $10.08. As described earlier, the following costs are the pro rata share for endorsing export health certificates. Administrative support costs are added at about $0.69 for each $1 of direct labor incurred, adding $6.89. Agency overhead and departmental charges are added at $2.74 and $1.08, respectively. The total cost is $20.79, which is rounded up to the nearest quarter to $21.00. When factoring in all of the costs involved in endorsing an export health certificate, the fees are reasonable. When comparing the proposed user fees to the previous user fees, which were too low, they appear high. However, we could not continue to provide these services if we did not increase the user fees to fully recover our costs. Therefore, we are making no changes based on these comments.

Objections to User Fees for Endorsing Export Health Certificates

Many commenters objected in general terms to user fees for endorsing export health certificates.

Export health certificates are required by the country importing the animal or animal product; they are not required by APHIS, USDA, or any other agency or organization within the Federal Government. Therefore, we are unable to eliminate services and costs associated with the endorsement of export health certificates. However, we do attempt, whenever possible, to negotiate with foreign governments to eliminate export health certificate requirements or make them less onerous to U.S. exporters. We are continually negotiating with other countries to

eliminate or minimize requirements. The success of our negotiations can be seen in the following changes in other country's requirements. Canadian test requirements for blue tongue tests on live cattle have been liberalized. Chile has dropped test requirements for contagious caprine pleuropneumonia tests on U.S. goats. Argentina has dropped test requirements for contagious equine metritis test requirements for horses. In addition, there are ongoing negotiations with Mexico to eliminate their requirement that breeding swine be tested for porcine respiratory and reproductive syndrome, and with Russia to sustain markets for U.S. fresh and frozen poultry meat. We will continue to work for improvements in these and other areas.

Small Business

Many commenters maintained the proposed APHIS user fees would be detrimental to small businesses in general, or to specific industries, such as manufacturers of medical diagnostic reagents. Other commenters stated that paying the user fees would be a hardship, increase their cost of doing business, or have other detrimental effects. Some commenters proposed that we exempt certain industries or classes of users from the proposed user fees or charge them reduced fees. Among those mentioned were members of the poultry industry involved in the National Poultry Improvement Plan.

We realize that the proposed user fees may increase the up-front cost of doing business. APHIS sympathizes with these commenters and has attempted to minimize the cost of services to keep the user fees at the lowest possible level for all users.

However, when Congress authorized APHIS to prescribe and collect user fees to recover the costs of import- and export-related services for animals, birds, and animal products, it specifically reduced APHIS' appropriations by the estimated amount of providing such services. Currently, APHIS is not appropriated funds to cover the cost of providing these services. Therefore, APHIS cannot exempt certain classes of users, such as small businesses, from the user fees, and cannot charge user fees which recover less than the full cost of providing the service without using funds appropriated for other purposes. We are therefore not making any changes based on these comments.

Services Provided

Nine commenters addressed the services for which APHIS charges user fees to endorse export health certificates. Several commenters raised more than one issue; specific issues follow.

Five commenters took exception to the perceived duplication of services provided by local veterinarians and APHIS veterinarians.

Even though local veterinarians may be federally accredited, importing countries require an APHIS veterinarian to endorse export health certificates.

Several commenters objected to user fees for services required by the regulations, as opposed to voluntary services.

Our authority to collect user fees does not distinguish between mandatory and voluntary services. Further, we do not agree with the commenters' basic proposition that users do not ask for APHIS services if they are complying with a regulatory requirement. As stated in § 130.20 of the regulations, ''An export certificate may need to be endorsed for an animal being exported from the United States if the country to which the animal is being shipped requires one. APHIS endorses export health certificates as a service.'' No one is required to conduct any business or endeavor which is regulated by APHIS. However, anyone who does so must comply with APHIS requirements. In this manner, all users ask for service from APHIS.

APHIS services are provided to enhance U.S. agriculture. APHIS services concerning exportation of animals and animal products are designed either to provide services to exporters which they need in order to meet requirements of the importing country, or to help ensure that no infected animals or animal products are exported from the United States. This service helps protect the individual exporter and helps foreign markets for American animals and animal products.

Many commenters asserted that most of the work is performed by the exporters and local veterinarians, and that APHIS only signs the forms.

Even though in some instances it may appear to the person obtaining the endorsement for the export health certificate that the only step APHIS does is sign the certificates, there are many other steps that may be involved. As explained earlier in response to another comment, direct labor activities may include the following: Telephone time for providing information about the export health certification process, mailing information to customers, protocol research, review of paperwork such as health certificates, verification of laboratory test results, confirmation that the importing country's requirements have been met, paperwork completeness review, certification statements review, endorsement/signing, placing an official seal on documents if needed, and completing APHIS paperwork related to the endorsement. Many of the activities listed above must be performed to make it possible for APHIS employees to endorse the export health certificates.

Multiple Versus Single Export Health Certificates

Three commenters were concerned about whether we would charge for multiple or single export health certificates in situations where multiple export health certificates are required for a single exportation or where multiple similar export health certificates are required in a limited time. Examples included egg shipments to one corporate agent who then redistributes the eggs to various customers; containers of export product which require up to five copies of the same export health certificate, each requiring an original signature; and hundreds of export health certificates per month where the commenter suggested that economies of scale and time management could be realized if numerous certificates are signed at the same time.

Different countries have different requirements as to the number and kinds of tests that are required and the number of animals, birds, or animal products which can be covered by one export health certificate. As a result, the amount of time required to endorse export health certificates varies. Since our goal is to fully recover our costs, we charge the user fee that equals the work required for an export health certificate going from one consignee to one consignor. If the APHIS employee responsible for endorsing the export health certificate determines that the animals, birds, or animal products are part of one consignment, originating from one farm or ranch and destined for one location, the user is charged as though all of the animals, birds, or animal products are on one export health certificate. If this is not the case, more work may be required for the endorsement, and a separate fee is assessed for each endorsement. For occasions where shipments being exported from the same consignor to the same consignee are presented a day apart, a separate fee is charged for each endorsement.

Nonendorsed Export Health Certificates

Seven commenters opposed the new user fee in § 130.20(d) for nonendorsed export health certificates. There

appeared to be confusion about the reasons for charging the user fee for nonendorsed export health certificates and when the user fee would be charged.

To clarify our intentions, we are not charging $16.50 for blank export health certificates. Rather, the user fee will be assessed after the APHIS veterinarian has received the export health certificate for endorsement, has begun to review it, and subsequently finds a problem which prevents him or her from endorsing the export health certificate as presented. At this point the APHIS veterinarian will return the nonendorsed export health certificate to the exporter for corrective action. Since work has been performed, we must charge the user fee to recover our costs for the services. To clarify this, we are revising the wording proposed in § 130.20(d) to specify that the charge applies to export health certificates presented for endorsement which were reviewed, but not endorsed.

Nonslaughter Horses to Canada

One commenter raised concerns about the movement of race horses to Canada. The commenter maintained that export health certificates and inspections should not be required for race horses, and stated that Canadian race tracks are dropping the Coggins test requirement.

As explained earlier, we are continually negotiating with Canada and other countries to eliminate or minimize their import requirements. The movement of race horses is one of the items under discussion. If Canadian requirements change, or if a service is no longer required because Canada has changed its import requirements, any corresponding fee changes will be published in the Federal Register for public comment.

Slaughter Animals to Canada or Mexico

One commenter questioned whether, for slaughter animals going to Canada or Mexico, we will charge the flat rate user fee in § 130.20(a) or the scaled user fee in § 130.20(b)(1) which is based on the number of tests or vaccinations required for the animals listed on the export health certificate. This question was raised because all cattle, including slaughter cattle, are required to be tested for tuberculosis and brucellosis prior to exportation.

To fully recover our costs, the user fees in § 130.20(b)(1) apply whenever tests or vaccinations are required. Costs associated with endorsing export health certificates which cover individually identified animals requiring tests or vaccinations are higher than those which cover animals as a group which do not require tests or vaccinations. This is because APHIS personnel must verify the results of tests or vaccinations. The greater the number of animals, and the larger the number of tests or vaccinations, the more time consuming it is for APHIS personnel to perform the verifications necessary to endorse export health certificates. To clarify which fee is charged, we are revising the text in § 130.20(a) and (b)(1) to indicate that § 130.20(b)(1) applies when tests or vaccinations are required and § 130.20(a) applies when tests and vaccinations are not required.

Reconsider User Fee Increases

Three commenters suggested that we reconsider the user fee increases for export health certificates and get more input from industry.

By publishing the proposed rule and requesting comments for 60 days we believe that we have provided industry with ample opportunity to provide input into the changes in the export health certificate user fees. Therefore, we are making no changes based on these comments.

APHIS veterinarian

One commenter questioned what would happen when an export health certificate for an animal product is not endorsed by an APHIS veterinarian, but by another APHIS employee.

Other designated APHIS employees may endorse export health certificates for animal products. Therefore, in § 130.20(d), we are changing the term ''APHIS veterinarian'' to ''designated APHIS employee''.

14. Payment of User Fees (§ 130.50)

One commenter suggested that we charge user fees in whole dollar amounts to eliminate the need for APHIS offices to keep and make change.

APHIS offices should rarely need to accept cash, as we also accept credit cards and checks in payment for user fees. The regulations explain that a list of the APHIS offices which accept each form of payment is available from APHIS headquarters in Riverdale, MD. The slight inconvenience to APHIS created by accepting change is more than offset by convenience to the public. Therefore, we are making no changes based on this comment.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 601 *et seq.*, we have performed a Final Regulatory Flexibility Analysis, set forth below, regarding the economic effect of this rule on small entities.

Need and Objective of This Rule

In accordance with the Farm Bill of 1990, the Secretary of Agriculture is authorized to prescribe and collect fees to reimburse the Secretary for the cost of carrying out the provisions of the Federal animal quarantine laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance (section 2509(c)(1) of the 1990 Farm Bill). The Secretary of Agriculture is also authorized, under section 2509(c)(2) of the Farm Bill, to prescribe and collect fees to recover the costs of carrying out certain veterinary diagnostics services. As a result of this authority, Congress no longer allocates funds to APHIS for these import- and export-related services and veterinary diagnostics services. Therefore, we established user fees which were intended to recover the full cost of providing these services. The cost of providing these services includes direct labor costs and a pro rata share of administrative support, agency overhead, and Departmental charges.

When we established our original user fees on February 9, 1992, we used the best estimates we had available. At that time, our accounting system did not track costs related to these services separately from other appropriation funded activities. When a service has been provided to the users free of charge for years, it is difficult to predict the economic decisions people will make regarding those services after a user fee is established. Therefore, we had to estimate the costs and the demand for those services without historical data for import- and export-related services.

Since we established these user fees, our accounting system has tracked the costs associated with user fees by imports and exports and for veterinary diagnostics. Therefore, we now have actual cost and usage data for our calculations. This has also improved the accuracy of our estimates for other user fees. The original user fees established on February 2, 1992, were primarily for export-related services. On September 1, 1993, we established user fees for veterinary diagnostics services. On

January 21, 1994, we established additional user fees primarily for import-related services. Annual reviews of our user fees, based on our accounting data and experience with providing these services, show that while many of the estimates resulted in accurate user fees which require only moderate increases, some of our original user fees were significantly lower than the cost of providing the services. Because these user fees were set too low, we have been running a deficit to provide the requested services. Therefore, these user fees must be increased to recover the costs of providing requested services.

Specifically, we reviewed our records of user fees collected during fiscal years (FYs) 1992 through 1995. The original user fees established on February 9, 1992, are based on FY 90 costs. In the 5 years since then, there has been an overall increase in all costs of providing services, due to inflation and changes in general economic conditions. Additionally, we underestimated personnel costs when we set the user fees. For example, in addition to anticipated Federal pay increases (4.2 percent in FY 92 and 3.7 percent in FY 93), in FY 94, there were locality pay and cost of living increases of 3.09 to 8 percent for employees stationed in different parts of the United States. We also underestimated support costs, such as clerical support, office rent, telephone, etc., in setting our current user fees. As a result, the costs of endorsing export health certificates, for example, for which we established user fees on February 9, 1992, were drastically underestimated. In addition, the user fees established on January 21, 1994, lacked the pay raises and increased costs since they were calculated in 1993 based on FY 92 costs.

As a result of general cost increases and the inherent difficulty in setting new user fees, as discussed above, we did not collect enough money in user fees during FYs 1992 through 1995 to recover the costs of providing the services for which we charged user fees. In fact, for each of those fiscal years, we incurred a deficit of over $1 million. As our user fees are intended to recover full cost, it is apparent that our user fees are too low and must be raised to reflect changes in actual costs and demand for services.

Changes to the Regulations

Consequently, this rule updates certain user fees related to import- and export-related inspection and certification, animal quarantine, and veterinary diagnostics. This rule changes user fees that are currently charged for eight broad categories of services. These services include the inspection, certification, or authorization of: (1) live animal imports at animal import centers; (2) live animal imports at the Mexican border; (3) live animal imports at the Canadian border, airports, and ocean ports; (4) other import and inspection services for the importation of live animals and animal products; (5) veterinary diagnostics; (6) the endorsement of export health certificates; (7) facility rentals at APHIS' animal import centers and (8) import and export hourly user fees. New user fees are also being established for the exclusive use of additional space at the Animal Import Center in Newburgh, NY, for the endorsement of export health certificates for animal products, and for pet birds quarantined in an APHIS owned or supervised quarantine facility. In addition, we are changing our method of charging hourly user fees when import- and export-related services are performed outside of an employee's normal tour of duty.

Overall Impact of Changes

Table 1 summarizes the estimated changes in user fees that are necessary to fully recover costs. This rule will result in a net increase in agency collections of about $3 million, from $8 million to $11 million. Approximately $1.1 million of this increase represents new user fees and $2 million is attributed to changes in current collections (revised and premium user fees). These changes will shift the burden from taxpayers to the importers and exporters who use these APHIS services. Additional tables providing details of the user fee changes summarized in Table 1 are available for inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect these detailed tables are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

TABLE 1.—SUMMARY OF ESTIMATED COLLECTIONS FOR IMPORT- AND EXPORT-RELATED SERVICES [1]

Category	Current	Projected	Change
New User Fees:			
Exclusive use of space at the Newburgh, NY Animal Import Center (9 CFR § 130.3)	.....	$157,109	$157,109
Quarantine for pet birds (9 CFR § 130.10)	.....	265,245	265,245
Endorsement of export health certificates for animal products (9 CFR § 130.20)	.....	645,000	645,000
Total New User Fees	.....	1,067,354	1,067,354
Revised User Fees:			
Animal import centers (9 CFR § 130.2)	2,168,468	2,461,334	292,865
APHIS animal import centers and hourly user fees (9 CFR §§ 130.3, 130.5, 130.9, 130.10, and 130.21)	648,318	740,942	92,624
Imports at the Mexican border (9 CFR § 130.6)	1,047,184	1,214,532	167,349
Imports at other ports of entry (9 CFR § 130.7)	817,862	834,251	16,388
Import and inspection services (9 CFR § 130.8)	944,087	970,072	25,986
Veterinary diagnostics (9 CFR § 130.16)	450,118	429,076	(21,042)
Endorsements of export health certificates (9 CFR § 130.20)	798,260	2,195,111	1,396,851
Total Revised User Fees	6,874,296	8,845,316	1,971,020
Premium User Fees (9 CFR §§ 130.5, 130.9, and 130.21)	990,900	1,033,319	42,419
Total Revised Collections (Revised and Premium User Fees)	7,865,196	9,878,635	2,013,439

TABLE 1.—SUMMARY OF ESTIMATED COLLECTIONS FOR IMPORT- AND EXPORT-RELATED SERVICES [1]—Continued

Category	Current	Projected	Change
Projected Total (New and Revised)	7,865,196	10,945,989	3,080,793

[1] Projections based on average annual volume estimates provided by the Financial Systems and Services Branch, Budget and Accounting Division, Management and Budget, APHIS, USDA. NOTE: Column and row totals may not be exact due to rounding.

Summary of Comments, Assessment of Issues, and Resulting Changes

Due to the nature of this rule, most of the comments we received on the proposed rule focused on economic issues; several took exception to the results of our economic analysis. The comments raised concerns about potential inequitable charges for permanent and temporary privately owned import quarantine facilities (§ 130.4 and § 130.5, respectively), impacts on small entities, increases in user fees for the endorsement of export health certificates, and impact on international trade. As a result of the issues raised about inequitable charges, we combined the user fee regulations for permanent and temporary facilities under § 130.5 and removed § 130.4 from the regulations. This will result in lower charges for economies of scale where there are multiple animals in a single shipment than those previously assessed under § 130.4 for permanent facilities. Assessments of the other issues raised are provided in the more detailed economic analysis below.

Impact on Small Entities

User fee revisions included in this rule could affect some importers and exporters of live animals, importers and exporters of animal byproducts, and firms that seek APHIS' veterinary diagnostic services. We received comments from importers and exporters, many of whom are small entities. The Small Business Administration's definition of a small entity involved in these activities is one whose total sales is less than $5 million annually. The number of entities who are importing and exporting live animals and would qualify as a small entity under this definition cannot be determined. However, except possibly for those entities who deal exclusively in more valuable animals, such as breeding or registered animals, data from the 1995 Bureau of the Census indicates that the majority of agricultural entities who deal in less valuable animals, such as feeding or slaughter animals, can be considered small. While there is a wide range in the sizes of entities who use our import- and export-related services, our experience shows that as many as 50 percent may be considered large.

To the extent that changes in user fees will impact operational costs or profits, any entity who utilizes APHIS's services and is subject to user fees will be impacted by this rule. The degree of the impact depends on the entity's market power, or the ability to which cost increases can be either absorbed or passed on to its buyers. Without information on either profit margins and operational expenses of the affected entities,[2] or the supply responsiveness of the affected industry,[3] the impacts cannot be precisely predicted. However, given the amount of the user fee changes (and new user fees) relative to the value of the imported or exported animals and animal products, some conclusions on overall impacts to domestic and international commerce are drawn below.

Exports

Many comments addressed the impact these user fee increases will have on exports. Most of these comments objected to increases in the user fees for the endorsement of export health certificates. Many of the comments we received focused on the impact on entities in the poultry and horse industries.

Most of the commenters stated that the increase in the user fee for the endorsement of export health certificates for poultry and hatching eggs is too high. As explained earlier, these user fees were based on FY 90 costs and low estimates of personnel costs. The user fees have not been increased in 5 years, and the original user fees were drastically underestimated.

Breeding chicks and hatching eggs, while worth only fractions of a dollar individually, are generally exported in batches of up to hundreds of thousands; the total value of these shipments could exceed $10,000. As shown in Table 2, the user fee for the endorsement of export health certificates for poultry and eggs is $21.00 (an increase of $19.00 from the original $2.00 user fee). The user fee is less than 0.5 percent of the estimated value of a shipment. Therefore, while the increase in the user fee is significant, the user fee is still small relative to the total value of the shipments. Table 2: Projected User Fee Collections for the Endorsement of Export Health Certificates (9 CFR § 130.20).[4]

[2] Information on profits from sales by small entities is proprietary in nature and was not available to APHIS for this analysis.

[3] The measurement of supply responsiveness would provide information on the likely impact on an entity's production due to changes in operating costs.

[4] Projections based on average annual volume estimates provided by the Financial Systems and Services Branch, Budget and Accounting Division, Management and Budget, APHIS, USDA. Note: Column and row totals may not be exact due to rounding.

Category	Annual volume	User fee			Collections	
		Current	New	Change	Current	Projected
Per Certificate User Fees:						
Slaughter Animals to Canada or Mexico	4,811	$10.00	$24.50	$14.50	$48,110	$117,870
Non-Slaughter Horses to Canada	27,275	10.00	26.25	16.25	272,750	715,969
Poultry	7,037	2.00	21.00	19.00	14,074	147,777
Hatching Eggs	7,036	2.00	21.00	19.00	14,072	147,756
Other:						
Endorsements	20,748	4.00	16.50	12.50	82,992	342,342
Per Head User Fees:						
Export Animal, 1–2 tests	2,656	38.00	52.50	14.50	100,928	139,440
Each additional animal	35,235	1.00	3.00	2.00	35,235	105,705
Export Animal, 3–6 tests	3,950	41.50	64.75	23.25	163,925	255,763
Each additional animal	34,905	1.25	5.00	3.754	3,631	174,525
Export Animal, 7 + tests	421	44.00	75.75	31.75	18,524	31,891
Each additional animal	2,679	1.50	6.00	4.50	4,019	16,074
Projected totals					798,260	2,195,111

Since many of the comments related to the proposed increases in user fees for the endorsement of export health certificates concerned poultry and egg exports, we will show how this user fee is calculated by using, as an example, the endorsement of an export health certificate for poultry. The calculation for the user fees for endorsing other export health certificates varies by the amount of direct labor hours required to provide the endorsement services. The average amount of time it takes to endorse an export health certificate for poultry is 18 minutes. The direct labor time includes phone time, paperwork review time, and endorsement time. Using the average direct labor cost per hour of $34.06, the direct labor cost for 18 minutes is $10.08. As described earlier, the following costs are the pro rata share for endorsing export health certificates.

Administrative support costs are added at about $0.69 for each $1.00 of direct labor incurred, adding $6.89. Administrative support costs include local clerical and administrative activities; indirect labor hours (supervision of personnel and time spent doing work that is not directly connected with the service but which is nonetheless necessary, such as repairing equipment); travel and transportation for personnel; supplies, equipment, and other necessary items; training; general supplies for offices, washrooms, cleaning, etc.; contractual services (such as guard service, maintenance, trash pickup, etc.); grounds maintenance; chemicals and glassware; and utilities (such as water, telephone, electricity, natural and propane gas, heating and diesel oil). Some administrative support items may be contractual or not, depending on local circumstances. For example, trash pickup may be provided as a contractual service or a utility. However, the costs are all administrative support.

In addition, Agency overhead and departmental charges are added at $2.74 and $1.08, respectively. The total cost is $20.79, which is rounded up to the nearest quarter to $21.00. When factoring in all of the costs involved in endorsing an export health certificates, the user fees are reasonable. When comparing the proposed user fees to the previous user fees, which were based on FY 90 costs and were too low, they appear high. However, we could not continue to provide these services if we did not increase the user fees to fully recover our costs.

The value of a non-slaughter horse could range between $1,000 and $50,000 and more. As shown in Table 2, the user fee for non-slaughter horses to Canada is $26.25 (an increase of $16.25 from the original $10.00 user fee). The user fee is less than 3 percent of the lower value for the non-slaughter horse. Therefore, the user fee is small relative to the total value of the horse.

Many commenters stated that the user fees for the endorsement of export health certificates that require the verification of tests are too high. As shown in Table 2, for any animal, endorsements requiring the verification of 1 or 2 tests increased by $14.50 per endorsement (from $38.00 to $52.50). The largest increase of $31.75 per endorsement (from $44.00 to $75.75) relates to the endorsement of export health certificates that require verification of 7 or more tests required by the importing country. Of the 80,277 certificates endorsed in FY 94, only 421 certificates (or 0.5 percent) were issued that required the verification of 7 or more tests. These certificates covered 3,092 animals for an average charge of $7.29 per animal ($44.00 for the first animal and $1.50 for additional animals on a certificate). The new user fees raise this average to $15.50 per animal ($75.75 for the first animal and $6.00 for additional animals on a certificate), or a difference of $8.21 per animal. Certificates that are issued in this category are endorsed largely for the export of breeding or registered animals whose worth could be over $2,000 per animal. It is therefore expected that these user fee increases will not have a significant impact on exporters, given that the amount of the increases is small in comparison to the value of the exported animals.

Impact on International Trade

Several commenters suggested that the increases in user fees could result in a decrease in international trade. Most of the commenters specified trade in poultry, horses, and cattle to Canada. As stated above, the increases in the user fees are small in relation to the value of the exported animals. While it follows that some businesses will feel the impact of these increases, overall, the revised user fees are not expected to impede commerce and international trade.

Although some countries do not currently charge for import- and export-related services, user fees for these services are being adopted by more and more countries. In fact, as of May 8, 1995, Canada charges user fees for certain import- and export-related services (see May 3, 1995, Canada Gazette Part II, Vol. 129, No. 9, SOR/DORS/95–198). In addition, further supports have been eliminated. Therefore, we do not believe that U.S. exporters are at a competitive disadvantage compared with exporters in other countries.

Imports

While most comments addressed exports, several objected to the increases in user fees for import-related services. For import-related services for animals at all ports of entry, including Canadian and Mexican borders, and animal import centers, increases from the previous user fees range from $0.25 to $21.00. Except for the increases of $12.75 to $21.00 for import services for equines at animal import centers, the other increases are all $5.50 or less, while the majority of these user fee increases are less than $1.00. These changes represent modest increases and are a small fraction of the typical cost of purchasing and importing a breeding grade animal into the United States, which ranges between $1,500 and $5,000 per head. Purchase and import costs for feeder and slaughter animals are often significantly lower per animal, but can easily exceed $1,500 per shipment depending on the number and type of animals in the shipment.

The increase in user fees for other import services related to animal products and byproducts range from $0.50 for an application for a permit renewal, to $10.25 for the inspection of an approved establishment. Because the user fees charged in this category of service are based on either a per load, inspection, application, or certification basis, the amount of increase is small in comparison to the total value of the animal products and byproducts for which the services are required. The majority of the increases are $1.50 or less. The $1.50 increase per permit for the importation of germ plasm (from $38.00 to $39.50), for instance, is not expected to cause a significant economic burden to importers, given that the cost of importing semen could be over $100,000 per permit when imported from countries with foot-and-mouth disease. Although the breakdown of entity sizes is unknown, as stated above, the revised user fees are not expected to have a significant impact on either large or small importers of live animals and animal products.

Shift From Reimbursable Overtime to Premium User Fees

This rule also changes the way in which hourly user fees for import- and export-related services conducted outside an employee's normal tour of duty will be charged. While revising our user fees, we took many factors into account, including public confusion about the way we charged for services provided during overtime. As a result, we changed the method of charging hourly user fees for import- and export-related services provided outside of an employee's normal tour of duty. Now, users of these services, previously charged the hourly user fee plus reimbursable overtime, will be charged the single new premium user fee. This premium user fee reflects both changes in costs and a change in the structure of the user fee. The intent of this change is to avoid any confusion and the perception of double charging for services. The impact is to lower the average hourly user fees for import- and export-related services performed outside of an employee's normal tour of duty.

The $1 million projected collection for this category represents a modest increase, approximately $40,000, to APHIS collections. All of the projected calculations are not considered new user fees or new collections for APHIS for the following reasons. In FY 95, we collected $990,900 for import- and export-related services that involved a combination of both hourly user fees and reimbursable overtime. Of this, $398,425 was collected at the $50.00 hourly user fee, and $592,475 was collected at the reimbursable overtime rates specified in 9 CFR 97 (for example, $37.84 for holidays and overtime other than on Sundays). As explained below, a portion of the $398,425 was for services that began during the regular tour of duty and for which the hourly user fee will still be charged.

The hourly user fee charges ($398,425) include the costs for services which may have begun during the regular tour of duty but were completed on overtime in addition to the hourly user fee charge for the services provided during overtime. Our accounting system tracks user fees and reimbursable overtime separately. While we can identify total hourly user fees and total reimbursable overtime hours performed in conjunction, we cannot specifically identify the hours of services which began on regular time and continued into overtime.

Next, reflecting the change in costs, we estimated FY 95 collections using the increased FY 96 hourly rate of $56.00 plus reimbursable overtime. With this increase in the hourly user fee, the projected FY 96 collections would have been $1,040,298 ($447,823 at $56.00 per hour for hourly user fees and $592,475 at the reimbursable overtime rates as described above).

Finally, we changed the method of charging user fees for hourly services performed during overtime to a single premium user fee. To calculate the projected FY 96 collections for the premium user fee ($1,033,319), we used the total FY 95 hours multiplied by the average premium user fee (6 out of 7 days at $65.00 plus 1 out of 7 days at $74.00, the sum divided by 7 days in a week). Our historical accounting data for reimbursable overtime confirms this method resulted in a reasonable split between Sunday and other overtime.

These calculations show an estimated overall increase of approximately $40,000. While this is a modest increase over the previous charges for services performed outside employees' normal tour of duty, this is a decrease of approximately $7,000 from the increases which would have been incurred under the old method. Therefore, entities should realize a long-term economic benefit from the lower increase.

Based on the earlier discussion of the regular time, which is included in the estimates for reimbursable overtime, it follows that the premium user fee, which was estimated for the same number of hours as the reimbursable overtime plus hourly user fee, is an overestimate of charges, as some of these hours will remain at $56.00 per hour. Therefore, we anticipate that the increase will be lower than our estimate shows.

Summary

In summary, while it follows that, if the user fees cannot be passed on, the profit margins of some entities may decline as user fees for endorsing export health certificates are increased. However, the revised user fees represent a small fraction of the value of the imported and exported animals and are not generally expected to reduce profits or impede exports. Indeed, the full burden of the user fee increases are not likely to be borne entirely by the directly affected entities, as some of the cost increases are expected to be passed on to the purchasers of these exported animals.

Alternatives

One alternative to this rule would be to take no action. Another alternative to this rule would be to establish a different user fee structure for small businesses. We do not consider taking no action a reasonable alternative, because we would not recover the full cost of providing import- and export-related services and would continue to incur annual deficits of over $1 million. We also do not consider establishing a different user fee structure for small businesses a viable option. As stated above, Congress does not appropriate funds to APHIS for these services. Therefore, APHIS cannot exempt certain classes of users, such as small businesses, from the user fees, and cannot charge user fees that recover less

than the full cost of providing the service.

Another alternative to this rule would be to spread the increased costs over all of the user fees, so no single user fee would increase significantly. Our user fees are calculated to recover the costs of the service for which each user fee is charged. To spread the increases would mean that some entities would subsidize others. The intent of these user fees is to shift the burden of the cost of these services from the general taxpayer to the entity receiving the service. Therefore, APHIS cannot spread the increases evenly over all of the user fees.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, 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

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control numbers are 0579–0015, 0579–0040, 0579–0055, and 0579–0094.

List of Subjects in 9 CFR Part 130

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

Accordingly, 9 CFR part 130 is amended as follows:

PART 130—USER FEES

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

Authority: 5 U.S.C. 5542; 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 130.1, the definitions for *Germplasm* and *Pet bird* are removed; the definition for *Load* is revised; and definitions for *Germ plasm, Pet birds, Test,* and *United States* are added, in alphabetical order, to read as follows:

§ 130.1 Definitions.

* * * * *

Germ plasm. Semen, embryos, or ova.

* * * * *

Load. Those animals, birds, or animal germ plasm, presented for importation into the United States in a single shipment, that originate from one address, are destined for one address, and require one entry permit or authorization.

* * * * *

Pet birds. Birds, except ratites, which are imported for the personal pleasure of their individual owners and are not intended for resale.

* * * * *

Test. A single analysis performed on a single specimen from an animal, animal product, commercial product, or animal feed.

United States. The several States of the United States, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

* * * * *

3. Section 130.2 is amended as follows:

a. By revising the section heading and in paragraph (a), the table, to read as set forth below.

b. By adding at the end of the section the OMB control number as set forth below.

§ 130.2 User fees for individual animals and certain birds quarantined in APHIS Animal Import Centers.

(a) * * *

Animal or bird	Daily
Birds (including zoo birds, but excluding ratites and pet birds imported in accordance with part 92 of this subchapter):	
0–250 grams	$1.00
251–1,000 grams	3.25
Over 1,000 grams, and any bird in nonstandard housing or receiving nonstandard care and handling	7.50
Ratites:	
Chicks (less than 3 months of age)	5.75
Juveniles (3 months through 10 months of age)	8.00
Adults (11 months of age and older)	16.25
Poultry (including zoo poultry):	
Doves, pigeons, quail	2.00
Chickens, ducks, grouse, guinea fowl, partridge, pea fowl, pheasants	3.50
Game cocks, geese, swans, turkeys, any poultry housed in nonstandard housing or receiving nonstandard care and handling	8.25
Equines (including zoo equines, but excluding miniature horses):	
1st through 3rd day	149.50
4th through 7th day	108.25
8th and later days	91.75
Miniature horses	40.25
Zoo animals (except equines, birds, and poultry)	32.25
Domestic animals:	
Camels, cattle, bison, buffalo	56.50
All others	15.00

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0094.)

4. Section 130.3 is amended as follows:

a. In paragraph (a)(1), by revising the table to read as set forth below.

b. By revising paragraph (c)(3) to read as set forth below.

c. By revising the OMB control numbers at the end of the section as set forth below.

§ 130.3 User fees for exclusive use of space at APHIS Animal Import Centers.

(a)(1) * * *

Animal import center	Space available	Monthly user fee
Miami, FL:		
South Wing	6,952 sq. ft. (645.9 sq. m.)	$30,285.00
North Wing	6,545 sq. ft. (608.1 sq. m.)	29,377.00
Newburgh, NY:		
Space A	5,904 sq. ft. (548.5 sq. m.)	47,609.00
Space B	9,742 sq. ft. (905 sq. m.)	78,555.00

* * * * *

(c) * * *

(3) If the importer chooses to pay for additional services on an hourly basis, the user fees for each employee required to perform the service are:

(i) $56.00 per hour;

(ii) $14.00 per quarter-hour;

(iii) With a minimum of $16.50.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0579–0040 and 0579–0094.)

§ 130.4 [Removed and reserved]

5. Section 130.4 is removed and reserved.

6. Section 130.5 is amended as follows:

a. The section heading, is revised to read as set forth below.

b. In paragraph (a), before the word ''temporary'', by adding the words ''permanent or''.

c. In paragraph (b)(1), by removing ''$50'' and adding ''$56'' in its place.

d. In paragraph (b)(2), by removing ''$12.50'' and adding ''$14.00'' in its place.

e. In paragraph (b)(3), by removing ''$16.00'' and adding ''$16.50'' in its place.

f. By adding a new paragraph (c) to read as set forth below.

g. By adding at the end of the section the OMB control number as set forth below.

§ 130.5 User fees for services at privately operated permanent and temporary import-quarantine facilities.

* * * * *

(c) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then the premium user fee rate, as provided for in 9 CFR part 97, in lieu of the user fee listed in paragraph (b) of this section, must be paid for each employee required to perform each service:

(1) $65.00 per hour for weekdays and holidays;

(2) $16.25 per quarter-hour for weekdays and holidays;

(3) $74.00 per hour for Sundays;

(4) $18.50 per quarter-hour for Sundays;

(5) With a minimum of $16.50.

(Approved by the Office of Management and Budget under control number 0579–0094.)

7. Section 130.6 is amended as follows:

a. In paragraph (a), by removing ''$16.00'' and adding ''$16.50'' in its place.

b. In paragraph (a), by removing the phrase ''live animals imported into or entering the United States'' and adding ''live animals presented for importation into or entry into the United States'' in its place.

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

§ 130.6 User fees for import or entry services for live animals at land border ports along the United States-Mexico border.

(a) * * *

Type of live animal	User fee (per head)
Feeder	$1.75
Slaughter	2.50
Horses, other than slaughter	29.25
In-bond or in transit	3.75
Any ruminants not covered above	6.00

* * * * *

8. Section 130.7 is amended as follows:

a. In paragraph (a), by removing ''$16.00'' and adding ''$16.50'' in its place.

b. In paragraph (a), by removing the phrase ''live animals imported into or entering the United States'' and adding ''live animals presented for importation into or entry into the United States'' in its place.

c. In paragraph (a), by revising the table to read as set forth below:

§ 130.7 User fees for import or entry services for live animals at all other ports of entry.

(a) * * *

Type of live animal	User fee
Animals being imported into the United States:	
Horses, other than slaughter and in transit	$19.00 per head.
Breeding animals (Grade animals, except horses):	
Swine	0.50 per head.
Sheep and goats	0.50 per head.
All others	2.25 per head.
Registered animals, all types	4.00 per head.
Feeder animals:	
Cattle (not including calves)	1.00 per head.
Swine	0.25 per head.
Sheep and calves	0.25 per head.
Slaughter animals, all types	16.50 per load.
Poultry (including eggs), imported for any purpose	33.00 per load.
Animals transiting[1] the United States:	
Cattle	1.00 per head.
Swine	0.25 per head.
Sheep and goats	0.25 per head.

Type of live animal	User fee
Horses and all other animals	4.50 per head.

[1] The user fee in this section will be charged for intransit authorizations at the port where the authorization services are performed. For additional services provided by APHIS, at any port, the applicable hourly user fee will apply.

* * * * *

9. In § 130.8, paragraph (a) is amended by revising the table to read as follows:

§ 130.8 User fees for other services.

(a) * * *

Service	User fee
Inspection for approval of slaughter establishment:	
Initial approval	$246.50 for all inspections required during the year.
Renewal	213.50 for all inspections required during the year.
Pet birds, except pet birds of U.S. origin entering the United States from Canada:	
Which have been out of United States more than 60 days	169.75 per lot.
Which have been out of United States 60 days or less	71.25 per lot.
Germ Plasm Being imported: [1]	
Semen	39.50 per load.
Embryo	39.50 per load.
Germ Plasm Being exported: [2]	
Semen	33.50 per certificate.
Embryo (up to 5 donor pairs)	54.75 per certificate.
Embryo (each additional group of donor pairs, up to 5 pairs per group, on the same certificate)	24.75 per group of donor pairs.
Processing VS form 16–3, ''Application for Permit to Import Controlled Material/Import or Transport Organisms or Vectors'':	
For permit to import fetal bovine serum when facility inspection is required	208.50 per application.
For all other permits	27.50 per application.
Amended application	11.50 per amended application.
Application renewal	15.00 per application.
Fetal Bovine Serum sample verification	666.00 per verification.
Import compliance assistance	24.00 per release.
Release from export agricultural hold	24.00 per release.
Inspection of approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96:	
Approval (Compliance Agreement)	262.75 for first year of 3-year approval (for all inspections required during the year).
Renewed approval	152.00 per year for second and third years of 3-year approval (for all inspections required during the year).

[1] For inspection of empty containers being imported into the United States, the applicable hourly user fee would apply, unless a user fee has been assessed under 7 CFR part 354.3.

[2] This user fee includes a single inspection and resealing of the container at the APHIS employee's regular tour of duty station or at a limited port. For each subsequent inspection and resealing required, the applicable hourly user fee would apply.

* * * * *

10. Section 130.9 is amended as follows:

a. In paragraph (a), introductory text, by removing ''$50'' and adding ''$56'' in its place, and by removing ''$12.50'' and adding ''$14.00'' in its place.

b. In paragraph (a), introductory text, by removing ''$16.00'' and adding ''$16.50, for each employee required to perform the service'' in its place.

c. By revising paragraph (b) to read as set forth below.

§ 130.9 User fees for miscellaneous import or entry services.

* * * * *

(b) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then the premium user fee rate, as provided for in 9 CFR part 97, in lieu of the user fee listed in paragraph (a) of this section, must be paid for each employee required to perform each service:

(1) $65.00 per hour for weekdays and holidays;

(2) $16.25 per quarter-hour for weekdays and holidays;

(3) $74.00 per hour for Sundays;

(4) $18.50 per quarter-hour for Sundays;

(5) With a minimum of $16.50.

* * * * *

11. In § 130.50(b)(1), footnote 8 and the reference to it are redesignated as footnote 9, and in § 130.20(a), footnote 7 and the reference to it, are redesignated as footnote 8.

12. A new § 130.10 is added to read as follows:

§ 130.10 User fees for pet birds quarantined at APHIS-owned or supervised quarantine facilities.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for the following user fees, which include standard care, feed, and

handling, and which must be paid for each animal or bird quarantined in an Animal Import Center[7] or other APHIS owned or supervised quarantine facility:

Number of birds is isolette	Daily user fee
1	$6.50
2	7.75
3	9.25
4	10.75
5	12.00

(b) Based on the information provided to APHIS personnel, APHIS personnel at the Animal Import Center or other APHIS owned or supervised quarantine facility will determine the appropriate number of birds that should be housed per isolette.

(c) If the person or persons for whom the service is provided or the person or persons requesting the service request additional services on an hourly basis, the user fees for each employee required to perform the service are:

(1) $56.00 per hour;

(2) $14.00 per quarter-hour;

(3) With a minimum of $16.50.

(Approved by the Office of Management and Budget under control number 0579–0094.)

13. Section 130.14 is amended as follows:

a. By revising the section heading to read as set forth below.

b. In paragraph (a), after the term ''NVSL'', by adding the phrase ''or at authorized import sites (excluding FADDL)''.

c. In paragraph (a), by revising the text of footnote 1 to the table to read as set forth below.

d. By adding a new paragraph (c) to read as set forth below.

e. By adding at the end of the section the OMB control numbers as set forth below.

§ 130.14 User fees for tests performed by the NVSL or at authorized import sites (excluding FADDL).

(a) * * *

[1] Tests with multiple and subsequent antigens can be set up for a fraction of the cost of multiple single-antigen tests. Tests subsequent to the first antigen used for these assays are reduced down to 20% of the cost of using the first antigen. The following are examples of these cost savings: complement fixation (CF) tests for equine encephalomyelitis or vesicular stomatitis; hemagglutination inhibition (HI) for equine encephalomyelitis or equine influenza; virus neutralization (VN) tests for porcine respiratory and reproductive syndrome. For example, for CF tests for eastern equine encephalomyelitis (EEE), western equine encephalomyelitis (WEE), and Venezuelan equine encephalomyelitis (VEE) and for VN tests for the New Jersey and Indiana serovars of vesicular stomatitis (VS), the costs are as follows: EEE—$9.00, WEE and VEE—$2.00 each; VS New Jersey—$7.50, VS Indiana—$1.50. The total of these five assays is $22.00 for each specimen submitted.

* * * * *

(c) The user fees in this section do not include any costs that may be incurred due to special mail handling, such as express, overnight, or foreign mailing. If a test requires special mail handling, all costs incurred must be paid by the user as specified in paragraph (a) of this section, in addition to the user fee listed in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094.)

14. Section 130.15 is amended as follows:

a. In paragraph (a), by revising the text of footnote 1 to the table to read as set forth below.

b. By adding a new paragraph (c) to read as set forth below.

c. By adding at the end of the section the OMB control numbers as set forth below.

§ 130.15 User fees for tests performed at FADDL.

(a) * * *

[1] Tests with multiple and subsequent antigens can be set up for a fraction of the cost of multiple single-antigen tests. Tests subsequent to the first antigen used for these assays are reduced down to 20% of the cost of using the first antigen. The following assays are examples of these cost savings: complement fixation (CF) tests for foot-and-mouth disease or vesicular stomatitis; virus neutralization (VN) tests for foot-and-mouth disease or vesicular stomatitis. For example, for CF and VN tests for foot-and-mouth disease A, O, and C antigens, the costs are as follows: CF A antigen—$30.50, O antigen—$6.25, and C antigen—$6.25; VN A antigen—$22.00, O antigen—$4.50, and C antigen—$4.50. The total of these six assays is $74.00 for each specimen tested for these agents.

* * * * *

(c) The user fees in this section do not include any costs that may be incurred due to special mail handling, such as express, overnight, or foreign mailing. If a test requires special mail handling, all costs incurred must be paid by the user as specified in paragraph (a) of this section in addition to the user fee listed in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094.)

15. Section 130.16 is amended as follows:

a. In paragraph (a), in the table, by revising the entry for ''Virus isolation'' and by adding a new test in alphabetical order to read as set forth below.

b. By adding a new paragraph (c) to read as set forth below.

c. By adding at the end of the section the OMB control numbers as set forth below.

§ 130.16 User fees for reference assistance testing.

(a) * * *

Test	User fee
* * * * *	
(3) Other tests:	
* * * * *	
Virus isolation (except Newcastle disease virus)	29.75
Virus isolation for Newcastle disease virus	14.00
* * * * *	

* * * * *

(c) The user fees in this section do not include any costs that may be incurred due to special mail handling, such as express, overnight, or foreign mailing. If a test requires special mail handling, all costs incurred must be paid by the user as specified in paragraph (a) of this section in addition to the user fee listed in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094.)

16. Section 130.17 is amended as follows:

a. In paragraph (a), in the table, in the entry for Johnin: OT, under the Unit (ml.) column, by removing ''10'' and adding ''2'' in its place.

b. By adding a new paragraph (c) to read as set forth below.

c. By adding at the end of the section the OMB control number as set forth below.

§ 130.17 User fees for diagnostic reagents, slide sets, and tissue sets.

* * * * *

(c) The user fees in this section do not include any costs that may be incurred due to special mail handling, such as express, overnight, or foreign mailing. If a test requires special mail handling, all costs incurred must be paid by the user as specified in paragraph (a) of this section in addition to the user fee listed in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 0579–0094.)

[7] APHIS Animal Import Centers are located in Honolulu, HI, Miami, FL, and Newburgh, NY. The addresses of these facilities are published in part 92 of this chapter.

17. Section 130.18 is amended as follows:

a. By redesignating the existing text as paragraph (a).

b. By adding a new paragraph (b) to read as set forth below.

c. By adding at the end of the section the OMB control number as set forth below.

§ 130.18 User fees for sterilization by gamma radiation.

(a) * * *

(b) The user fees in this section do not include any costs that may be incurred due to special mail handling, such as express, overnight, or foreign mailing. If a test requires special mail handling, all costs incurred must be paid by the user as specified in paragraph (a) of this section in addition to the user fee listed in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 0579–0094.)

18. Section 130.20 is amended as follows:

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

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

c. In paragraph (c), by removing the words ''it is endorsed'' and by adding the phrase ''the export health certificate is prepared for endorsement completely at the site of the inspection'' in their place.

d. In paragraph (c), by removing the reference ''§ 130.7'' and adding ''§ 130.21'' in its place.

e. By redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) to read as set forth below.

§ 130.20 User fees for endorsing export health certificates.

(a) All user fees in this paragraph are for services provided for the endorsement of export health certificates which do not require the verification of tests or vaccinations. The person for whom the service is provided and the person requesting the service are jointly and severally liable for paying the following user fees for each export health certificate[8] endorsed for the following types of animals, birds, or animal products, regardless of the number of animals, birds, or animal products covered by the certificate.

Certificate categories	User fee
Slaughter animals, of any type, moving to Canada or Mexico	$24.50
Nonslaughter horses to Canada	26.25
Poultry	21.00
Hatching eggs	21.00
Animal products	21.50
Other endorsements or certifications	16.50

[8] An export health certificate may need to be endorsed for an animal being exported from the United States if the country to which the animal is being shipped requires one. APHIS endorses export health certificates as a service.

(b)(1) All user fees in this paragraph are for services provided for the endorsement of export health certificates which require the verification of tests or vaccinations. The person for whom the service is provided and the person requesting the service are jointly and severally liable for paying the following user fees for each export health certificate endorsed for animals and birds, depending on the number of animals covered by the certificate and the number of tests required.

Number of tests/vaccinations	Number of animals or birds on certificate	User fee
1–2	First animal	$52.50
	Each additional animal.	3.00
3–6	First animal	64.75
	Each additional animal.	5.00
7 or more	First animal	75.75
	Each additional animal.	6.00

* * * * *

(d) The user fees prescribed in this section will not apply if a requested export health certificate is not endorsed by a designated APHIS employee. The minimum user fee of $16.50 will be charged for each export health certificate that is requested and reviewed, but not endorsed.

* * * * *

19. Section 130.21 is amended as follows:

a. By revising paragraphs (a)(1) through (a)(5) to read as set forth below.

b. By adding new paragraphs (a)(6) and (a)(7) to read as set forth below.

c. In paragraph (b) introductory text, before the colon, by adding the phrase ''charged per each employee required to perform the service''.

d. In paragraph (b)(1), by removing ''$50'' and adding ''$56'' in its place.

e. In paragraph (b)(2), by removing the figure ''$12.50'' and adding ''$14.00'' in its place.

f. In paragraph (b)(3), by removing the figure ''$16.00'' and adding ''$16.50'' in its place.

g. By revising paragraph (c) to read as set forth below.

§ 130.21 User fees for inspection and supervision services provided within the United States for export animals, birds, and animal products and byproducts.

(a) * * *

(1) Inspecting an export isolation facility and the animals in it;

(2) Supervising animal or bird rest periods prior to export;

(3) Supervising loading or unloading of animals or birds for export shipment;

(4) Inspecting means of conveyance used to export animals or birds;

(5) Conducting inspections under authority of part 156 of this chapter;

(6) Approving or inspecting an embryo or semen collection center or the animals in it; and

(7) Other export or embarkation services not specified elsewhere in this part.

* * * * *

(c) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then the premium user fee rate, as provided for in 9 CFR part 97, in lieu of the user fee listed in paragraph (b) of this section, must be paid for each employee required to perform each service:

(1) $65.00 per hour for weekdays and holidays;

(2) $16.25 per quarter-hour for weekdays and holidays;

(3) $74.00 per hour for Sundays;

(4) $18.50 per quarter-hour for Sundays;

(5) With a minimum of $16.50.

* * * * *

20. Section 130.50 is amended as follows:

a. In paragraph (b)(1), newly designated footnote 9 is revised to read as set forth below.

b. In paragraph (b)(2), immediately before the semi-colon, by adding ''drawn on a U.S. bank in U.S. dollars and made payable to the U.S. Department of Agriculture or USDA''.

c. In paragraph (b)(3), immediately before the semi-colon, by adding ''drawn on a U.S. bank in U.S. dollars and made payable to the U.S. Department of Agriculture or USDA''.

d. By revising paragraph (b)(4) to read as set forth below.

§ 130.50 Payment of user fees.

* * * * *

(b) * * *

(4) Credit cards (VISA™ or MasterCard™) if payment is made at an Animal Import Center or an APHIS office that is equipped to process credit cards.[9]

[9] A list of Animal Import Centers and APHIS offices that accept cash or credit cards may be

* * * * *

Done in Washington, DC, this 1st day of May 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–11211 Filed 5–6–96; 8:45 am]

BILLING CODE 3410–34–P

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange Visitor Program

AGENCY: United States Information Agency.

ACTION: Interim rule; partial stay.

SUMMARY: The Agency hereby stays the effective date of § 514.20(j)(2)(i). This regulation was promulgated pursuant to interim rule published on April 8, 1996 (61 FR 15373). This stay will delay by 150 days, the requirement that program extension requests for professor or research scholar participants be received by the Agency ninety days prior to the expiration of the participant's program. This stay will permit a transition period for the requirement set forth in § 514.20(j)(2)(i). This stay does not apply to any other section of the interim rule published on April 8, 1996.

DATES: This stay is effective from May 7, 1996, until October 4, 1996.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street, SW., Washington, DC 20547; telephone, (202) 619–4979.

List of Subjects in 22 CFR Part 514

Cultural Exchange Programs.

Dated: May 2, 1996.

Les Jin,

General Counsel.

Accordingly, 22 CFR Part 514 is amended as follows:

PART 514—EXCHANGE VISITOR PROGRAM

1. The authority citation for Part 514 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1258; 22 U.S.C. 1431–1442, 2451–2460; Reorganization Plan No. 2 of 1977, 42 FR 62461, 3 CFR, 1977 Comp. p 200; E.O. 12048, 43 FR 13361, 3 CFR, 1978 Comp. p 168, USIA Delegation order No. 85–5 (50 FR 27393).

2. Section § 514.20 (j)(2)(i) is stayed from May 7, 1996 until October 4, 1996.

[FR Doc. 96–11351 Filed 5–6–96; 8:45 am]

BILLING CODE 8230–01–M

obtained from the Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import and Export, 4700 River Road Unit 38, Riverdale, MD 20737–1231.

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 361

Claims Pursuant to the Government Losses in Shipment Act

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends 31 CFR Part 361 to reflect the change of address which resulted when the Bureau of the Public Debt's Division of Financial Management was moved from Washington, D.C. to Parkersburg, West Virginia.

EFFECTIVE DATE: May 7, 1996.

FOR FURTHER INFORMATION CONTACT: Lisa Yoke Martin, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, Parkersburg, WV, at 304–480–5197, or via the Internet at lmartin@bpd.treas.gov, or Kila Frank, CFO Coordinator, Division of Financial Management, Bureau of the Public Debt, Parkersburg, WV, at 304–480–6201. A copy of this final rule has been made available for downloading from the Bureau of the Public Debt home page at the following address: http://www.ustreas.gov/treasury/bureaus/pubdebt/pubdebt.html

SUPPLEMENTARY INFORMATION:

Background

The Bureau of the Public Debt has consolidated many of its functions and offices, including its Division of Financial Management, into its offices in Parkersburg, West Virginia. Accordingly, reports and claims pursuant to the Government Losses in Shipment Act should now be sent directly to the Division's Parkersburg address.

Procedural Requirements

This final rule is not a ''significant regulatory action'' pursuant to Executive Order 12866. This final rule merely reflects the change of address which resulted when the Bureau of the Public Debt's Division of Financial Management was moved from Washington, DC to Parkersburg, WV. Accordingly, notice and public procedure thereon is unnecessary. Pursuant to 5 U.S.C. 553(d)(3), good cause is found for making this rule effective upon publication. As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply. There are no collections of information required by this rule, and, therefore, the Paperwork Reduction Act does not apply.

List of Subjects in 31 CFR Part 361

Claims, Common carriers, Fiscal Service, Freight, Government property.

Dated: May 1, 1996.

Richard L. Gregg,

Commissioner of the Public Debt.

For the reasons set out in the preamble, 31 CFR Part 361 is amended as follows:

PART 361—CLAIMS PURSUANT TO THE GOVERNMENT LOSSES IN SHIPMENT ACT

1. The authority citation for Part 361 continues to read as follows:

Authority: Sec. 6, 50 Stat. 480; 40 U.S.C. 728.

2. Paragraph (a) of § 361.7 is amended by revising the first sentence to read as follows:

§ 361.7 Report of loss, destruction or damage.

(a) If a consignor receives notice that loss or destruction of, or damage to, valuables shipped in accordance with the Act has occurred, an immediate written report shall be forwarded by the consignor to the Secretary, to the attention of the Bureau of the Public Debt, Division of Financial Management, Room 201, P. O. Box 1328, Parkersburg, WV 26106–1328. * * *

* * * * *

3. Section 361.8 is amended by revising the first sentence to read as follows:

§ 361.8 Claim for replacement.

Claim for replacement shall be made in writing to the Secretary, to the attention of the Bureau of the Public Debt, Division of Financial Management, Room 210, P. O. Box 1328, Parkersburg, WV 26106–1328. * * *

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