DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 98–005–2]

Veterinary Services User Fees; Embryo Collection Center Approval Fee

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the existing user fees for the inspection and approval of embryo collection centers. Existing user fees require embryo collection centers to pay user fees based on hourly rates for inspections and approval. We are replacing the hourly rates for this specific service with a flat rate annual user fee that will cover the cost of approval and all required inspections of the facility for that year. We are taking this action in order to make the collection of user fees simpler and to allow centers to better predict the costs of APHIS' inspection and approval.

EFFECTIVE DATE: January 29, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Division, ABS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

User fees to reimburse the Animal and Plant Health Inspection Service (APHIS) for the costs of providing veterinary diagnostic services and import-related and export-related services for live animals and birds and animal products are contained in 9 CFR part 130. Section 130.21 lists the user fees charged for APHIS' inspection and approval of export facilities, including embryo collection centers, within the United States. Section 130.8 lists miscellaneous flat rate user fees.

On July 28, 1998, we published in the **Federal Register** (63 FR 40200–40202, Docket No. 98–005–1) a proposal to amend the regulations by revising the user fees for the inspection and approval of embryo collection centers. Existing user fees require embryo collection centers to pay user fees based on hourly rates for inspections and approval. We are replacing the hourly rates for this specific service with a flat rate annual user fee that will cover the cost of approval and all required inspections of the facility for that year.

We solicited comments concerning our proposal for 60 days ending September 28, 1998. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

User fees to reimburse APHIS for the costs of providing veterinary diagnostic services and import- and export-related services for live animals and birds and animal products are contained in 9 CFR 130. We are amending the regulations by removing the hourly rate user fees for inspection and approval of embryo collection centers and the animals in them. We are replacing the hourly rates with a flat rate annual user fee, which does not include costs for inspecting any animals in the facility.

The flat rate annual user fee was arrived at using the average number of hours required for an APHIS inspector to complete an inspection (including travel time), the average number of inspections performed during a year (two per center), the average direct labor involved, and proportional share of support costs, overhead, and departmental charges.

The flat rate annual user fee of $278.50 per center should not be significantly different from what customers have paid per year in the past for inspection and approval at hourly rates. Variations should generally be a result of different travel times to individual centers.

There are approximately 90 currently licensed embryo collection centers in the United States. Under Small Business Administration (SBA) guidelines, an embryo collection center with less than $5 million in annual sales qualifies as a small entity. While we could not determine exactly how many of the embryo collection centers are ''small entities,'' it is likely that the majority of them have less than $5 million in annual sales. However, since the flat fee should not be significantly different from what customers have paid in the past for approval and inspection at hourly rates, the effect on customers should be minimal.

This action should also have a minimal impact on the customers of embryo collection centers, whether small or large. Any change in cost to users that occurs as a result of this action should be small, relative to the product value of even a small operation. An average animal embryo sells for approximately $400, with certain animal embryos ranging in price from $100 to $2500 each. An average collection center collects approximately 3,400 animal embryos a year. Considering the volume of animal embryos collected at collection facilities per year and the value of individual embryos, the effect on user costs should be minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, 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

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 9 CFR Part 130

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

Accordingly, we are amending 9 CFR part 130 as follows:

PART 130—USER FEES

1. The authority citation for part 130 continues 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; 31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 130.8, paragraph (a) is amended by adding a new entry at the end of the table to read as follows:

§ 130.8 User fees for other services.

(a) * * *

Service	User fee
* * * * * * *	
Embryo collection center inspection and approval	$278.50 for all inspections required during the year for facility approval.

* * * * *

§ 130.21 [Amended]

3. In § 130.21, paragraph (a)(6) is amended by removing the words ''embryo or'' and adding the words ''artificial insemination center or a'' in their place.

Done in Washington, DC, this 22nd day of December 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AF88

Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its Rules of Practice for the licensing proceeding on the disposal of high-level radioactive waste at a geologic repository (HLW proceeding). The amendments are intended to allow application of technological developments that have occurred after the original rule was adopted in 1989, while achieving the original goals of facilitating the NRC's ability to comply with the schedule for decision on the construction authorization for the repository contained in Section 114(d) of the Nuclear Waste Policy Act, and providing for a thorough technical review of the license application and equitable access to information for the parties to the hearing.

EFFECTIVE DATE: January 29, 1999.

FOR FURTHER INFORMATION CONTACT: Kathryn L. Winsberg, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–1641, e-mail KLW@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 13, 1997 (62 FR 60789), the NRC published a proposed rule in the **Federal Register** that would have amended NRC's regulations in 10 CFR Part 2, Subpart J. In response to the request of a representative of Clark County, Nevada, the NRC extended the comment period which would have expired on January 27, 1998, until March 30, 1998 (63 FR 5315, February 2, 1998). The proposed rule was intended to maintain the primary functions of the Licensing Support System (LSS) which are:

(1) Discovery of documents before the license application is filed;

(2) Electronic transmission of filings by the parties during the proceeding;

(3) Electronic transmission of orders and decisions related to the proceeding; and

(4) Access to an electronic version of the docket.

The proposed rule would have eliminated the current requirement in 10 CFR Part 2, Subpart J, for a centralized ''Licensing Support System'' administered by the NRC and therefore also would have eliminated the requirement for an LSS Administrator to ensure the viability of the central database. To replace these features of the existing rule, the proposed rule would have required that each potential party, including the NRC and the Department of Energy (DOE), make its documentary material available in electronic form to all other participants beginning in the pre-license application phase. For the purposes of this rule, the pre-application phase would have begun on the date that the President submits the site recommendation to Congress. Although the mechanism to implement this requirement is not stated in the proposed rule, the availability of the Internet to link geographically dispersed sites appears to have the potential to satisfy the proposed rule.

Also under the proposed rules, *documentary material* would have been defined as the material upon which a party intends to rely in support of its position in the licensing proceeding; any material which is relevant to, but does not support, that material or that party's position; and all reports and studies, prepared by or on behalf of the potential party, interested governmental participant, or party, including all related ''circulated drafts,'' relevant to the issues set forth in the Topical Guidelines in Regulatory Guide 3.69, regardless of whether they will be relied upon and/or cited by a party.

A Pre-License Application Presiding Officer would resolve any disputes over electronic access to documents during the pre-license application phase. Potential parties would be required to certify to the Pre-License Application Presiding Officer that they have complied with the requirement to provide electronic access to their documentary material.

The NRC requested comments on two alternatives regarding the LSS Advisory Review Panel. In the proposed rule, because the concept of the LSS would be replaced, the requirement for an LSS Advisory Review Panel would have been modified so the panel could advise the Secretary of the Commission regarding standards and procedures for electronic access to documents and for maintenance of the electronic docket. This would have required renaming of the advisory committee and redrafting of the committee charter. However, the NRC also requested comments, particularly from potential parties to the HLW repository licensing proceeding, on the alternative of replacing the Advisory Review Panel with a more informal users group.

II. Comments on the Proposed Rule

The Commission received six comment letters on the proposed rule. Copies of the letters are available for public inspection and copying for a fee at the Commission's Public Document Room located at 2120 L Street, NW (Lower Level), Washington, D.C. The comments on the proposed rule came from the DOE and five other entities which are represented on the LSS Advisory Review Panel. The NRC conducted a meeting of the LSS Advisory Review Panel (LSSARP) in Las Vegas, Nevada, on February 24, 1998, to receive comments of the LSSARP