

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 130

[Docket No. 98-006-2]

#### Veterinary Services User Fees; Import or Entry Services at Ports

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending existing user fees for import- or entry-related services provided for animals presented at airports, ocean ports, and rail ports. User fees for these services were set at a flat rate. We are replacing the flat rate user fee with hourly rate user fees. This action will ensure that the user fees collected are adequate for the services that are provided.

**EFFECTIVE DATE:** October 25, 1999.

**FOR FURTHER INFORMATION CONTACT:** For information concerning services provided for live animals, contact Dr. Morley Cook, Senior Staff Veterinarian, National Animal Programs Staff, Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-8364.

For information concerning rate development of the user fees, contact Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Service Enhancement Unit, MRPBS, 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 import- and entry-related services for animals, birds, and animal products are contained in 9

CFR part 130 (referred to below as the regulations).

Section 130.6 lists the user fees for import- or entry-related services provided at land borders ports along the United States-Mexico border. The services provided at these ports include inspecting and processing imported animals and authorizing services for animals transiting the United States. Section 130.7 lists the user fees charged for import- or entry-belted services for animals presented at any port of entry other than a land border port along the United States-Mexico border. These ports of entry include airports, ocean ports, and rail ports and land border ports along the United States-Canada border. Section 130.9 lists the hourly rate user fees for miscellaneous import or entry services.

The flat rate user fees listed in §§ 130.6 and 130.7 of the regulations were based on our experience with activities at land border ports along the United States-Canada and United States-Mexico borders. These flat rate user fees were calculated as a nationwide average for the costs involved in performing import- or entry-related services for animals. We believe that these user fees are still appropriate for import- or entry-related services for animals. We believe that these user fees are still appropriate for import- or entry-related services for animals at land border ports along the United States-Canada and United States-Mexico borders.

On May 28, 1999, we published a proposal in the **Federal Register** (64 FR 28942-28944, Docket No. 98-006-1) to amend existing user fees for import- or entry-related services provided for animals presented at air, ocean, and rail ports by charging our current hourly rate user fee of \$50 per hour (\$14 per quarter hour, with a minimum fee of \$16.50) as listed in § 130.9 of the regulations. However, we proposed that our premium rate user fee, as set forth in the § 130.50, would apply for services provided by an APHIS employee on Sunday, holidays, or any time outside the normal tour of duty of the employee. The proposed action was taken to ensure that the user fees collected at airport, ocean ports, and rail ports are adequate for the services provided.

We solicited comments concerning our proposal for 60 days ending July 27, 1999. We received one comment by that date. The comment was from an

exporter. The commenter did not object to the proposal; however, the commenter stated that we should consider changing, reducing, or eliminating export user fees. This comment is beyond the scope of this rulemaking; therefore, we are not amending the rule based on the comment. However, if we decide to make any changes to our regulations concerning export user fees, we will publish another document in the **Federal Register** for public comment.

#### Miscellaneous

We have made a minor, nonsubstantive change by changing all references to "air, ocean, and rail ports" to "airports, ocean ports, and rail ports." We believe this change will clearly indicate that hourly rate user fees apply for import- or entry-related services provided for animals presented at any airport, ocean port, or rail port.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the change discussed in this document Executive Order 12866 and Regulatory Flexibility Act.

This rule has been reviewed under Executive Order 12866. This 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.

We are amending existing user fees for import- or entry-related services provided for animals presented at airports, ocean ports, and rail ports. User fees for these ports were set at a flat rate. We are replacing the flat user fee with hourly rate user fees.

Based on this rule, the user fees for shipments that involve large numbers of animals could decline because the user fees will be based on the time necessary to provide the services rather than the size of the shipment. For shipments that involve small numbers of animals, the user fees could increase or decrease, depending upon the type of animals, the number of animals in the shipment, the amount of time required to provide the required services, and the time of arrival. In the past, after-hours arrivals at airports, ocean ports, and rail ports were subject to reimbursable overtime in addition to the flat rate user fee. However, under this rule, after-hours arrivals will be subject to the premium hourly rate user fee.

Any entity that uses APHIS' services that are subject to user fees may be affected by this rule. The entities who will be most affected by this rule are importers. The Small Business Administration's criteria for a small entity engaged in importing and exporting live animals, poultry, and birds is one whose total sales are less than \$5 million annually. However, the number of entities who specifically trade in live animals and who would qualify as a small entity under this definition cannot be determined. Data from the Bureau of Census show that in 1995 the majority of agricultural entities who dealt in grade animals can be considered small, except those entities who dealt exclusively in purebred or registered animals.

The degree to which an entity could be affected by changes in user fees depends on its market power or the ability to which costs could be absorbed or passed on to buyers. Without information on either profit margins or operational expenses of the affected entities<sup>1</sup> or the supply responsiveness of the affected industry,<sup>2</sup> the scale of economic effects cannot be precisely predicted.

This rule should have a minimal effect on large and small importers. As previously indicated, the total hourly user fees collected should not be significantly different from the total flat rate user fees that have been previously collected for the same services. For those entities who do experience a change in the fee amount, the economic effect 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 12988

This final 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 not retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork

<sup>1</sup> Profits of sales of small entities are proprietary in nature and are not a part of the public record.

<sup>2</sup> The measurement of supply responsiveness would provide information on the likely effect on an entity's production due to changes in operating costs.

Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### 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 will 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, 134c, 134d, 134f, 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 § 130.7, the section heading and the introductory text in paragraph (a) are revised to read as follows:

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

(a) User fees, with a minimum fee of \$16.50, for live animals presented for importation into or entry into the United States through a land border port along the United States-Canada border, are listed in the following table. The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment for these user fees in accordance with §§ 130.50 and 130.51.

\* \* \* \* \*

3. Section 130.9 is revised to read as follows:

#### § 130.9 Hourly user fees for import or entry services.

(a) User fees for import and entry services listed in paragraphs (a)(1) through (a)(5) of this section will be calculated at \$56.00 per hour, or \$14.00 per quarter hour, with a minimum fee for \$16.50, for each employee required to perform the service. The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of these user fees in accordance with §§ 130.50 and 130.51.

(1) Services provided to live animals for import or entry at airports, ocean ports, and rail ports;

(2) Conducting inspections, including laboratory and facility inspections, required to obtain permits either to import animal products, organisms and vectors, or to maintain compliance with import permits;

(3) Obtaining samples required to be tested either to obtain import permits or to ensure compliance with import permits;

(4) Supervising the opening of in-bond shipments; and

(5) Other import or entry services not specified elsewhere in this part.

(b) [Reserved]

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

Done in Washington, DC, this 17th day of September 1999.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 99–24817 Filed 9–22–99; 8:45 am]

BILLING CODE 3410–34–M

#### FEDERAL ELECTION COMMISSION

#### 11 CFR Part 9034

[Notice 1999–18]

#### Matching Credit Card and Debit Card Contributions in Presidential Campaigns

**AGENCY:** Federal Election Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** On June 17, 1999, the Commission published the text of revised regulations that would allow contributions made by credit or debit card, including contributions made over the Internet, to be matched under the Presidential Primary Matching Payment Account Act. The Commission announces that these rules are effective retroactive to January 1, 1999.

**EFFECTIVE DATE:** January 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosemary C. Smith, Acting Assistant General Counsel, or Ms. Rita A. Reimer, Attorney, 999 E Street, NW, Washington, DC 20463, (202) 694–1650 or toll free (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** The Commission is announcing the effective date of new regulations at 11 CFR 9034.2 and 9034.3 that allow certain contributions made by credit or debit card, including contributions made over the Internet, to be matched under the Presidential Primary Matching Payment Account Act (“Matching Payment Act”), 26 U.S.C. 9031 *et seq.* “Matchable contributions” are those which, when received by candidates who qualify for payments under the Matching Payment Act, are matched by the Federal Government.

Section 9039(c) of Title 26, United States Code, requires that any rules or regulations prescribed by the Commission to implement Title 26 of the United States Code be transmitted to the Speaker of the House of