Proposed Rules

Federal Register
Vol. 68, No. 142
Thursday, July 24, 2003

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

[Docket 03–070–1]

Public Meetings; Listing of Biological Agents and Toxins

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meetings.

SUMMARY: This is to notify individuals and entities possessing, using, or transferring biological agents and toxins listed in 7 CFR 331.3, as well as other interested parties, that the Animal and Plant Health Inspection Service will hold a series of public meetings to provide a forum for discussion of the criteria used to determine whether an agent has the potential to pose a severe threat to plant health or products.

DATES: We will consider all comments that we receive on or before September 8, 2003.

Three public meetings are scheduled for August 2003. They will be held on August 12, 2003, from 5:30 to 8:30 p.m. in Charlotte, NC; on August 19, 2003, from 9 a.m. to 3 p.m. in Riverdale, MD; and on August 21, 2003, from 9 a.m. to 3 p.m. in Sacramento, CA.

ADDRESSES: If you cannot attend the meetings and wish to submit comments, you may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–070–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–070–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–070–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

The public meetings will be held at the following locations:

1. Charlotte, NC. The Charlotte Convention Center, 510 South College Street, Room 217AB, Charlotte, NC 28202.

2. Riverdale, MD. The USDA Center at Riverside, 4700 River Road, Riverdale, MD 20737. Travel directions to the USDA Center at Riverside are available on the Internet at *http://www.aphis.usda.gov/ppq/direct.html*. Picture identification is required to gain access to the building. Parking is available next to the building for a $2.25 fee (please have quarters or $1 bills available). The nearest Metro station is the College Park station on the Green Line, which is within walking distance.

3. Sacramento, CA. The John E. Moss Federal Building, General Services Administration, 650 Capital Mall, 1st Floor Conference Center, Stanford Room, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Dr. Michael J. Firko, Assistant Director, Plant Health Programs, USDA, APHIS, PPQ, 4700 River Road Unit 137, Riverdale, MD 20737–1236; (301) 734–8758.

SUPPLEMENTARY INFORMATION: On June 12, 2002, the President signed into law the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. 107–188). Title II of Public Law 107–188, ''Enhancing Controls on Dangerous Biological Agents and Toxins'' (sections 201 through 231), provides for the regulation of certain biological agents and toxins by the Department of Health and Human Services (subtitle A, sections 201–204) and the Department of Agriculture (subtitle B, sections 211–213), and provides for interagency coordination between the two departments regarding overlap agents and toxins (subtitle C, section 221). For the Department of Health and Human Services, the Centers for Disease Control and Prevention (CDC) has been designated as the agency with primary responsibility for implementing the provisions of the Act; the Animal and Plant Health Inspection Service (APHIS) is the agency fulfilling that role for the Department of Agriculture (USDA).

In subtitle B (which is cited as the ''Agricultural Bioterrorism Protection Act of 2002,'' referred to below as the Act), section 212(a) provides, in part, that the Secretary of Agriculture (the Secretary) must establish by regulation a list of each biological agent and each toxin that she determines has the potential to pose a severe threat to animal or plant health, or to animal or plant products. In determining whether to include an agent or toxin on the list, the Act requires the Secretary to consider:

1. The effect of exposure to the agent or toxin on animal or plant health, and on the production and marketability of animal or plant products;

2. The pathogenicity of the agent or the toxicity of the toxin and the methods by which the agent or toxin is transferred to animals or plants;

3. The availability and effectiveness of pharmacotherapies and prophylaxis to treat and prevent any illness caused by the agent or toxin; and

4. Any other criteria that the Secretary considers appropriate to protect animal or plant health, or animal or plant products.

In accordance with these statutory requirements, on August 12, 2002, we published in the **Federal Register** (67 FR 52383–52389, Docket No. 02–082–1) an interim rule that established the initial lists of biological agents and toxins. To accomplish this, we established new parts in the Code of Federal Regulations (CFR), one part in the plant-related provisions of title 7, chapter III, and one part in the animal-related provisions of title 9, chapter I. Then, on December 13, 2002, we published in the **Federal Register** (67 FR 76908–76938, Docket No. 02–088–1) an interim rule that amended the initial

lists of biological agents and toxins in both 7 CFR 331.3 and 9 CFR 121.3.

The Act requires that the lists of biological agents and toxins be reviewed and republished biennially, or more often as needed, and revised as necessary. In addition, the Act requires that, when determining whether to include an agent or toxin, the Secretary shall consult with appropriate Federal departments and agencies and with scientific experts representing appropriate professional groups.

In preparation for the biennial review of the list required by the Agricultural Bioterrorism Protection Act of 2002, APHIS' Plant Protection and Quarantine program intends to reevaluate and further develop the criteria used to determine whether an agent has the potential to pose a severe threat to plant health or products. Accordingly, we are holding a series of public meetings to provide a forum for discussion of the criteria that should be used.

The meetings will be held on August 12, 2003, from 5:30 to 8:30 p.m. in Charlotte, NC; on August 19, 2003, from 9 a.m. to 3 p.m. in Riverdale, MD; and on August 21, 2003, from 9 a.m. to 3 p.m. in Sacramento, CA. Information regarding the meetings may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments

If you cannot attend the meeting, you may submit written comments on the topics outlined in this notice. To submit written comments, please follow the instructions listed under the heading **ADDRESSES** near the beginning of this document.

Done in Washington, DC, this 21st day of July, 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–18951 Filed 7–23–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 00–024–1]

Veterinary Diagnostic Services User Fees

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to increase the user fees for veterinary diagnostic services to reflect changes in our operating costs and changes in calculating our costs. We are also proposing to set rates for multiple fiscal years. These proposed actions are necessary to ensure that we recover the actual costs of providing these services. We are also proposing to provide for a reasonable balance, or reserve, in the veterinary diagnostics user fee account. The Food, Agriculture, Conservation, and Trade Act of 1990, as amended, authorizes us to set and collect these user fees.

DATES: We will consider all comments that we receive on or before September 22, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 00–024–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–024–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 00–024–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: For information concerning program operations, contact Dr. Randall Levings, Director, National Veterinary Services Laboratories, 1800 Dayton Road, P.O. Box 844, Ames, IA 50010; (515) 663–7357.

For information concerning rate development for the proposed user fees, contact Mrs. Kris Caraher, Accountant, User Fees Section, MRPBS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (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 and export related services for live animals and birds and animal products are contained in 9 CFR part 130 (referred to below as the regulations). These user fees are authorized by section 2509(c) of the Food, Agriculture, Conservation and Trade Act of 1990, as amended (21 U.S.C. 136a), which provides that the Secretary of Agriculture may, among other things, prescribe regulations and collect fees to recover the costs of veterinary diagnostics relating to the control and eradication of communicable diseases of livestock or poultry within the United States.

In this document, we are proposing to amend the regulations by increasing the user fees for certain veterinary diagnostic services, including certain diagnostic tests, reagents, and other veterinary diagnostic materials and services. Operating costs have increased since these user fees were established in a final rule published in the **Federal Register** on October 7, 1998 (63 FR 53783–53798, Docket No. 94–115–2). Therefore, the user fees need to be updated to reflect those increases. However, the main reason for the increase in the fees is due to new cost-finding techniques employed by APHIS. The Statement of Federal Financial Accounting Standards (SFFAS) No. 4, ''Managerial Cost Accounting Standards and Concepts,'' issued by the Office of Management and Budget, mandated that APHIS capture cost accounting data in its program costs. We were required to accumulate and report the costs of veterinary diagnostic activities on a regular basis through the use of cost accounting systems and cost finding techniques. In order to comply with SFFAS No. 4, APHIS conducted an Activity Based Costing (ABC) project at the National Veterinary Services Laboratories (NVSL) in Ames, IA, which identified the sources of all costs for veterinary diagnostic services. As a result of that project, we determined that costs for user fee-related services were not adequately being recovered through user fee collections. Based on this determination, we are proposing new fees to recover these newly identified costs. Each of the updated user fees contains a proportionate share of the costs identified in the ABC study.

The user fees that we are proposing for veterinary diagnostic goods and services would cover multiple fiscal years (2004 through 2007 and beyond). Establishing annual user fee changes in