Done in Washington, DC, this 30th day of September 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–26829 Filed 10–6–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 95–054–3]

Importation of Horses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Technical amendment.

SUMMARY: We are making a technical amendment to the regulations regarding the importation of horses to restore a reference to vesicular stomatitis that was inadvertently removed from those regulations.

EFFECTIVE DATE: October 7, 1998.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathy Holmes, Regulatory Coordination Specialist, Regulatory Analysis and Development, Policy and Program Development, APHIS, USDA, 4700 River Road Unit 118, Riverdale, MD 20737–1238; (301) 734–8682.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 (referred to below as the regulations) prohibit or restrict the importation of certain animals into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart C—Horses, §§ 93.300 through 93.326 of the regulations, pertains to the importation of horses into the United States.

(**Note:** At the time the final rules referred to in this document were published, the regulations described in the previous paragraph were located in 9 CFR part 92. However, on October 28, 1997, we published in the **Federal Register** (62 FR 56000–56026, Docket No. 94–106–9) a final rule that redesignated part 92 as part 93. In describing the actions taken in the final rules, we will cross-reference the former part 92 citations with their current locations in part 93.)

In a final rule published in the **Federal Register** on August 23, 1996 (61 FR 43417–43418, Docket No. 95–079–2), and effective September 23, 1996, we amended § 92.314 (current § 93.314) by adding vesicular stomatitis to the list of diseases from which a horse's premises of origin and adjoining premises must be free before the horse may be imported into the United States.

That same section of the regulations was amended again in a subsequent final rule published in the **Federal Register** on October 7, 1996 (61 FR 52236–52246, Docket No. 95–054–2), and effective November 6, 1996. In the October 1996 final rule, we amended the regulations by, among other things, organizing the undesignated regulatory text of § 92.314 (current § 93.314) into paragraphs (a) through (c). However, the text of the newly reorganized § 92.314 (current § 93.314) that we set out in the October 1996 final rule was the same text that had been included in our June 4, 1996, proposed rule (61 FR 28073–28085, Docket No. 95–054–1), so it failed to reflect the August 1996 addition of vesicular stomatitis to that section. It was never our intention to remove that reference to vesicular stomatitis; indeed, no such change was discussed in the final rule or in the proposed rule that preceded it. Therefore, to rectify that error, we are amending § 93.314(a)(4) (former § 92.314) to restore the reference to vesicular stomatitis. List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 93 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 93.314 [Amended]

2. In § 93.314, paragraph (a)(4) is amended by adding the words ''vesicular stomatitis,'' immediately following the word ''encephalomyelitis,''.

Done in Washington, DC, this 30th day of September 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–26826 Filed 10–6–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 94–115–2]

RIN 0579–AA70

Veterinary Diagnostic Services User Fees

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising user fees for veterinary diagnostic services to reflect changes in operating costs and changes in calculations. We are also adding user fees to cover the costs of additional veterinary diagnostic services. In addition, we are reorganizing these user fees to list user fees by type of service and location where the service is provided, and to group reagents into categories. We are also revising user fees for the use of animal import centers operated by the Animal and Plant Health Inspection Service and adding user fees for new spaces. These actions are necessary to ensure that we recover our costs. The Food, Agriculture, Conservation, and Trade Act of 1990, as amended, authorizes us to set and collect these user fees.

EFFECTIVE DATE: November 6, 1998.

FOR FURTHER INFORMATION CONTACT: For information concerning services provided for live animals 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 veterinary diagnostics, contact Dr. James E. Pearson, Director, National Veterinary Services Laboratories, VS, APHIS, P.O. Box 844, Ames, IA 50010; (515) 239–8266.

For information concerning program operations for Veterinary Services, contact Ms. Louise Lothery, Director, Veterinary Services Resource Management Staff, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737–1231; (301) 734–7517.

For information concerning rate development of the proposed user fees, contact Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Division, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

User Fees Authorized Under the Farm Bill

The Food, Agriculture, Conservation and Trade Act of 1990, as amended (referred to below as the Farm Bill), authorizes the Secretary to prescribe regulations 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 (sec. 2509(c)(1) of the Farm Bill; 21 U.S.C. 136a(c)(1)). The Farm Bill also authorizes the Secretary of Agriculture, among other things, to 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 (sec. 2509(c)(2) of the Farm Bill; see 21 U.S.C. 114a).

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 (the regulations).

On May 4, 1998, we published in the **Federal Register** (63 FR 24473–24500, Docket No. 94–115–1) a proposal to amend the regulations by revising 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 September 1, 1993 (58 FR 38954–38961, Docket No. 91–021–5). Additionally, reviews of these user fees showed that some of the original estimates did not include enough direct labor hours and that the direct labor calculations needed to be revised to accurately reflect the costs of providing services. We proposed a comprehensive overhaul of the veterinary diagnostic user fees to more accurately recover our costs and to provide clarity and ease of use for customers needing to look up user fees for our tests and other services. Our proposal included reorganizing the presentation of user fees in the regulations, implementing new user fees, and revising all of the existing veterinary diagnostic user fees.

We solicited comments concerning our proposal for 60 days ending July 6, 1998. We received four comments by that date. They were from a State department of agriculture, poultry associations, and a university veterinary laboratory. They are discussed below.

Comment: Increases in user fees will significantly impact diagnostic laboratories; user fee collections would rise by 60.3 percent.

Response: Veterinary diagnostic services user fees have not changed since 1993. We are no longer appropriated funds for these services. Therefore, to continue providing veterinary diagnostic services, we must increase the user fees we charge diagnostic laboratories and other customers who benefit from our veterinary diagnostic services. The total overall anticipated increase in user fee collections is $1,283,800 ($3,414,484 increased from $2,130,684), or 60.3 percent. As specified in the proposed rule, most of the individual increases will make only small contributions to the total new collections. Typically, the large percentage increases in user fees are related to veterinary diagnostic services which are ordered in small amounts. Therefore, the increases should not have a significant affect on diagnostic laboratories or other customers.

Comment: If fees continue to rise, many disease problems may go undetected because small laboratories will simply not order reagents or tests unless absolutely necessary. This will drive fees up even more as the National Veterinary Services Laboratories (NVSL) at Ames, IA, tries to meet its financial goals. APHIS mandates many programs, but seems unwilling to help conduct those mandates. The proposed fee increases will undermine any national efforts to collect data and protect animal and public health.

Response: We do not believe that these user fee increases will result in decreased testing or endanger animal or public health. Section 130.49 of the regulations specifies exemptions to our user fees for veterinary diagnostic services provided (1) in connection with Federal programs to control or eradicate diseases or pests of livestock or poultry in the United States (program diseases), (2) for zoonotic disease surveillance, or (3) for the detection of foreign animal diseases. Further, our user fees are calculated for full cost recovery only. They are not designed to meet any other financial goals and are not calculated based on the volume of tests conducted or reagents supplied. The costs of reagents are a small part of the actual costs of conducting a test. In addition, most of the individual user fee increases are small. Therefore, we do not expect that these increases will result in reduced testing by laboratories, large or small.

Comment: Public health concerns such as salmonella and its diagnosis through salmonella serotyping should be part of the appropriation. Unless this test is free of charge, no serotyping will be conducted and the nation will suffer.

Response: Salmonella serotyping is part of zoonotic disease surveillance and, therefore, is exempt from these user fees. It will continue to be covered by appropriated funds.

Comment: As an alternative to increasing the user fees, the administrative overhead costs should be trimmed to no more than 20 percent instead of 113 percent of direct labor.

Response: We continually strive to improve efficiency in operations and review our costs to make sure they are as low as possible. Our agency overhead and departmental charges are approximately 20 percent of our user fees. Our administrative support costs, which are 113 percent of direct labor, include costs that are required to operate the laboratories and perform veterinary diagnostic services. For every $1 incurred in direct labor at NVSL, another $1.13 is incurred in administrative support costs. Some of these costs would typically be broken out into costs for direct materials and other direct costs; however, for simplicity, we group them all as administrative support costs. As stated in the proposal, our administrative support costs include costs for clerical and administrative activities; direct materials; indirect labor hours; travel and transportation for personnel, supplies, equipment, and other necessary items; training; legal counsel; general supplies for offices, washrooms, cleaning, etc.; contractual services; grounds maintenance; and utilities. Direct materials include any materials needed to conduct the test or provide the diagnostic reagent, slide set, tissue set, or service. For example, direct materials for conducting a laboratory test include, but are not limited to, glassware, chemicals, and other supplies necessary to perform the test. Costs for these direct materials are included in administrative support costs because direct materials are standard laboratory supplies and not purchased solely for a specific test. Indirect labor hours include time required for supervision of personnel and time spent doing necessary work that is not directly connected with a test, diagnostic reagents, or other veterinary diagnostic material or service, such as equipment repair. Contractual services may include, but are not limited to, guard service and maintenance. Some administrative support items may or may not be contractual, depending on

local circumstances. For example, trash pickup may be provided as a utility or a contractual service. However, the costs are all for administrative support. Utilities include water, telephone, electricity, natural and propane gas, heating and diesel oil. We make every effort to keep all of these costs as low as possible.

Comment: The proposed user fees for test reagents and sample confirmation testing at NVSL and the Foreign Animal Disease Diagnostic Laboratory (FADDL) at Greenport, NY, for diseases of national importance, such as brucellosis and pseudorabies, will have a negative impact on State laboratories because the fee increases for test reagents would shift the cost from APHIS to the State laboratories. The projected cost would increase by $2000 per year for a State laboratory.

Response: The user fee changes in this rule will not negatively affect State laboratories or their testing for diseases of national importance, such as brucellosis and pseudorabies. We specify in § 130.49 of the regulations that user fees are not charged for veterinary diagnostic services provided in connection with Federal programs to control or eradicate diseases or pests of livestock or poultry in the United States.

Comment: The effect of the user fee increases for check samples, reference sera, confirmation analysis, and standard operating procedures and manuals is difficult to calculate. The estimated cost is $1,000 per year for a State laboratory. This would have a negative impact on State laboratories.

Response: We understand that adding user fees for check tests, standard operating procedures, manuals, training, and technical assistance will increase our customer's costs. We are no longer appropriated funds to pay for these services. Therefore, to continue providing these services, we must establish user fees to recover our costs.

Comment: APHIS is proposing to increase user fees for veterinary diagnostic services again. The poultry industry of Georgia opposes this increase.

Response: This is the first increase in the veterinary diagnostic user fees since they were established in 1993. We need to increase these user fees because, as stated in the proposal, operating costs have increased since these user fees were established in a final rule published in the **Federal Register** on September 1, 1993.

Comment: These proposed fee increases would severely impact the monitoring and diagnostic abilities of the extensive poultry laboratory network in Georgia. We believe this increase would impact the health and safety of the food supply of poultry and poultry products in Georgia. Total fees would increase from current costs of $2,700 to $42,881.25 ($1,305 from increased fees for DNA fingerprinting and pasteurella antiserums; $40,181.25 from new fees for salmonella bacterial serotyping, mycoplasma hemagglutination antigens, avian influenza antigen, and avian influenza).

Response: We disagree. The user fee changes in this rule should not affect monitoring and diagnostic abilities of the poultry laboratory network in Georgia, and therefore, will not affect the health and safety of the food supply of poultry and poultry products. While we are implementing some new user fees, because we are no longer allocated funds to pay for these services, we are not changing the exemptions from existing user fees as specified in § 130.49. Therefore, if you were exempt from a specific user fee in the past, then you are still exempt from that user fee. As stated above, we specify in the regulations that user fees are not charged for veterinary diagnostic services provided in connection with zoonotic disease surveillance, such as salmonella serotyping, or for the detection of foreign animal diseases, such as highly pathogenic avian influenza. Specifically, user fees will not be charged for salmonella bacterial serotyping, avian influenza antigen, and avian influenza antiserum. Because of these exemptions, we estimate that the actual increase in user fees for the services and reagents listed in the comment would be only $2,897.50, due to revised and new user fees for DNA fingerprinting, pasteurella antiserums, and mycoplasma hemagglutination antigens.

Comment: Delay the proposal until there can be a full discussion and review.

Response: By publishing the proposed rule and requesting comments for 60 days we believe that we have provided the public with ample opportunity to review and comment on the changes in the veterinary diagnostic services user fees.

Comment: If and when fee increases are justified, do them well in advance of the budgeting period.

Response: We understand the need to plan budgets and the concern about having budgets affected by increases in user fees. Different customers start their budgeting periods at different times of the year. Therefore, it would be impossible to schedule our fee changes in advance of all customers' budgeting periods. Our proposal signaled our intention to revise the user fees. The proposal was published in the **Federal Register** on May 4, 1998, and was open for public comment 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 commenter and others adequate time to prepare.

Miscellaneous

We are making minor, nonsubstantive, editorial changes in the rule for clarity.

Plain Language Change

On June 1, 1998, President Clinton issued a memorandum requiring agencies to write all documents in plain language. Specifically, for regulations, agencies must use plain language in all proposed rules published in the **Federal Register** after January 1, 1999. Agencies must also use plain language in all final rules published in the **Federal Register** after January 1, 1999, except when the proposed rule was published before January 1, 1999. For existing regulations, the memorandum encourages agencies to rewrite in plain language whenever possible.

We try to make our regulations as clear as possible. With the plain language initiative, we will increase our efforts to use active verbs and personal pronouns to clarify who is responsible for what action. We will also use a question and answer format where it makes sense, as well as other techniques, to make our regulations easier to understand.

In this final rule, we have rewritten the overtime requirements in § 130.50(b)(3). We have used a question and answer format, changed verbs from passive to active voice, used personal pronouns, and added a chart. The chart shows information that readers previously would have had to turn to 9 CFR part 97 to find.

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 changes 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.

Below is a summary of the economic analysis for this final rule. The economic analysis provides a cost-benefit analysis as required by E.O. 12866 and a Final Regulatory Flexibility Analysis, analyzing the effects of this

action on small entities, as required by the Regulatory Flexibility Act. A copy of the full economic analysis, which includes comparisons of each user fee change and the change in collections for each user fee, is available for review at the location listed in the ADDRESSES section at the beginning of this document.

Need and Objective of This Rule

The provisions in 21 U.S.C. 114a authorize the Secretary of Agriculture to control and eradicate communicable diseases of livestock and poultry. The Food, Agriculture, Conservation and Trade Act of 1990, as amended (referred to below as the 1990 Farm Bill), authorizes the Secretary of Agriculture, among other things, to prescribe regulations and collect fees to recover the costs of carrying out the provisions of 21 U.S.C. 114a that relate to veterinary diagnostics (sec. 2509(c)(2) of the 1990 Farm Bill; see 21 U.S.C. 114a).

The 1990 Farm Bill further authorizes the Secretary 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; 21 U.S.C. 136a(c)(1)).

In addition, section 2509(d) of the 1990 Farm Bill (21 U.S.C. 136a(d)) provides that the Secretary may prescribe such regulations as the Secretary determines necessary to carry out these provisions of the 1990 Farm Bill.

New and Revised User Fees

We are revising the user fees for certain veterinary diagnostic services, including certain diagnostic tests, reagents, and other veterinary diagnostic materials and services. In addition, we are adding new user fees for other veterinary diagnostic services we provide. We are reorganizing the regulations in 9 CFR part 130 to list user fees by type of service and location where service is provided, and to group diagnostic reagents into categories.

Veterinary diagnostics is the work performed in a laboratory to determine if a disease-causing organism or chemical agent is present in body tissues or cells and to identify those organisms or agents. Services in this category include: (1) Performing laboratory tests and providing diagnostic reagents and other veterinary diagnostic materials and services at the Foreign Animal Disease Diagnostic Laboratory (FADDL) at Greenport, NY, and (2) performing identification, serology, and pathobiology tests and providing veterinary diagnostic reagents and other materials and services at the National Veterinary Services Laboratories (NVSL) at Ames, IA. Diagnostic reagents are biological materials used in diagnostic tests to detect disease agents or antibodies by causing an identifiable reaction. We also consider sterilization by gamma radiation to be a veterinary diagnostic service. Other miscellaneous veterinary diagnostic services include, but are not limited to, providing check tests, test kits, manuals, standard operating procedures, and training.

Impact on Small Entities

Users of these veterinary diagnostic services are importers, exporters, veterinarians, commercial laboratories, State laboratories, universities, and foreign governments.

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. This is also the criteria for small testing laboratories, veterinary service providers, and research organizations.

Except for those entities who deal exclusively in purebred or registered animals, 1995 data from the Bureau of the Census shows that the majority of agricultural entities who deal in grade animals can be considered small. 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.

According to the Bureau of the Census, 94 percent of testing laboratories can be considered small. While veterinary testing laboratories comprise part of this classification, it cannot be determined how many entities performing veterinary services would be considered small under the Small Business Administration's guidelines.

To the extent that changes in user fees alter operational costs, any entity who utilizes APHIS'' services that are subject to user fees may be affected by the changes in user fees. The degree to which an entity is affected depends on its market power, or the ability to which costs can be either absorbed or passed on to its buyers. Without information on either profit margins and operational expenses of the affected entities [1], or the supply responsiveness of the affected industry [2], the scale of impacts cannot be precisely predicted.

Changes in Collections

The estimated increased collections generated by the revised user fees could be $1.28 million annually (collections could increase from $2.13 million collected in FY 97 to $3.41 million). This represents an increase in user fee collections for veterinary diagnostics and other import-and export-related services of approximately 60.3 percent. (See Table 13.)

TABLE 13.—SUMMARY OF CURRENT AND PROJECTED COLLECTIONS FOR APHIS USER FEES

User fee categories	Current user fee collections [1]	Revised user fee collections	Change in user fee collections
Revised Veterinary Diagnostics User Fees:			
FADDL: [2]			
Reagents, Tests, Other (§ 130.14)	508,297	1,074,542	566,245
NVSL:			
Identification Tests (§ 130.15)	398,023	428,581	30,558
Serology Tests (§ 130.16)	727,979	928,506	200,527
Pathobiology Tests (§ 130.17)	81,260	90,608	9,348
Reagents (§ 130.18)	76,534	84,321	7,787
Other (§ 130.19)	149,184	174,832	25,648

[1] Profits for sales of small entities are proprietary in nature and are not a part of the public record.

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

TABLE 13.—SUMMARY OF CURRENT AND PROJECTED COLLECTIONS FOR APHIS USER FEES—Continued

User fee categories	Current user fee collections [1]	Revised user fee collections	Change in user fee collections
Total Revised Veterinary Diagnostics User Fees	1,941,277	2,781,390	840,113
New Veterinary Diagnostics User Fees:			
FADDL:			
Reagents, Tests, Other (§130.14)	.....	98,126	98,126
NVSL:			
Identification Tests (§130.15)	.....	47,476	47,476
Serology Tests (§130.16)	.....	1,000	1,000
Pathobiology Tests (§130.17)	.....	1,397	1,397
Reagents (§130.18)	.....	154,929	154,929
Other (§130.19)	.....	104,589	104,589
Total New Veterinary Diagnostics User Fees	.....	407,517	407,517
Total Veterinary Diagnostics User Fees Collections	*1,941,277	3,188,907	1,247,630
Other User Fee Changes:			
Zoo Animals Quarantined in APHIS Animal Import Centers (§130.2 (a))	1,935	3,192	1,257
Non-Standard Care and Handling for Birds or Poultry (§130.2 (b))	33,780	37,965	4,185
Exclusive Use of Space at APHIS Animal Import Center in Newburgh, NY (§130.3)	126,164	121,450	(4,714)
User Fees for Other Services (§130.8)	27,528	62,970	35,442
Total Other User Fee Changes	*189,407	225,577	36,170
Total Changes in User Fee Collections	2,130,684	3,414,484	1,283,800

[1] Source: USDA—APHIS—FSO, NVSL, FADDL.
[2] Includes collections from cooperative agreements where user fees are the basis for determining amount to be charged.

The benefit of user fees is the shift in the payment of services from taxpayers as a whole to those persons who are receiving the government services. While taxes may not change by the same amount as the change in user fee collections, there is a related shift in the appropriations of taxes to government programs, which allows those tax dollars to be applied to other programs which benefit the public in general. Therefore, there could be a relative savings to taxpayers of $1.28 million annually as a result of the changes in user fees.

The administrative cost involved in obtaining these savings will be minimal. APHIS already has a user fee program and a mechanism for collecting user fees in place. The changes in this rule will update existing user fees in the system and require collection of additional user fees. Therefore, increases in administrative costs will be small. Because the savings are sufficiently large, and the administrative costs will be small, it is likely that the net gain in reducing the burden on taxpayers as a whole will outweigh the cost of administering the revisions of the user fees.

Estimated Impact

The user fee changes fall into two categories: New and revised user fees. The vast majority of the user fees changes are expected to make only small contributions to the total new collections. Most (nearly 70 percent) of the new user fees will be less than $50 each and 40 percent will be less than $25. Most (approximately 70 percent) of the revised user fees increase by less than 20 percent, with many (more than 50 percent) of them increasing by less than 10 percent.

Approximately 30 percent of the new and revised user fees are more than $50 or increase by more than 20 percent, respectively. We were concerned about the impact of these user fees, so we reviewed past requests for the services to which these fees apply. Requests for these services have been low and we do not expect them to change as a result of these user fees. Most of the new user fees that exceed $50 either include more direct labor time than those services with lower user fees or require premium costs to pay for special materials. The revised user fees that will increase by more than 20 percent include those user fees that were underestimated when initially established. Experience and more accurate accounting data have shown that most of these services require more direct labor hours, require premium costs to pay for special materials, or should be calculated using average lab salaries, which is consistent with the calculations for other user fees throughout 9 CFR part 130.

Alternatives

One alternative to this rule would be to make no changes to the current user fees. We do not consider making any changes to the current user fees a reasonable alternative because we would not recover the full cost of providing veterinary diagnostic and import- and export-related services. Therefore, the only way to pay for these services is through charges to the customer through user fees or other forms of reimbursable agreements.

Another alternative to this rule would be to either exempt small businesses from these user fees or establish a different user fee structure for small businesses. We do not consider exempting small businesses from these user fees or establishing a different user fee structure for small businesses as viable options. Every business, including small businesses, using a government service should pay the cost of that service, rather than having other businesses pay a disproportionate share or passing those costs on to the general public, who are not the primary beneficiary of 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 among user fees would mean that some entities

would subsidize others. The intent of user fees is to shift the burden of the cost of these services from the general taxpayer to the entity receiving the service. Therefore, it would not be equitable for APHIS to spread the increases evenly over all of the user fees.

This rule contains no new information collection or recordkeeping requirements.

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

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, we are amending 9 CFR part 130 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; 31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 130.1 is amended as follows:

a. The definitions for *APHIS animal health technician, APHIS veterinarian,* and *reference assistance testing* are removed.

b. Definitions for *APHIS representative, nonstandard care and handling,* and *nonstandard housing* are added, in alphabetical order, to read as set forth below.

c. The definitions for *export health certificate* and *pet birds* are revised to read as set forth below.

d. Footnotes 3 and 4 and their references are removed, and footnote 2 and its reference are redesignated as footnote 3.

e. At the end of the definitions for *zoo bird* and *zoo equine,* a reference to footnote 3 is added.

§ 130.1 Definitions.

* * * * *

APHIS representative. An individual, including, but not limited to, an animal health technician or veterinarian, authorized by the Administrator to perform the services for which the user fees in this part are charged.

* * * * *

Export health certificate. An official document that, as required by the importing country, is endorsed by an APHIS representative and states that animals, animal products, organisms, vectors, or birds to be exported from the United States were found to be healthy and free from evidence of communicable diseases and pests.

* * * * *

Nonstandard care and handling. Nonstandard care and handling includes hand-feeding, more than one feeding per day, frequent observation, and any handling or observation that requires personnel to attend to the birds or poultry outside of normal business hours.[2]

Nonstandard housing. Nonstandard housing is individual housing not normally available at an APHIS animal import center, any housing constructed or purchased at the request of the importer, any housing with blinds, dense foliage, or plants, and any housing where the temperature can be adjusted.

* * * * *

Pet birds. Birds, except hatching eggs and ratites, that are imported or exported for the personal pleasure of their individual owners and are not intended for resale.

* * * * *

4. Section 130.2 is revised to read as follows:

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

(a) *Standard requirements.* User fees for each animal or bird receiving standard housing, care, feed, and handling while quarantined in an APHIS owned or operated animal import center or quarantine facility are listed in the following table. Each user fee listed in the table is assessed per animal or bird quarantined by APHIS. 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.

Animal or bird	Daily user fee
Birds (excluding ratites and pet birds imported in accordance with part 93 of this subchapter):	
0–250 grams	$1.00
251–1,000 grams	3.25
Over 1,000 grams	7.50
Domestic or zoo animals (except equines, birds, and poultry):	
Bison, bulls, camels, cattle, or zoo animals	56.50
All other—including but not limited to alpacas, llamas, goats, sheep, and swine	15.00
Equines (including zoo equines, but excluding miniature horses):	
1st through 3rd day	149.50
4th through 7th day	108.25
8th and subsequent days	91.75
Miniature horses	40.25
Poultry:	
Doves, pigeons, quail	2.00
Chickens, ducks, grouse, guinea fowl, partridges, pea fowl, pheasants	3.50
Large poultry and large waterfowl including but not limited to game cocks, geese, swans, and turkeys	8.25
Ratites:	
Chicks (less than 3 months old)	5.75
Juveniles (between 3 and 10 months old)	8.00

[2] Normal business hours at the APHIS Animal Import Centers are: 7:30 a.m. to 11:30 a.m., Honolulu, HI; 7 a.m. to 3:30 p.m., Miami, FL; and 8 a.m. to 4:30 p.m., Newburgh, NY.

Animal or bird	Daily user fee
Adults (11 months old and older)	16.25

(b) *Special requirements.* User fees for birds or poultry, including zoo birds or poultry, receiving nonstandard housing, care, or handling to meet special requirements while quarantined in an APHIS owned or operated Animal Import Center or quarantine facility are listed in the following table. The user fees listed in the table are assessed for each bird or poultry quarantined by APHIS. Special requirements may be requested by the importer or required by an APHIS representative. Certain conditions or traits, such as pregnancy or aggression, may necessitate special requirements for certain birds or poultry. 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.

Bird or poultry (nonstandard housing, care, or handling)	Daily user fee
Birds 0–250 grams and doves, pigeons, and quail	$3.25
Birds 251–1,000 grams and poultry such as chickens, ducks, grouse, guinea fowl, partridges, pea fowl, and pheasants	7.50
Birds over 1,000 grams and large poultry and large waterfowl including but not limited to game cocks, geese, swans, and turkeys	14.00

(c) *Feed.* The importer must either provide feed or pay for it on an actual cost basis, including the cost of delivery to the APHIS owned or operated Animal Import Center or quarantine facility, for any animal or bird that requires a diet other than standard feed, including but not limited to diets of fruit, insects, nectar, or fish. (Approved by the Office of Management and Budget under control number 0579–0094)

5. Section 130.3 is amended by revising paragraph (a)(1), including the table, to read as follows:

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

(a)(1) An importer may request to exclusively occupy a space at an APHIS animal import center. The user fees for spaces at APHIS animal import centers 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 of these user fees in accordance with §§ 130.50 and 130.51.

APHIS animal import center	Space	Monthly (30 day) 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	5,396 sq. ft. (503.1 sq. m.)	43,102.00
Space B	8,903 sq. ft. (827.1 sq. m.)	71,118.50
Space C	905 sq. ft. (84.1 sq. m.)	7,229.00

* * * * * * *

6. Sections 130.5 through 130.8 are revised to read as follows:

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

(a) User fees for each animal quarantined in a privately operated permanent or temporary import quarantine facility will be calculated at $56.00 per hour, or $14.00 per quarter-hour, with a minimum fee of $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.

(b) [*Reserved*]

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

§ 130.6 User fees for import or entry services for live animals at land border ports along the United States-Mexico 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-Mexico 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 of these user fees in accordance with the provisions in §§ 130.50 and 130.51.

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

(b) [*Reserved*]

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

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

(a) User fees, with a minimum fee of $16.50, for live animals presented for importation into or entry into the United States through any port of entry, other than a land border port along the border between the United States and Mexico, 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 of these user fees in accordance with the provisions in §§ 130.50 and 130.51.

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
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.

(b) [*Reserved*]

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

§ 130.8 User fees for other services.

(a) User fees for other services that are not specifically addressed elsewhere in part 130 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 of these user fees in accordance with the provisions in §§ 130.50 and 130.51.

Service	User fee
Germ plasm being exported: [1]	
Embryo:	
(up to 5 donor pairs)	$54.75 per certificate.
(each additional group of donor pairs, up to 5 pairs per group, on the same certificate)	24.75 per group of donor pairs.
Semen	33.50 per certificate.
Germ plasm being imported: [2]	
Embryo	39.50 per load.
Semen	39.50 per load.
Import compliance assistance:	
Simple (2 hours or less)	51.25 per release.
Complicated (more than 2 hours)	131.75 per release.
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
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).
Pet birds, except pet birds of U.S. origin entering the United States from Canada:	
Which have been out of United States 60 days or less	71.25 per lot.
Which have been out of United States more than 60 days	169.75 per lot.
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.

Service	User fee
Application renewal	15.00 per application.
Release from export agricultural hold:	
Simple (2 hours or less)	51.25 per release.
Complicated (more than 2 hours)	131.75 per release.

[1] 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.

[2] 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 354.3.

(b) [*Reserved*]

(Approved by the Office of Management and Budget under control numbers 0579–0015, 0579–0040, 0579–0055, and 0579–0094)

7. Section 130.9 is amended by revising the introductory text of paragraph (a) to read as follows and by removing and reserving paragraph (b).

§ 130.9 User fees for miscellaneous import or entry services.

(a) User fees for import or entry services listed in (a)(1) through (a)(4) of this paragraph will be calculated at $56.00 per hour, or $14.00 per quarter hour, with a minimum fee of $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.

* * * * *

8. In § 130.10, the introductory text of paragraph (a) is revised to read as follows:

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

(a) User fees for each pet bird quarantined in an animal import center [4] or other APHIS-owned or supervised quarantine facility are listed in the following table. These user fees include standard care, feed, and handling. 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.

* * * * *

9. Sections 130.14 through 130.18 are revised to read as follows:

§ 130.14 User fees for FADDL veterinary diagnostics.

(a) Diagnostic reagents. User fees for diagnostic reagents [5] provided by FADDL 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 of these user fees in accordance with §§ 130.50 and 130.51.

Reagent	User fee	Unit
Bovine antiserum, any agent	$80.00	1 ml.
Caprine antiserum, any agent	97.50	1 ml.
Cell culture antigen/microorganism	63.75	1 ml.
Equine antiserum, any agent	100.50	1 ml.
Fluorescent antibody conjugate	120.25	1 ml.
Guinea pig antiserum, any agent	104.50	1 ml.
Monoclonal antibody	122.75	1 ml.
Ovine antiserum, any agent	94.25	1 ml.
Porcine antiserum, any agent	81.25	1 ml.
Rabbit antiserum, any agent	98.50	1 ml.

(b) *Veterinary diagnostics tests.* User fees for veterinary diagnostic tests performed at FADDL 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 of these user fees in accordance with §§ 130.50 and 130.51.

Test	User fee	Unit
Agar gel immunodiffusion	$14.75	Test.
Card	8.25	Test.
Complement fixation	33.00	Test.
Direct immunofluorescent antibody	11.00	Test.
Enzyme linked immunosorbent assay	12.75	Test.
Fluorescent antibody neutralization (hog cholera)	96.00	Test.
Hemagglutination inhibition	27.75	Test.
Immunoperoxidase	18.25	Test.
Indirect fluorescent antibody	23.25	Test.
In-vitro safety	299.50	Test.
In-vivo safety	4345.75	Test.
Latex agglutination	11.00	Test.
Tube agglutination	14.00	Test.
Virus isolation (oesophageal/pharyngeal)	88.25	Test.
Virus isolation in embryonated eggs	176.00	Test.
Virus isolation, other	84.50	Test.

[4] APHIS animal import centers are located in Honolulu, HI, Miami, FL, and Newburgh, NY. The addresses of these facilities are published in part 93 of this chapter.

[5] Reagents provided by FADDL are for the diagnosis of animal diseases foreign to the United States. These reagents may be available to customers on the mainland after safety testing with permission from the Administrator. The customer may have to pay the cost for the safety test in addition to the reagent user fee. For more information on the specific reagents contact: Laboratory Chief, USDA, APHIS, VS, FADDL, Greenport, NY 11344; phone (516) 323–2500, FAX (516) 323–2798.

Test	User fee	Unit
Virus neutralization	25.75	Test.

(c) *Other veterinary diagnostic services.* User fees for other veterinary diagnostic services performed at FADDL 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 of these user fees in accordance with §§ 130.50 and 130.51.

Veterinary diagnostic service	User fee	Unit
Bacterial isolation	$55.00	Test.
Hourly user fee services [1]	220.00	Hour.
Hourly user fee services—Quarter hour	55.00	Quarter hour.
Infected cells on chamber slides or plates	31.00	Slide.
Reference animal tissues for immunohistochemistry	94.25	Set.
Sterilization by gamma radiation	530.00	Can.
Training (school or technical assistance)	450.00	Per person per day.
Virus titration	55.00	Test.

[1] For all veterinary diagnostic services for which there is no flat rate user fee, the hourly rate user fee will be calculated for the actual time required to provide the service.

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

§ 130.15 User fees for veterinary diagnostic isolation and identification tests performed at NVSL (excluding FADDL) or other authorized site.

(a) *Bacteriology isolation and identification tests.* User fees for bacteriology isolation and identification tests performed at NVSL (excluding FADDL) or other authorized sites 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 of these user fees in accordance with §§ 130.50 and 130.51.

Test	User fee	Unit
Bacterial identification, automated	$16.00	Isolate.
Bacterial identification, non-automated	61.25	Isolate.
Bacterial isolation	16.00	Sample.
Bacterial serotyping, all other	30.75	Isolate.
Bacterial serotyping, Pasteurella multocida	7.50	Isolate.
Bacterial serotyping, Salmonella	21.25	Isolate.
Bacterial toxin typing	91.50	Isolate.
Bacteriology requiring special characterization	27.00	Test.
DNA fingerprinting	36.50	Test
DNA probe	29.50	Test.
Fluorescent antibody [1]	9.75	Test.
Leptospira culturing	27.00	Sample.
Leptospira serotyping	80.50	Isolate.
Mycobacterium avian serotyping	157.50	Isolate.
Mycobacterium identification (biochemical)	63.25	Isolate.
Mycobacterium identification (gas chromatography)	26.50	Procedure.
Mycobacterium isolation, animal inoculations	520.50	Submission.
Mycobacterium isolation, all other	105.50	Submission.
Mycobacterium paratuberculosis isolation	26.50	Submission.
Mycology culture identification	52.75	Isolate.
Mycology/fungus culture or isolation	26.50	Isolate.
Mycoplasma isolation	26.25	Sample.
Mycoplasma identification	26.25	Isolate.
Phage typing, all other	26.50	Isolate.
Phage typing, Salmonella enteritidis	10.75	Isolate.
Plasmid typing	26.50	Isolate.
Warburg	316.50	Isolate.

[1] A discount will apply to all diagnostic, non-import related complement fixation, hemagglutination inhibition, fluorescent antibody, indirect fluorescent antibody, virus neutralization, and peroxidase linked antibody tests. This discount only applies to the 11th and subsequent tests on the same submission by the same submitter for the same test and antigen. The user fee for each discounted test will be 20 percent of the original user fee rounded up to the nearest quarter. This discount will apply for tests for all diseases except equine piroplasmosis, bovine piroplasmosis, dourine, and glanders.

(b) *Virology identification tests.* User fees for virology identification tests performed at NVSL (excluding FADDL) or other authorized sites 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 of these user fees in accordance with §§ 130.50 and 130.51.

Test	User fee	Unit
Fluorescent antibody tissue section	$18.25	Test.
Virus isolation for Newcastle disease virus	15.25	Test.
Virus isolation (except for Newcastle disease virus)	31.50	Test.

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

§ 130.16 User fees for veterinary diagnostic serology tests performed at NVSL (excluding FADDL) or at authorized sites.

(a) *Bacteriology serology tests.* User fees for bacteriology serology tests performed at NVSL (excluding FADDL) or other authorized sites 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 of these user fees in accordance with §§ 130.50 and 130.51.

Test	User fee	Unit
Brucella milk ELISA	$15.75	Test.
Brucella ring (BRT)	10.50	Test.
Brucella ring, Heat inactivated (HIRT)	10.50	Test.
Brucella ring, Serial (Serial BRT)	15.75	Test.
Buffered acidified plate antigen presumptive	4.00	Test.
Card	2.00	Test.
Complement fixation [1]	9.00	Test.
Enzyme linked immunosorbent assay for dourine, glanders, or piroplasmosis	9.00	Test.
Enzyme linked immunosorbent assay, all other	4.75	Test.
Indirect fluorescent antibody [1]	9.75	Test.
Mercaptoethanol	4.00	Test.
Microscopic agglutination—includes up to 5 serovars [2]	11.00	Sample.
Mycology/fungus serology	10.50	Test.
Particle concentration fluorescent immuno assay (PCFIA)	18.25	Test.
Plate	4.00	Test.
Rapid automated presumptive	4.25	Test.
Rivanol	4.00	Test.
Tube agglutination	4.00	Test.

[1] A discount will apply to all diagnostic, non-import related complement fixation, hemagglutination inhibition, fluorescent antibody, indirect fluorescent antibody, virus neutralization, and peroxidase linked antibody tests. This discount only applies to the 11th and subsequent tests on the same submission by the same submitter for the same test and antigen. The user fee for each discounted test will be 20 percent of the original user fee rounded up to the nearest quarter. This discount will apply for tests for all diseases except equine piroplasmosis, bovine piroplasmosis, dourine, and glanders.

[2] The user fee for the sixth and subsequent serovar will be $2.00 each.

(b) *Virology serology tests.* User fees for virology serology tests performed at NVSL (excluding FADDL) or at authorized sites 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 of these user fees in accordance with §§ 130.50 and 130.51.

Test	User fee	Unit
Agar gel immunodiffusion	$5.00	Test.
Complement fixation [1]	9.00	Test.
Enzyme linked immunosorbent assay	4.75	Test.
Hemagglutination inhibition [1]	7.50	Test.
Indirect fluorescent antibody [1]	9.75	Test.
Latex agglutination	5.00	Test.
Peroxidase linked antibody [1]	9.75	Test.
Plaque reduction neutralization	7.75	Test.
Rabies fluorescent antibody neutralization	26.50	Test.
Virus neutralization [1]	7.75	Test.

[1] A discount will apply to all diagnostic, non-import related complement fixation, hemagglutination inhibition, fluorescent antibody, indirect fluorescent antibody, virus neutralization, and peroxidase linked antibody tests. This discount only applies to the 11th and subsequent tests on the same submission by the same submitter for the same test and antigen. The user fee for each discounted test will be 20 percent of the original user fee rounded up to the nearest quarter. This discount will apply for tests for all diseases except equine piroplasmosis, bovine piroplasmosis, dourine, and glanders.

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

§ 130.17 User fees for other veterinary diagnostic laboratory tests performed at NVSL (excluding FADDL) or at authorized sites.

(a) User fees for veterinary diagnostics tests performed at the Pathobiology Laboratory at NVSL (excluding FADDL) or at authorized sites 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 of these user fees in accordance with §§ 130.50 and 130.51.

Test	User fee	Unit
Aflatoxin quantitation	$20.50	Test.
Aflatoxin screen	11.25	Test.
Agar gel immunodiffusion spp. identification	6.25	Test.
Antibiotic (bioautography) quantitation	25.00	Test.
Antibiotic (bioautography) screen	50.00	Test.
Antibiotic inhibition	25.25	Test.
Arsenic	6.75	Test.
Ergot alkaloid screen	25.25	Test.
Ergot alkaloid confirmation	33.00	Test.

Test	User fee	Unit
Feed microscopy	25.25	Test.
Fumonisin only	20.50	Test.
Gossypol	37.75	Test.
Mercury	56.00	Test.
Metals screen	29.75	Test.
Metals single element confirmation	6.75	Test.
Mycotoxin: aflatoxin-liver	82.25	Test.
Mycotoxin screen	34.00	Test.
Nitrate/nitrite	25.00	Test.
Organic compound confirmation	34.00	Test.
Organic compound screen	114.75	Test.
Parasitology	19.25	Test.
Pesticide quantitation	52.25	Test.
Pesticide screen	38.00	Test.
pH	10.00	Test.
Plate cylinder	37.75	Test.
Selenium	33.25	Test.
Silicate/carbonate disinfectant	25.00	Test.
Temperature disks	50.25	Test.
Toxicant quantitation, other	42.25	Test.
Toxicant screen, other	25.00	Test.
Vomitoxin only	20.75	Test.
Water activity	12.50	Test.
Zearaleone quantitation	20.50	Test.
Zearaleone screen	11.25	Test.

(b) [*Reserved*]

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

§ 130.18 User fees for veterinary diagnostic reagents produced at NVSL or other authorized site (excluding FADDL).

(a) *Bacteriology reagents.* User fees for bacteriology reagents produced by the Diagnostic Bacteriology Laboratory at NVSL (excluding FADDL) or other authorized site 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 of these user fees in accordance with §§ 130.50 and 130.51.

Reagent	User fee	Unit
Anaplasma card test antigen	$34.00	2 ml.
Anaplasma card test kit without antigen	105.50	Kit.
Anaplasma CF antigen	17.00	2 ml.
Anaplasma stabilate	67.25	4.5 ml.
Avian origin bacterial antiserums, mycoplasma	11.50	1 ml.
Avian origin bacterial antiserums, all other	17.75	1 ml.
Bacterial agglutinating antigens other than brucella and salmonella pullorum	30.50	5 ml.
Bacterial conjugates	36.00	1 ml.
Bacterial disease CF antigens, all other	8.50	1 ml.
Bacterial ELISA antigens	9.50	1 ml.
Bacterial or protozoal antiserums, all other	7.25	1 ml.
Bacterial reagent culture [1]	21.25	Culture.
Bacterial reference culture [2]	63.25	Culture.
Bacteriophage reference culture	63.25	Culture.
Bovine serum factor	1.25	2 ml.
Brucella abortus CF antigen	34.00	60 ml.
Brucella agglutination antigens, all other	34.00	60 ml.
Brucella buffered plate antigen	50.00	60 ml.
Brucella canis tube antigen	30.50	25 ml.
Brucella card test antigen (packaged)	19.50	Package.
Brucella card test kit without antigen	70.25	Kit.
Brucella cells	5.25	Gram.
Brucella cells, dried	2.00	Pellet.
Brucella ring test antigen	72.75	60 ml.
Brucella rivanol solution	8.75	60 ml.
Dourine CF antigen	17.50	1 ml.
Dourine stabilate	34.75	4.5 ml.
Equine and bovine origin hemoparasitic antiserums	21.25	1 ml.
Equine negative control CF antigen	171.25	1 ml.
Equine origin glanders antiserum	18.25	1 ml.
Flazo-orange	6.25	3 ml.
Glanders CF antigen	17.50	1 ml.
Hemoparasitic disease CF antigens, all other	158.25	1 ml.
Leptospira transport medium	3.25	10 ml.
Monoclonal antibody	37.50	1 ml.
Mycobacterium spp. old tuberculin	3.75	1 ml.

Reagent	User fee	Unit
Mycobacterium spp. PPD	3.25	1 ml.
Mycoplasma hemagglutination antigens	105.50	5 ml.
Negative control serums	4.00	1 ml.
Other spp. antiserum, any	32.75	1 ml.
Rabbit origin bacterial antiserum	14.25	1 ml.
Salmonella pullorum microagglutination antigen	6.25	5 ml.
Stabilates, all other	258.25	4.5 ml.

[1] A reagent culture is a bacterial culture that has been subcultured one or more times after being tested for purity and identity. It is intended for use as a reagent with a diagnostic test such as the leptospiral microagglutination test.
[2] A reference culture is a bacterial culture that has been thoroughly tested for purity and identity. It should be suitable as a master seed for future cultures.

(b) *Virology reagents.* User fees for virology reagents produced by the Diagnostic Virology Laboratory at NVSL (excluding FADDL) or at authorized sites 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 of these user fees in accordance with §§ 130.50 and 130.51.

Reagent	User fee	Unit
Antigen, except avian influenza and chlamydia psittaci antigens, any	$41.50	2 ml.
Avian antiserum except avian influenza antiserum, any	23.00	2 ml.
Avian influenza antigen, any	9.25	2 ml.
Avian influenza antiserum, any	53.75	6 ml.
Bovine or ovine serum, any	88.00	2 ml.
Cell Culture	20.00	Flask.
Chlamydia psittaci spp. of origin monoclonal antibody panel	47.25	Panel.
Conjugate, any	20.25	1 ml.
Diluted positive control serum, any	6.75	2 ml.
Equine antiserum, any	12.25	2 ml.
Hog Cholera tissue sets	81.50	Tissue set.
Monoclonal antibody	37.50	1 ml.
Other spp. antiserum, any	32.75	1 ml.
Porcine antiserum, any	60.50	2 ml.
Positive control tissues, all	4.25	2 cm^2 section.
Rabbit origin antiserum	14.25	1 ml.
Reference virus, any	63.50	0.6 ml.
Viruses (except reference viruses), chlamydia psittaci agent, or chlamydia psittaci antigen, any	5.50	0.6 ml.

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

10. A new § 130.19 is added to read as follows:

§ 130.19 User fees for other veterinary diagnostic services or materials provided at NVSL (excluding FADDL).

(a) User fees for other veterinary diagnostic services or materials available from NVSL (excluding FADDL) 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 of these user fees in accordance with §§ 130.50 and 130.51.

Service	User fee	Unit
Antimicrobial susceptibility test	$30.50	Isolate.
Avian safety test	2,701.75	Test.
Check tests, anaplasma complement fixation	132.00	Kit [1].
Check tests, culture	88.00	Kit [1].
Check tests, serology, all other	125.75	Kit [1].
Fetal bovine serum safety test	673.50	Verification.
Hourly user fee services: [2].		
Hour	56.00	Hour.
Quarter hour	14.00	Quarter Hour.
Minimum	16.50	
Manual, Brucellosis complement fixation	13.00	1 copy.
Manual, Brucellosis culture	52.75	1 copy.
Manual, Tuberculosis culture (English or Spanish)	79.25	1 copy.
Manual, Veterinary mycology	105.50	1 copy.
Manual, Anaplasmosis, Johne's disease, mycoplasma hyopneumonia, piroplasmosis, dourine, or glanders	21.25	1 copy.
Manuals or standard operating procedure (SOP), all other	13.25	1 copy.
Manuals or SOP, per page	2.00	1 page.
Training (school or technical assistance)	120.00	Per person per day.

[1] Any reagents required for the check test will be charged separately.

[2] For veterinary diagnostic services for which there is no flat rate user fee the hourly rate user fee will be calculated for the actual time required to provide the service.

(b) [*Reserved*]

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

11. Section 130.20 is amended by revising the introductory text in paragraphs (a) and (b)(1) to read as follows and by removing paragraph (d).

§ 130.20 User fees for endorsing export health certificates.

(a) User fees for the endorsement of export health certificates that do not require the verification of tests or vaccinations are listed in the following table. The user fees apply to each export health certificate [6] 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. 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.

* * * * *

(b)(1) User fees for the endorsement of export health certificates that require the verification of tests or vaccinations are listed in the following table. The user fees apply to each export health certificate [6] endorsed for animals and birds depending on the number of animals or birds covered by the certificate and the number of tests required. 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 the provisions in §§ 130.50 and 130.51.

* * * * *

12. Section 130.21 is amended by revising the section heading and the introductory text in paragraph (a) to read as follows, by removing and reserving paragraph (b), and by removing paragraph (c).

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

(a) User fees for inspection and supervision services listed in (a)(1) through (a)(7) of this paragraph will be calculated at $56.00 per hour, or $14.00 per quarter-hour, with a minimum fee of $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.

* * * * *

§ 130.49 [Amended]

13. In § 130.49, paragraph (a) introductory text is amended by removing the reference ''130.18'' and adding the reference ''130.19'' in its place.

14. Sections 130.50 and 130.51 are revised to read as follows:

§ 130.50 Payment of user fees.

(a) *Who must pay APHIS user fees?* Any person for whom a service is provided related to the importation, entry, or exportation of an animal, article, or means of conveyance or related to veterinary diagnostics, and any person requesting such service, shall be jointly and severally liable for payment of fees assessed.

(b) *Associated charges*—(1) *Reservation fee.* Any reservation fee paid by an importer under part 93 of this chapter will be applied to the APHIS user fees specified in §§ 130.2 and 130.3 for animals or birds quarantined in an animal import center.

(2) *Special handling expenses.* The user fees in this part do not include any costs that may be incurred due to special mail handling, including, but not limited to, express, overnight, or foreign mailing. If any service requires special mail handling, the user must pay all costs incurred, in addition to the user fee for the service.

(3) *When do I pay an additional amount for employee(s) working overtime?* You must pay an additional amount if you need an APHIS employee to work on a Sunday, on a holiday, or at any time outside the normal tour of duty of that employee. You pay the amount specified in paragraphs (b)(3) (i) or (ii), as relevant, for each employee needed to get the work done.

(i) *What additional amount do I pay if I receive a flat rate user fee service?* In addition to the flat rate user fee(s), you pay the overtime rate listed in the following table for each employee needed to get the work done:

OVERTIME [1] [2] FOR FLAT RATE USER FEES

	Outside the employee's normal tour of duty	
	Monday through Saturday and holidays	Sundays
Amount per hour if we must inspect, test, certify, or quarantine your animals, animal products, or other commodities (see § 97.1(a) for details)	$37.84	$47.96
Amount per hour if we must inspect your commercial aircraft (see § 97.1(a)(3) for details)	30.64	39.36

[1] Minimum charge of 2 hours, unless performed on the employee's regular work day and performed in direct continuation of the regular work day or begun within an hour of the regular work day.

[2] When the 2 hour minimum applies, you may need to pay commuted travel time. (See § 97.1(b) for specific information about commuted travel time.)

(ii) *What additional amount do I pay if I receive an hourly rate user fee service?* Instead of paying the hourly rate user fee, you pay the rate listed in the following table for each employee needed to get the work done:

[6] 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.

PREMIUM RATE USER FEE

	Outside the employee's normal tour of duty	
	Monday through Saturday and holidays	Sundays
Per hour	$65.00	$74.00
Per quarter-hour	16.25	18.50
Minimum	16.50	16.50

(c) *When are APHIS user fees due?*—(1) *Animal and bird quarantine and related tests.* User fees specified in §§ 130.2, 130.3, 130.5, 130.10, and tests specified in §§ 130.14 through 130.19 for animals and birds in an Animal Import Center or privately operated permanent or temporary import quarantine facilities, including user fees for tests conducted on these animals or birds, must be paid prior to the release of those animals or birds from quarantine.

(2) *Supervision and inspection services for export animals, animal products.* User fees for supervision and inspection services specified in § 130.21 must be paid when billed, or, if covered by a compliance agreement signed in accordance with this chapter, must be paid when specified in the agreement.

(3) *Export health certificates.* User fees for export health certificates specified in § 130.20 must be paid prior to receipt of endorsed certificates unless APHIS determines that the user has established an acceptable credit history, at which time payment may, at the option of the user, be made when billed.

(4) *Veterinary diagnostics.* User fees specified in §§ 130.14 through 130.19 for veterinary diagnostic services, such as tests on samples submitted to NVSL or FADDL, diagnostic reagents, slide sets, tissue sets, and other veterinary diagnostic services, must be paid when the veterinary diagnostic service is requested, unless APHIS determines that the user has established an acceptable credit history, at which time payment may, at the option of the user, be made when billed.

(5) *Other user fee services.* User fees specified in §§ 130.6, 130.7, 130.8, and 130.9 must be paid when service is provided (for example when live animals are inspected when presented for importation at a port of entry), unless APHIS determines that the user has established an acceptable credit history, at which time payment may, at the option of the user, be made when billed.

(d) *What payment methods are acceptable?* Payment must be for the exact amount due and may be paid by:

(1) Cash, will be accepted only during normal business hours if payment is made at an APHIS office [7] or an Animal Import Center;

(2) All types of checks, including traveler's checks, drawn on a U.S. bank in U.S. dollars and made payable to the U.S. Department of Agriculture or USDA;

(3) Money orders, drawn on a U.S. bank in U.S. dollars and made payable to the U.S. Department of Agriculture or USDA; or

(4) Credit cards (VISA™ and MasterCard™) if payment is made at an Animal Import Center or an APHIS office that is equipped to process credit cards.[7]

§ 130.51 Penalties for nonpayment or late payment.

(a) *Unpaid debt.* If any person for whom the service is provided fails to pay when due any debt to APHIS, including any user fee due under 7 CFR chapter III or chapter I of this title, then:

(1) *Subsequent user fee payments.* Payment must be made for subsequent user fees before the service is provided if:

(i) For unbilled fees, the user fee is unpaid 60 days after the date the pertinent regulatory provision indicates payment is due;

(ii) For billed fees, the user fee is unpaid 60 days after date of bill;

(iii) The person for whom the service is provided or the person requesting the service has not paid the late payment penalty or interest on any delinquent APHIS user fee; or

(iv) Payment has been dishonored.

(2) *Resolution of difference between estimate and actual.* APHIS will estimate the user fee to be paid; any difference between the estimate and the actual amount owed to APHIS will be resolved as soon as reasonably possible following the delivery of the service, with APHIS returning any excess to the payor or billing the payor for the additional amount due.

(3) *Prepayment form.* The prepayment must be in guaranteed form, such as money order, certified check, or cash. Prepayment in guaranteed form will continue until the debtor pays the delinquent debt.

(4) *Denied service.* Service will be denied until the debt is paid if:

(i) For unbilled fees, the user fee is unpaid 90 days after date the pertinent regulatory provision indicates payment is due;

(ii) For billed fees, the user fee is unpaid 90 days after date of bill;

(iii) The person for whom the service is provided or the person requesting the service has not paid the late payment penalty or interest on any delinquent APHIS user fee; or

(iv) Payment has been dishonored.

(b) *Unpaid debt during service.* If APHIS is in the process of providing a service for which an APHIS user fee is due, and the user has not paid the fee within the time required, or if the payment offered by the user is inadequate or unacceptable, then APHIS will take the following action:

(1) *Animals or birds in quarantine.* If an APHIS user fee specified in § 130.2 or § 130.3 is due for animals or birds in quarantine at an animal import center or at a privately operated import quarantine facility, APHIS will not release them.

(2) *Export health certificate.* If an APHIS user fee specified in § 130.20 is due for an export health certificate, APHIS will not release the certificate.

(3) *Veterinary diagnostics.* If an APHIS user fee specified in §§ 130.14 through 130.19 is due for a veterinary diagnostic test or service, APHIS will not release the test result, any endorsed certificate, or any other veterinary diagnostic service.

(c) *Late payment penalty.* If for unbilled user fees, the user fees are

[7] A list of APHIS offices and Animal Import Centers that accept cash or credit cards may be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import and Export, 4700 River Road Unit 38, Riverdale, MD 20738–1231.

unpaid 30 days after the date the pertinent regulatory provisions indicates payment is due, or if billed, are unpaid 30 days after the date of the bill, APHIS will impose a late payment penalty and interest charges in accordance with 31 U.S.C. 3717.

(d) *Dishonored payment penalties.* User fees paid with dishonored forms of payment, such as a check returned for insufficient funds, will be subject to interest and penalty charges in accordance with 30 U.S.C. 3717. Administrative charges will be assessed at $20.00 per dishonored payment to be paid in addition to the original amount owed. Payment must be in guaranteed form, such as cash, money order, or certified check.

(e) *Debt collection management.* In accordance with the Debt Collection Improvement Act of 1996, the following provisions apply:

(1) *Taxpayer identification number.* APHIS will collect a taxpayer identification number from all persons, other than Federal agencies, who are liable for a user fee.

(2) *Administrative offset.* APHIS will notify the Department of Treasury of debts that are over 180 days delinquent for the purposes of administrative offset. Under administrative offset, the Department of Treasury will withhold funds payable by the United States to a person (i.e., Federal income tax refunds) to satisfy the debt to APHIS.

(3) *Cross-servicing.* APHIS will transfer debts that are over 180 days delinquent to the Department of Treasury for cross-servicing. Under cross-servicing, the Department of Treasury will collect debts on behalf of APHIS. Exceptions will be made for debts that meet certain requirements, for example, debts that are already at a collection agency or in payment plan.

(4) *Report delinquent debt.* APHIS will report all unpaid debts to credit reporting bureaus.

(f) *Animals or birds abandoned after quarantine at an animal import center.* Animals or birds left in quarantine at an animal import center for more than 30 days after the end of the required quarantine period will be deemed to be abandoned.

(1) After APHIS releases the abandoned animals or birds from quarantine, APHIS may seize them and sell or otherwise dispose of them, as determined by the Administrator, provided that their sale is not contrary to any Federal law or regulation, and may recover all expenses of handling the animals or birds from the proceeds of their sale or disposition.

(2) If animals or birds abandoned in quarantine at an animal import center cannot be released from quarantine, APHIS may seize and dispose of them, as determined by the Administrator, and may recover all expenses of handling the animals or birds from the proceeds of their disposition and from persons liable for user fees under § 130.50(a).

Done in Washington, DC, this 30th day of September 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–26825 Filed 10–6–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–266–AD; Amendment 39–10818; AD 98–21–10]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42–200 and –300 series airplanes, that requires repetitive inspections for cracking of the lower skin panels of the outer wings; and repair, if necessary. This amendment also requires modification of the panels and a follow-on inspection to detect cracking of the modified areas, which constitute terminating action for the repetitive inspections. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent fatigue cracking of the lower skin panels of the outer wings, and consequent reduced structural integrity of the airplane.

DATES: Effective November 12, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 12, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–200 and –300 series airplanes was published in the **Federal Register** on February 10, 1998 (63 FR 6683). That action proposed to require repetitive inspections for cracking of the lower skin panels of the outer wings; repair, if necessary; modification of the panels; and a follow-on inspection to detect cracking of the modified areas, which would constitute terminating action for the repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed AD.

Request to Revise Applicability of the Proposal

One commenter, the manufacturer, requests that the applicability of the proposed AD be revised to exclude airplanes on which ATR Modification 2805 has been accomplished. The commenter states that this modification was developed to address cracking that was detected during full-scale fatigue testing and has been accomplished on certain airplanes during production. The commenter also points out that French airworthiness directive 93–190–051(B), which was referenced in the proposal as the parallel French airworthiness directive, excludes airplanes on which ATR Modification 2805 has been accomplished.

The FAA concurs with the commenter's request and has revised the applicability of the final rule to exclude airplanes on which ATR Modification 2805 has been accomplished.

Request To Revise Compliance Time

This same commenter expresses concern regarding the planned compliance time for the actions specified in the proposed AD. The commenter states that, for certain airplanes, the proposal allows a delay of