

**§ 400.94 Mediation.**

(a) Appellants have the right to seek mediation, instead of a administrative review under § 400.93, involving any adverse decision.

(b) All requests for mediation under this subpart must be made after issuance of the adverse decision and before the appellant has a hearing before a NAD hearing officer on the adverse decision.

(c) An appellant who chooses mediation must request mediation not later than 30 calendar days after the date written notice of the adverse decision is mailed or otherwise made known to the appellant.

(d) An appellant will have the balance of days remaining in the 30-day period to appeal to NAD if mediation is concluded without resolution unless a new adverse decision is issued as a result of mediation. Such new adverse decisions results in a new 30-day period for appeals to NAD.

(e) An appellant is responsible for contacting the Certified State Mediation Program in States where such mediation program exists. The State mediation program will make all arrangements for the mediation process.

(f) An appellant is responsible for making all necessary contacts to arrange for mediation in non-certified States or in certified States that are not currently offering mediation on specific Agency issues.

(g) An appellant needing mediation in States without a certified mediation program can request mediation by contacting the RSO, which will provide the participant with a list of acceptable mediators.

(h) An appellant may only mediate an adverse decision once.

(i) If the dispute is not resolved in mediation,

(1) The adverse decision that was the subject of the mediation remains in effect and becomes the adverse decision that is appealable to NAD or

(2) The adverse decision which may be modified as a result of the mediation process becomes the new adverse decision for appeals to NAD.

**§ 400.95 Time limitations for filing and responding to requests for administrative review.**

(a) A request for administrative review of a adverse decision must be filed within 30 days after the date written notice of the decision that is the subject of the request is mailed or otherwise made available to the appellant. A request for an administrative review will be considered to have been "filed" when personally delivered in writing to the appropriate decision maker or when the

properly addressed request, postage paid, is postmarked. An adverse decision will become non-reviewable by the Agency unless a request for administrative review is timely filed.

(b) A request for administrative review may be accepted and acted upon even though it is not filed within the time prescribed in § 400.95(a) if, in the judgment of the appropriate reviewing authority, the circumstances warrant such action.

**§ 400.96 Judicial Review.**

(a) A participant must exhaust administrative remedies before seeking judicial review of an adverse decision. This requires the participant to appeal an Agency adverse decision to NAD in accordance with 7 CFR part 11.

(b) If the adverse decision involves a matter determined by the Agency to be not appealable, the appellant must request a determination of non-appealability from the Director of NAD prior to seeking judicial review.

(c) A participant with a contract of insurance reinsured by the Agency may bring suit against the Agency in a Federal district court after exhaustion of administrative remedies as provided in paragraphs (a) and (b) of this section. Nothing in this section can be construed to create privity of contract between the Agency and a participant.

**§ 400.97 Reservations of authority.**

(a) Representatives of the Agency may correct all errors in entering data on program contracts and other program documents, and the results of computations or calculations made pursuant to the contract.

(b) Nothing contained in this subpart precludes the Secretary, the Manager of FCIC, or the Administrator of RMA, or a designee, from determining at any time any question arising under the programs within their respective authority or from reversing or modifying any adverse decision.

**PART 780—APPEAL REGULATIONS**

2. The authority citation for 7 CFR part 780 continues to read as follows:

**Authority:** 5 U.S.C. 301; 15 U.S.C. 714b and 714c; 16 U.S.C. 590h.

3. Amend § 780.1 to remove the definition of "Regional Service Office" and the terms "FCIC" and "the FCIC Regional Service Office" in the definitions of "agency" and "final decision."

4. In § 780.2:

a. Revise paragraphs (a)(1)(iii) and (iv) to read as set forth below:

b. Amend paragraph (a)(2) to remove the initials "FCIC" wherever they appear.

c. Remove paragraph (a)(3).

**§ 780.2 Applicability.**

(a) \* \* \*

(1) \* \* \*

(iii) Decisions made by personnel of FSA with respect to contracts of insurance insured by FCIC and the noninsured crop disaster assistance program;

(iv) Decisions made by personnel of FSA with respect to contracts of insurance provided by private insurance carriers and reinsured by FCIC under the provisions of the Federal Crop Insurance Act; and

\* \* \* \* \*

5. Amend § 780.7(b), (c) and (e), to remove the phrase "or the Regional Service Office" wherever it may appear.

6. Amend § 780.11 to remove the words "FCIC" and "the Manager of FCIC" wherever they may appear.

Signed in Washington, D.C., September 11, 1999.

**Kenneth D. Ackerman,**

*Manager, Federal Crop Insurance Corporation.*

**Keith Kelly,**

*Administrator, Farm Service Agency.*

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**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****9 CFR Part 130**

[Docket No. 97-058-1]

RIN 0579-AA87

**Import/Export User Fees**

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

**ACTION:** Proposed rule.

**SUMMARY:** We propose to change our user fees for import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors. We propose increases for fiscal years 2000 through 2004 for standard annual increases in expenses. We have determined that the fees must be adjusted annually to reflect the anticipated cost of providing these services each year. By publishing the annual user fee changes in advance, users can incorporate the fees into their budget planning. The user fees pay for the actual cost of providing these services. We also propose to make some editorial changes to make the regulations easier to read and eliminate duplication.

**DATES:** We invite you to comment on this docket. We will consider all comments that we receive by November 29, 1999.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 97-058-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 97-058-1.

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 rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** For information concerning services provided for animals, animal products, birds, germ plasm, organisms, and vectors, contact Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-8364; or e-mail: Gary.S.Colgrove@usda.gov.

For information concerning program operations, contact Ms. Louise Lothery, Director, Management Support Staff, VS, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737-1231; (301) 734-7517; or e-mail: Louise.R.Lothery@usda.gov.

For information concerning user fees or rate development, contact Ms. Donna Ford, Section Head, Financial Systems and Services Branch, BASE, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737-1232; (301) 734-8351; or e-mail: Donna.J.Ford@usda.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The regulations in 9 CFR part 130 (referred to below as the "regulations") list user fees for import- and export-related services provided by the Animal and Plant Health Inspection Service (APHIS) for animals, animal products, birds, germ plasm, organisms, and vectors. We propose to amend the user fees for these import- and export-related services to reflect the increased cost of

service and to include additional cost components.

These user fees are authorized by section 2509(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136a). APHIS is authorized to establish and collect fees that will cover the cost of providing import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors.

Since fiscal year (FY) 1992, APHIS has received no directly appropriated funds to provide import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors. Our ability to provide these services depends on user fees. We change our user fees through the standard rulemaking process of publishing the proposed changes for public comment in the **Federal Register**, considering the comments, publishing the final changes in the **Federal Register**, and making the new user fees effective 30 days after the final rule is published. This rulemaking process can be lengthy. As a result, our user fees may not reflect our current cost of providing services. Since implementing these user fees in 1992, we have only adjusted them four times. While a few user fees were adjusted as recently as 1998, most of the user fees have not been adjusted since 1996.

For our user fees to cover our costs so that we can continue to provide services and to inform our customers of user fees in time for advance planning, we propose to set user fees for our services in advance for fiscal years 2000 through 2004. The proposed user fees are based on our costs of providing import- and export-related services in FY 1999, plus anticipated annual increases in the salaries of employees who provide the services, plus adjustments for inflation. We used estimated pay increases of 4.4 percent for FY 2000 and 3.9 percent for FY 2001 through FY 2004 published by the U.S. Treasury Department to calculate increases in the direct labor costs each year. We estimated inflation at 2.3 percent a year based on the Consumer Price Index (CPI). The estimated CPI is published in the Economic Assumptions table of the Budget for the U.S. Government each year.

We propose to list the user fees for fiscal years 2000 through 2004 in the regulations. We also plan to publish a notice in the **Federal Register** prior to the beginning of each fiscal year to remind or notify the public of the user fees for that particular fiscal year. We would continue to charge the user fees proposed for fiscal year 2004 until new

user fees are in effect. Therefore, the user fee tables in this document do not specify an end date for user fees that would become effective on October 1, 2003 (the beginning of fiscal year 2004).

##### **User Fee Components**

We calculated our user fees to cover the full cost of providing the services for which we charge the fee. The cost of providing a service includes direct labor and direct material costs. It also includes administrative support, agency overhead, and departmental charges.

Direct labor costs are the costs of employee time spent specifically to provide the service. For example, at APHIS's Animal Import Centers, animal caretakers and veterinarians prepare for the arrival of animals or birds to be quarantined in the Center, care for them (feed, water, clean cages or stalls) while they are quarantined, observe them while they are quarantined, release them from quarantine, and clean the quarantine area afterwards. If the service is inspecting an animal, the direct labor costs include the time spent by the inspector to conduct the inspection. Direct labor costs vary with the type of service provided.

Direct material costs include the cost of any materials needed to supply the service. For example, among other things, animals in quarantine need feed, water, bedding, disinfectants, and medicine. Direct material costs are different for different services.

Administrative support costs include local clerical and administrative activities; indirect labor hours; travel and transportation for personnel; supplies, equipment, and other necessary items; training; general office supplies; rent; equipment capitalization; billings and collections expenses; utilities; chemicals and glassware; and contractual services. Indirect labor hours include supervision of personnel and time spent doing work that is not directly connected with the service but which is nonetheless necessary, such as repairing equipment. Rent is the cost of using the space we need to perform import- or export-related work. If space is used for import- or export-related work and other Agency work, only that portion of the costs associated with the import- or export-related work is included in the user fees. Equipment capitalization is the cost per year to replace equipment. We determine this by establishing the life expectancy, in years, of equipment we use to provide a service and by establishing the cost to replace the equipment at the end of its useful life. We subtract any money we anticipate receiving for selling used equipment. Then we divide the

resulting amount by the life expectancy of the equipment. The result is the annual cost to replace equipment. Billing costs are the costs of managing user fee accounts for our customers who wish to receive monthly invoices for the services they receive from APHIS. Collections expenses include the costs of managing customer payments and accurately reflecting those payments in our accounting system. Utilities include water, telephone, electricity, gas, heating and oil. Contractual services include security service, maintenance, trash pickup, etc. The type, amount, and cost of administrative support vary with the type of service provided.

Agency overhead is the pro-rata share, attributable to a particular service, of the agency's management and support costs. Management and support costs include the costs of providing budget and accounting services, regulatory services, investigative and enforcement services, debt-management services, personnel services, public information services, legal services, liaison with Congress, and other general program and agency management services provided above the local level.

Departmental charges are APHIS's share, expressed as a percentage of the total cost, of services provided centrally by the Department of Agriculture (Department). Services the Department provides centrally include the Federal Telephone Service; mail; National Finance Center processing of payroll, and other money management; unemployment compensation; Office of Workers Compensation Programs; and central supply for storing and issuing commonly used supplies and Department forms. The Department notifies APHIS how much the agency owes for these services. We have included a pro-rata share of these departmental charges, as attributable to a particular service, in our fee calculations.

We have added an amount that would provide for a reasonable balance, or reserve, in the Veterinary Services user fee account. We have determined that a

reasonable reserve would be approximately 25 percent of the annual cost of the Import/Export Program. All user fees will contribute to the reserve proportionately. The reserve would ensure that we have sufficient operating funds in cases of bad debt, customer insolvency, and fluctuations in activity volumes. We intend to monitor the balance closely and propose adjustments in our fees as necessary to ensure a reasonable balance.

An outline of the basic process is shown below. The actual components, quantities, and costs used to calculate the fee are different for each service. The basic steps in the calculation, for each particular service, are:

1. Determine the following costs:  
direct labor;  
direct material;  
pro-rata share of administrative support;  
pro-rata share of agency overhead;  
pro-rata share of Departmental charges; and  
pro-rata share of reserve;
2. Add all costs; and
3. Round up to the next \$0.25 for all fees less than \$10 or round up or down to the nearest \$1 for all fees greater than \$10.

The result of these calculations is the total cost to provide a particular service one time.

As is the case with all APHIS user fees, we intend to review, at least annually, activities, programs, and fee assumptions for the user fees proposed in this document. We will publish any necessary adjustments in the **Federal Register**.

#### **Hourly Rate User Fees and Minimum Fees for Import and Export Veterinary Services**

Several sections of the regulations contain hourly and premium hourly rates for import- and export-related service we provide. Section 130.5 of the regulations lists the hourly and premium hourly rate user fees that we provide for animals quarantined in privately owned quarantine facilities. Section 130.9 of the regulations lists the

hourly and premium hourly rate fees for miscellaneous import or entry services. Section 130.21 of the regulations lists the hourly and premium hourly rate user fees charged for inspection and supervision services we provide within the United States for the export of animals, birds, and animal products. Sections 130.3 and 130.10 also, contain hourly rate user fees for services we provide in connection with animals quarantined at APHIS Animal Import Centers and pet birds quarantined at APHIS-owned or supervised quarantine facilities, respectively.

In each case, the same hourly and premium hourly rate user fee applies. Therefore, we propose to consolidate all the hourly and premium hourly rate user fees for import and export services into one new section § 130.30. We believe this reorganization would make the hourly and premium hourly rates easier for our customers to locate and eliminate duplication.

Sections 130.3, 130.5, 130.6, 130.7, 130.9, 130.10, and 130.21 all list a minimum user fee. This minimum fee ensures our basic costs are always covered. In §§ 130.3, 130.5, 130.9, 130.10, and 130.21, the minimum user fee applies to the hourly and premium hourly rate user fee. In §§ 130.6 and 130.7, the minimum user fee covers the cost of handling unusually small importations at ports of entry. In each case, the same minimum user fee applies. Therefore, we propose to list the minimum user fee in newly proposed § 130.30 and eliminate duplication.

The table below shows the proposed hourly rate, premium hourly rate, and minimum user fees for fiscal years 2000–2004. As explained above, the proposed user fees are based on FY 1999 costs and include direct labor costs adjusted by 4.4 percent for FY 2000 and 3.9 percent for FY 2001 through 2004 to cover increases in employee pay, and adjustments for inflation at 2.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary based on rounding.

#### **HOURLY USER FEES (PROPOSED § 130.30)**

	Current user fee	Hourly user fee				
		Oct. 1, 1999–Sept. 30, 2000	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
Hourly rate:						
Per hour .....	\$56.00	\$76.00	\$76.00	\$80.00	\$84.00	\$84.00
Per quarter hour .....	14.00	19.00	19.00	20.00	21.00	21.00
Per service minimum fee .....	16.50	22.00	23.00	24.00	24.00	25.00

#### **Overtime rates (Outside the employee's normal tour of duty)**

Premium hourly rate Monday through Saturday and holidays:						
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	Current user fee	Hourly user fee				
		Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Per hour .....	65.00	88.00	88.00	92.00	96.00	100.00
Per quarter hour .....	16.25	22.00	22.00	23.00	24.00	25.00
Premium hourly rate for Sundays:						
Per hour .....	74.00	100.00	104.00	104.00	108.00	112.00
Per quarter hour .....	18.50	25.00	26.00	26.00	27.00	28.00

### User Fees for Animals in APHIS Animal Import Centers (9 CFR 130.2)

Section 130.2 lists user fees charged for services we provide for animals quarantined in APHIS Animal Import Centers.

We charge a daily user fee for each animal quarantined in an Animal Importer Center. Different user fees reflect the varying costs of quarantining

different animals. The user fee for each category of animal includes water, standard feed, housing, care, and handling. A separate user fee applies for birds or poultry that require nonstandard feed, housing, care, or handling.

The tables below list the proposed user fees for animal and bird quarantine services for fiscal year 2000 through

2004. As explained above, the proposed user fees are based on FY 1999 costs and include direct labor costs adjusted by 4.4 percent for FY 2000 and 3.9 percent for FY 2001 through 2004 to cover increases in employee pay, and adjustments for inflation at 2.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary based on rounding.

### USER FEES FOR INDIVIDUAL ANIMALS AND CERTAIN BIRDS QUARANTINED IN APHIS ANIMAL IMPORT CENTERS (§ 130.2(a))

Animal or bird	Current user fee	Daily user fee				
		Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Birds (excluding ratites and pet birds imported in accordance with Part 93 of this subchapter):						
0–250 grams .....	\$1.00	\$1.50	\$1.50	\$1.50	\$1.50	\$1.75
251–1,000 grams .....	3.25	5.00	5.25	5.25	5.50	5.75
Over 1,000 grams .....	7.50	12.00	12.00	13.00	13.00	13.00
Domestic or zoo animals (excluding equines, birds, and poultry):						
Bison, bulls, camels, cattle, or zoo animals .....	56.50	93.00	95.00	97.00	100.00	102.00
All other, including, but not limited to alpacas, llamas, goats, sheep, and swine .....	15.00	24.00	25.00	26.00	26.00	27.00
Equines (including zoo equines, but excluding miniature horses):						
1st through 3rd day (fee per day) ....	149.50	245.00	251.00	257.00	264.00	270.00
4th through 7th day (fee per day) ....	108.25	177.00	182.00	186.00	191.00	195.00
8th and subsequent days (fee per day) .....	91.75	150.00	154.00	158.00	162.00	166.00
Miniature horses .....	40.25	56.00	57.00	58.00	60.00	61.00
Poultry (including zoo poultry):						
Doves, Pigeons, and quail .....	2.00	3.00	3.25	3.25	3.25	3.50
Chickens, ducks, grouse, guinea fowl, partridges, pea fowl, and pheasants .....	3.50	5.75	6.00	6.00	6.26	6.25
Large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys .....	8.25	13.00	14.00	14.00	14.00	15.00
Ratites:						
Chicks (less than 3 months old) .....	5.75	8.50	8.75	9.00	9.00	9.25
Juveniles (3 months through 10 months old) .....	8.00	13.00	13.00	13.00	14.00	14.00
Adults (11 months old and older) .....	16.25	24.00	25.00	26.00	26.00	27.00

**USER FEES FOR BIRDS OR POULTRY QUARANTINED IN APHIS ANIMAL IMPORT CENTERS AND HOUSED IN NONSTANDARD HOUSING OR RECEIVING NONSTANDARD CARE AND HANDLING (§ 130.2(b))**

Bird or poultry (nonstandard housing, care, or handling)	Current user fee	Daily user fee				
		Oct. 1, 1999–Sept. 30, 2000	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
Birds 0–250 grams and doves, pigeons, and quail .....	\$3.25	\$5.00	\$5.25	\$5.25	\$5.50	\$5.75
Birds 251–1,000 grams and poultry such as chickens, ducks, grouse, guinea fowl, partridge, pea fowl, and pheasants .....	7.50	12.00	12.00	13.00	13.00	13.00
Birds over 1,000 grams and large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys .....	14.00	23.00	24.00	24.00	25.00	25.00

**User Fees for Exclusive Use of Space at APHIS Animal Import Centers (§ 130.3)**

Section 130.3 lists user fees charged with an importer uses an entire quarantine building at an Animal Import Center. If the space is available and the importer has enough animals to fill one of the full building spaces, then a single user fee applies. Depending upon the number and type of animals in the importation, the single user fee for the entire building may be less than the total user fee that would have been charged per animal under § 130.2

Section 130.3 of the regulations lists the location of the spaces, the square footage of those spaces, and the user fees for exclusive use of those spaces. The fees in § 130.3 cover all costs of the quarantine except feed. The importer either provides the fee or pays for it on an actual cost basis, including the cost of delivery.

The table in § 130.3 currently lists the user fees for the exclusive use of the Miami, FL, and Newburgh, NY, Animal Import Centers. The Miami Animal Import Center is not being used as an exclusive use quarantine facility. We do not anticipate any requests for the exclusive use of space at the Miami Animal Import Center. Therefore, we propose to remove user fees for the exclusive use of the Miami Animal Import Center from the listing in § 130.3. The spaces at Newburgh, NY, would continue to be available for exclusive use.

The importer determines the species, sizes, and ages of the animals or birds in the importation, calls for a reservation, and requests the use of an entire building. At that time we determine, and inform the importer of, the maximum number of animals and birds we would permit. We limit the number of animals or birds to the

maximum number which can be cared for without jeopardizing their health. In determining the maximum number, the veterinarian in charge of the Animal Import Center considers the species, size and age of the animals, animal husbandry needs, sanitation, ability to conduct tests, inspections, and support procedures.

The table below lists the proposed user fees for the exclusive use of space at APHIS Animal Import Centers for fiscal years 2000–2004. As explained above, the proposed user fees are based on FY 1999 costs and include direct labor cost adjusted by 4.4 percent for FY 2000 and 3.9 percent for FY 2001 through 2004 to cover increases in employee pay, and adjustments for inflation at 2.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary based on rounding.

**USER FEES FOR EXCLUSIVE USE OF SPACE FOR ANIMALS QUARANTINED IN APHIS ANIMAL IMPORT CENTERS (§ 130.3)**

Animal import center	Current user fee	Monthly user fee				
		Oct. 1, 1999–Sept. 30, 2000	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
Newburgh, NY:						
Space A 5,396 sq. ft. (503.1 sq. m.) .....	\$43,102	\$53,037	\$54,523	\$56,054	\$57,630	\$59,254
Space B 8,903 sq. ft. (827.1 sq. m.) .....	71,118	87,508	89,959	92,484	95,085	97,764
Space C 905 sq. ft. (84.1 sq. m.) .....	7,229	8,895	9,144	9,401	9,666	9,938

**User Fees for Inspection of Animals at Ports of Entry**

Sections 130.6 and 130.7 list user fees we charge for inspecting animals imported into the United States. We inspect the animals to minimize the risk

that they could introduce a foreign animal disease into the United States. We provide inspection services at U.S. border ports, airports, and ocean ports.

We charge the user fee per animal or per load, depending on whether the

animals are handled individually or as a group. The user fees vary with the location and type of animal. Different types of animals require different amounts and types of services. User fees for services at the United States-Mexico

border are listed in § 130.6. User fees for services at other ports of entry are listed in § 130.7.

The tables below list the proposed user fees for inspection of animals at ports of entry for fiscal years 2000–2004.

As explained above, the proposed user fees are based on FY 1999 costs and include direct labor costs adjusted by 4.4 percent for FY 2000 and 3.9 percent for FY 2001 through 2004 to cover

increases in employee pay, and adjustments for inflation at 2.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary based on rounding.

#### USER FEES FOR INSPECTION OF ANIMALS AT LAND BORDER PORTS ALONG THE UNITED STATES-MEXICO BORDER (§ 130.6(a))

Type of live animal	Current user fee	Per head user fee				
		Oct. 1, 1999–Sept. 30, 2000	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning October 1, 2003
Any ruminants not listed below .....	\$6.00	\$8.00	\$8.25	\$8.50	\$8.75	\$9.00
Feeder .....	1.75	2.25	2.25	2.25	2.50	2.50
Horses, other than slaughter .....	29.25	39.00	41.00	42.00	43.00	44.00
In-bond or in-transit .....	3.75	5.25	5.25	5.50	5.50	5.75
Slaughter .....	2.50	3.50	3.50	3.50	3.75	3.75

#### USER FEES FOR INSPECTION OF ANIMALS AT LAND BORDER PORTS AT ALL OTHER PORTS OF ENTRY (§ 130.7(a))

Type of live animal	Unit	Current user fee	User fee				
			Oct. 1, 1999–Sept. 30, 2000	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
Animals being imported into the United States							
Breeding animals (grade animals, except horses):							
Sheep and goats .....	per head .....	\$0.50	\$0.50	\$0.50	\$0.50	\$0.50	\$0.50
Swine .....	per head .....	0.50	0.75	0.75	0.75	0.75	0.75
All others .....	per head .....	2.25	3.00	3.00	3.25	3.25	3.25
Feeder animals:							
Cattle (not including calves) .....	per head .....	\$1.00	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50
Sheep and calves .....	per head .....	0.25	0.50	0.50	0.50	0.50	0.50
Swine .....	per head .....	0.25	0.25	0.25	0.25	0.25	0.25
Horses, other than slaughter and in-transit.	per head .....	19.00	25.00	26.00	27.00	28.00	29.00
Poultry (including eggs), imported for any purpose.	per load .....	33.00	44.00	46.00	47.00	48.00	50.00
Registered animals, all types .....	per head .....	4.00	5.25	5.50	5.50	5.75	6.00
Slaughter animals, all types .....	per load .....	16.50	22.00	23.00	24.00	24.00	25.00
Animals transiting <sup>1</sup> the United States							
Cattle .....	per head .....	1.00	1.25	1.25	1.50	1.50	1.50
Horses and all other animals .....	per head .....	4.50	6.00	6.25	6.50	6.75	6.75
Sheep and goats .....	per head .....	0.25	0.25	0.25	0.25	0.25	0.25
Swine .....	per head .....	0.25	0.25	0.25	0.25	0.25	0.25

<sup>1</sup> The user fee in this section will be charged for in-transit authorizations at the port where the authorization services are performed. For additional services provided by APHIS, at any port, the hourly user fee rate in § 130.30 will apply.

#### User Fees for Other Services (§ 130.8)

Section 130.8 lists the user fees we charge for a variety of other services we provide related to the importation into or exportation from the United States of

animals, animals products, birds, germ plasm, organisms, and vectors.

The table below lists the proposed user fees for these services for fiscal years 2000–2004. As explained above, the proposed user fees are based on FY 1999 costs and include direct labor costs

adjusted by 4.4 percent for FY 2000 and 3.9 percent for FY 2001 through 2004 to cover increases in employee pay, and adjustments for inflation at 2.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary based on rounding.

#### USER FEES FOR OTHER SERVICES (§ 130.8(a))

Service	Unit	Current user fee	User fee				
			Oct. 1, 1999–Sept. 30, 2000	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
Embryo collection center inspection and approval (all inspections required during the year for facility approval).	per year .....	\$278.50	\$337.00	\$347.00	\$358.00	\$369.00	\$380.00
Germ plasm being exported: <sup>1</sup>							

## USER FEES FOR OTHER SERVICES (§ 130.8(a))—Continued

Service	Unit	Current user fee	User fee				
			Oct. 1, 1999–Sept. 30, 2000	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
Embryo:							
Up to 5 donor pairs .....	per certificate .....	54.75	74.00	76.00	79.00	81.00	83.00
Each additional group of donor pairs, up to 5 pairs per group, on the same certificate.	per group of donor pairs	24.75	33.00	34.00	35.00	36.00	37.00
Semen .....	per certificate .....	33.50	45.00	46.00	48.00	49.00	51.00
Germ plasma being imported: <sup>2</sup>							
Embryo .....	per load .....	39.50	54.00	55.00	57.00	58.00	60.00
Semen .....	per load .....	39.50	54.00	55.00	57.00	58.00	60.00
Import compliance assistance:							
Simple (2 hours or less) .....	per release .....	51.25	62.00	64.00	66.00	68.00	70.00
Complicated (more than 2 hours) .....	per release .....	131.75	159.00	164.00	169.00	174.00	180.00
Inspection for approval of slaughter establishment:							
Initial approval (all inspections) .....	per year .....	246.50	332.00	342.00	352.00	362.00	373.00
Renewal (all inspections) .....	per year .....	213.50	288.00	296.00	305.00	314.00	323.00
Inspection of approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96:							
Approval (compliance agreement) (all inspections for first year of 3-year approval).	per year .....	262.75	354.00	365.00	375.00	386.00	398.00
Renewed approval (all inspections for second and third years of 3-year approval).	per year .....	152.00	205.00	211.00	217.00	223.00	230.00
Pet birds (except pet birds of U.S. origin entering the United States from Canada):							
Which have been out of the United States more than 60 days.	per lot .....	169.75	229.00	236.00	243.00	250.00	257.00
Which have been out of the United States 60 days or less.	per lot .....	71.25	96.00	99.00	102.00	105.00	108.00
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.	per application .....	208.50	275.00	283.00	292.00	300.00	309.00
For all other permits .....	per application .....	27.50	35.00	36.00	37.00	38.00	39.00
Amended application .....	per amended application	11.50	14.00	15.00	15.00	16.00	16.00
Application renewal .....	per application .....	15.00	19.00	19.00	20.00	21.00	21.00
Release from export agricultural hold:							
Simple (2 hours or less) .....	per release .....	51.25	62.00	64.00	66.00	68.00	70.00
Complicated (more than 2 hours) .....	per release .....	131.75	159.00	164.00	169.00	174.00	180.00

<sup>1</sup> 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 hourly user fee in § 130.30 will apply.<sup>2</sup>

<sup>2</sup> For inspection of empty containers being imported into the United States, the hourly user fee in § 130.30 will apply, unless a user fee has been assessed under 7 CFR part 354.3.

**User Fees for Pet Birds (§ 130.10)**

Section 130.10 lists user fees charged for services we provide for pet birds that must be quarantined in an APHIS owned or supervised quarantine facility.

In accordance with 9 CFR part 93, pet birds are normally quarantined for 30 days. We charge a daily user fee. The user fee applies per isolette and varies based on the number of pet birds in the isolette. That is, all the birds

quarantined in one isolette are covered by one fee, which is assessed daily for the duration of the quarantine.

This user fee recovers all costs of feeding, housing, handling, and caring for the birds. The user fee does not recover the costs of testing the birds, for which separate user fees apply.

The table below lists the proposed user fees for pet birds quarantined in APHIS owned or supervised quarantine

facilities for fiscal years 2000–2004. As explained above, the proposed user fees are based on FY 1999 costs and include direct labor costs adjusted by 4.4 percent for FY 2000 and 3.9 percent for FY 2001 through 2004 to cover increases in employee pay, and adjustments for inflation at 2.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary based on rounding.

## USER FEES FOR PET BIRDS QUARANTINED IN APHIS OWNED OR SUPERVISED QUARANTINE FACILITIES (§ 130.10)

Number of birds in isolette	Daily user fee					
	Current user fee	Oct. 1, 1999–Sept. 30, 2000	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
1 .....	\$6.50	\$8.25	\$8.50	\$8.75	\$9.00	\$9.25
2 .....	7.75	10.00	10.00	11.00	11.00	11.00
3 .....	9.28	12.00	12.00	13.00	13.00	13.00
4 .....	10.75	14.00	14.00	15.00	15.00	15.00
5 or more .....	12.00	16.00	16.00	17.00	17.00	18.00

**User Fees for Endorsing Export Certificates (§ 130.20)**

Section 130.20 lists user fees we charge for endorsing certificates for animals or animal products exported from the United States. The importing countries often require these certificates to show that an animal has tested

negative to specific animal diseases or that an animal or animal product has not been exposed to specific animal diseases.

These user fees are intended to cover all of the costs associated with endorsing the certificates. The steps associated with endorsing an export

certificate may include reviewing supporting documentation; confirming that the importing country's requirements have been met; verifying laboratory test results for each animal if tests are required; reviewing any certification statements required by the importing country; and endorsing, or

signing, the certificates. Because importing countries often require these certificates for animals, animal products, and other products, we are proposing to change the references in the regulations from "export health certificates" to "export certificates."

The tables below list the proposed user fees for endorsing these certificates for fiscal years 2000–2004. As explained above, the proposed user fees are based on FY 1999 costs and include direct labor costs adjusted by 4.4 percent for FY 2000 and 3.9 percent for FY 2001

through 2004 to cover increases in employee pay, and adjustments for inflation at 2.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary based on rounding.

#### USER FEES FOR ENDORSING EXPORT CERTIFICATES (§ 130.20(a))

Certificate categories	Current user fee	User fee				
		Oct. 1, 1999–Sept. 30, 2000	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
Animal products .....	\$21.50	\$29.00	\$30.00	\$30.00	\$31.00	\$32.00
Hatching eggs .....	21.00	27.00	28.00	28.00	29.00	30.00
Nonslaughter horses to Canada .....	26.25	34.00	35.00	36.00	37.00	38.00
Poultry (including slaughter poultry) .....	21.00	27.00	28.00	28.00	29.00	30.00
Slaughter animals, of any type, moving to Canada or Mexico .....	24.50	31.00	32.00	33.00	34.00	35.00
Other endorsements or certifications .....	16.50	21.00	22.00	22.00	23.00	24.00

#### USER FEES FOR ENDORSING EXPORT CERTIFICATES WHEN THE IMPORTING COUNTRY REQUIRES TESTS (§ 130.20(b)(1))

Number of tests or vaccinations and Number of animals or birds on the certificate	Current user fee	User fee				
		Oct. 1, 1999–Sept. 30, 2000	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
1–2 tests or vaccinations:						
First animal .....	\$52.50	\$68.00	\$70.00	\$72.00	\$74.00	\$76.00
Each additional animal .....	3.00	4.00	4.00	4.00	4.25	4.25
3–6 tests or vaccinations:						
First animal .....	64.75	84.00	86.00	88.00	91.00	94.00
Each additional animal .....	5.00	6.50	6.75	7.00	7.00	7.25
7 or more tests or vaccinations:						
First animal .....	75.75	98.00	100.00	103.00	106.00	109.00
Each additional animal .....	6.00	7.75	8.00	8.25	8.25	8.50

#### Executive Order 12866 and Regulatory Flexibility Act

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

Below is a summary of the economic analysis for the changes in APHIS user fees proposed in this document. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866 and an analysis of the potential economic effects on small entities as required by the Regulatory Flexibility Act. A copy of the full economic analysis, which includes comparisons of 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.

We do not have enough data for a comprehensive analysis of the economic effects of this proposed rule on small entities. Therefore, in accordance with 5 U.S.C. 603, we have performed an Initial

Regulatory Flexibility Analysis for this proposed rule. We are inviting comments about this proposed rule as it relates to small entities. In particular, we are interested in determining the number and kind of small entities who may incur benefits or costs from implementation of this proposed rule and the economic impact of those benefits or costs.

These user fees are authorized by section 2509(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136a). APHIS is authorized to establish and collect fees that will cover the cost of providing import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors.

Since FY 1992, APHIS has received no directly appropriated funds to provide import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors. Our ability to provide these services depends on user fees. We change our user fees through the standard rulemaking process of publishing the proposed changes for

public comment in the **Federal Register**, considering the comments, publishing the final changes in the **Federal Register**, and making the new user fees effective 30 days after the final rule is published. This rulemaking process can be lengthy. As a result, our user fees may not reflect our current cost of providing services.

For our user fees to cover our costs so that we can continue to provide services and to inform our customers of user fees in time for advance planning, we propose to set user fees for our services in advance for fiscal years 2000 through 2004. The proposed user fees are based on our costs of providing import- and export-related services in FY 1999, plus anticipated annual increases in the salaries of employees who provide the services, plus adjustments for inflation. We used estimated pay increases of 4.4 percent for FY 2000 and 3.9 percent for FY 2001 through FY 2004 published by the U.S. Treasury Department to calculate increases in the direct labor costs each year. We estimated inflation at 2.3 percent a year based on the Consumer Price Index (CPI). The estimated CPI is published in the



Economic Assumptions table of the Budget for the U.S. Government each year.

Since the rulemaking process can be lengthy, it is difficult to estimate when proposed user fee changes may become effective. For analysis purposes, we based projected collections on

calculations using an estimated effective date of April 1, 2000 for the proposed FY 2000 user fees. Our goal is to implement the proposed user fees in a timely fashion. In the final rule, we will show revised projections of user fee collections based on the effective date of the proposed user fees.

The following summary table shows annual expenses for providing import- and export-related services, current collections, increases in collections from the proposed user fee changes, and projected reserve amounts.

Calendar dates	Estimated current annual <sup>1</sup>	FY 2000 <sup>2</sup>	FY 2001	FY 2002	FY 2003	FY 2004	Total FY 2000 FY 2004
Operating reserve, start of year .....	\$382,142	\$382,142	\$0	\$1,083,957	\$2,040,005	3,072,364	.....
Annual income:							
Current collections <sup>3</sup> .....	11,940,080	11,940,080	11,940,080	11,940,080	11,940,080	11,940,080	71,640,480
Proposed collections .....	0	2,303,817	5,005,404	5,391,637	5,999,739	6,451,365	25,151,962
Total income .....	11,940,080	14,243,897	16,945,484	17,331,717	17,939,819	18,391,445	96,792,442
Annual expenses <sup>4</sup> .....	11,940,080	14,626,039	15,861,527	16,375,669	16,907,460	17,457,533	93,168,308
Income, less expenses .....	0	(382,142)	1,083,957	956,048	1,032,359	933,912	
Operating reserve, end of year .....	382,142	0	1,083,957	2,040,005	3,072,364	4,006,276	
Months (no.) .....	0.00	0.00	0.82	1.49	2.18	2.75	

<sup>1</sup> Current annual estimates are based on FY 1998.

<sup>2</sup> FY 2000 estimates are based on an estimated implementation date for the proposed user fees of April 1, 2000. When the estimated implementation date changes, we will recalculate the projections using that date.

<sup>3</sup> Projections for FY 2000–2004 are based on FY 1998 volumes. When FY 1999 volumes are available, we will recalculate the projections using FY 1999 volumes. Increases in volumes in the outyears would increase income and expenses proportionately.

<sup>4</sup> The annual expenses shown in the table in the estimated current annual column and in the FY 2000 column reflect expenses constrained by income from user fee collections. Our user fees are not high enough to provide the level of service delivery requested for import- and export-related activities. Our current user fees are approximately \$2.5 million below the performance level of services requested. Even with the proposed user fee increases, using an estimated effective date of April 1, 2000 for the proposed FY 2000 user fees, we anticipate that in FY 2000 our user fee collections would be over \$1 million below the level of anticipated service requests. To constrain expenses down to equal income, we would be required to restrict services until user fee increases can be implemented. Adoption of the proposed user fees would allow us to meet customer demand and build an adequate reserve. Therefore, once implemented, service restrictions would no longer be required.

### Effects on Small Entities

Proposed user fee changes could affect some importers and exporters of live animals, animal products, birds, germ plasm, organisms, and vectors. Any of these importers or exporters whose annual sales total less than \$5 million is a small entity according to the Small Business Administration (SBA). We do not have adequate information to determine the number of entities who import or export live animals and qualify as a small entity. Data from the 1995 Bureau of Census indicates that the majority of agricultural entities who deal in less valuable animals, such as feeding or slaughter animals, can be considered small. This may not be the case for entities dealing exclusively in more valuable animals. While there is a wide range in the sizes of entities who use our import- and export-related services, our experience shows that as many as 50 percent may be considered large.

The profit margins of some entities could decline as user fees for import- or export-related services are increased. However, the proposed increases are generally small in dollar value. Over the 5 years, more than 57 percent of the individual user fee increases are \$1.00 or less, and more than 88 percent are less than \$10.00. In addition, the

proposed user fees represent a small fraction of the value of the affected animals. Purchase and import costs for importing a breeding grade animal into the United States can range between \$1500 and \$5000 per head. Therefore, the proposed increases are not generally expected to reduce profits or impede imports or exports. Indeed, entities directly effected by this proposed rule are not likely to bear the full burden of the user fee increases, as some of the cost increases are expected to be passed on to the purchasers of these imported or exported animals or animal products.

### Alternatives

One alternative to this proposed rule would be to make no changes to the current user fees. We do not consider making no changes to the current user fees a reasonable alternative because we would not recover the full cost of providing the import- and export-related services. Since 1992, Congress has not appropriated funds for these services; these services have been paid for through user fees charged to the customer or reimbursable agreements. Therefore, if we had chosen this alternative and not proposed changes to the current user fees, funds would not be available to continue to provide

services at a level sufficient to meet customer demand.

Another alternative to this proposed rule would be to either exempt small businesses from these user fees or establish a different user fee structure for small businesses. APHIS cannot exempt certain classes of users, such as small businesses, from the user fees, and cannot charge user fees that recover less than the full cost of providing the service. In addition, every business, including small businesses, using a government service needs to 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. Therefore, we do not consider exempting small businesses from these user fees or establishing a different user fee structure for small businesses as viable options.

Another alternative to the user fee changes proposed in this rule would be to calculate the increases for the five year period and then spread the changes evenly in annual increments. The largest change from the current user fees to the proposed FY 2000 user fee comes from the additional administrative support cost components: Rent, billing costs and collections expenses, and

equipment capitalization. APHIS is already incurring these costs, therefore we need to recover these costs through user fees. If we had proposed these increases phased in over the 5 year period, it would benefit users in FY 2000 because they would not pay a large increase in the first year. However, most of these user fees have not been changed since FY 1996 and the current user fees no longer reflect the cost of providing import- and export-related services. Therefore, if we implemented this alternative, the user fees would still not accurately reflect the costs in FY 2000 and we would not recover the costs of providing import- or export-related services, so this option is not viable. Our intent of offering a multi-year plan so that businesses can include these revised user fees in their operating program will be effective once these proposed user fees become effective and businesses will know what the annual changes will be to incorporate them into their budgetary plans. The alternative would be to continue as we have with occasional large increases instead of the initial increase to bring the user fees up to the cost of providing services and implementing annual changes as we have proposed in this document.

#### Cost Benefit Analysis

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 as a result of the proposed changes in user fees.

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

This proposed rule contains no new information collection or recordkeeping requirements.

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings

will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

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

#### List of Subjects in 9 CFR Part 130

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

Accordingly, we propose to amend 9 CFR part 130 as follows:

#### PART 130—USER FEES

1. The authority citation for part 130 would be 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, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 130.2 would be amended as follows:

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

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

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

(a) \* \* \*

Animal or bird	Daily user fee				
	Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Birds (excluding ratites and pet birds imported in accordance with Part 93 of this subchapter):					
0–250 grams .....	\$1.50	\$1.50	\$1.50	\$1.50	\$1.75
251–1,000 grams .....	5.00	5.25	5.25	5.50	5.75
Over 1,000 grams .....	12.00	12.00	13.00	13.00	13.00
Domestic or zoo animals (except equines, birds, and poultry):					
Bison, bulls, camels, cattle, or zoo animals .....	93.00	95.00	97.00	100.00	102.00
All others, including, but not limited to, alpacas, llamas, goats, sheep, and swine .....	24.00	25.00	26.00	26.00	27.00
Equines (including zoo equines, but excluding miniature horses):					
1st through 3rd day (fee per day) .....	245.00	251.00	257.00	264.00	270.00
4th through 7th day (fee per day) .....	177.00	182.00	186.00	191.00	195.00
8th and subsequent days (fee per day) .....	150.00	154.00	158.00	162.00	166.00
Miniature horses .....	56.00	57.00	58.00	60.00	61.00
Poultry (including zoo poultry):					
Doves, pigeons, quail .....	3.00	3.25	3.25	3.25	3.50
Chickens, ducks, grouse, guinea fowl, partridge, peafowl, pheasants .....	5.75	6.00	6.00	6.25	6.25
Large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys ..	13.00	14.00	14.00	14.00	15.00
Ratites:					
Chicks (less than 3 months old) .....	8.50	8.75	9.00	9.00	9.25
Juveniles (3 months through 10 months old) .....	13.00	13.00	13.00	14.00	14.00
Adults (11 months old and older) .....	24.00	25.00	26.00	26.00	27.00

(b) \* \* \*

Bird or poultry (nonstandard housing, care, or handling)	Daily user fee				
	Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Birds 0–250 grams and doves, pigeons, and quail .....	\$5.00	\$5.25	\$5.25	\$5.50	\$5.75
Birds 251–1,000 grams and poultry such as chickens, ducks, grouse, guinea fowl, partridge, pea fowl, and pheasants .....	12.00	12.00	13.00	13.00	13.00
Birds over 1,000 grams and large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys .....	23.00	24.00	24.00	25.00	25.00

\* \* \* \* \*

3. Section 130.3 would be amended as follows:

a. In paragraph (a)(1), the table would be revised to read as set forth below.

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

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

(a)(1) \* \* \*

Animal import center	Monthly user fee				
	Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Newburgh, NY:					
Space A 5,396 sq. ft. (503.1 sq. m.)	\$53,037	\$54,523	\$56,054	\$57,630	\$59,254
Space B 8,903 sq. ft. (827.1 sq. m.) .....	87,508	89,959	92,484	95,085	97,764
Space C 905 sq. ft. (84.1 sq. m.) .....	8,895	9,144	9,401	9,666	9,938

\* \* \* \* \*

(c) \* \* \*

(3) If the importer requests additional services, then the user fees for those services will be calculated at the hourly rate user fee listed in § 130.30, for each employee required to perform the service.

\* \* \* \* \*

4. Section 130.5 would be 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 the hourly user fee rate listed in § 130.30, 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)

5. Section 130.6 would be revised to read as follows:

**§ 130.6 User fees for inspection of live animals at land border ports along the United States-Mexico border.**

(a) User fees 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 minimum user fee for this service is listed in § 130.30. 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.

Type of live animal	Per head user fee				
	Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Any ruminants not covered below .....	\$8.00	\$8.25	\$8.50	\$8.75	\$9.00
Feeder .....	2.25	2.25	2.25	2.50	2.50
Horses, other than slaughter .....	39.00	41.00	42.00	43.00	44.00
In-bond or in-transit .....	5.25	5.25	5.50	5.50	5.75
Slaughter .....	3.50	3.50	3.50	3.75	3.75

(b) [Reserved]

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

6. Section 130.7 would be revised to read as follows:

**§ 130.7 User fees for inspection of live animals at all other ports of entry.**

(a) User fees 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 minimum user fee for this service is listed in § 130.30. 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.

Type of live animal	Unit	User fee				
		Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
<b>Animals being imported into the United States:</b>						
Breeding animals (Grade animals, except horses):						
Sheep and goats .....	per head .....	\$0.50	\$0.50	\$0.50	\$0.50	\$0.50
Swine .....	per head .....	0.75	0.75	0.75	0.75	0.75
All others .....	per head .....	3.00	3.00	3.25	3.25	3.25
Feeder animals:						
Cattle (not including calves) .....	per head .....	1.50	1.50	1.50	1.50	1.50
Sheep and calves .....	per head .....	0.50	0.50	0.50	0.50	0.50
Swine .....	per head .....	0.25	0.25	0.25	0.25	0.25
Horses, other than slaughter and in-transit.	per head .....	25.00	26.00	27.00	28.00	29.00
Poultry (including eggs), imported for any purpose.	per load .....	44.00	46.00	47.00	48.00	50.00
Registered animals, all types .....	per head .....	5.25	5.50	5.50	5.75	6.00
Slaughter animals, all types .....	per load .....	22.00	23.00	24.00	24.00	25.00
Animals transiting <sup>1</sup> the United States:						
Cattle .....	per head .....	1.25	1.25	1.50	1.50	1.50
Horses and all other animals ...	per head .....	6.00	6.25	6.50	6.75	6.75
Sheep and goats .....	per head .....	0.25	0.25	0.25	0.25	0.25
Swine .....	per head .....	0.25	0.25	0.25	0.25	0.25

<sup>1</sup> The user fee in this section will be charged for in-transit authorizations at the port where the authorization services are performed. For additional services provided by APHIS, at any port, the hourly user fee rate in § 130.30 will apply.

(b) [Reserved]

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

7. Section 130.8 would be revised to read as follows:

**§ 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 §§ 130.50 and 130.51.

Service	Unit	User fee—				
		Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Embryo collection center inspection and approval (all inspections required during the year for facility approval).	Per year .....	\$337.00	\$347.00	\$358.00	\$369.00	\$380.00
Germ plasm being exported: <sup>1</sup>						
Embryo:						
Up to 5 donor pairs .....	Per certificate .....	74.00	76.00	79.00	81.00	83.00
Each additional group of donor pairs, up to 5 pairs per group, on the same certificate.	Per group of donor pairs .....	33.00	34.00	35.00	36.00	37.00
Semen .....	Per certificate .....	45.00	46.00	48.00	49.00	51.00
Germ plasm being imported: <sup>2</sup>						
Embryo .....	Per load .....	54.00	55.00	57.00	58.00	60.00
Semen .....	Per load .....	54.00	55.00	57.00	58.00	60.00
Import compliance assistance:						
Simple (2 hours or less) .....	Per release .....	62.00	64.00	66.00	68.00	70.00
Complicated (more than 2 hours).	Per release .....	159.00	164.00	169.00	174.00	180.00
Inspection for approval of slaughter establishment:						
Initial approval (all inspections)	Per year .....	332.00	342.00	352.00	362.00	373.00
Renewal (all inspections) .....	Per year .....	288.00	296.00	305.00	314.00	323.00
Inspection of approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96:						
Approval (compliance agreement) (all inspections for first year of 3-year approval).	Per year .....	354.00	365.00	375.00	386.00	398.00

Service	Unit	User fee—				
		Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Renewed approval (all inspections for second and third years of 3-year approval).	Per year .....	205.00	211.00	217.00	223.00	230.00
Pet birds (except pet birds of U.S. origin entering the United States from Canada):						
Which have been out of the United States more than 60 days.	Per lot .....	229.00	236.00	243.00	250.00	257.00
Which have been out of the United States 60 days or less.	Per lot .....	96.00	99.00	102.00	105.00	108.00
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.	Per application .....	275.00	283.00	292.00	300.00	309.00
For all other permits .....	Per application .....	35.00	36.00	37.00	38.00	39.00
Amended application .....	Per amended application.	14.00	15.00	15.00	16.00	16.00
Application renewal .....	Per application .....	19.00	19.00	20.00	21.00	21.00
Release from export agricultural hold:						
Simple (2 hours or less) .....	Per release .....	62.00	64.00	66.00	68.00	70.00
Complicated (more than 2 hours).	Per release .....	159.00	164.00	169.00	174.00	180.00

<sup>1</sup> 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 hourly user fee in § 130.30 will apply.

<sup>2</sup> For inspection of empty containers being imported into the United States, the hourly user fee in § 130.30 will apply, unless a user fee has been assessed under 7 CFR part 354.3.

(b) [Reserved]

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

**§ 130.9 [Removed and Reserved]**

8. Section 130.9 would be removed and reserved.

9. Section 130.10 would be amended as follows:

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

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

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

(a) \* \* \*

Number of birds in isohette	Daily user fee—				
	Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
1 .....	\$8.25	\$8.50	\$8.75	\$9.00	\$9.25
2 .....	10.00	10.00	11.00	11.00	11.00
3 .....	12.00	12.00	13.00	13.00	13.00
4 .....	14.00	14.00	15.00	15.00	15.00
5 or more .....	16.00	16.00	17.00	17.00	18.00

\* \* \* \* \*

(c) If the importer requests additional services, then the user fees for those services will be calculated at the hourly rate user fee listed in § 130.30, for each employee required to perform the service.

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

10. Section 130.20 would be amended as follows:

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

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

**§ 130.20 User fees for endorsing export certificates.**

(a) \* \* \*

Certificate categories	User fee—				
	Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Animal products .....	\$29.00	\$30.00	\$30.00	\$31.00	\$32.00

Certificate categories	User fee—				
	Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Hatching eggs .....	27.00	28.00	28.00	29.00	30.00
Nonslaughter horses to Canada .....	34.00	35.00	36.00	37.00	38.00
Poultry (including slaughter poultry) .....	27.00	28.00	28.00	29.00	30.00
Slaughter animals, of any type, moving to Canada or Mexico .....	31.00	32.00	33.00	34.00	35.00
Other endorsements or certifications .....	21.00	22.00	22.00	23.00	24.00

(b)(1) \* \* \*

Number of tests or vaccinations and Number of animals or birds on the certificate	User fee—				
	Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
1–2 tests or vaccinations:					
First animal .....	\$68.00	\$70.00	\$72.00	\$74.00	\$76.00
Each additional animal .....	4.00	4.00	4.00	4.25	4.25
3–6 tests or vaccinations:					
First animal .....	84.00	86.00	88.00	91.00	94.00
Each additional animal .....	6.50	6.75	7.00	7.00	7.25
7 or more tests or vaccinations:					
First animal .....	98.00	100.00	103.00	106.00	109.00
Each additional animal .....	7.75	8.00	8.25	8.25	8.50

\* \* \* \* \*

**§ 130.21 [Removed and Reserved]**

11. Section 130.21 would be removed and reserved.

12. A new § 130.30 would be added to read as follows:

**130.30 Hourly rate user fees.**

(a) User fees for import-or export-related veterinary services listed in paragraphs (a)(1) through (a)(10) of this section will be calculated at the hourly rate listed in the following table 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.

	Hourly user fee				
	Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Hourly rate:					
Per hour .....	\$76.00	\$76.00	\$80.00	\$84.00	\$84.00
Per quarter hour .....	19.00	19.00	20.00	21.00	21.00
Per service minimum fee .....	22.00	23.00	24.00	24.00	25.00

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

(2) Obtaining samples required to be tested, either to obtain import permits or to ensure compliance with import permits.

(3) Providing services for imported birds or ratites that are not subject to quarantine.

(4) Supervising the opening of in-bond shipments.

(5) Providing services for in-bond or in-transit animals to exit the United States.

(6) Inspecting an export isolation facility and the animals in it.

(7) Supervising animal or bird rest periods prior to export.

(8) Supervising loading and unloading of animals or birds for export shipment.

(9) Inspecting means of conveyance used to export animals or birds.

(10) Conducting inspections under part 156 of this chapter.

(11) Inspecting and approving an artificial insemination center or a semen collection center or the animals in it.

(12) Providing other import-or export-related veterinary services for which there is no flat rate user fee specified elsewhere in this part.

(b) 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. 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.

Overtime rates (outside the employee's normal tour of duty)	Premium rate user fee—				
	Oct. 1, 1999– Sept. 30, 2000	Oct. 1, 2000– Sept. 30, 2001	Oct. 1, 2001– Sept. 30, 2002	Oct. 1, 2002– Sept. 30, 2003	Beginning Oct. 1, 2003
Premium hourly rate Monday through Saturday and holidays:					
Per hour .....	\$88.00	\$88.00	\$92.00	\$96.00	\$100.00
Per quarter hour .....	22.00	22.00	23.00	24.00	25.00
Premium hourly rate for Sundays:					
Per hour .....	100.00	104.00	104.00	108.00	112.00
Per quarter hour .....	25.00	26.00	26.00	27.00	28.00

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

13. In § 130.50, paragraph (b)(3)(ii) would be revised to read as follows:

**§ 130.50 Payment of user fees.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(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 § 130.30(b) for each employee needed to get the work done.

\* \* \* \* \*

Done in Washington, DC, this 24th day of September 1999.

**Bobby R. Acord,**

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

[FR Doc. 99–25425 Filed 9–29–99; 8:45 am]

BILLING CODE 3410–34–P

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 701

#### Organization and Operations of Federal Credit Unions

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** NCUA is proposing to amend its lending regulation to permit federal credit unions to advance money to members to cover account deficits without having a credit application from the member on file if the credit union has a written overdraft policy.

**DATES:** The NCUA must receive comments on or before November 29, 1999.

**ADDRESSES:** Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, or you may fax comments

to (703) 518–6319. *Please send comments by one method only.*

**FOR FURTHER INFORMATION CONTACT:**

Michael J. McKenna, Senior Staff Attorney, or Regina M. Metz, Staff Attorney, in the Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

**SUPPLEMENTARY INFORMATION:**

#### A. Background

The Federal Credit Union Act does not specifically address a federal credit union's (FCU's) authority to pay or honor a share draft written that will result in an overdrawn account. NCUA's longstanding position has been that an FCU's payment of an overdraft as a financial accommodation to a member constitutes a loan or line of credit to a member.

When an FCU pays a member's overdraft, the FCU uses its money to pay a member's third party obligations. The overdraft is a debt that the FCU expects the member to repay. Because the FCU is making a loan, it must comply with the NCUA's lending regulation requiring a credit application to be on file for each borrower supporting the decision to make a loan or establish a line of credit. 12 CFR 701.21(c)(3).

A number of federal credit unions and trade associations contend that federal credit unions are at a competitive disadvantage because they are unable to cover a member's overdrafts absent a prearranged, written agreement for the extension of credit. The NCUA Board believes this argument has merit although there may be some safety and soundness concerns with extending credit to a member without a written lending agreement. Overdrafts which are unsupported by an agreement and for which there is no credit analysis represent an unsecured obligation of the member to the credit union. In general, a credit union undertakes a greater level of risk with this activity than with a loan which has undergone a thorough credit analysis. However, after careful review, the NCUA Board is proposing to

amend § 701.21(c)(3) to permit a credit union to advance money to a member to cover his or her account deficit without having a credit application from the borrower on file if the credit union has a written overdraft policy. The NCUA Board believes that a written overdraft policy will offset safety and soundness concerns and prevent insider abuses. The Board is proposing that a credit union's written overdraft policy must: (1) Address how the credit union will honor overdrafts; (2) set a cap on the total dollar amount of all overdrafts the credit union will honor; (3) establish a time limit not to exceed ten business days for a member either to deposit funds or obtain an approved loan from the credit union to cover each overdraft; (4) limit the number and dollar amount of overdrafts the credit union will honor per member; and (5) establish the fee and interest rate, if any, the credit union will charge members for honoring overdrafts.

The NCUA Board requests comments from the public on whether the regulation should impose additional restrictions on overdrafts by credit union employees or officials. The NCUA Board also requests comments on whether NCUA should set limits on the total dollar amount a credit union can lend to honor overdrafts as well as the total dollar amount per member. The NCUA Board is also requesting comments on whether the regulation should require a federal credit union to have in its overdraft policy a certain number of days after which it will write off any overdraft for which the member has not either repaid the credit union or obtained an approved loan. Finally, the NCUA Board requests comments on whether the ten-day requirement for the member to cover the overdraft is appropriate. The risk of nonpayment of an overdraft that is not covered by the member within such a time period increases dramatically.

While the proposed regulation is under consideration, the NCUA intends to continue its current supervisory approach to overdrafts that are paid as