

Done in Washington, DC, this 8th day of July 1999.

A. Cielo,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99-17937 Filed 7-13-99; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 98-052-1]

Veterinary Services User Fees; Biosecurity Level Three Laboratory Inspection Fee

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend existing user fees for the inspection for approval of biosecurity level three laboratories. Existing user fees require biosecurity level three laboratories to pay user fees for inspection based on hourly rates. We are proposing to replace the hourly rates for this specific service with a flat rate user fee that would cover all the costs of inspection related to approving a laboratory for handling one defined set of organisms or vectors. We are taking this action in order to ensure that the user fees cover our costs.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by September 13, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 98-052-1, 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. 98-052-1.

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 program operations for Veterinary Services, contact Ms. Louise Lothery, Administrative Officer, Management Support Staff, VS, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737-1231; (301) 734-7517.

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

SUPPLEMENTARY INFORMATION:

Background

User fees to reimburse the Animal and Plant Health Inspection Service (APHIS) for the costs of providing veterinary diagnostic services and import- and export-related services for live animals and birds and animal products are contained in 9 CFR part 130. Section 130.8 lists miscellaneous flat rate user fees. Section § 130.9 lists the hourly rate user fees charged for APHIS' import or entry services, including inspection of laboratories within the United States.

In accordance with 9 CFR part 122, we require inspection of biosecurity level three laboratories prior to their receiving and handling high risk organisms or vectors. Biosecurity level three laboratories are used to conduct research on foreign animal disease agents, especially viruses, with high disease risks. These laboratories utilize containment facilities that use special precautions, such as negative pressure ventilation, to keep the disease agents within the facility and to protect the researchers who work with them.

We are proposing to revise the user fees for inspection of these laboratories based on our review of user fees and the costs of service. Under the current hourly rate user fees in §130.9, APHIS has been unable to recover all of the costs associated with inspecting biosecurity level three laboratories. Under the hourly rate user fee structure, the traveltime allowance provides for a maximum of 6 hours of round-trip ground travel. This traveltime allowance is insufficient in that air travel and overnight lodging are required in order to access more than half of the laboratories APHIS currently inspects.

Under the current hourly rates, the average user fee collected for inspection for approval of biosecurity level three laboratories is approximately \$462 per laboratory. The actual average cost of

inspecting these laboratories is approximately \$977 per laboratory. The portion of the actual cost that we are not currently able to recover is the portion of transportation (i.e., airfare and related expenses) and lodging costs we incur above the 6-hour traveltime allowance for laboratories that are not located near an authorized APHIS inspector's place of duty. We do not believe it is fair to charge those laboratories a higher fee than others based solely on their physical location in relation to authorized inspectors' official duty stations.

Therefore, in order to ensure that we recover all costs, we are proposing to amend 9 CFR part 130 to establish a flat rate user fee of \$977 to cover the cost of APHIS' inspection of biosecurity level three laboratories. The flat rate user fee would cover all costs of inspection, including airfare and/or ground travel, lodging, inspection, per diem, and miscellaneous travel expenses. We are also proposing to amend § 130.1 to add a definition for "biosecurity level three laboratory" to read: "A laboratory or production facility that works with foreign or domestic animal disease agents, organisms, or vectors that spread by aerosol route and that have serious or lethal effects, therefore requiring special biocontainment measures."

We are also proposing to clarify that the hourly rate user fees contained in § 130.9 are not applicable to services that are billed under flat rate fees contained in other sections of part 130.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there is no basis to conclude that this rule will result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects.

User fees to reimburse APHIS for the costs of providing veterinary diagnostic services and import- and export-related services for live animals and birds and

animal products are contained in 9 CFR part 130. Currently, APHIS charges user fees for the inspection of biosecurity level three laboratories under the hourly rate user fees contained in § 130.9.

APHIS currently inspects several laboratories in the United States that conduct biosecurity level three research on high-risk organisms and vectors. These facilities currently pay an average of \$462 for inspections required to be approved to handle a defined set of organisms or vectors. The average actual cost of providing this service, including the cost of air travel and lodging necessary to inspect certain laboratories, is \$977 per laboratory. APHIS has not been able to recover all costs of inspection associated with approving these laboratories under the current hourly rate user fee structure, because current regulations only provide for 6 hours of ground travel.

Therefore, we are proposing to amend the regulations in § 130.8 by establishing a flat rate user fee of \$977 for this service, which would cover the average cost of inspection related to approving a laboratory to handle one defined set of organisms or vectors.

We arrived at the flat rate user fee that we are proposing by using the average of the number of hours required for an APHIS inspector to complete an inspection, travel costs (including airfare and lodging, when appropriate), per diem, and miscellaneous travel expenses.

Effects on Small Entities

Under Small Business Administration (SBA) Guidelines, a biosecurity level three laboratory with less than \$5 million in annual sales is considered a small entity. All of the laboratories we inspect are small entities.

We anticipate that the economic effects of this proposed rule on these laboratories will be minimal. An informal survey of several of the affected laboratories revealed that in some cases inspection costs at laboratories are charged directly to a client if the client requested analysis of the particular organism or vector for which the inspection was undertaken. However, in most cases, laboratories pay for inspections with overhead funds from their operating budget. There are two types of biosecurity level three laboratories that we inspect. Some laboratories are privately owned, for-profit enterprises that charge clients fees to use the laboratory to research biosecurity level three organisms or

vectors. These laboratories typically bill their clients for the cost of APHIS' inspection service and, therefore, are not directly affected by the cost of inspections.

Other laboratories are publicly owned and are attached to universities or government agencies. These laboratories typically include anticipated APHIS inspection costs in their yearly budgets. We do not have the data to assess the effect of the proposed rate change on these laboratories. On average, laboratories are inspected twice a year. However, a laboratory working with many different types of organisms could be subject to additional inspections.

The proposed flat rate user fees will enable all laboratories to know in advance what costs they will incur.

Alternatives Considered

In developing this proposed rule, we considered: (1) Making no changes to our existing method of recovering costs for inspecting biosecurity level three laboratories; (2) proposing to charge laboratories the exact costs incurred during each individual inspection, including costs of travel and lodging; or (3) proposing to charge a flat rate user fee for the inspection of biosecurity level three laboratories.

We rejected the first alternative because if we made no changes to the regulations, we would continue to be unable to recover all of the costs associated with the inspection of biosecurity level three laboratories. All costs to APHIS for providing this service must be recovered solely through user fees; there is no other form of funding available to us that would cover this service.

We also rejected the second alternative, in which each laboratory would be charged the exact cost of inspection, including travel and lodging for APHIS personnel. We believe it is unfair to charge certain customers higher fees than others simply because a qualified APHIS inspector may not be stationed nearby. We believe that the fairest method of charging customers for this service is through a flat rate user fee.

The proposed changes to the regulations would result in no new information collection or recordkeeping requirements.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to

Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This 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. In § 130.1, a definition for “biosecurity level three laboratory” would be added in alphabetical order to read as follows:

§ 130.1 Definitions.

* * * * *

Biosecurity level three laboratory. A laboratory or production facility that works with foreign or domestic animal disease agents, organisms, or vectors that spread by aerosol route and that have serious or lethal effects, therefore requiring special biocontainment measures.

* * * * *

3. In § 130.8, paragraph (a), the table would be amended by adding a new entry in alphabetical order to read as follows:

§ 130.8 User fees for other services.

(a) * * *

Service	User fee
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Service	User fee
* * * * *	* * * * *
Inspection for approval of biosecurity level three laboratories.	\$977.00 for all costs of inspection related to approving the laboratory for handling one defined set of organisms or vectors.
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4. In § 130.9, the introductory text of paragraph (a) would be revised to read as follows:

§ 130.9 User fees for miscellaneous import or entry services.

(a) User fees for import or entry services listed in paragraphs (a)(1) through (a)(4) of this section, except those services covered by flat rate user fees elsewhere in this part, 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.

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Done in Washington, DC, this 8th day of July 1999.

A. Cielo,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 474

[Docket No. EE-RM-99-PEF]

[RIN: 1904-AA40]

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Petroleum-Equivalent Fuel Economy Calculation

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking and Withdrawal of Previous Notice of Proposed Rulemaking.

SUMMARY: In response to public comments, the Department of Energy (DOE) revises its proposal to amend its regulations on electric and hybrid vehicles to provide a petroleum-equivalency factor (PEF) and procedures for calculating the petroleum-equivalent fuel economy of electric vehicles. The petroleum-equivalent fuel economy

values of an automobile manufacturer's electric vehicles may then be included in the calculation of that manufacturer's corporate average fuel economy (CAFE) according to regulations prescribed by the Environmental Protection Agency and the Department of Transportation.

DATES: To ensure your comments are considered, we must receive 7 copies of your comments on or before September 13, 1999.

You may present oral views, data, and arguments at the public hearing which will be held in Washington, DC, on Tuesday, August 17, 1999 beginning at 9:30 a.m. If you would like to speak at this hearing, contact Ms. Andi Kasarsky, (202) 586-3012, by Friday, August 13, 1999. In addition, you may request an opportunity to speak at the hearing itself. Each oral presentation is limited to 10 minutes. The hearing will last as long as there are persons requesting an opportunity to speak. The notice of proposed rulemaking published in the **Federal Register** on February 4, 1994 (59 FR 5336) is withdrawn as of July 14, 1999.

ADDRESSES: Send written comments to: Mr. Rogelio Sullivan, U.S. Department of Energy, EE-32, Docket No. EE-RM-99-PEF, 1000 Independence Avenue, SW, Washington, DC 20585. Questions concerning submitting written comments should be addressed to Ms. Andi Kasarsky, (202) 586-3012. We will hold a public hearing at the following address: U.S. Department of Energy, Room 1E-245, 1000 Independence Avenue, SW, Washington, DC. Please bring seven copies of the prepared oral statement to the hearing.

You may read and copy written comments received, a copy of the public hearing transcript, technical reference materials mentioned in this notice, and any other docket material received as a result of this notice at the DOE Freedom of Information Reading Room. The current docket material will be filed under "EE-RM-99-PEF." Copies of the hearing transcript and written comments received regarding the February 4, 1994 proposed rule are filed under Docket No.

EE-RM-94-101. Earlier materials related to the calculation of the PEF are contained in Docket No. EE-RM-93-301 and are also available at the DOE

Freedom of Information Reading Room, room 1E-190, (202) 586-3142, between the hours of 9:00 a.m.-4:00 p.m., Monday through Friday except Federal holidays.

For more information concerning public participation in this rulemaking proceeding, see section III of this notice of proposed rulemaking (Opportunities for Public Comment).

FOR FURTHER INFORMATION CONTACT:

Mr. Rogelio Sullivan, U.S. Department of Energy, Office of Transportation Technologies, Office of Advanced Automotive Technologies, EE-32, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-8042

Mr. Eugene Margolis, U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-9526

SUPPLEMENTARY INFORMATION:

I. Background

II. Discussion

- A. Requirements of the Motor Vehicle Information and Cost Savings Act, as amended
- B. PEF Development Process
- C. Test Procedures
- D. Calculation Procedures
 1. General Form of the PEF Equation
 2. Gasoline-Equivalent Energy Content of Electricity Factor
 3. "Fuel Content" Factor
 4. Petroleum-Fueled Accessory Factor
 5. Driving Pattern Factor
 6. Use of the PEF
 7. Sample Calculations

III. Opportunities for Public Comment

- A. Participation in Rulemaking
- B. Written Comment Procedures
- C. Public Hearing
 1. Request to Speak Procedures
 2. Conduct of the Hearing

IV. Procedural Requirements

- A. Environmental Protection Agency Review
- B. National Environmental Policy Act Review
- C. Regulatory Review
- D. Regulatory Flexibility Act
- E. Federalism Review
- F. "Takings" Assessment Review
- G. Review Under Executive Order 12988
- H. Review Under the Unfunded Mandates Reform Act of 1995
- I. Review Under the Treasury and General Government Appropriations Act, 1999