

Proposed Rules

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. APHIS-2006-0144]

RIN 0579-AC59

Import/Export User Fees

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning user fees for import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors. We are proposing increases in those fees for fiscal years 2009 through 2013 in order to ensure that the fees accurately reflect the anticipated costs 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. **DATES:** We will consider all comments that we receive on or before August 4, 2008.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0144> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS-2006-0144, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2006-0144.

Reading Room: 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.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: For information concerning program operations, contact Ms. Inez Hockaday, Director, Management Support Staff, VS, APHIS, 4700 River Road, Unit 44, Riverdale, MD 20737-1231; (301) 734-7517.

For information concerning user fee rate development, contact Mrs. Kris Caraher, User Fees Section Head, Financial Management Division, MRPBS, APHIS, 4700 River Road, Unit 54, Riverdale, MD 20737-1232; (301) 734-5901.

SUPPLEMENTARY INFORMATION:

Background

The regulations 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 providing these services.

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.

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 2009 to 2013. The proposed user fees are based on our costs of providing import- and export-related services in fiscal year 2007, plus anticipated annual increases in the salaries of the employees who provide the services, plus adjustments for nonsalary inflation, such as travel expenses, fuel costs, and rent.

If, by the end of FY 2013, we did not have user fees covering FY 2014 in place, we would continue to charge the user fees for FY 2013 until the 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, 2012 (the beginning of FY 2013). 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.

User Fee Components

We calculate 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, local support costs, 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.

Local support costs include local clerical and administrative activities; indirect labor hours; travel and transportation for personnel; material, supplies, equipment, and other necessary items; training; general office

supplies; rent; equipment capitalization; billing and collection expenses; utilities; 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. Materials and supplies include items like animal food and bedding, chemicals, and, in certain cases, medicine. 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' 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 services. Additionally, the Department provides 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 costs,
 - Pro-rata share of local support costs,
 - Pro-rata share of agency overhead,
 - Pro-rata share of departmental charges, and
 - Pro-rata share of reserve.
2. Add all costs.
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, the user fees proposed in this document. We will publish any necessary adjustments in the **Federal Register**.

User Fees for Animals in APHIS Animal Import Centers (§ 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 Import 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 and poultry that require

nonstandard feed, housing, care, or handling.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for FY 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

Section 130.2 also includes a user fee for the use of the transport ramp used to move animals on or off aircraft at APHIS' Animal Import/Export and Plant Inspection Station at Miami International Airport. Due to a variety of factors, including the phasing out of aircraft used for walk-on loads of livestock and changes in the way animals are shipped by air, the transport ramp has not been used since October 2004 and will be sold. Therefore, we are proposing to remove the fee for use of the transport ramp from the regulations.

User Fees for Exclusive Use of Space for Animals Quarantined in APHIS Animal Import Centers (§ 130.3)

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

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 proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

User Fees for Processing Import Permit Applications (§ 130.4)

Section 130.4 lists user fees charged to provide import compliance assistance and to process applications for permits to import certain animals and animal products.

Since the last time we set fees for these services, the amount of time needed to provide import compliance assistance has increased. Therefore, we are proposing to revise the fee categories from “Simple (2 hours or less)” and “Complicated (more than 2 hours)” to “Simple (4 hours or less)” and “Complicated (more than 4 hours)” to reflect more accurately the time needed to provide these services. We are also proposing to revise the unit description for these fees from “per release” to “per shipment” to reflect more accurately the way in which these requests are processed.

These services are charged separately from permit fees, and are charged under a flat fee to prevent confusion or the appearance of double-billing. However, APHIS is considering whether these services would more appropriately be charged by the hourly rate. We welcome any comments on the subject of charging an hourly rate or flat rate fees for this additional import compliance assistance service.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

User Fees for Inspection of Live Animals at Ports of Entry (§§ 130.6 and 130.7)

Sections 130.6 and 130.7 list user fees we charge for inspecting animals

imported into the United States. We inspect 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.

For animals arriving at our borders with Canada and Mexico, 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 of the port of arrival and the 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 the United States-Canada border are listed in § 130.7(a).

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

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

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

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 proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

User Fees for Inspecting and Approving Import/Export Facilities and Establishments (§ 130.11)

Section 130.11 lists the user fees for inspections of approved import/export facilities and establishments. These facilities include embryo collection centers, establishments approved by APHIS for the receipt and handling of restricted import animal products or byproducts, and bio-security level three laboratories that handle foreign or domestic animal disease agents, organisms, or vectors which require special biocontainment measures. Fees for inspections required for approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96 are also listed in this section.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

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.

The proposed fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

Hourly Rate and Minimum User Fees (\$ 130.30)

Several sections of the regulations calculate user fees for services at the hourly and premium hourly rates for import- and export-related services that we provide. For example, § 130.5 of the regulations charges user fees based on the hourly and premium hourly rate for services that we provide for animals quarantined in privately owned quarantine facilities.

The proposed hourly rate, premium hourly rate, and minimum user fees for fiscal years 2009–2013 are set forth in the regulatory text at the end of this document. As explained above, the proposed user fees are based on FY 2007 costs and include direct labor costs adjusted by 3 percent for fiscal years 2009 through 2013 to cover increases in employee pay, and adjustments in estimated non-labor costs for inflation at 3.3 percent each year. The percentage changes in the user fees from one fiscal year to the next vary due to rounding.

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.

For this proposed rule we have prepared an economic analysis. The economic analysis, which is summarized below, 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 each user fee, may be viewed on the Regulations.gov Web site or in our reading room. (Instructions for accessing Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The Secretary of Agriculture is authorized by the Food, Agriculture, Conservation and Trade Act of 1990, as amended, to prescribe and collect fees to recover the costs of providing import and export services. APHIS is proposing to amend the user fees for providing veterinary services for import and export activities (9 CFR part 130). These fees would be updated to take into account the routine increases in the cost of doing business, such as inflation, replacing equipment, maintaining databases, etc., that have occurred since the last update and those that are expected to occur over the next 5 years. In addition, the fees would be adjusted to incorporate expenditures to maintain the current level of operations, improve service and keep up with expanding demand for services. These expenditures include things from roof replacement to the modernization of facilities.

User fees recover the cost of operating a public system by charging those members of the public who use the system, rather than the public as a whole, for its operation. User fees result in movement toward a more socially optimal level of demand where users fully incorporate the cost of APHIS services into their private costs. In addition, by setting the fees for these veterinary services to fully recover the associated costs, we can assure that the program operates at a level considered sufficient to meet the demand for these services. If APHIS were to continue to collect user fees at the current rates over the time period covered by the proposal, total collections would be approximately \$113 million, nearly \$54 million less than the projected cost of administering the program from FY 2009 through FY 2013. This demonstrates the magnitude of the shortfall in cost recovery that would occur absent the changes.

Effects on Small Entities

The user fee revisions included in this proposal could affect some importers and exporters of live animals, animal products, and animal byproducts. The Small Business Administration (SBA)

has established guidelines for determining which businesses are to be considered small. Importers and exporters of live animals, animal products, and animal byproducts are identified within the broader wholesaling trade sector of the U.S. economy. A firm primarily engaged in wholesaling animals or animal products is considered small if it employs not more than 100 persons. These entities either sell goods on their own account (import/export merchants) or arrange for the sale of goods owned by others (import/export agents and brokers). The North American Industry Classification System (NAICS) code 424430 covers dairy products (except dried or canned) merchant wholesalers. According to the 2002 Economic Census (the most recent census available), more than 98 percent of these wholesalers would be considered small by SBA standards.¹ NAICS code 424440 covers poultry and poultry product merchant wholesalers. About 97 percent of these firms would be considered small according to the 2002 Economic Census. NAICS code 424470 covers meat and meat product merchant wholesalers. About 97 percent of these firms would be considered small according to the 2002 Economic Census. NAICS code 424520 covers livestock merchant wholesalers. More than 99 percent of the firms in this category would be considered small according to the 2002 Economic Census. Thus, the vast majority of entities potentially affected by the proposed changes are likely to be considered small. However, the total impact of the proposed changes should be small, as the proposed fee changes represent a tiny fraction of the value of the shipments of animals and animal products. Imports and exports of livestock, meats, dairy products, poultry, and poultry products were valued at more than \$23.8 billion in 2005. By contrast, the increase in annual collections from user fees included in this proposed rule would be about \$5.3 million in FY 2009, and rising to about \$14 million in 2013. We do not know the proportion of import and export services that are provided to small entities. However, the degree to which any firm, whether small or large, would be impacted by these changes is dependent on their level of participation in import or export trade. Based on the information that is available, the effects of the proposed changes should be small whether the entity affected is small or large.

¹ 2002 Economic Census, Department of Commerce, United States Bureau of the Census.

We invite public comment on the proposed rule—including any comments on the expected economic effects on small entities, and on how the proposed rule could be modified to reduce expected costs or burdens for small entities consistent with its objectives. Any comment suggesting changes to the proposed criteria should be supported by an explanation of why the changes should be considered.

Alternatives

One alternative to this rule would be to leave the regulations unchanged. In this case, the fees would remain unchanged. The fees do not take into account the routine increases in the cost of doing business, such as inflation, replacing equipment, maintaining databases, etc., that have occurred since the last update. In addition, the fees are being adjusted to incorporate expenditures to maintain the current level of operations, improve service, and keep up with expanding demand for services. If APHIS were to continue to collect user fees at the current rates in fiscal years 2009 through 2013, total collections would be nearly \$54 million short of projected program costs over that period. Therefore, this alternative was rejected.

Another alternative to this rule would be to charge hourly rate fees for all veterinary services. However, flat rate user fees are appropriate when the cost of providing a service is unchanging from user to user and the service is requested in relatively large numbers. It would be unnecessarily complex and costly to track hourly charges for services where a flat rate could be consistently used. Therefore, this alternative was rejected.

Another alternative to this rule would be to change all hourly fees to flat rate fees. However, charging a flat rate is not appropriate in all situations. We charge flat rate fees in cases where a service takes a consistent amount of time to perform, but for some services there can be a disparity in the time it takes to perform a given service for one user versus another. For example, hourly rates are charged for the inspection of biosecurity level 2 (BSL-2) laboratories, including travel. The inspection covers

a specific checklist and is therefore similar from facility to facility. However, the amount of travel time required of the inspector varies widely, depending on the location of the facility. It would be unfair to charge both users the same flat fee for those inspections. Therefore, this alternative was rejected.

Cost-Benefit Analysis

User fees for veterinary services are intended to meet broad economic objectives. User fees promote the internalization of the real cost of providing these veterinary services in consumer transaction decisions. User fees also achieve savings in Government expenditures, and therefore reduce the tax support necessary for the system to operate at a given level. These tax funds can then be used in other programs or to reduce taxes overall and thus diminish efficiency losses associated with the generation of taxes (deadweight loss plus collection costs).

Import and export veterinary services enhance livestock trade and protect American agriculture. By helping to prevent foreign pests and diseases from entering the United States, these services help to prevent losses to animals and their products and markets. Losses include reduction in yield and productivity of affected hosts, public and private control costs, and loss in export revenue due to trade embargoes. The harm to American agriculture associated with the introduction of foreign pests and diseases can be immense. Federal spending associated with the outbreak of exotic Newcastle disease that began in October of 2002 was approximately \$170 million. In addition, the total direct value of the export restrictions which were in place from October 2002 through December 2003 has been estimated to be \$167 million.²

User fees recover the cost of operating a public system by charging those members of the public who use the system, rather than the public as a whole, for its operation. By setting the fees for these veterinary services to fully recover the associated costs, we can assure that the program operates at a level sufficient to meet the needs of

agricultural trade and minimize the risk of introduction of pests and diseases.

This proposed rule contains no new information collection or recordkeeping requirements. (See “Paperwork Reduction Act” below.)

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 in conflict 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 continues to read as follows:

Authority: 5 U.S.C. 5542; 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.4.

2. Section 130.2 is 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), by revising the table to read as set forth below.

d. By removing paragraph (d).

§ 130.2 User fees for individual animals and certain birds quarantined in the APHIS-owned or -operated quarantine facilities, including APHIS Animal Import Centers.

(a) * * *

Animal or bird	Daily user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Birds (excluding ratites and pet birds imported in accordance with part 93 of this subchapter):					
0–250 grams	\$2.50	\$2.75	\$2.75	\$2.75	\$3.00

² *Economic Impact of Poultry Export Restrictions.* USDA–APHIS, CEAH.

Animal or bird	Daily user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
251–1,000 grams	8.25	8.50	8.75	9.00	9.25
Over 1,000 grams	18.00	19.00	19.00	20.00	21.00
Domestic or zoo animals (except equines, birds, and poultry):					
Bison, bulls, camels, cattle, or zoo animals	144.00	149.00	153.00	158.00	162.00
All others, including, but not limited to, alpacas, llamas, goats, sheep, and swine	38.00	39.00	40.00	42.00	43.00
Equines (including zoo equines, but excluding miniature horses):					
1st through 3rd day (fee per day)	382.00	393.00	405.00	417.00	429.00
4th through 7th day (fee per day)	276.00	284.00	292.00	301.00	310.00
8th and subsequent days (fee per day)	235.00	242.00	249.00	256.00	264.00
Miniature horses	86.00	89.00	91.00	94.00	97.00
Poultry (including zoo poultry):					
Doves, pigeons, quail	5.00	5.25	5.50	5.50	5.75
Chickens, ducks, grouse, guinea fowl, partridge, pea fowl, pheasants	9.00	9.25	9.50	9.75	10.00
Large poultry and large waterfowl, including, but not limited to, gamecocks, geese, swans, and turkeys ..	21.00	22.00	22.00	23.00	24.00
Ratites:					
Chicks (less than 3 months old)	13.00	13.00	14.00	14.00	15.00
Juveniles (3 months through 10 months old)	20.00	20.00	21.00	22.00	22.00
Adults (11 months old or older)	38.00	39.00	40.00	42.00	43.00

(b) * * *

Bird or poultry (nonstandard housing, care, or handling)	Daily user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Birds 0–250 grams and doves, pigeons and quail	\$8.25	\$8.50	\$8.75	\$9.00	\$9.25
Birds 251–1,000 grams and poultry such as chickens, ducks, grouse, guinea fowl, partridge, pea fowl, and pheasants	18.00	19.00	19.00	20.00	21.00
Birds over 1,000 grams and large poultry and large waterfowl, including, but not limited to gamecocks, geese, swans, and turkeys	35.00	36.00	37.00	39.00	40.00

* * * * *

3. In § 130.3, paragraph (a)(1), the table is revised to read as follows:

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

(a)(1) * * *

Animal import center	Monthly user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Newburgh, NY:					
Space A 5,396 sq. ft. (503.1 sq. m.)	\$83,756.00	\$86,268.00	\$88,856.00	\$91,513.00	\$94,249.00
Space B 8,903 sq. ft. (827.1 sq. m.)	138,190.00	142,335.00	146,605.00	150,989.00	155,504.00
Space C 905 sq. ft. (84.1 sq. m.)	14,047.00	14,469.00	14,903.00	15,348.00	15,807.00

* * * * *

4. In § 130.4, the table is revised to read as follows:

§ 130.4 User fees for processing import permit applications.

* * * * *

Service	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Import compliance assistance:						
Simple (4 hours or less)	Per shipment	\$99.00	\$102.00	\$105.00	\$108.00	\$111.00
Complicated (more than 4 hours)	Per shipment	514.00	514.00	531.00	548.00	565.00

Service	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Processing an application for a permit to import live animals, animal products or by-products, organisms, vectors, or germ plasm (embryos or semen) or to transport organisms or vectors: ¹						
Initial permit	Per application	133.00	137.00	141.00	145.00	150.00
Amended permit	Per amended application	66.00	68.00	70.00	73.00	75.00
Renewed permit ²	Per application	86.00	89.00	91.00	94.00	97.00
Processing an application for a permit to import fetal bovine serum when facility inspection is required.	Per application	455.00	469.00	483.00	497.00	512.00

¹ Using Veterinary Services Form 16–3, “Application for Permit to Import or Transport Controlled Material or Organisms or Vectors,” or Form 17–129, “Application for Import or In-Transit Permit (Animals, Animal Semen, Animal Embryos, Birds, Poultry, or Hatching Eggs).”

² Permits to import germ plasm and live animals are not renewable.

5. In § 130.6, paragraph (a), the table is revised to read as follows:

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

Type of live animal	Per head user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Any ruminants (including breeder ruminants) not covered below	\$13.00	\$13.00	\$14.00	\$14.00	\$14.00
Feeder	3.75	3.75	4.00	4.00	4.00
Horses, other than slaughter	62.00	64.00	66.00	68.00	70.00
In-bond or in-transit	8.25	8.50	8.75	9.00	9.25
Slaughter	5.50	5.50	5.75	6.00	6.00

* * * * *

6. In § 130.7, paragraph (a), the table is revised to read as follows:

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

(a) * * *

Type of live animal	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Animals being imported into the United States:						
Breeding animals (Grade animals, except horses):						
Sheep and goats	Per head	\$0.75	\$0.75	\$0.75	\$1.00	\$1.00
Swine	Per head	1.25	1.25	1.25	1.25	1.25
All others	Per head	4.75	4.75	5.00	5.25	5.25
Feeder animals:						
Cattle (not including calves)	Per head	2.25	2.25	2.50	2.50	2.50
Sheep and calves	Per head	0.75	0.75	1.00	1.00	1.00
Swine	Per head	0.50	0.50	0.50	0.50	0.50
Horses (including registered horses) other than slaughter and in-transit.	Per head	41.00	42.00	43.00	45.00	46.00
Poultry (including eggs), imported for any purpose.	Per load	71.00	73.00	75.00	77.00	80.00
Registered animals, all types (except horses).	Per head	8.50	8.75	9.25	9.50	9.75
Slaughter animals, all types (except poultry).	Per load	35.00	36.00	37.00	39.00	40.00
Animals transiting ¹ the United States:						
Cattle	Per head	2.25	2.25	2.50	2.50	2.50
Sheep and goats	Per head	0.50	0.50	0.50	0.50	0.50

Type of live animal	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Swine	Per head	0.50	0.50	0.50	0.50	0.50
Horses and all other animals	Per head	9.75	10.00	10.00	10.00	11.00

¹ 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 in § 130.30 will apply.

* * * * *

7. In § 130.8, paragraph (a), the table is revised to read as follows:

§ 130.8 User fees for other services.

(a) * * *

Service	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Germ plasm being exported: ¹						
Embryo:						
Up to 5 donor pairs	Per certificate	\$117.00	\$121.00	\$124.00	\$128.00	\$132.00
Each additional group of donor pairs, up to 5 pairs per group on the same certificate.	Per group of donor pairs.	52.00	54.00	55.00	57.00	59.00
Semen	Per certificate	72.00	74.00	76.00	79.00	81.00
Release from export agricultural hold:						
Simple (2 hours or less)	Per release	99.00	102.00	105.00	108.00	111.00
Complicated (more than 2 hours)	Per release	254.00	262.00	270.00	278.00	286.00

¹ This user fee includes a single inspection and resealing of the container at the APHIS employee's regular tour of duty station or at a limited port. For each subsequent inspection and resealing required, the hourly user fee in § 130.3 will apply.

* * * * *

8. Section 130.10 is 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.

§ 130.10 User fees for pet birds.

(a) * * *

Service	Per lot user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
(1) Which have been out of the United States 60 days or less	\$153.00	\$157.00	\$162.00	\$167.00	\$172.00
(2) Which have been out of the United States more than 60 days	363.00	374.00	385.00	397.00	409.00

(b) * * *

Number of birds in isolette	Daily user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
1	\$13.00	\$13.00	\$14.00	\$14.00	\$15.00
2	16.00	16.00	17.00	17.00	18.00
3	18.00	19.00	19.00	20.00	21.00
4	21.00	22.00	22.00	23.00	24.00
5 or more	25.00	26.00	27.00	28.00	29.00

* * * * *

9. In § 130.11, paragraph (a), the table is revised to read as follows:

§ 130.11 User fees for inspecting and approving import/export facilities and establishments.

(a) * * *

Service	Unit	User fee				
		Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Embryo collection center inspection and approval (all inspections required during the year for facility approval).	Per year	\$537.00	\$553.00	\$570.00	\$587.00	\$604.00
Inspection for approval of biosecurity level three labs (all inspections related to approving the laboratory for handling one defined set of organisms or vectors).	Per inspection	1,381.00	1,422.00	1,465.00	1,509.00	1,554.00
Inspection for approval of slaughter establishment:						
Initial approval (all inspections) ..	Per year	527.00	543.00	559.00	576.00	593.00
Renewal (all inspections)	Per year	457.00	470.00	484.00	499.00	514.00
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	563.00	579.00	597.00	615.00	633.00
Renewal (all inspections for second and third years of 3-year approval).	Per year	325.00	335.00	345.00	355.00	366.00

* * * * *

10. Section 130.20 is amended as follows:

a. In paragraph (a), by revising the table to read as set forth below.
b. 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, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Animal and nonanimal products	\$45.00	\$47.00	\$48.00	\$49.00	\$51.00
Hatching eggs	42.00	44.00	45.00	46.00	48.00
Poultry, including slaughter poultry	42.00	44.00	45.00	46.00	48.00
Ruminants, except slaughter ruminants moving to Canada or Mexico	47.00	48.00	49.00	51.00	52.00
Slaughter animals (except poultry but including ruminants) moving to Canada or Mexico	49.00	51.00	52.00	54.00	56.00
Other endorsements or certifications	34.00	35.00	36.00	37.00	38.00

(b)(1) * * *

Number of tests or vaccinations and number of animals or birds on the certificate	User fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
1–2 tests or vaccinations:					
Nonslaughter horses to Canada:					
First animal	\$54.00	\$55.00	\$57.00	\$59.00	\$60.00
Each additional animal	6.25	6.25	6.50	6.75	7.00
Other animals or birds:					
First animal	107.00	111.00	114.00	117.00	121.00
Each additional animal	6.25	6.25	6.50	6.75	7.00
3–6 tests or vaccinations:					
First animal	133.00	137.00	141.00	145.00	150.00
Each additional animal	10.00	11.00	11.00	11.00	12.00
7 or more tests or vaccinations:					
First animal	154.00	159.00	163.00	168.00	173.00
Each additional animal	12.00	12.00	13.00	13.00	14.00

* * * * *

11. Section 130.30 is 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.

§ 130.30 Hourly rate and minimum user fees.

(a) * * *

	User fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Hourly rate:					
Per hour	\$120.00	\$120.00	\$124.00	\$128.00	\$132.00
Per quarter hour	30.00	30.00	31.00	32.00	33.00
Per service minimum fee	35.00	36.00	37.00	39.00	40.00

* * * * *

(b) * * *

Overtime rates (outside the employee's normal tour of duty)	Premium rate user fee				
	Oct. 1, 2008– Sept. 30, 2009	Oct. 1, 2009– Sept. 30, 2010	Oct. 1, 2010– Sept. 30, 2011	Oct. 1, 2011– Sept. 30, 2012	Beginning Oct. 1, 2012
Premium hourly rate Monday through Saturday and holidays:					
Per hour	\$140.00	\$144.00	\$148.00	\$152.00	\$156.00
Per quarter hour	35.00	36.00	37.00	38.00	39.00
Premium hourly rate for Sundays:					
Per hour	160.00	164.00	168.00	172.00	176.00
Per quarter hour	40.00	41.00	42.00	43.00	44.00

* * * * *

Done in Washington, DC, this 23rd day of May, 2008.

Bruce Knight,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. E8–12376 Filed 6–3–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0609; Directorate Identifier 2008–SW–24–AD]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76A, S–76B, and S–76C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S–76A, S–76B, and S–76C helicopters. The AD would require an initial and recurring inspections of the tail rotor vertical stabilizer aft spar assembly (aft spar assembly) for a crack, loose or working fasteners, and corrosion, and, if any are found, further inspections of the vertical stabilizer

forward spar assembly (forward spar assembly). Repairing or replacing any unairworthy part before further flight would also be required. The action would also require a recurring track-and-balance of the tail rotor. Finally, the proposed AD would require installing a vertical stabilizer modification kit, which would be terminating action for the requirements of the AD. This proposal is prompted by 26 reports of fatigue cracks in the aft spar assembly web and outer caps. The actions specified by the proposed AD are intended to detect and correct an unbalanced or out-of-track tail rotor, which could lead to increased vibrations, a fatigue crack, loss of a portion of the vertical stabilizer and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before August 4, 2008.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE.,

Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this proposed AD from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, Mailstop s581a, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 383–4866, e-mail address tsslibrary@sikorsky.com.

FOR FURTHER INFORMATION CONTACT:

Richard Noll, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7160, fax (781) 238–7170.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number “FAA–2008–0609, Directorate Identifier 2008–SW–24–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We