

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****7 CFR Part 354****9 CFR Parts 97 and 130**

[Docket No. 02-040-2]

**Veterinary Services User Fees; Fees for Endorsing Export Certificates for Ruminants**

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the user fees for endorsing export health certificates by establishing a separate user fee that covers the cost of endorsing certificates that do not require verification of tests or vaccinations for ruminants. We are making this change to ensure that we recover all of the costs associated with providing that service. We are also making several miscellaneous changes to clarify the existing regulations.

**EFFECTIVE DATE:** October 1, 2003.

**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 rate development, contact Ms. Kris Caraher, Accountant, User Fee Section, Financial Management Division, APHIS, 4700 River Road, Unit 54, Riverdale, MD 20737-1231; (301) 734-5901.

**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 animals, animal products, birds, germ plasm, organisms, and vectors are contained in 9 CFR part 130. Section 130.20 lists user fees we charge for endorsing health certificates for animals, birds, or animal or nonanimal products exported from the United States.

On March 21, 2003, we published a proposal in the *Federal Register* (68 FR 13861-13872, Docket No. 02-040-1) to establish a new certificate category and user fee that would cover all of the costs associated with endorsing export health certificates that do not require verification of tests or vaccinations for ruminants, except for ruminants

exported for slaughter to Mexico or Canada, which would continue to be covered by a separate category. In that document, we also proposed to make several miscellaneous changes to clarify the existing regulations.

We solicited comments concerning our proposal for 60 days ending May 20, 2003. We received two comments by that date. They were from a representative of a State government and a private citizen. They are discussed below.

One commenter stated that he or she was opposed to the new user fees based on his or her dissatisfaction with APHIS in general, but did not offer any specific information regarding user fees to which we could respond. Another commenter also stated that he or she was opposed to the new user fees and, moreover, the application of any user fee for export-related services, because he or she believes that those fees reduce the competitiveness of United States livestock in international trade. That commenter urged APHIS to seek funding from Congress to meet the needs of Veterinary Services without the use of user fees.

In response to that comment, we note that APHIS has received no directly appropriated funds to provide import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors since fiscal year (FY) 1992. Rather, the Food, Agriculture, Conservation, and Trade Act of 1990 authorized the United States Department of Agriculture to prescribe and collect user fees for those services. Therefore, to continue to provide those services, we must recover our costs from the customers who benefit from them. As our costs increase, we must increase our user fees. We realize that any increase in user fees will increase the up-front cost of doing business for exporters. However, we do not anticipate that exports will decline significantly as a result of the new user fees set forth in this final rule. As discussed below under the heading "Executive Order 12866 and Regulatory Flexibility Act," the increase in user fees represents a small amount of the average export value of cattle and is small compared to the total value of livestock usually included on a single health certificate, as most certificates are issued for more than one animal and the new user fee will apply to a single certificate, regardless of the number of animals covered.

Our proposal concerned the establishment of a specific user fee, not the administration of our user fee program in general or the allocation of tax dollars for our export-related

services. As a result, we are not making any changes to the rule in response to those comments. However, we are making two changes in this document to correct errors contained in our proposal. In § 130.20, the table in paragraph (b) lists user fees we charge to endorse export health certificates that require verification of tests or vaccinations. When we set out that table in our proposal, we inadvertently omitted the row of user fees for certificates that require verification of 1-2 tests or vaccinations for nonslaughter horses exported to Canada. We did not intend to remove that row of user fees. Therefore, we have restored the correct user fees for that service in this final rule. Furthermore, when we set out the table in § 130.20(a) in our proposal, we inadvertently omitted part of the title for the new user fee category we are establishing in this final rule. Therefore, we have set out the complete title for this category in this document, which is "Ruminants, except slaughter animals moving to Canada or Mexico."

In addition, we are also making several miscellaneous changes in this document to clarify the existing regulations. In our proposal, we proposed to amend the user fee tables in 7 CFR part 354 and 9 CFR parts 97 and 130 by removing columns that list fees for fiscal years 2001 and 2002. Because this final rule will take effect on the first day of fiscal year 2004 (October 1, 2003), we are also amending the tables in 7 CFR part 354 and 9 CFR parts 97 and 130 by removing the columns that list fees for fiscal year 2003.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

**Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. 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.

APHIS charges flat-rate user fees to individuals, firms, corporations, and other entities for the endorsement of export health certificates for animals, birds, or animal or nonanimal products. These user fees vary, depending on whether or not the importing country requires verification of tests and the type and quantity of animals, birds, or products covered by the certificate. There is one user fee schedule for certificates that require verification of tests or vaccinations and another

schedule for certificates that do not require such verification.

Certifications for ruminants that do not require verification of tests or vaccinations, other than certifications for slaughter ruminants exported to Mexico or Canada, have been covered by a miscellaneous "catchall" user fee certificate category. (Ruminants exported to Mexico and Canada for slaughter are covered by a separate user fee that includes all slaughter animals, except poultry, exported to those two countries). Based on our review of the costs associated with endorsing export health certificates, we have determined that the user fee charged for the miscellaneous certificate category does not cover all of our costs to endorse such certificates for ruminants. As a result, we are establishing a new certificate category and user fee for that service, which will increase the amount charged to endorse certificates that do not require verification of tests or vaccinations for ruminants, except slaughter ruminants exported to Mexico or Canada. Under the miscellaneous user fee category, the fiscal year 2004 user fee will be \$24 for each endorsement; under the new certificate category, the user charged for each endorsement will be \$33, an increase of

\$9. We are making this change to ensure that we recover our costs for providing that service, which include direct labor costs, administrative support costs, billing and collection costs, Agency overhead, departmental charges, and a reserve component.

This final rule will affect entities that export ruminants, other than slaughter ruminants exported to Mexico or Canada, to countries that do not require that export health certificates include verification of tests or vaccinations. Because entities who export ruminants to Mexico or Canada for immediate slaughter are covered by a separate user fee category, such entities will not be affected by this final rule. Whether or not an importing country requires verification of tests or vaccinations for ruminants depends upon such factors as the type of animal exported, the time of year exportation occurs, and the health status of an animal's herd or State of origin. A representative overview of countries that import ruminants from the United States (including Brazil, Canada, China, the Dominican Republic, Japan, Mexico, Nicaragua, the Philippines, and Turkey) indicates that most countries require that export health certificates include verification of testing or vaccinations for ruminants.<sup>1</sup>

For example, importing countries almost always require U.S.-origin ruminants to be tested for brucellosis and tuberculosis, and frequently require those animals to be tested for such diseases as anaplasmosis, bluetongue, Johne's disease, leptospirosis, and vesicular stomatitis, among others. However, two countries, Mexico and Canada, do not currently require verification of tests or vaccinations for some cattle, sheep, and goats, under certain conditions.

As shown in table 1, below, trade statistics indicate that the majority of U.S.-origin cattle, sheep, and goats are exported to Mexico and Canada. For example, 56.6 percent of purebred cattle, 99.6 percent of not purebred cattle, 99.5 percent of sheep, and 82.3 percent of goats exported from the United States during 1999–2001 were shipped to Mexico or Canada. Of those animals listed in table 1, animals categorized as "not purebred cattle" (which include feeder cattle, cattle exported for immediate slaughter, and other not purebred cattle) comprise the single largest category, accounting for 83 percent of the total number of cattle, sheep, and goats exported from the United States during 1999–2001.

TABLE 1.—VALUE OF U.S. EXPORTS OF CATTLE, SHEEP, AND GOATS TO MEXICO, CANADA, AND THE REST OF THE WORLD (DOLLAR AMOUNTS AND PERCENTAGE SHARES OF EACH LIVESTOCK CATEGORY AS ANNUAL AVERAGES FOR 1999–2001)

	Mexico	Canada	Rest of the world
Purebred cattle .....	\$9.86 million (45.8%) .....	\$2.39 million (10.8%) .....	\$9.39 million (43.4%) .....
Not purebred cattle .....	70.77 million (32.4%) .....	145.74 million (67.2%) .....	718,000 million (0.4%) .....
Sheep .....	18.00 million (97.4%) .....	391,000 (2.1%) .....	85,000 (0.5%) .....
Goats .....	1.95 million (74.2%) .....	206,000 (8.1%) .....	487,000 (17.7%) .....

Source: World Trade Atlas, based on U.S. Census data.

Because Mexico and Canada are the principal markets for ruminants exported from the United States that do not require health certificates to include verification of tests or vaccinations, we can expect that entities who export cattle, sheep, and goats to those two countries will be most affected by this final rule. As a result, this analysis focuses on the importation requirements of Mexico and Canada for U.S.-origin cattle, sheep, and goats.

#### U.S. Ruminant Exports to Mexico

Mexico does not require verification of tests or vaccinations for the following ruminants imported from the United States: Steers and spayed heifers shipped as feeder cattle; slaughter cattle,

unless from Texas or Missouri; sheep other than rams; and goats other than breeding stock. Because Texas and Missouri are not designated as brucellosis Class-Free States, cattle imported for slaughter from those two States must be tested for that disease. Breeding cattle imported into Mexico from any State are required to be tested for brucellosis only if the animal is less than 6 months of age, or is an official calfhood vaccinate less than 20 months of age raised for dairy production or a vaccinate less than 24 months of age raised for beef. However, all breeding cattle, except for those animals under 1 month of age, must be tested for tuberculosis. For sheep and goats, Mexico requires that breeding and

feeder rams be tested for brucellosis and breeding goats be tested for tuberculosis.

As mentioned above, animals other than poultry exported to Mexico and Canada for slaughter are covered by a separate user fee category. As a result, exporters of slaughter ruminants, including slaughter cattle, exported to Mexico or Canada will not be affected by this final rule. Slaughter cattle account for the majority of not purebred cattle exported to Mexico from the United States.<sup>2</sup> As shown in table 1, the annual value of not purebred cattle exported to Mexico from the United States is estimated to be about \$71 million. APHIS export certification data indicate that approximately 62 percent of not purebred cattle shipped to

<sup>1</sup> Import health requirements of foreign countries, including required certification statements and

testing, may be found on the Internet at <http://www.aphis.usda.gov/vs/ncie/iregs/animals/>.

<sup>2</sup> APHIS, Centers for Epidemiology & Animal Health (CEAH), 1999–2001.

Mexico were exported from the United States for purposes other than slaughter.<sup>3</sup> We can expect, therefore, that the annual value of not purebred cattle exported to Mexico that will be affected by this final rule will be approximately \$44 million (\$70.77 million multiplied by 0.62).

This final rule will have a negligible economic impact on exporters of sheep and goats shipped to Mexico, as over 99 percent of sheep and 96 percent of goats from the United States to Mexico are intended for slaughter and are not, therefore, covered by the certificate category and user fee established in this document.

#### *U.S. Ruminant Exports to Canada*

Ruminants exported to Canada that do not require testing or vaccination are feeder cattle from Hawaii, Montana, and Washington; sheep and goats intended for immediate slaughter; and some purebred cattle, sheep, and goats, depending on the health status of the State or herd from which the animal originated and the time of year the animals are shipped.

Canada requires feeder cattle imported from most States to be tested for tuberculosis and anaplasmosis, and requires certain feeder cattle to be tested for brucellosis and bluetongue. Brucellosis testing is not required for steers and spayed heifers and official calfhood vaccinates that were vaccinated with Strain 19 vaccine. For all other cattle, brucellosis testing requirements depend on the brucellosis status of the animal's herd and State. Currently, all States except Missouri and Texas are classified as brucellosis Class-Free. As a result, feeder cattle exported to Canada from all States except Missouri and Texas are exempt from brucellosis testing. Bluetongue testing requirements depend on whether the animal comes from a low-, medium-, or high-incidence State and/or the time of year the animal is exported. For example, feeder cattle imported into Canada between October 1 and December 31 are not required to be tested for bluetongue, regardless of the State of origin.

As an alternative to the foregoing testing requirements, Canada accepts shipments of untested feeder cattle under its Restricted Feeder Cattle Program.<sup>4</sup> To participate in this program, a State must meet certain requirements, including being free of brucellosis and tuberculosis and

classified as a low risk for bluetongue, and must submit to Canada summary data for anaplasmosis. Currently, Hawaii, Montana, and Washington are allowed to export untested feeder cattle to Canada under the Restricted Feeder Cattle Program. Cattle imported by Canada under this program may only enter the country between October 1 and March 31.

Testing requirements for breeding cattle exported to Canada depend on an animal's particular circumstances. For example, brucellosis and anaplasmosis testing requirements depend on the health status of the herd and State, and bluetongue testing requirements depend on the State's classification and/or the time of year the animal is exported to Canada. Breeding cattle need not be tested for tuberculosis if the entire herd from which the animal originated is tested within the 12 months preceding exportation.

Sheep and goats exported to Canada for immediate slaughter need not be tested for bluetongue. For all other sheep and goats, testing for bluetongue depends on the status of the exporting State and/or the time of year of the export. For example, Canada does not require sheep and goats exported from any State between October 1 and December 31 to be tested for bluetongue, assuming that the animals have resided only in the United States or Canada.

As shown in table 1, "not purebred cattle," which predominantly consist of feeder cattle, account for the single largest category of ruminants exported to Canada that could be affected by this final rule. Because Hawaii, Montana, and Washington are the only States currently allowed to export feeder cattle to Canada without tests or vaccinations under the Restricted Feeder Cattle Program, we can expect that exporters of ruminants from those three States will be most affected by this final rule. Table 2 shows approximate average annual values of feeder cattle exported to Canada from Hawaii, Montana, and Washington, 1999–2001. These values are for cattle classified under Harmonized Schedule code 010290 (not purebred), and, therefore, may include animals exported for immediate slaughter and other not purebred animals; however, the majority of cattle under this classification are imported by Canada under its Restricted Feeder Cattle Program for feeding and subsequent slaughter.

TABLE 2.—APPROXIMATE AVERAGE ANNUAL VALUES OF FEEDER CATTLE EXPORTS TO CANADA FROM THE STATES OF HAWAII, MONTANA, AND WASHINGTON, 1999–2001

Hawaii .....	\$2,383,000
Montana .....	84,999,000
Washington .....	8,821,000
Total .....	96,203,000

Source: Industry Canada, Trade Data Online, based on data obtained from Statistics Canada and the U.S. Census Bureau, U.S. Department of Commerce.

**Note:** Values are for Harmonized Schedule code 010290—Bovine, live—Not Pure-bred, which are predominantly feeder cattle, but may include other cattle. The values, therefore, are only approximate feeder cattle values.

Montana's livestock exporters, in particular, have benefitted from the Restricted Feeder Cattle Program. A total of 127,643 restricted feeder cattle were shipped to Canada from Montana during the 1999–2000 season. In the 2000–2001 season, Montana shipped 133,240 head.<sup>5</sup> The total value of feeder cattle exported from the three States to Canada, shown in table 2 to be approximately \$96 million, comprises two-thirds of the approximately \$146 million shown in table 1 for all "not purebred cattle" exported to Canada.

Statistics on other ruminants exported to Canada and affected by this final rule are not available. However, as mentioned above, exports of such ruminants, which include certain breeding stock, are not nearly as important as exports of not purebred cattle.

#### *The User Fee Increase and Ruminant Export Values*

The total value of ruminant exports that could be affected by this final rule and for which statistics are available is approximately \$140 million annually. This figure accounts for about 54 percent of the cattle, sheep, and goats exported from the United States.<sup>6</sup> However, even though a sizable percentage of U.S. ruminant exports may be affected by the user fee increase, we do not expect that this final rule will have a significant impact on a

<sup>5</sup> Montana Department of Livestock.

<sup>6</sup> Feeder cattle exports to Canada from Hawaii, Montana, and Washington (\$96 million) + not purebred cattle exports to Mexico (\$44 million) = \$140 million. (Overcounting of affected cattle and smallstock shipments to Mexico is assumed to be balanced by undercounting of affected cattle and smallstock shipments to Canada.) All U.S. exports total about \$260 million (Table 1).

<sup>3</sup> APHIS, CEAH, 1999–2001.

<sup>4</sup> Canadian Food Inspection Agency, Client Services Information Sheet No. 14, Restricted Feeder Cattle from the United States.

substantial number of entities. The \$9 increase in user fees for the endorsement of certificates that do not require verification of tests or vaccinations for ruminants represents a small amount of the average export value of cattle. Furthermore, the \$9 increase in user fees is small compared

to the total value of livestock usually included on a single health certificate, as most health certificates are issued for more than one animal and the new user fee of \$33 will apply for all animals covered by a single certificate.

This final rule will have the largest effect on exporters of "not purebred

cattle" intended for export to Mexico and Canada. Table 3 shows the average value for each animal for those ruminant categories. The \$9 increase in user fees represents approximately 2 percent of the average value of "not purebred cattle" exported to Mexico and Canada from the United States.

**TABLE 3.—AVERAGE VALUES OF NOT PUREBRED CATTLE EXPORTED TO MEXICO AND CANADA AND PERCENTAGES OF THE VALUES REPRESENTED BY THE PROPOSED \$9 INCREASE IN USER FEES**

	Average value per animal (\$)	\$9 user fee increase as a percentage of the average value
Not Purebred Cattle:		
Exported to Mexico .....	464	2.0
Exported to Canada .....	504	1.8

Source: World Trade Atlas, based on U.S. Census Bureau data. Values are annual averages for 1999, 2000, and 2001.

However, these percentages overstate the impact of the user fee increase, as numerous animals are usually exported using a single certificate. For example, from 1999 through 2001, the average number of feeder cattle exported to Canada per certificate numbered 798 head.<sup>7</sup> Based on this average number of cattle per certificate, the \$9 user fee increase would account for only 0.002 percent of the total value of livestock included in a single health certificate.<sup>8</sup>

**Impact on Small Entities**

The Regulatory Flexibility Act requires agencies to consider the economic impact of their rules on small entities, such as small businesses, organizations, and governmental jurisdictions. This final rule could affect livestock operations that export ruminants to Mexico or Canada, which include such entities as cattle ranches and farms, sheep and goat farms, and cattle feedlots.

Under the standards established by the Small Business Administration (SBA), a business, firm, organization, or other entity engaged in cattle ranching and farming, sheep farming, or goat farming is considered small if the entity has annual sales of \$750,000 or less.<sup>9</sup> In 1997, there were 651,542 cattle farms and 29,790 sheep and goat farms. Of those entities, 99 percent of cattle farms (656,181) and 99 percent of sheep and

goat farms (29,938) are small entities under the SBA's standards.<sup>10</sup>

Cattle feedlots are considered small under the SBA's standards if their annual sales are \$1.5 million or less.<sup>11</sup> Over 97 percent of feedlots (95,000 of 97,091) have capacities of fewer than 1,000 head, and average annual sales of about 420 head.<sup>12</sup> Assuming each head sold for \$1,000, fewer-than-1,000 head capacity feedlots would generate, on average, \$420,000 in sales. Clearly, most feedlots that export ruminants to Mexico or Canada are small entities under the SBA's standards.

The \$9 increase in user fees for the endorsement of ruminant export health certificates that do not require verification of testing or vaccination, except for ruminants exported from Mexico or Canada, will not have a significant economic impact on a substantial number of entities, large or small, given the value, and number, of animals usually listed on a single health certificate. Although the majority of entities affected by this final rule are small entities, and the majority of cattle, sheep, and goats exported by the United States do not require testing or vaccination, the user fee increase is small compared to the average total value of livestock normally included on a single health certificate.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

**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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

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

**List of Subjects**

*7 CFR Part 354*

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

*9 CFR Part 97*

Exports, Government employees, Imports, Livestock, Poultry and poultry products, Travel and transportation expenses.

*9 CFR Part 130*

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

<sup>7</sup> Calculated from data obtained from APHIS CEAH.

<sup>8</sup> Average total value of feeder cattle exported to Canada, for each health certificate, is \$402,192: (\$9 divided by \$402,192) multiplied by 100 = 0.002 percent.

<sup>9</sup> Cattle ranching and farming, North American Industry Classification System (NAICS) code 112120; sheep farming, NAICS 112410; and goat farming, NAICS 112420.

<sup>10</sup> 1997 Census of Agriculture, USDA National Agricultural Statistics Service (NASS). Sales information for these farms identifies a data break at annual sales of \$500,000, not at \$750,000.

<sup>11</sup> Cattle feedlots, NAICS 112112.

<sup>12</sup> "Cattle on Feed," NASS, February 2001.

■ Accordingly, we are amending 7 CFR part 354 and 9 CFR parts 97 and 130 to read as follows:

**PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES**

■ 1. The authority citation for part 354 continues to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 354.1 is amended as follows:

■ a. In paragraph (a)(1), introductory text, the table is revised to read as set forth below.

■ b. In paragraph (a)(1)(iii), the table is revised to read as set forth below.

**§ 354.1 Overtime work at border ports, sea ports, and airports.**

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

**OVERTIME FOR INSPECTION, LABORATORY TESTING, CERTIFICATION, OR QUARANTINE OF PLANT, PLANT PRODUCTS, ANIMALS, ANIMAL PRODUCTS OR OTHER REGULATED COMMODITIES**

Outside the employee's normal tour of duty	Overtime rates (per hour)		
	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
Monday through Saturday and holidays .....	\$48.00	\$49.00	\$51.00
Sundays .....	63.00	65.00	67.00

\* \* \* \* \*

(iii) \* \* \*

**OVERTIME FOR COMMERCIAL AIRLINE INSPECTION SERVICES<sup>1</sup>**

Outside the employee's normal tour of duty	Overtime rates (per hour)		
	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
Monday through Saturday and holidays .....	\$39.00	\$40.00	\$41.00
Sundays .....	51.00	53.00	55.00

<sup>1</sup> These charges exclude administrative overhead costs.

\* \* \* \* \*

**PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS**

■ 3. The authority citation for part 97 continues to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.4.

■ 4. Section 97.1 is amended as follows:

■ a. In the introductory text of paragraph (a), the table is revised to read as set forth below.

■ b. In paragraph (a)(3), the table is revised to read as set forth below.

**§ 97.1 Overtime services relating to imports and exports.**

(a) \* \* \*

**OVERTIME FOR INSPECTION, LABORATORY TESTING, CERTIFICATION, OR QUARANTINE OF ANIMALS, ANIMAL PRODUCTS OR OTHER REGULATED COMMODITIES**

Outside the employee's normal tour of duty	Overtime rates (per hour)		
	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
Monday through Saturday and holidays .....	\$48.00	\$49.00	\$51.00
Sundays .....	63.00	65.00	67.00

\* \* \* \* \*

(3) \* \* \*

**OVERTIME FOR COMMERCIAL AIRLINE INSPECTION SERVICES<sup>1</sup>**

Outside the employee's normal tour of duty	Overtime rates (per hour)		
	Oct. 1, 2003–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Beginning Oct. 1, 2005
Monday through Saturday and holidays .....	\$39.00	\$40.00	\$41.00
Sundays .....	51.00	53.00	55.00

<sup>1</sup> These charges exclude administrative overhead costs.

\* \* \* \* \*

**PART 130—USER FEES**

■ 5. 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.

■ 6. Section 130.2 is amended as follows:

■ a. In paragraph (a), the table is revised to read as set forth below.

■ b. In paragraph (b), the table is revised to read as set forth below.

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

(a) \* \* \*

Animal or bird	Daily user fee Beginning Oct. 1, 2003
Birds (excluding ratites and pet birds imported in accordance with Part 93 of this subchapter):	
0–250 grams .....	\$1.75
251–1,000 grams .....	5.75
Over 1,000 grams .....	13.00
Domestic or zoo animals (except equines, birds, and poultry):	
Bison, bulls, camels, cattle, or zoo animals .....	102.00
All others, including, but not limited to, alpacas, llamas, goats, sheep, and swine .....	27.00
Equines (including zoo equines, but excluding miniature horses):	
1st through 3rd day (fee per day) .....	270.00
4th through 7th day (fee per day) .....	195.00
8th and subsequent days (fee per day) .....	166.00
Miniature horses .....	61.00
Poultry (including zoo poultry):	
Doves, pigeons, quail .....	3.50
Chickens, ducks, grouse, guinea fowl, partridge, pea fowl, pheasants .....	6.25
Large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys .....	15.00
Ratites:	
Chicks (less than 3 months old) .....	9.25
Juveniles (3 months through 10 months old) .....	14.00
Adults (11 months old and older) .....	27.00

(b) \* \* \*

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

\* \* \* \* \*

■ 7. 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 Beginning Oct. 1, 2003
Newburgh, NY:	
Space A—5,396 sq. ft. (503.1 sq. m.) .....	\$59,254
Space B—8,903 sq. ft. (827.1 sq. m.) .....	97,764
Space C—905 sq. ft. (84.1 sq. m.) .....	9,938

\* \* \* \* \*

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

**§ 130.4 User fees for processing import permit applications.**

\* \* \*

Service	Unit	User fee Beginning Oct. 1, 2003
1. Import compliance assistance:		
i. Simple (2 hours or less) .....	Per release .....	\$70.00
ii. Complicated (more than 2 hours) .....	Per release .....	180.00

Service	Unit	User fee Beginning Oct. 1, 2003
2. Processing an application for a permit to import live animals, animal products or byproducts, organisms, vectors, or germ plasm (embryos or semen) or to transport organisms or vectors <sup>1</sup>		
i. Initial permit .....	Per application .....	94.00
ii. Amended permit .....	Per amended application.	47.00
iii. Renewed permit <sup>2</sup> .....	Per application .....	61.00
3. Processing an application for a permit to import fetal bovine serum when facility inspection is required.	Per application .....	322.00

<sup>1</sup> 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)."

<sup>2</sup> Permits to import germ plasm and live animals are not renewable.

■ 9. 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.**

(a) \* \* \*

Type of live animal	Per head user fee Beginning Oct. 1, 2003
Any ruminants (including breeder ruminants) not covered below .....	\$9.00
Feeder .....	2.50
Horses, other than slaughter .....	44.00
In-bond or in-transit .....	5.75
Slaughter .....	3.75

\* \* \* \* \*

■ 10. 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 Beginning Oct. 1, 2003
<i>Animals being imported into the United States:</i>		
Breeding animals (Grade animals, except horses):		
Sheep and goats .....	Per head .....	\$0.50
Swine .....	Per head .....	0.75
All others .....	Per head .....	3.25
Feeder animals:		
Cattle (not including calves) .....	Per head .....	1.50
Sheep and calves .....	Per head .....	0.50
Swine .....	Per head .....	0.25
Horses (including registered horses), other than slaughter and in-transit .....	Per head .....	29.00
Poultry (including eggs), imported for any purpose .....	Per load .....	50.00
Registered animals (except horses) .....	Per head .....	6.00
Slaughter animals (except poultry) .....	Per load .....	25.00
<i>Animals transiting <sup>1</sup> the United States:</i>		
Cattle .....	Per head .....	1.50
Sheep and goats .....	Per head .....	0.25
Swine .....	Per head .....	0.25
Horses and all other animals .....	Per head .....	6.75

<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.

\* \* \* \* \*

■ 11. 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 Beginning Oct. 1, 2003
Germ plasm being exported: <sup>1</sup>		

Service	Unit	User fee Beginning Oct. 1, 2003
Embryo:		
Up to 5 donor pairs .....	Per certificate .....	\$83.00
Each additional group of donor pairs, up to 5 pairs per group, on the same certificate .....	Per group of donor pairs.	37.00
Semen .....	Per certificate .....	51.00
Release from export agricultural hold:		
Simple (2 hours or less) .....	Per release .....	70.00
Complicated (more than 2 hours) .....	Per release .....	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.

\* \* \* \* \*  
 ■ 12. Section 130.10 is amended as follows:

■ a. In paragraph (a), the table is revised to read as set forth below.  
 ■ b. In paragraph (b), the table is revised to read as set forth below.

**§ 130.10 User fees for pet birds.**  
 (a) \* \* \*

Service	Unit	User fee Beginning Oct. 1, 2003
(1) Which have been out of the United States 60 days or less .....	Per lot .....	\$108.00
(2) Which have been out of the United States more than 60 days .....	Per lot .....	257.00

(b) \* \* \*

Number of birds in isolette	Daily user fee Beginning Oct. 1, 2003
1 .....	\$9.25
2 .....	11.00
3 .....	13.00
4 .....	15.00
5 or more .....	18.00

\* \* \* \* \*  
 ■ 13. 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 Beginning Oct. 1, 2003
Embryo collection center inspection and approval (all inspections required during the year for facility approval).	Per year .....	\$380.00
Inspection for approval of biosecurity level three laboratories (all inspections related to approving the laboratory for handling one defined set of organisms or vectors).	Per inspection .....	977.00
Inspection for approval of pet food manufacturing, rendering, blending, or digest facilities:		
Initial approval .....	For all inspections required during the year.	404.75
Renewal .....	For all inspections required during the year.	289.00
Inspection for approval of pet food spraying and drying facilities:		
Initial approval .....	For all inspections required during the year.	275.00
Renewal .....	For all inspections required during the year.	162.00
Inspection for approval of slaughter establishment:		
Initial approval (all inspections) .....	Per year .....	373.00

Service	Unit	User fee Beginning Oct. 1, 2003
Renewal (all inspections) .....	Per year .....	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 .....	398.00
Renewed approval (all inspections for second and third years of 3-year approval) .....	Per year .....	230.00

\* \* \* \* \*

■ 14. Section 130.20 is amended as follows:

■ a. In paragraph (a), the table is revised to read as set forth below.  
 ■ b. In paragraph (b)(1), the table is revised to read as set forth below.

**130.20 User fees for endorsing export certificates.**  
 (a) \* \* \*

Certificate categories	User fee Beginning Oct. 1, 2003
Animal and nonanimal products .....	\$32.00
Hatching eggs .....	30.00
Poultry, including slaughter poultry .....	30.00
Ruminants, except slaughter ruminants moving to Canada or Mexico .....	33.00
Slaughter animals (except poultry but including ruminants) moving to Canada or Mexico .....	35.00
Other endorsements or certifications .....	24.00

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

Number of tests or vaccinations and number of animals or birds on the certificate	User fee Beginning Oct. 1, 2003
<i>1-2 tests or vaccinations</i>	
Nonslaughter horses to Canada:	
First animal .....	\$38.00
Each additional animal .....	4.25
Other animals or birds:	
First animal .....	76.00
Each additional animal .....	4.25
<i>3-6 tests or vaccinations</i>	
First animal .....	94.00
Each additional animal .....	7.25
<i>7 or more tests or vaccinations</i>	
First animal .....	109.00
Each additional animal .....	8.50

\* \* \* \* \*

■ 15. Section 130.30 is amended to read as follows:

■ a. In paragraph (a), the table is revised to read as set forth below.  
 ■ b. In paragraph (b), the table is revised to read as set forth below.

**§ 130.30 Hourly rate and minimum user fees.**  
 (a) \* \* \*

	User fee Beginning Oct. 1, 2003
Hourly rate	
Per hour .....	\$84.00
Per quarter hour .....	21.00
Per service minimum fee .....	25.00

(b) \* \* \*

Overtime rates (outside the employee's normal tour of duty)	Premium rate user fee Beginning Oct. 1, 2003
Premium hourly rate Monday through Saturday and holidays:	

Overtime rates (outside the employee's normal tour of duty)	Premium rate user fee Beginning Oct. 1, 2003
Per hour .....	\$100.00
Per quarter hour .....	25.00
Premium hourly rate for Sundays:	
Per hour .....	112.00
Per quarter hour .....	28.00

\* \* \* \* \*

**§ 130.50 Payment of user fees.**

(3) \* \* \*

■ 16. In § 130.50, paragraph (b)(3)(i), the table is revised to read as follows:

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

(i) \* \* \*

**OVERTIME FOR FLAT RATE USER FEES<sup>1, 2</sup>**

	Outside of the employee's normal tour of duty	Overtime rates (per hour)		
		Oct. 1, 2003– Sept. 30, 2004	Oct. 1, 2004– Sept. 30, 2005	Beginning Oct. 1, 2005
Rate for inspection, testing, certification or quarantine of animals, animal products or other commodities. <sup>3</sup>	Monday-Saturday and holidays .....	\$48.00	\$49.00	\$51.00
	Sundays .....	63.00	65.00	67.00
Rate for commercial airline inspection services. <sup>4</sup>	Monday-Saturday and holidays .....	39.00	40.00	41.00
	Sundays .....	51.00	53.00	55.00

<sup>1</sup> Minimum charge of 2 hours, unless performed on the employee's regular workday and performed in direct continuation of the regular workday or begun within an hour of the regular workday.

<sup>2</sup> When the 2-hour minimum applies, you may need to pay commuted travel time. (See § 97.1(b) of this chapter for specific information about commuted travel time.)

<sup>3</sup> See § 97.1(a) of this chapter or 7 CFR 354.3 for details.

<sup>4</sup> See § 97.1(a)(3) of this chapter for details.

\* \* \* \* \*

Done in Washington, DC, this 26th day of August 2003.

**Kevin Shea,**

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

[FR Doc. 03-22141 Filed 8-28-03; 8:45 am]

BILLING CODE 3410-34-P

**DEPARTMENT OF ENERGY**

**Office of Energy Efficiency and Renewable Energy**

**10 CFR Part 430**

[Docket No. EE-RM/TP-99-500]

RIN 1904-AB10

**Energy Conservation Program for Consumer Products: Test Procedure for Dishwashers**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** Under Part B of title III of the Energy Policy and Conservation Act (EPCA or the Act), the Department of Energy (DOE or the Department) promulgates a rule amending its test procedure to determine the energy

efficiency of residential dishwashers. This amendment provides a new test procedure for testing the energy consumption of soil-sensing models, requires that manufacturers or private labelers include the measurement of standby power consumption in the estimated annual operating cost and estimated annual energy use calculations for all dishwasher models, and adds new specifications for instrumentation requirements. It also revises the number of cycles per year used for calculating the estimated annual operating cost, based on new survey data concerning consumer practices.

**EFFECTIVE DATES:** This rule is effective September 29, 2003. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of September 29, 2003.

**ADDRESSES:** You can read copies of all materials related to this rulemaking in the Freedom of Information Reading Room (Room 1E-190) at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Barbara Twigg, U.S. Department of

Energy, Office of Energy Efficiency and Renewable Energy, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-8714, e-mail: [barbara.twigg@ee.doe.gov](mailto:barbara.twigg@ee.doe.gov); Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-7432, e-mail: [Francine.Pinto@hq.doe.gov](mailto:Francine.Pinto@hq.doe.gov); or Thomas DePriest, Esq., U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2946, e-mail: [Thomas.DePriest@hq.doe.gov](mailto:Thomas.DePriest@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** You may obtain copies of the standard referenced in this final rule and referred to as ANSI/AHAM DW-1 (American National Standard, Household Electric Dishwashers, ANSI/AHAM DW-1-1992) from the Association of Home Appliance Manufacturers (AHAM), 1111 19th Street, NW., Suite 402, Washington, DC 20036, (202) 872-5955. Information regarding this rulemaking is also available on the Buildings Program Web site at the following address: [http://www.eere.energy.gov/buildings/appliance\\_standards/](http://www.eere.energy.gov/buildings/appliance_standards/).

- I. Introduction
- A. Authority
- B. Background