rule, either because pine species comprise a very minor share of their products or because their shipments do not leave the quarantined areas.

However, some nurseries and Christmas tree growers affected by the interim rule have markets that are out-of-county and/or out-of-State. These affected entities can maintain their markets outside the quarantined areas by arranging for the issuance of certificates or limited permits based on inspection or treatment of the regulated articles. Inspections, in some cases, are already occurring for other purposes; therefore, inspecting for PSB will add minimal cost. Also, any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement with the Animal and Plant Health Inspection Service whereby that person, rather than an inspector, may issue a certificate or limited permit for the interstate movement of eligible regulated articles. Costs and potential inconvenience are most likely for producers of live pine nursery stock, since inspection is required for each live plant before it may be moved interstate from a quarantined area. However, many producers must already have their products inspected for other pests, and adding another inspection will likely be a relatively small burden.

In contrast to the losses associated with the damage caused by PSB, the potential costs and inconvenience associated with inspections and treatment are minimal. The effect on those few small entities that do move regulated articles out-of-county and/or interstate is minimized by the availability of treatments and compliance agreements that, in most cases, allow these small entities to move regulated articles with very little additional cost.

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.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 69 FR 243–245 on January 5, 2004.

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC, this 30th day of April 2004.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–10310 Filed 5–5–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 00–024–2]

RIN 0579–AB22

Veterinary Diagnostic Services User Fees

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to increase the user fees for veterinary diagnostic services to reflect changes in our operating costs and changes in calculating our costs. We are also setting rates for multiple fiscal years. These actions are necessary to ensure that we recover the actual costs of providing these services. We are also providing for a reasonable balance, or reserve, in the veterinary diagnostics user fee account. The Food, Agriculture, Conservation, and Trade Act of 1990, as amended, authorizes us to set and collect these user fees.

DATES: *Effective Date:* June 7, 2004.

FOR FURTHER INFORMATION CONTACT: For information concerning program operations, contact Dr. Randall Levings, Director, National Veterinary Services Laboratories, 1800 Dayton Road, PO Box 844, Ames, IA 50010; (515) 663–7357.

For information concerning user fee rate development, contact Mrs. Kris Caraher, User Fees Section Head, Financial Systems and Services Branch, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (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 live animals and birds and animal products are contained in 9 CFR part 130 (referred to below as the regulations). These user fees are authorized by § 2509(c) of the Food, Agriculture, Conservation and Trade Act of 1990, as amended (21 U.S.C. 136a), which provides that the Secretary of Agriculture may, among other things, prescribe regulations and collect fees to recover the costs of veterinary diagnostics relating to the control and eradication of communicable diseases of livestock or poultry within the United States.

On July 24, 2003, we published in the **Federal Register** (68 FR 43661–43673, Docket No. 00–024–1) a proposed rule to increase the user fees for veterinary diagnostic services to reflect changes in our operating costs and changes in calculating our costs, and to establish rates for multiple fiscal years. Operating costs have increased since these user fees were established in a final rule published in the **Federal Register** on October 7, 1998 (63 FR 53783–53798, Docket No. 94–115–2). Therefore, the user fees need to be updated to reflect those increases. However, the main reason for the increase in the fees is cost data gathered through new cost-finding techniques employed by APHIS. The Statement of Federal Financial Accounting Standards (SFFAS) No. 4, ''Managerial Cost Accounting Standards and Concepts,'' issued by the Office of Management and Budget, mandated that APHIS capture cost accounting data in its program costs. We were required to accumulate and report the costs of veterinary diagnostic activities on a regular basis through the use of cost accounting systems and cost finding techniques. In order to comply with SFFAS No. 4, APHIS conducted an Activity Based Costing (ABC) project at the National Veterinary Services Laboratories in Ames, IA, which identified the sources of all costs for veterinary diagnostic services. As a result of that project, we determined that costs for user fee-related services were not adequately being recovered through user fee collections. Based on this determination, we proposed new fees to recover these newly identified costs. Each of the updated user fees contains a proportionate share of the costs identified in the ABC study.

We solicited comments concerning our proposal for 60 days ending September 22, 2003. We received two comments by that date, from a livestock exporting company and a State laboratory.

One commenter, the livestock exporter, stated that the proposed fee

increases could force his company to move its operations to Canada, where he says costs are lower, or to cease operations. He described his company as the Pacific Northwest's only permanent livestock export inspection facility.

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 1992. Rather, the Food, Agriculture, Conservation, and Trade Act of 1990, as amended, and the Animal Health Protection Act authorize the U.S. 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 those services.

For reasons described in the economic analysis we provided in the proposed rule, we do not anticipate that the fee increases in this rule will cause exports to decline or result in decreased testing. While APHIS hopes that this fee increase does not cause the commenter's inspection facility to close, such facilities operate throughout the United States; if the commenter's facility closed, inspections would be performed at the next closest or next convenient location. We are not making any changes to the proposed rule in response to this comment.

One commenter stated that the user fee increases in our proposed rule would result in a loss of revenue for the National Veterinary Services Laboratories, creating a need for further increases in the user fees.

In response, we would like to reiterate that our user fees are calculated for full cost recovery only. They are not designed to meet any other financial goals, including revenue generation.

One commenter suggested that the proposed fee increases would result in APHIS' veterinary diagnostic services being used less frequently, which would in turn negatively affect the agency's proficiency levels and information base.

As mentioned previously, we do not expect that APHIS' veterinary diagnostic services will be used less frequently under the new user fees. In any case, we believe that our veterinary diagnostic professionals have proficiency levels and an information base that are adequate to ensure continued competent performance.

One commenter stated that the fees in our proposed rule did not consider economies of scale.

As discussed in the proposed rule, we considered continuing a discount that applied to all diagnostic, non-import-related complement fixation, hemagglutination inhibition, fluorescent antibody, indirect fluorescent antibody virus neutralization, and peroxidase linked antibody tests. This discount applied to the 11th and subsequent tests on the same submission by the same submitter for the same test and antigen. However, we reevaluated the time it takes to conduct these additional tests and determined that it was no longer cost effective to perform the tests at a discount. If we determine that our veterinary diagnostic services can be provided at a discount at certain volumes, we will adjust our user fees accordingly in a subsequent rulemaking.

One commenter expressed concern about the effect the proposed user fees would have on U.S. exporters in general.

We realize that any increase in user fees will increase the up-front cost of doing business for exporters, and we have attempted to keep the costs of our services as low as possible. However, as we explained in the proposed rule, operating costs have increased since the user fees for veterinary diagnostic services were established in 1998, and the ABC project at the National Veterinary Services Laboratories demonstrated that APHIS has not been recovering the full costs of providing user-fee related services through its established user fees. Implementing the user fees in this final rule will ensure that APHIS is able to provide veterinary diagnostic services and recover the cost of these services by the user fees charged. We are making no changes to the proposed rule in response to this comment.

One commenter suggested that APHIS should not collect user fees for tests for animal diseases that can severely impact public health or have serious economic consequences for other reasons. The commenter gave as an example arboviral encephalitides, stating that the costs for diagnosing and controlling this disease were funded through tax dollars in New Jersey.

Our regulations exempt from user fees veterinary diagnostic services provided in connection with (1) Federal programs to control or eradicate diseases or pests of livestock or poultry in the United States (program diseases), (2) zoonotic disease surveillance when the Administrator has determined that there is a significant threat to human health, and (3) detection of foreign animal diseases. We believe that these exemptions address the problem of funding diagnostic services for animal diseases that could have major public health or economic impacts.

One commenter suggested that, with the fee increases proposed, APHIS would become more like a business than a service organization, and the agency's partnership with the States would be strained.

APHIS is committed to cooperating with the States in order to safeguard U.S. animal health, and, as described above, APHIS provides many services to help control dangerous animal diseases at no cost. However, we must charge user fees that accurately reflect the cost of providing veterinary diagnostic services in order to provide those services. We are making no changes in response to these comments.

However, we are making a change to one of the proposed user fees in this final rule. The proposed user fee schedule for virus titration, which was listed in a table in § 130.14(c), listed the fee for that service for fiscal year 2006 as $110.00. The correct fee is $119.00. We are correcting the error in this final rule.

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 change discussed above.

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.

In this final rule, we are increasing the user fees for veterinary diagnostic services to reflect changes in operating costs and changes in calculating our costs. These actions are necessary to ensure that we recover the actual costs of providing these services. We are also providing for a reasonable balance, or reserve, in the veterinary diagnostics user fee account. The reserve will ensure that we have sufficient operating funds in cases of fluctuations in activity volumes, bad debt, program shutdown, or customer insolvency. The Food, Agriculture, Conservation, and Trade Act of 1990, as amended, authorizes us to set and collect these user fees.

In our July 2003 proposed rule, under the heading ''Executive Order 12866 and Regulatory Flexibility Act,'' we provided a detailed analysis of the possible economic effects of the proposed fee increases on users of veterinary diagnostic services. The conclusions of that analysis are summarized below.

The impacts of the increases in veterinary diagnostic user fees in this final rule are expected to be muted. The majority of the changes to the user fees

are either small, associated with few users, or both. Over the period covered by this final rule, more than 60 percent of the individual increases are less than $50, nearly 16 percent increase by less than $10, and about 65 percent are associated with 100 or fewer users. The majority of the fees in this final rule should also make only a small contribution to the total additional fee collections and, therefore, will have a minor impact on the users of those services. This is either because the change is small or the projected volume associated with the user fee is small, or both. Even in those instances in which the change in a user fee will generate a larger total increase in collections, the impact should not be significant because the fees are: Small fees applied to a large annual volume of users, large fees applied to a very small volume of users, fees that represent a small percentage of the overall costs associated with a user's output, single fees for reagents with numerous final users, or fees that enhance the marketability of the user's final outputs. Therefore, the increases are not generally expected to substantially reduce profits or impede exports or imports. Indeed, the full burden of the user fee changes is not likely to be borne entirely by the purchasers of products and services.

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 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 are amending 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. In § 130.14, the tables in paragraphs (a) through (c) are revised to read as follows:

§ 130.14 User fees for FADDL veterinary diagnostics.

(a) * * *

Reagent	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Bovine antiserum, any agent	1 mL	$150.00	$155.00	$160.00	$165.00
Caprine antiserum, any agent	1 mL	184.00	189.00	195.00	202.00
Cell culture antigen/microorganism	1 mL	103.00	106.00	109.00	111.00
Equine antiserum, any agent	1 mL	186.00	192.00	198.00	204.00
Fluorescent antibody conjugate	1 mL	169.00	172.00	176.00	179.00
Guinea pig antiserum, any agent	1 mL	184.00	189.00	194.00	200.00
Monoclonal antibody	1 mL	222.00	229.00	235.00	243.00
Ovine antiserum, any agent	1 mL	176.00	181.00	187.00	193.00
Porcine antiserum, any agent	1 mL	152.00	157.00	162.00	167.00
Rabbit antiserum, any agent	1 mL	179.00	185.00	190.00	196.00

(b) * * *

Test	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Agar gel immunodiffusion	Test	$30.00	$31.00	$32.00	$33.00
Card	Test	17.00	17.00	18.00	18.00
Complement fixation	Test	36.00	37.00	38.00	40.00
Direct immunofluorescent antibody	Test	22.00	23.00	24.00	25.00
Enzyme linked immunosorbent assay	Test	26.00	27.00	28.00	29.00
Fluorescent antibody neutralization (classical swine fever).	Test	194.00	201.00	208.00	215.00
Hemagglutination inhibition	Test	57.00	59.00	61.00	63.00
Immunoperoxidase	Test	29.00	30.00	31.00	32.00
Indirect fluorescent antibody	Test	35.00	36.00	37.00	39.00
In-vitro safety	Test	570.00	589.00	609.00	630.00
In-vivo safety	Test	5,329.00	5,387.00	5,447.00	5,509.00
Latex agglutination	Test	23.00	24.00	25.00	26.00
Tube agglutination	Test	28.00	28.00	29.00	30.00
Virus isolation (oesophageal/pharyngeal)	Test	180.00	186.00	192.00	199.00
Virus isolation in embryonated eggs	Test	346.00	358.00	370.00	383.00
Virus isolation, other	Test	155.00	160.00	166.00	171.00

Test	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Virus neutralization	Test	52.00	54.00	56.00	58.00

(c) * * *

Veterinary diagnostic service	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Bacterial isolation	Test	$112.00	$115.00	$119.00	$123.00
Hourly user fee services [1]	Hour	445.00	460.00	476.00	492.00
Hourly user fee services—Quarter hour	Quarter hour	111.00	115.00	119.00	123.00
Infected cells on chamber slides or plates	Slide	49.00	50.00	51.00	53.00
Reference animal tissues for immunohistochemistry	Set	171.00	177.00	182.00	187.00
Sterilization by gamma radiation	Can	1,740.00	1,799.00	1,860.00	1,923.00
Training (school or technical assistance)	Per person per day	910.00	941.00	973.00	1,006.00
Virus titration	Test	112.00	115.00	119.00	123.00

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

■ 3. In § 130.15, the tables in paragraphs (a) and (b) are revised to read as follows:

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

(a) * * *

Test	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Bacterial identification, automated	Isolate	$48.00	$50.00	$51.00	$53.00
Bacterial identification, non-automated	Isolate	81.00	84.00	87.00	90.00
Bacterial isolation	Sample	33.00	34.00	35.00	36.00
Bacterial serotyping, all other	Isolate	51.00	52.00	53.00	55.00
Bacterial serotyping, Pasteurella multocida	Isolate	16.00	17.00	18.00	18.00
Bacterial serotyping, Salmonella	Isolate	33.00	34.00	35.00	36.00
Bacterial toxin typing	Isolate	109.00	112.00	116.00	120.00
Bacteriology requiring special characterization	Test	83.00	86.00	89.00	92.00
DNA fingerprinting	Test	54.00	56.00	58.00	59.00
DNA/RNA probe	Test	77.00	79.00	81.00	83.00
Fluorescent antibody	Test	17.00	17.00	18.00	19.00
Mycobacterium identification (biochemical)	Isolate	104.00	107.00	111.00	114.00
Mycobacterium identification (gas chromatography)	Procedure	87.00	90.00	93.00	96.00
Mycobacterium isolation, animal inoculations	Submission	770.00	791.00	814.00	837.00
Mycobacterium isolation, all other	Submission	136.00	141.00	146.00	151.00
Mycobacterium paratuberculosis isolation	Submission	65.00	67.00	70.00	72.00
Phage typing, all other	Isolate	38.00	39.00	41.00	42.00
Phage typing, Salmonella enteritidis	Isolate	21.00	22.00	23.00	24.00

(b) * * *

Test	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Fluorescent antibody tissue section	Test	$27.00	$27.00	$28.00	$29.00
Virus isolation	Test	43.00	45.00	46.00	48.00

■ 4. In § 130.16, the tables in paragraphs (a) and (b) are revised to read as follows:

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

(a) * * *

Test	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Brucella ring (BRT)	Test	$33.00	$34.00	$35.00	$36.00
Brucella ring, heat inactivated (HIRT)	Test	33.00	34.00	35.00	36.00
Brucella ring, serial (Serial BRT)	Test	49.00	51.00	53.00	54.00
Buffered acidified plate antigen presumptive	Test	6.00	7.00	7.00	7.00
Card	Test	4.00	4.00	4.00	4.00
Complement fixation	Test	15.00	15.00	16.00	16.00
Enzyme linked immunosorbent assay	Test	15.00	15.00	16.00	16.00
Indirect fluorescent antibody	Test	13.00	13.00	14.00	14.00
Microscopic agglutination-includes up to 5 serovars	Sample	21.00	22.00	23.00	24.00
Microscopic agglutination-each serovar in excess of 5 serovars.	Sample	4.00	4.00	4.00	4.00
Particle concentration fluorescent immunoassay (PCFIA).	Test	33.00	34.00	35.00	36.00
Plate	Test	6.00	7.00	7.00	7.00
Rapid automated presumptive	Test	6.00	6.00	6.00	7.00
Rivanol	Test	6.00	7.00	7.00	7.00
Tube agglutination	Test	6.00	7.00	7.00	7.00

(b) * * *

Test	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Agar gel immunodiffusion	Test	$15.00	$15.00	$16.00	$16.00
Complement fixation	Test	15.00	15.00	16.00	16.00
Enzyme linked immunosorbent assay	Test	15.00	15.00	16.00	16.00
Hemagglutination inhibition	Test	13.00	13.00	14.00	14.00
Indirect fluorescent antibody	Test	13.00	13.00	14.00	14.00
Latex agglutination	Test	15.00	15.00	16.00	16.00
Peroxidase linked antibody	Test	14.00	14.00	15.00	15.00
Plaque reduction neutralization	Test	16.00	17.00	17.00	18.00
Rabies fluorescent antibody neutralization	Test	41.00	42.00	44.00	45.00
Virus neutralization	Test	12.00	12.00	13.00	13.00

■ 5. In § 130.17, the table in paragraph (a) is revised to read as follows:

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

(a) * * *

Test	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Aflatoxin quantitation	Test	$27.00	$28.00	$29.00	$30.00
Aflatoxin screen	Test	26.00	27.00	28.00	29.00
Agar gel immunodiffusion spp. identification	Test	11.00	12.00	12.00	13.00
Antibiotic (bioautography) quantitation	Test	59.00	61.00	63.00	65.00
Antibiotic (bioautography) screen	Test	108.00	112.00	115.00	119.00
Antibiotic inhibition	Test	59.00	61.00	63.00	65.00
Arsenic	Test	16.00	16.00	17.00	17.00
Ergot alkaloid screen	Test	59.00	61.00	63.00	65.00
Ergot alkaloid confirmation	Test	77.00	80.00	83.00	86.00
Feed microscopy	Test	59.00	61.00	63.00	65.00
Fumonisin only	Test	33.00	35.00	36.00	37.00
Gossypol	Test	89.00	92.00	95.00	98.00
Mercury	Test	131.00	135.00	140.00	145.00
Metals screen	Test	40.00	41.00	43.00	44.00
Metals single element confirmation	Test	11.00	12.00	12.00	13.00

Test	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Mycotoxin: aflatoxin-liver	Test	108.00	112.00	115.00	119.00
Mycotoxin screen	Test	43.00	44.00	46.00	48.00
Nitrate/nitrite	Test	59.00	61.00	63.00	65.00
Organic compound confirmation	Test	79.00	82.00	85.00	88.00
Organic compound screen	Test	137.00	141.00	146.00	151.00
Parasitology	Test	26.00	27.00	28.00	29.00
Pesticide quantitation	Test	119.00	123.00	128.00	132.00
Pesticide screen	Test	54.00	56.00	58.00	60.00
pH	Test	24.00	25.00	26.00	26.00
Plate cylinder	Test	89.00	92.00	95.00	98.00
Selenium	Test	40.00	41.00	43.00	44.00
Silicate/carbonate disinfectant	Test	59.00	61.00	63.00	65.00
Temperature disks	Test	118.00	122.00	126.00	130.00
Toxicant quantitation, other	Test	99.00	103.00	106.00	110.00
Toxicant screen, other	Test	30.00	31.00	32.00	33.00
Vomitoxin only	Test	48.00	49.00	51.00	53.00
Water activity	Test	30.00	31.00	32.00	33.00
Zearaleone quantitation	Test	48.00	49.00	51.00	53.00
Zearaleone screen	Test	26.00	27.00	28.00	29.00

* * * * *

■ 6. In § 130.18, the tables in paragraphs (a) and (b) are revised to read as follows:

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

(a) * * *

Reagent	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Anaplasma card test antigen	2 mL	$87.00	$89.00	$92.00	$95.00
Anaplasma card test kit without antigen	Kit	115.00	119.00	123.00	127.00
Anaplasma CF antigen	2 mL	46.00	46.00	46.00	46.00
Anaplasma stabilate	4.5 mL	160.00	165.00	170.00	175.00
Avian origin bacterial antiserums	1 mL	43.00	44.00	46.00	47.00
Bacterial agglutinating antigens other than brucella and salmonella pullorum.	5 mL	49.00	51.00	52.00	54.00
Bacterial conjugates	1 mL	87.00	90.00	93.00	96.00
Bacterial disease CF antigens, all other	1 mL	26.00	27.00	28.00	29.00
Bacterial ELISA antigens	1 mL	27.00	27.00	28.00	29.00
Bacterial or protozoal, antiserums, all other	1 mL	54.00	56.00	58.00	60.00
Bacterial reagent culture [1]	Culture	66.00	68.00	70.00	73.00
Bacterial reference culture [2]	Culture	206.00	213.00	221.00	228.00
Bacteriophage reference culture	Culture	155.00	161.00	166.00	172.00
Bovine serum factor	1 mL	16.00	17.00	17.00	18.00
Brucella abortus CF antigen	60 mL	136.00	141.00	146.00	151.00
Brucella agglutination antigens, all other	60 mL	136.00	141.00	146.00	151.00
Brucella buffered plate antigen	60 mL	155.00	161.00	166.00	172.00
Brucella canis tube antigen	25 mL	102.00	105.00	107.00	109.00
Brucella card testantigen (packaged)	Package	81.00	84.00	87.00	90.00
Brucella card test kit without antigen	Kit	106.00	109.00	111.00	113.00
Brucella cells	Gram	17.00	17.00	18.00	18.00
Brucella cells, dried	Pellet	5.00	5.00	5.00	6.00
Brucella ring test antigen	60 mL	218.00	225.00	233.00	241.00
Brucella rivanol solution	60 mL	27.00	27.00	28.00	29.00
Dourine CF antigen	1 mL	81.00	84.00	86.00	89.00
Dourine stabilate	4.5 mL	102.00	105.00	107.00	109.00
Equine and bovine origin babesia species antiserums.	1 mL	115.00	119.00	123.00	127.00
Equine negative control CF antigen	1 mL	267.00	272.00	276.00	281.00
Flazo-orange	3 mL	11.00	12.00	12.00	13.00
Glanders CF antigen	1 mL	70.00	73.00	75.00	77.00
Hemoparasitic disease CF antigens, all other	1 mL	489.00	505.00	522.00	540.00
Leptospira transport medium	10 mL	4.00	4.00	4.00	4.00
Monoclonal antibody	1 mL	88.00	90.00	93.00	95.00
Mycobacterium spp. old tuberculin	1 mL	21.00	22.00	23.00	24.00
Mycobacterium spp. PPD	1 mL	16.00	17.00	18.00	18.00
Mycoplasma hemagglutination antigens	5 mL	163.00	168.00	174.00	180.00
Negative control serums	1 mL	16.00	17.00	18.00	18.00
Rabbit origin bacterial antiserum	1 mL	47.00	48.00	50.00	52.00

Reagent	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Salmonella pullorum microagglutination antigen	5 mL	14.00	14.00	15.00	15.00
Stabilates, all other	4.5 mL	623.00	640.00	659.00	678.00

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

(b) * * *

Reagent	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Antigen, except avian influenza and chlamydia psittaci antigens, any.	2 mL	$55.00	$57.00	$59.00	$61.00
Avian antiserum except avian influenza antiserum, any.	2 mL	44.00	45.00	47.00	48.00
Avian influenza antigen, any	2 mL	30.00	31.00	32.00	33.00
Avian influenza antiserum, any	6 mL	93.00	96.00	100.00	103.00
Bovine or ovine serum, any	2 mL	115.00	119.00	123.00	127.00
Cell culture	Flask	136.00	141.00	146.00	151.00
Chlamydia psittaci spp. of origin monoclonal antibody panel.	Panel	88.00	90.00	93.00	95.00
Conjugate, any	1 mL	66.00	68.00	71.00	73.00
Diluted positive control serum, any	2 mL	22.00	23.00	24.00	24.00
Equine antiserum, any	2 mL	41.00	42.00	44.00	45.00
Monoclonal antibody	1 mL	94.00	96.00	99.00	102.00
Other spp. antiserum, any	1 mL	51.00	51.00	52.00	52.00
Porcine antiserum, any	2 mL	95.00	99.00	102.00	105.00
Porcine tissue sets	Tissue set	152.00	153.00	155.00	157.00
Positive control tissues, all	2 cm^2 section	55.00	57.00	58.00	60.00
Rabbit origin antiserum	1 mL	47.00	48.00	50.00	52.00
Reference virus, any	0.6 mL	163.00	169.00	174.00	180.00
Viruses (except reference viruses), chlamydia psittaci agent or chlamydia psittaci antigen, any.	0.6 mL	27.00	28.00	29.00	30.00

■ 7. In § 130.19, the table in paragraph (a) is revised to read as follows:

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

(a) * * *

Service	Unit	User fee			
		June 7, 2004–Sept. 30, 2004	Oct. 1, 2004–Sept. 30, 2005	Oct. 1, 2005–Sept. 30, 2006	Beginning Oct. 1, 2006
Antimicrobial susceptibility test	Isolate	$95.00	$98.00	$101.00	$105.00
Avian safety test	Test	3,774.00	3,871.00	3,972.00	4,075.00
Check tests, culture	Kit[1]	162.00	167.00	171.00	176.00
Check tests, serology, all other	Kit[1]	326.00	337.00	349.00	361.00
Fetal bovine serum safety test	Verification	1,061.00	1,078.00	1,096.00	1,114.00
Hourly user fee services:[2]					
Hour	Hour	84.00	84.00	84.00	84.00
Quarter hour	Quarter hour	21.00	21.00	21.00	21.00
Minimum		25.00	25.00	25.00	25.00
Manual, brucellosis culture	1 copy	104.00	107.00	111.00	114.00
Manual, tuberculosis culture (English or Spanish)	1 copy	155.00	161.00	166.00	172.00
Manual, Veterinary mycology	1 copy	155.00	161.00	166.00	172.00
Manuals or standard operating procedure (SOP), all other.	1 copy	31.00	32.00	33.00	34.00
Manuals or SOP, per page	1 page	2.00	2.00	2.00	2.00
Training (school or technical assistance)	Per person per day	300.00	310.00	320.00	331.00

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

* * * * *

Done in Washington, DC, this 29th day of April 2004.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–10309 Filed 5–5–04; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 040220063–4063–01]

RIN 0694–AC64

Protective Equipment Export License Jurisdiction

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule revises the Commerce Control List to conform the description of certain protection and detection equipment to that found in the Wassenaar Arrangement List of Dual Use Goods and Technologies (the Dual Use List), to impose national security and anti-terrorism license requirements on those items, and to impose antiterrorism controls on certain items that are excluded from the Dual Use List.

DATES: This rule is effective May 6, 2004.

FOR FURTHER INFORMATION CONTACT: Scott Hubinger, Office of Chemical and Biological Controls and Treaty Compliance, telephone: (202) 482–5223, e-mail *shubinge@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Commerce Control List (15 CFR part 774, supp. 1) (CCL) contains entries called Export Control Classification Numbers (ECCNs) and is used in determining whether a license from the Bureau of Industry and Security (BIS) is required for certain exports and reexports. It also describes some items that are subject to the export licensing jurisdiction of the Directorate of Defense Trade Controls (DTC), U.S. Department of State. In general, DTC has export licensing authority over items that have been specifically designed, developed, configured, adapted, or modified for military application and do not have predominantly civil applications or that have significant military or intelligence applications. BIS generally has export licensing authority over items having predominantly civil uses even if they also may be used by the military. Prior to publication of this rule ECCN 1A004 referred readers to the DTC controls with regard to ''[p]rotective and detection equipment and components, not specially designed for military use.''

This rule revises ECCN 1A004 to emulate entry 1.A.4 on the Wassenaar Arrangement List of Dual Use Goods and Technologies, including an exclusion note from that entry. This rule applies national security (NS2) and antiterrorism (AT1) controls to items covered by ECCN 1A004, including gas masks, filter canisters, decontamination equipment, protective suits, gloves and shoes specially designed or modified for defense against biological agents or radioactive materials adapted for use in war or chemical warfare agents, and certain nuclear, chemical, and biological detection systems. The national security controls require a license for export or reexport to all destinations except Country Group A:1 and cooperating countries as listed in 15 CFR part 740, supp. No. 1.

This rule also creates a new ECCN 1A995 that imposes antiterrorism controls (AT1) on personal radiation monitoring dosimeters and equipment limited by design or function to protect against hazards specific to civil industries, such as mining, quarrying, agriculture, pharmaceuticals, medical, veterinary, environmental, waste management, or to the food industry that are excluded from 1A004. The antiterrorism controls require a license for export or reexport to countries designated by the Secretary of State as state sponsors of international terrorism. New ECCN 1A995 includes a note that items for protection against chemical or biological agents that are consumer goods, packaged for retail sale or personal use and medical products are excluded from 1A995, and are EAR99. EAR99 items are not listed in any specific entry on the Commerce Control List, but are subject to other provisions of the EAR, including those that impose a license requirement based on recipient or end-use, those that apply to embargoed destinations, the prohibitions on violating denial orders, and export clearance requirements.

The antiterrorism controls imposed by this rule are new foreign policy controls. As required by the Export Administration Act of 1979, as amended (the Act), a report on the imposition of these controls was delivered to Congress on April 27, 2004.

Although the Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 7, 2003 (68 FR 47833, August 11, 2003), continues the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Savings Clause

Exports and reexports that did not require a license prior to publication of this rule and for which this rule imposes a new license requirement may be made without a license if the items being exported or reexported were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export or reexport on May 20, 2004, and exported or reexported on or before June 7, 2004. Any such exports or reexports not actually made before midnight on June 7, 2004, require a license in accordance with this rule.

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves collections of information subject to the PRA. These collections have been approved by the Office of Management and Budget (OMB) under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually form BIS–748P. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to David Rostker, OMB Desk Officer, by e-mail at *david_rostker@omb.eop.gov* or by fax to 202.395.285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. This rule does not contain policies with federalism implications as this term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C.