

advance would allow users to incorporate the fees into their budget planning.

Veterinary diagnostics is the work performed in a laboratory to determine if a disease-causing organism or chemical agent is present in body tissues or cells and, if so, to identify those organisms or agents. Services in this category include: (1) Performing laboratory tests and providing diagnostic reagents and other veterinary diagnostic materials and services at the NVSL Foreign Animal Disease Diagnostic Laboratory (NVSL FADDL) in Greenport, NY; and (2) performing identification, serology, and pathobiology tests and providing diagnostic reagents and other veterinary diagnostic materials and services at NVSL in Ames, IA.

APHIS veterinary diagnostic user fees fall into six categories:

- (1) Laboratory tests, reagents, and other veterinary diagnostic services performed at NVSL FADDL;
- (2) Laboratory tests performed as part of isolation and identification testing at NVSL in Ames;
- (3) Laboratory tests performed as part of serology testing at NVSL in Ames;
- (4) Laboratory tests performed at the pathobiology laboratory at NVSL in Ames;
- (5) Diagnostic reagents produced at NVSL in Ames or other authorized sites; and
- (6) Other veterinary diagnostic services or materials provided at NVSL in Ames.

#### *Need for Regulation*

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. Financing veterinary diagnostic services and products by charging for the right to use the incremental service internalizes those costs to those who require the service and benefit from it.

Veterinary diagnostic services and products enhance livestock production, trade, and research. The socially optimal prices for such commodities, of which veterinary diagnostics are inputs, are those price levels that induce the output level where the marginal benefit (what people are willing to pay for the good) is exactly equal to the marginal social cost (all costs associated with the production of the final output, including veterinary diagnostics). As it stands now, veterinary diagnostic services and products are provided at levels below their full cost to APHIS. These costs are, therefore, only partly incorporated into producers' costs of

production. Our proposed revisions of the fee-for-service charges to recover the costs incurred by APHIS would move the private costs of individuals closer to the true cost of producing their outputs. The proposed annual increases, which would span fiscal years 2004 through 2007, would help ensure that the fees accurately reflect the cost of providing the service.

#### *Development of Fee Structure*

*User fee components.* The user fees proposed in this document are based on average laboratory employee salaries and benefits in each of the fiscal years 2004 through 2007, and estimates of the number of direct labor hours required to provide each service. The proposed user fees have been calculated to recover the full costs for tests, diagnostic reagents, and other veterinary diagnostic services. These costs include direct labor costs, administrative support costs, premium costs (if any), agency overhead costs, and departmental charges. These components are described below; the user fee calculation for the proposed virus isolation fee for fiscal year (FY) 2004 is used throughout as an example.

We are proposing to charge a specific dollar amount for each service we provide (*i.e.*, for each test we perform or each diagnostic reagent or other veterinary diagnostic service we provide). We have attempted to minimize the costs of our services, thereby keeping APHIS user fees at the lowest possible level. If, in the future, a user requests a test, diagnostic reagent, or other veterinary diagnostic material or service that is not specifically listed in our regulations, we would charge the proposed hourly user fee set forth in proposed § 130.19 for the amount of time required to perform the service, calculated to the nearest quarter of an hour.

Each user fee varies based on the direct labor hours required to perform the test or provide the diagnostic reagent or other veterinary diagnostic material or service. For example, the time spent by laboratory personnel to prepare a sample, conduct the test, and read the test would be part of the direct labor hours for testing a tissue sample for disease-causing organisms. In cases where a test is performed for more than one disease, it may take different amounts of time for each disease. Those times have been averaged to calculate the user fee for the test. We have carefully calculated all of our proposed user fees to correctly reflect the direct labor hours required for each test, reagent, or service. We took into account variations in the time needed to provide a service by determining the average

time necessary to provide the service; similar user fee components are used for other agency user fees throughout the regulations.

*Direct labor costs.* Direct labor costs are the average salary and benefit costs of the laboratory employees performing the service multiplied by the estimated direct labor hours required. Average laboratory costs were used to calculate direct labor costs because we have determined that it is more accurate to use the average salary for laboratory employees to calculate the user fee. For example, the estimated average laboratory salary at the Diagnostic Virology Lab for FY 2004 is \$28.85 per hour. On average, it takes 0.295 hours per virus isolation test, leading to direct labor costs of \$8.51.

*Administrative support costs.* Administrative support costs are incurred at the laboratories. They include clerical and administrative activities; direct materials; indirect labor hours; rent; billing and collection costs; travel and transportation for personnel, supplies, equipment, and other necessary items; training; legal counsel; capital equipment costs; general supplies for offices, washrooms, and cleaning; contractual services; grounds maintenance; and utilities. Direct materials include the cost of any materials needed to conduct the test or to provide the diagnostic reagent, slide set, tissue set, or service. For example, direct materials for conducting a laboratory test include, but are not limited to, glassware, chemicals, and other supplies necessary to perform the test. Indirect labor hours include supervision of personnel and time spent doing necessary work, such as repairing equipment, that is not directly connected with a specific test, diagnostic reagent, or other veterinary diagnostic material or service. Contractual services may include, but are not limited to, guard service, trash pickup, and maintenance. Utilities include water, telephone, electricity, natural and propane gas, and heating and diesel oil.

The costs of administrative support are applied as a percentage of the base direct labor amount; at NVSL in Ames, administrative support is 296 percent of direct labor, and at NVSL FADDL, administrative support is 1,638 percent of direct labor. For example, the administrative support costs for the virus isolation test are calculated at 296 percent of its direct labor costs of \$8.51 to be \$25.19. The total direct labor and administrative support costs for one virus isolation test are \$33.70.

*NVSL FADDL administrative support costs compared to NVSL in Ames costs.*