

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.

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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