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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. APHIS–2006–0161]

RIN 0579–AC52

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 the veterinary diagnostic services to reflect changes in our operating costs and expenses. 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, and Conservation Act of 1990, as amended, authorizes us to set and collect these user fees.

DATES: *Effective Date:* January 18, 2008.

FOR FURTHER INFORMATION CONTACT: For information concerning Veterinary Services (VS) Management Support,

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 VS Program Operations at the National Veterinary Services Laboratory, contact Dr. Elizabeth Lautner, Director, National Veterinary Services Laboratories, 1800 Dayton Road, P.O. Box 844, Ames, IA 50010; (515) 633–7357.

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

SUPPLEMENTARY INFORMATION:

Background

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 section 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 23, 2007, we published in the **Federal Register** (72 FR 40082–40090, Docket No. APHIS–2006–0161) a proposal [1] to amend the regulations by increasing 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.

We solicited comments concerning our proposal for 60 days ending September 22, 2007. We received one comment by that date, from a private citizen. The commenter supported the proposed rule. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule.

In this final rule, we have made a minor change to the fiscal year 2011 user fees for complement fixation and enzyme-linked immunosorbent assay in § 130.16(a). In the proposed rule, we mistakenly stated that those two fees would be $17 for that year. The correct fee for both tests is $18.

[1] To view the proposed rule and the comment we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0161.*

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.

Below is a summary of the economic analysis for the changes in APHIS user fees in this final rule. The economic analysis provides a cost-benefit analysis and an analysis of the potential economic effects on small entities as required by the Regulatory Flexibility Act. A copy of the full economic analysis, which includes comparisons of the change in each user fee, may be viewed on the Regulations.gov Web site (see footnote 1 for instructions for accessing Regulations.gov) and may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

APHIS is updating the user fees covering the costs of providing veterinary diagnostics services to take into account the routine increases in the cost of doing business. The costs to operate the Veterinary Services Veterinary Diagnostics Program at National Veterinary Services Laboratory increase slightly from year to year due to increases in employee costs (cost of living increases, etc.) and other operational costs. These fees are necessary to provide for full-cost recovery of Agency activities.

Calculating the potential impacts of these changes to the veterinary diagnostics user fees is hindered by the difficulty in determining the elasticities of demand for the covered services. Therefore, Government savings are assumed equivalent to the total user fee collections for each category associated with the rule.

Veterinary diagnostic services and products are provided to animal importers and exporters, veterinarians, State and Federal agencies and laboratories, commercial laboratories, educational institutions, and foreign governments.

There is reason to believe that the impact on most users of the changes in this rule would be small. About 76 percent of the fees change in total by $10 or less. The majority should also make only small contributions to the total additional collections and therefore have a minor impact on the users of those materials and services. This is either because the change is small or the projected volume associated with the user fee is small, or both. In addition, user fees are not charged when tests are provided in the context of disease control or eradication programs. Also, in addition to the role they play in protecting American agriculture, veterinary diagnostic services and products facilitate international trade and thereby enhance the business interests of many of those requesting these services.

Nearly 80 percent of the total projected change in collections would come from changes in only 13 of the 146 fees. Only these 13 fee changes are projected to generate $10,000 or more in additional annual collections by the end of the period covered in this rule. Several factors suggest, however, that these fees should also not have a significant impact on users. These fees include small fees applied to a large annual volume of users, large fees but 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, and fees that enhance the marketability of the user's final output.

To the extent that the changes in user fees would impact operational costs, any entity that utilizes APHIS veterinary diagnostic services and materials could be impacted by the changes. The degree to which an entity could be affected depends on its market power, that is, the extent to which costs are either absorbed or can be passed on to its buyers. Without information on either profit margins or operational expenses of the affected entities, or the effects of changes in operating costs on the affected industry, the scale of the impacts cannot be precisely predicted. However, some conclusions on the overall impacts to domestic and international commerce can be drawn.

If the user fees cannot be passed on, the profit margins of some entities may decline as user fees for veterinary diagnostic services and materials are increased. However, the impacts 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 the rule, more than 51 percent of the individual increases are $5 or less, more than 76 percent increase by less than $10, and more than 83 percent are associated with fewer than 500 users. The majority should also make only small contributions to the total additional collections and therefore 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 generates a

larger total increase in collections, the impact should not be significant. This is because they are small fees applied to a large annual volume of users, large fees but 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 trade. Indeed, the full burden of the user fee changes is not likely to be borne entirely by the purchasers of veterinary diagnostic services and materials.

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 § 130.15, paragraphs (a) and (b), the tables 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				
		Jan. 18, 2008–Sept. 30, 2008	Oct. 1, 2008–Sept. 30, 2009	Oct. 1, 2009–Sept. 30, 2010	Oct. 1, 2010–Sept. 30, 2011	Beginning Oct. 1, 2011
Bacterial identification, automated	Isolate	$53.00	$54.00	$55.00	$57.00	$58.00
Bacterial identification, non-automated	Isolate	90.00	92.00	94.00	96.00	98.00
Bacterial isolation	Sample	36.00	37.00	38.00	39.00	40.00
Bacterial serotyping, all other	Isolate	55.00	56.00	56.00	57.00	58.00
Bacterial serotyping, Pasteurella multocida	Isolate	18.00	19.00	19.00	19.00	20.00
Bacterial serotyping, Salmonella	Isolate	36.00	37.00	38.00	39.00	40.00
Bacterial toxin typing	Isolate	120.00	123.00	126.00	128.00	131.00
Bacteriology requiring special characterization	Test	92.00	94.00	96.00	98.00	101.00
DNA fingerprinting	Test	59.00	61.00	62.00	63.00	64.00
DNA probe	Test	83.00	85.00	86.00	88.00	89.00
Fluorescent antibody	Test	19.00	19.00	20.00	20.00	20.00
Mycobacterium identification (biochemical)	Isolate	115.00	117.00	120.00	122.00	125.00
Mycobacterium identification (gas chromatography)	Procedure	96.00	99.00	101.00	103.00	105.00
Mycobacterium isolation, animal inoculations	Submission	844.00	852.00	868.00	884.00	900.00
Mycobacterium isolation, all other	Submission	151.00	154.00	158.00	161.00	165.00
Mycobacterium paratuberculosis isolation	Submission	72.00	74.00	75.00	77.00	79.00
Phage typing, all other	Isolate	42.00	43.00	44.00	45.00	46.00
Phage typing, Salmonella enteritidis	Isolate	24.00	24.00	25.00	25.00	26.00

(b) * * *

Test	Unit	User fee				
		Jan. 18, 2008–Sept. 30, 2008	Oct. 1, 2008–Sept. 30, 2009	Oct. 1, 2009–Sept. 30, 2010	Oct. 1, 2010–Sept. 30, 2011	Beginning Oct. 1, 2011
Fluorescent antibody tissue section	Test	$29.00	$30.00	$30.00	$31.00	$31.00
Virus isolation	Test	48.00	49.00	50.00	51.00	52.00

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■ 3. In § 130.16, paragraphs (a) and (b), the tables 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				
		Jan. 18, 2008–Sept. 30, 2008	Oct. 1, 2008–Sept. 30, 2009	Oct. 1, 2009–Sept. 30, 2010	Oct. 1, 2010–Sept. 30, 2011	Beginning Oct. 1, 2011
Brucella ring (BRT)	Test	$36.00	$37.00	$38.00	$39.00	$40.00
Brucella ring, heat inactivated (HIRT)	Test	36.00	37.00	38.00	39.00	40.00
Brucella ring, serial (Serial BRT)	Test	54.00	56.00	57.00	58.00	59.00
Buffered acidified plate antigen presumptive	Test	7.00	7.25	7.50	7.50	8.00
Card	Test	4.00	4.00	4.25	4.25	4.50
Complement fixation	Test	16.00	17.00	17.00	18.00	18.00
Enzyme linked immunosorbent assay	Test	16.00	17.00	17.00	18.00	18.00
Indirect fluorescent antibody	Test	14.00	15.00	15.00	15.00	16.00
Microscopic agglutination—includes up to 5 serovars	Sample	24.00	24.00	25.00	25.00	26.00
Microscopic agglutination—each serovar in excess of 5 serovars.	Sample	4.25	4.50	4.50	4.50	4.75
Particle concentration fluorescent immunoassay (PCFIA).	Test	36.00	37.00	38.00	38.00	39.00
Plate	Test	7.00	7.25	7.50	7.50	7.75
Rapid automated presumptive	Test	7.00	7.00	7.25	7.25	7.25
Rivanol	Test	7.00	7.25	7.50	7.50	7.75
Tube agglutination	Test	7.00	7.25	7.50	7.50	7.75

(b) * * *

Test	Unit	User fee				
		Jan. 18, 2008–Sept. 30, 2008	Oct. 1, 2008–Sept. 30, 2009	Oct. 1, 2009–Sept. 30, 2010	Oct. 1, 2010–Sept. 30, 2011	Beginning Oct. 1, 2011
Agar gel immunodiffusion	Test	$16.00	$17.00	$17.00	$17.00	$18.00
Complement fixation	Test	16.00	17.00	17.00	18.00	18.00
Enzyme linked immunosorbent assay	Test	16.00	17.00	17.00	18.00	18.00
Hemagglutination inhibition	Test	14.00	15.00	15.00	15.00	16.00
Indirect fluorescent antibody	Test	14.00	15.00	15.00	15.00	16.00
Latex agglutination	Test	16.00	17.00	17.00	17.00	18.00
Peroxidase linked antibody	Test	15.00	16.00	16.00	16.00	17.00
Plaque reduction neutralization	Test	18.00	18.00	19.00	19.00	19.00
Rabies fluorescent antibody neutralization	Test	45.00	46.00	47.00	49.00	50.00
Virus neutralization	Test	13.00	13.00	14.00	14.00	14.00

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■ 4. In § 130.17, paragraph (a), the table 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				
		Jan. 18, 2008–Sept. 30, 2008	Oct. 1, 2008–Sept. 30, 2009	Oct. 1, 2009–Sept. 30, 2010	Oct. 1, 2010–Sept. 30, 2011	Beginning Oct. 1, 2011
Aflatoxin quantitation	Test	$30.00	$31.00	$32.00	$32.00	$33.00
Aflatoxin screen	Test	29.00	29.00	30.00	30.00	31.00
Agar gel immunodiffusion spp. identification	Test	13.00	13.00	13.00	14.00	14.00
Antibiotic (bioautography) quantitation	Test	66.00	67.00	68.00	70.00	72.00
Antibiotic (bioautography) screen	Test	119.00	122.00	125.00	128.00	130.00
Antibiotic inhibition	Test	66.00	67.00	68.00	70.00	72.00
Arsenic	Test	17.00	18.00	18.00	19.00	19.00
Ergot alkaloid screen	Test	66.00	67.00	68.00	70.00	72.00
Ergot alkaloid confirmation	Test	86.00	88.00	89.00	91.00	94.00
Feed microscopy	Test	66.00	67.00	68.00	70.00	72.00
Fumonisin only	Test	37.00	38.00	39.00	40.00	40.00
Gossypol	Test	98.00	100.00	103.00	105.00	107.00
Mercury	Test	145.00	148.00	151.00	155.00	158.00
Metals screen	Test	44.00	45.00	46.00	47.00	48.00
Metals single element confirmation	Test	13.00	13.00	13.00	14.00	14.00
Mycotoxin: aflatoxin-liver	Test	119.00	122.00	125.00	128.00	130.00
Mycotoxin screen	Test	48.00	49.00	50.00	51.00	52.00
Nitrate/nitrite	Test	66.00	67.00	68.00	70.00	72.00

Test	Unit	User fee				
		Jan. 18, 2008–Sept. 30, 2008	Oct. 1, 2008–Sept. 30, 2009	Oct. 1, 2009–Sept. 30, 2010	Oct. 1, 2010–Sept. 30, 2011	Beginning Oct. 1, 2011
Organic compound confirmation	Test	88.00	90.00	92.00	94.00	96.00
Organic compound screen	Test	151.00	155.00	158.00	161.00	165.00
Parasitology	Test	29.00	29.00	30.00	30.00	31.00
Pesticide quantitation	Test	132.00	135.00	138.00	141.00	144.00
Pesticide screen	Test	60.00	62.00	63.00	64.00	66.00
pH	Test	26.00	27.00	28.00	28.00	29.00
Plate cylinder	Test	98.00	100.00	103.00	105.00	107.00
Selenium	Test	44.00	45.00	46.00	47.00	48.00
Silicate/carbonate disinfectant	Test	66.00	67.00	68.00	70.00	72.00
Temperature disks	Test	130.00	133.00	136.00	139.00	142.00
Toxicant quantitation, other	Test	110.00	112.00	115.00	117.00	120.00
Toxicant screen, other	Test	33.00	33.00	34.00	35.00	36.00
Vomitoxin only	Test	53.00	54.00	55.00	56.00	58.00
Water activity	Test	33.00	33.00	34.00	35.00	36.00
Zearaleone quantitation	Test	53.00	54.00	55.00	56.00	58.00
Zearaleone screen	Test	29.00	29.00	30.00	30.00	31.00

* * * * *

■ 5. In § 130.18, paragraphs (a) and (b), the tables 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				
		Jan. 18, 2008–Sept. 30, 2008	Oct. 1, 2008–Sept. 30, 2009	Oct. 1, 2009–Sept. 30, 2010	Oct. 1, 2010–Sept. 30, 2011	Beginning Oct. 1, 2011
Anaplasma card test antigen	2 mL	$95.00	$97.00	$99.00	$101.00	$103.00
Anaplasma card test kit without antigen	Kit	127.00	130.00	133.00	136.00	139.00
Anaplasma CF antigen	2 mL	46.00	46.00	46.00	47.00	47.00
Anaplasma stabilate	4.5 mL	175.00	178.00	181.00	185.00	188.00
Avian origin bacterial antiserums	1 mL	48.00	49.00	50.00	51.00	52.00
Bacterial agglutinating antigens other than brucella and salmonella pullorum.	5 mL	54.00	55.00	57.00	58.00	59.00
Bacterial conjugates	1 mL	96.00	99.00	101.00	103.00	105.00
Bacterial disease CF antigens, all other	1 mL	29.00	30.00	30.00	31.00	32.00
Bacterial ELISA antigens	1 mL	29.00	30.00	31.00	31.00	32.00
Bacterial or protozoal antiserums, all other	1 mL	60.00	61.00	63.00	64.00	66.00
Bacterial reagent culture[1]	Culture	73.00	74.00	76.00	78.00	79.00
Bacterial reference culture[2]	Culture	228.00	233.00	239.00	244.00	249.00
Bacteriophage reference culture	Culture	172.00	176.00	180.00	183.00	188.00
Bovine serum factor	1 mL	18.00	18.00	19.00	19.00	19.00
Brucella abortus CF antigen	60 mL	151.00	154.00	158.00	161.00	165.00
Brucella agglutination antigens, all other	60 mL	151.00	154.00	158.00	161.00	165.00
Brucella buffered plate antigen	60 mL	172.00	176.00	180.00	183.00	188.00
Brucella canis tube antigen	25 mL	114.00	116.00	119.00	121.00	124.00
Brucella card test antigen (packaged)	Package	90.00	92.00	94.00	96.00	98.00
Brucella card test kit without antigen	Kit	113.00	114.00	116.00	117.00	119.00
Brucella cells	Gram	19.00	19.00	19.00	20.00	20.00
Brucella cells, dried	Pellet	6.00	6.00	6.25	6.25	6.25
Brucella ring test antigen	60 mL	241.00	246.00	252.00	257.00	263.00
Brucella rivanol solution	60 mL	29.00	30.00	31.00	31.00	32.00
Dourine CF antigen	1 mL	89.00	91.00	93.00	95.00	97.00
Dourine stabilate	4.5 mL	109.00	111.00	112.00	114.00	116.00
Equine and bovine origin babesia species antiserums	1 mL	127.00	130.00	133.00	136.00	139.00
Equine negative control CF antigen	1 mL	282.00	283.00	286.00	290.00	293.00
Flazo-orange	3 mL	13.00	13.00	13.00	13.00	14.00
Glanders CF antigen	1 mL	77.00	79.00	81.00	82.00	84.00
Hemoparasitic disease CF antigens, all other	1 mL	541.00	553.00	565.00	577.00	590.00
Leptospira transport medium	10 mL	4.25	4.50	4.50	4.50	4.75
Monoclonal antibody	1 mL	95.00	97.00	99.00	101.00	103.00
Mycobacterium spp. old tuberculin	1 mL	24.00	24.00	25.00	25.00	26.00
Mycobacterium spp. PPD	1 mL	18.00	19.00	19.00	19.00	20.00
Mycoplasma hemagglutination antigens	5 mL	180.00	184.00	188.00	192.00	197.00
Negative control serums	1 mL	18.00	19.00	19.00	19.00	20.00
Rabbit origin bacterial antiserum	1 mL	52.00	53.00	54.00	55.00	56.00
Salmonella pullorum microagglutination antigen	5 mL	15.00	16.00	16.00	16.00	17.00

Reagent	Unit	User fee				
		Jan. 18, 2008–Sept. 30, 2008	Oct. 1, 2008–Sept. 30, 2009	Oct. 1, 2009–Sept. 30, 2010	Oct. 1, 2010–Sept. 30, 2011	Beginning Oct. 1, 2011
Stabilates, all other	4.5 mL	684.00	690.00	703.00	716.00	730.00

[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 agglutination 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				
		Jan. 18, 2008–Sept. 30, 2008	Oct. 1, 2008–Sept. 30, 2009	Oct. 1, 2009–Sept. 30, 2010	Oct. 1, 2010–Sept. 30, 2011	Beginning Oct. 1, 2011
Antigen, except avian influenza and chlamydia psittaci antigens, any.	2 mL	$61.00	$62.00	$64.00	$65.00	$67.00
Avian antiserum except avian influenza antiserum, any	2 mL	48.00	49.00	51.00	52.00	53.00
Avian influenza antigen, any	2 mL	33.00	34.00	35.00	36.00	36.00
Avian influenza antiserum, any	6 mL	103.00	105.00	108.00	110.00	113.00
Bovine or ovine serum, any	2 mL	127.00	130.00	133.00	136.00	139.00
Cell culture	Flask	151.00	154.00	158.00	161.00	165.00
Chlamydia psittaci spp. of origin monoclonal antibody panel.	Panel	95.00	96.00	98.00	99.00	101.00
Conjugate, any	1 mL	73.00	75.00	76.00	78.00	80.00
Diluted positive control serum, any	2 mL	24.00	25.00	25.00	26.00	27.00
Equine antiserum, any	2 mL	45.00	46.00	47.00	48.00	49.00
Monoclonal antibody	1 mL	102.00	104.00	106.00	108.00	110.00
Other spp. antiserum, any	1 mL	52.00	52.00	52.00	53.00	53.00
Porcine antiserum, any	2 mL	105.00	108.00	110.00	113.00	115.00
Porcine tissue sets	Tissue set	157.00	157.00	158.00	159.00	161.00
Positive control tissues, all	2 cm^2 section.	60.00	62.00	63.00	65.00	66.00
Rabbit origin antiserum	1 mL	52.00	53.00	54.00	55.00	56.00
Reference virus, any	0.6 mL	180.00	184.00	188.00	193.00	197.00
Viruses (except reference viruses), chlamydia psittaci agent or chlamydia psittaci antigen, any.	0.6 mL	30.00	31.00	32.00	32.00	33.00

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■ 6. In § 130.19, paragraph (a), the table 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				
		Jan. 18, 2008–Sept. 30, 2008	Oct. 1, 2008–Sept. 30, 2009	Oct. 1, 2009–Sept. 30, 2010	Oct. 1, 2010–Sept. 30, 2011	Beginning Oct. 1, 2011
Antimicrobial susceptibility test	Isolate	$105.00	$107.00	$109.00	$112.00	$114.00
Avian safety test	Test	4,082.00	4,090.00	4,099.00	4,109.00	4,180.00
Check tests, culture	Kit [1]	176.00	179.00	182.00	185.00	189.00
Check tests, serology	Kit [1]	361.00	369.00	377.00	385.00	394.00
Fetal bovine serum safety test	Verification	1,119.00	1,122.00	1,134.00	1,147.00	1,160.00
Hourly user fees: [2]						
Hour	Hour	104.00	104.00	108.00	112.00	112.00
Quarter hour	Quarter Hour	26.00	26.00	27.00	28.00	28.00
Minimum		30.00	31.00	32.00	33.00	33.00
Manual, brucellosis culture	1 copy	115.00	117.00	120.00	122.00	125.00
Manual, tuberculosis Culture (English or Spanish)	1 copy	172.00	176.00	180.00	183.00	188.00
Manual, Veterinary mycology	1 copy	172.00	176.00	180.00	183.00	188.00
Manuals or standard operating procedure (SOP), all other.	1 copy	34.00	35.00	36.00	37.00	37.00
Manuals or SOP, per page	1 page	2.25	2.50	2.50	2.75	2.75
Training (school or technical assistance)	Per person per day.	332.00	339.00	346.00	354.00	362.00

[1] Any reagents required for the check test will be charged separately.

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

* * * * *

Done in Washington, DC, this 13th day of December 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–24602 Filed 12–18–07; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AH80

Incorporation by Reference of American Society of Mechanical Engineers Boiler and Pressure Vessel Code Cases

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to incorporate by reference the latest revisions of two previously incorporated regulatory guides (RGs) that approve Code Cases published by the American Society of Mechanical Engineers (ASME). These RGs are 1.84, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,'' Revision 34, and RG 1.147, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1,'' Revision 15. This action allows licensees to use the Code Cases listed in the RGs as alternatives to requirements in the ASME Boiler and Pressure Vessel Code regarding the construction and inservice inspection of nuclear power plant components. Concurrent with this action, the NRC is publishing a notice of the issuance and availability of the final RGs. As a result of these related actions, the Code Cases listed in these RGs are incorporated by reference into the NRC's regulations.

DATES: *Effective Date:* January 18, 2008. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Office of the Federal Register as of January 18, 2008.

FOR FURTHER INFORMATION CONTACT: L. Mark Padovan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1423, e-mail *lmp@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Availability of Documents

The NRC is making the documents identified below available to interested persons through one or more of the following:

Public Document Room (PDR). The NRC Public Document Room is located at 11555 Rockville Pike, Public File Area O–1F21, Rockville, Maryland. Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's PDR. The PDR reproduction contractor will copy documents for a fee.

The NRC's Public Electronic Reading Room. The NRC's public electronic reading room (e-reading room) is located at *http://www.nrc.gov/reading-rm.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The table below shows some documents related to this rulemaking, and their ADAMS ML numbers. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Document	PDR	Web	e-Reading room
Final Rule—Regulatory Analysis	X	X	ML070360713
RG 1.84, Rev. 34	X	X	ML072070407
RG 1.147, Rev. 15	X	X	ML072070419
RG 1.193, Rev. 1	X	X	ML052140501
Response to Public Comments	X	X	ML071230720

Background

The ASME develops and publishes the *Boiler and Pressure Vessel Code* (BPV Code), which contains the Code requirements for the design, construction, and inservice inspection (ISI) of nuclear power plant components, and the *Code for Operation and Maintenance of Nuclear Power Plants* (OM Code), which contains Code requirements for inservice testing (IST) of nuclear power plant components. In response to BPV and OM Code user requests, the ASME develops Code Cases which provide alternatives to BPV and OM Code requirements under special circumstances.

The NRC staff reviews ASME BPV and OM Code Cases, rules upon the acceptability of each Code Case, and publishes its findings in RGs. The RGs are revised periodically as new Code Cases are published by the ASME. The NRC incorporates by reference the RGs listing acceptable and conditionally acceptable ASME Code Cases in 10 CFR 50.55a. Currently, NRC RG 1.84, Revision 33, *''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,''* NRC RG 1.147, Revisions 0 through 14, *''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1,''* and NRC RG 1.192, *''Operation and Maintenance Code Case Acceptability, ASME OM Code''* are incorporated into NRC's regulations, specifically 10 CFR 50.55a, ''Codes and Standards.''

This final rule incorporates by reference the latest revisions of the NRC RGs that list acceptable and conditionally acceptable ASME BPV Code Cases. RG 1.84, Revision 34 supersedes the incorporation by reference of Revision 33 and RG 1.147, Revision 15 supersedes the incorporation by reference of Revisions 0 through 14. Revision 15 of RG 1.147 supersedes all previous revisions of the RG. To make RG 1.147 easier to use, there was an effort to ensure that the tables of annulled Code Cases in Revision 15 were all inclusive. The result should be that licensees will no longer have to refer to multiple versions of this RG in managing Code Case usage in their ISI programs. RG 1.192, ''*Operation and Maintenance Code Case Acceptability, ASME OM Code*'' (June 2003), has not been revised because no new OM Code Cases have been