

### § 354.3

### 7 CFR Ch. III (1-1-03 Edition)

[49 FR 32332, Aug. 14, 1984]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 354.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

#### § 354.3 User fees for certain international services.

(a) *Definitions.* Whenever in this section the following terms are used, unless the context otherwise requires, they shall be construed, respectively, to mean:

*APHIS.* The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

*Arrival.* Arrival at a port of entry in the customs territory of the United States, or at any place served by a port of entry as specified in 19 CFR 101.3.

*Calendar year.* The period from January 1 to December 31, inclusive, of any particular year.

*Commercial aircraft.* Any aircraft used to transport persons or property for compensation or hire.

*Commercial purpose.* The intention of receiving compensation, or making a gain or profit.

*Commercial railroad car.* A railroad car used or capable of being used for transporting property for compensation or hire.

*Commercial shipment.* A shipment for gain or profit.

*Commercial truck.* A self-propelled vehicle, designed and used for transporting property for compensation or hire. Empty trucks and truck cabs without trailers fitting this description are included.

*Commercial vessel.* Any watercraft or other contrivance used or capable of being used as a means of transportation on water to transport property for compensation or hire, with the exception of any aircraft or ferry.

*Customs.* The United States Customs Service, United States Department of the Treasury.

*Customs territory of the United States.* The 50 States, the District of Columbia, and Puerto Rico.

*Designated State or county inspector.* A State or county plant regulatory official designated by the Secretary of Agriculture to inspect and certify to shippers and other interested parties, as to the phytosanitary condition of plant

products inspected under the Plant Protection Act.

*Export certificate for processed plant products.* A certificate (PPQ Form 578) issued by an inspector, describing the plant health condition of processed or manufactured plant products based on inspection of submitted samples and/or by virtue of the processing received.

*Person.* An individual, corporation, partnership, trust, association, or any other public or private entity, or any officer, employee, or agent thereof.

*Phytosanitary certificate.* A certificate (PPQ Form 577) issued by an inspector, giving the phytosanitary condition of domestic plants or unprocessed or unmanufactured plant products based on inspection of the entire lot or representative samples drawn by a Federal or State employee authorized to conduct such sampling.

*Phytosanitary certificate for reexport.* A certificate (PPQ Form 579) issued by an inspector, giving the phytosanitary condition of foreign plants and plant products legally imported into the United States and subsequently offered for reexport. The certificate certifies that, based on the original foreign phytosanitary certificate and/or additional inspection or treatment in the United States, the plants and plant products are considered to conform to the current phytosanitary regulations of the receiving country and have not been subjected to the risk of infestation or infection during storage in the United States. Plants and plant products which transit the United States under Customs bond are not eligible to receive the phytosanitary certificate for reexport.

(b) *Fee for inspection of commercial vessels of 100 net tons or more.* (1) Except as provided in paragraph (b)(2) of this section, the master, licensed deck officer, or purser of any commercial vessel which is subject to inspection under part 330 of this chapter or 9 CFR chapter I, subchapter D, and which is either required to make entry at the customs house under 19 CFR 4.3 or is a United States-flag vessel proceeding coastwise under 19 CFR 4.85, shall, upon arrival, proceed to Customs and pay an APHIS user fee. The APHIS user fee for each arrival, not to exceed 15 payments in a

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calendar year, is shown in the following table. The APHIS user fee shall be collected at each port of arrival.

Effective dates	Amount
January 1, 2000 through September 30, 2000 .....	465.50
October 1, 2000 through September 30, 2001 .....	474.50
October 1, 2001 .....	480.50

(2) The following categories of commercial vessels are exempt from paying an APHIS user fee:

(i) Foreign passenger vessels making at least three trips a week from a port in the United States to the high seas (including "cruises to nowhere") and returning to the same port in the United States, not having touched any foreign port or place other than in Canada, or taken on any stores other than in Canada;

(ii) Any vessel which, at the time of arrival, is being used solely as a tugboat;

(iii) Vessels used exclusively in the governmental service of the United States or a foreign government, including any agency or political subdivision of the United States or a foreign government, so long as the vessel is not carrying persons or merchandise for commercial purposes;

(iv) Vessels arriving in distress or to take on bunkers, sea stores, or ship's stores;

(v) Tugboats towing vessels on the Great Lakes; and

(vi) Any vessel which sails only between United States and Canadian ports, when the Master of such vessel arriving from Canada certifies, in the "Remarks" block of the General Declaration, Customs Form 1301, that the vessel has sailed solely between the United States and Canada for the previous 2 years.

(c) *Fee for inspection of commercial trucks.* (1) Except as provided in paragraph (c)(2) of this section, the driver or other person in charge of a commercial truck which is entering the customs territory of the United States and which is subject to inspection under part 330 of this chapter or under 9 CFR, chapter I, subchapter D, must, upon arrival, proceed to Customs and pay an APHIS user fee for each arrival, as shown in the following table:

Effective dates	Amount
January 1, 2000 through September 30, 2000 .....	4.25
October 1, 2000 through September 30, 2001 .....	4.50
October 1, 2001 .....	4.75

(2) The following categories of commercial trucks are exempt from paying an APHIS user fee:

(i) Trucks entering the customs territory of the United States from Canada.

(ii) [Reserved]

(3) Prepayment.

(i) The owner or operator of a commercial truck, *if* entering the customs territory of the United States from Mexico *and* applying for a prepaid Customs permit for a calendar year, must apply for a prepaid APHIS permit for the same calendar year. Applicants must apply to Customs for prepaid APHIS permits.<sup>1</sup> The following information must be provided, together with payment of an amount 20 times the APHIS user fee for each arrival:

(A) Vehicle make, model, and model year.

(B) Vehicle Identification Number (VIN).

(C) License numbers issued by state, province, or country.

(D) Owner's name and address.

(ii) No credit toward the prepaid APHIS permit will be given for user fees paid for individual arrivals.

(d) *Fee for inspection of commercial railroad cars.* (1) Except as provided in paragraph (d)(2) of this section, an APHIS user fee will be charged for each loaded commercial railroad car which is subject to inspection under part 330 of this chapter or under 9 CFR chapter I, subchapter D, upon each arrival. The railroad company receiving a commercial railroad car in interchange at a port of entry or, barring interchange, the railroad company moving a commercial railroad car in line haul service into the customs territory of the United States, is responsible for paying the APHIS user fee. The APHIS user fee for each arrival of a loaded railroad car is shown in the following table. If the APHIS user fee is prepaid for all arrivals of a commercial railroad car during a calendar year, the APHIS user fee

<sup>1</sup> Applicants should refer to Customs Service regulations (19 CFR part 24) for specific instructions.

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is an amount 20 times the APHIS user fee for each arrival.

Effective dates	Amount
January 1, 2000 through September 30, 2000 .....	6.75
October 1, 2000 through September 30, 2001 .....	7.00
October 1, 2001 .....	7.00

(2) The following categories of commercial railroad cars are exempt from paying an APHIS user fee:

(i) Commercial railroad cars entering the customs territory of the United States from Canada;

(ii) Any commercial railroad car that is part of a train whose journey originates and terminates in the United States, if—

(A) The commercial railroad car is part of the train when the train departs the United States; and

(B) No passengers board or disembark from the commercial railroad car, and no cargo is loaded or unloaded from the commercial railroad car, while the train is within any country other than the United States; and

(iii) Locomotives and cabooses.

(3) Prepayment.

(i) Railroad companies may, at their option, prepay the APHIS user fee for each commercial railroad car for a calendar year. This payment must be remitted in accordance with paragraph (d)(5) of this section.

(ii) No credit toward the calendar year APHIS user fee will be given for APHIS user fees paid for individual arrivals.

(4) Remittance and statement procedures. The Association of American Railroads (AAR), and the National Railroad Passenger Corporation (AMTRAK), shall file monthly statements with the United States Department of Agriculture, National Finance Center, Billings and Collections Branch, P.O. Box 60950, New Orleans, LA 70160, within 60 days after the end of each calendar month. Each statement shall indicate:

(i) The number of loaded commercial railroad cars entering the customs territory of the United States from Mexico during the relevant period;

(ii) The number of those commercial railroad cars pulled by each railroad company; and

(iii) The total monthly APHIS user fee due from each railroad company.

(5) Individual railroad companies shall remit the APHIS user fees calculated by AAR, and AMTRAK shall remit the APHIS user fees it has calculated, within 60 days after the end of each calendar month in which commercial railroad cars entered the customs territory of the United States. APHIS user fees, together with monthly statements, must be remitted to the United States Department of Agriculture, National Finance Center, APHIS User Fee Collections, P.O. Box 73562, Chicago, IL 60673.

(6) Compliance. AAR, AMTRAK, and each railroad company responsible for making APHIS user fee payments must allow APHIS personnel to verify the accuracy of APHIS user fees collected and remitted and otherwise determine compliance with 21 U.S.C. 136a and this paragraph. The AAR, AMTRAK, and each railroad company responsible for making APHIS user fee payments must advise the United States Department of Agriculture, National Finance Center, Billings and Collections Branch, P.O. Box 60950, New Orleans, LA 70160, of the name, address, and telephone number of a responsible officer who is authorized to verify APHIS user fee calculations, collections, and remittances. The United States Department of Agriculture, National Finance Center, Billings and Collections Branch, P.O. Box 60950, New Orleans, LA 70160, must be promptly notified of any changes in the identifying information submitted.

(e) *Fee for inspection of commercial aircraft.* (1) Except as provided in paragraph (e)(2) of this section, an APHIS user fee will be charged for each commercial aircraft which is arriving, or which has arrived and is proceeding from one United States airport to another under a United States Customs Service "Permit to Proceed," as specified in title 19, Code of Federal Regulations, §§122.81 through 122.85, or an "Agricultural Clearance or Safeguard Order" (PPQ Form 250), used pursuant to title 7, Code of Federal Regulations, §330.400 and title 9, Code of Federal Regulations, §94.5, and which is subject to inspection under part 330 of this chapter or 9 CFR chapter I, subchapter D. Each carrier is responsible for paying the APHIS user fee. The APHIS

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user fee for each arrival is shown in the following table:

Effective dates	Amount
January 1, 2000 through September 30, 2000 .....	64.00
October 1, 2000 through September 30, 2001 .....	64.75
October 1, 2001 .....	65.25

(2) The following categories of commercial aircraft are exempt from paying an APHIS user fee:

- (i) Any aircraft moving solely between the United States and Canada;
- (ii) Any aircraft used exclusively in the governmental services of the United States or a foreign government, including any Agency or political subdivision of the United States or a foreign government, so long as the aircraft is not carrying persons or merchandise for commercial purposes;
- (iii) Any aircraft making an emergency or forced landing when the original destination of the aircraft was a foreign port;
- (iv) Any passenger aircraft with 64 or fewer seats, which is not carrying the following cargo: Fresh fruits, fresh vegetables, plants, unprocessed plant products, cotton or covers, sugarcane, or fresh or processed meats; and which does not offer meal service other than beverages and prepackaged snacks that do not contain meats derived from ruminants, swine, or poultry or fresh fruits and fresh vegetables. Aircraft exempt from the user fee under this paragraph would still be subject to the garbage handling requirements found in 7 CFR part 330.400 and 9 CFR part 94.5;
- (v) Any aircraft moving from the United States Virgin Islands to Puerto Rico; and
- (vi) Any aircraft making an intransit stop at a port of entry, during which the aircraft does not proceed through any portion of the Federal clearance process, such as inspection or clearance by APHIS, by the United States Customs Service, or by the Immigration and Naturalization Service, no cargo is removed from or placed on the aircraft, no passengers get on or off the aircraft, no crew members get on or off the aircraft, no food is placed on the aircraft, and no garbage is removed from the aircraft.

(3) *Remittance and statement procedures.* (i) Each carrier must remit the appropriate fees to the United States

Department of Agriculture, National Finance Center, APHIS User Fee Collections, P.O. Box 73562, Chicago, IL 60673, for receipt no later than 31 days after the close of the calendar quarter in which the vessel arrivals occurred. Late payments will be subject to interest, penalty, and handling charges as provided in the Debt Collection Act of 1982 (31 U.S.C. 3717).

(ii) The remitter must mail with the remittance a written statement to the United States Department of Agriculture, National Finance Center, APHIS User Fee Collections, P.O. Box 73562, Chicago, IL 60673. The statement must include the following information:

- (A) Name and address of the person remitting payment;
- (B) Taxpayer identification number of the person remitting payment;
- (C) Calendar quarter covered by the payment;
- (D) Ports of entry at which inspections occurred;
- (E) Number of arrivals at each port; and
- (F) Amount remitted.

(iii) Remittances must be made by check or money order, payable in United States dollars, through a United States bank, to "The Animal and Plant Health Inspection Service."

(4) *Compliance.* Each carrier subject to this section must allow APHIS personnel to verify the accuracy of the APHIS user fees remitted and to otherwise determine compliance with 21 U.S.C. 136a and this paragraph. Each carrier must advise the United States Department of Agriculture, National Finance Center, Billings and Collections Branch, P.O. Box 60950, New Orleans, LA 70160, of the name, address, and telephone number of a responsible officer who is authorized to verify APHIS user fee calculations and remittances. The United States Department of Agriculture, National Finance Center, Billings and Collections Branch, P.O. Box 60950, New Orleans, LA 70160, must be promptly notified of any changes in the identifying information submitted.

(5) *Limitations on charges.* (i) Airlines will not be charged reimbursable overtime for inspection of aircraft if the aircraft is subject to the APHIS user

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fee for arriving aircraft as prescribed by this section.

(ii) Airlines will not be charged reimbursable overtime for inspection of cargo from an aircraft if:

(A) the aircraft is subject to the APHIS user fee for arriving aircraft as prescribed by this section; and

(B) the cargo is inspected between 8 a.m. and 4:30 p.m., Monday through Friday; or

(C) the cargo is inspected concurrently with the aircraft.

(f) *Fee for inspection of international passengers.* (1) Except as specified in paragraph (f)(2) of this section, each passenger aboard a commercial aircraft who is subject to inspection under part 330 of this chapter or 9 CFR, chapter I, subchapter D, upon arrival from a place outside of the customs territory of the United States, must pay an APHIS user fee. The APHIS user fee for each arrival is shown in the following table:

Effective dates <sup>1</sup>	Amount
January 1, 2000 through September 30, 2000 .....	3.00
October 1, 2000 through September 30, 2001 .....	3.00
October 1, 2001 .....	3.10

<sup>1</sup>Persons who issue international airline tickets or travel documents are responsible for collecting the APHIS international airline passenger user fee from ticket purchasers. Issuers must collect the fee applicable at the time tickets are sold. In the event that ticket sellers do not collect the APHIS user fee when tickets are sold, the air carrier must collect the user fee from the passenger upon departure. Carriers must collect the fee applicable at the time of departure from the traveler.

(2) The following categories of passengers are exempt from paying an APHIS user fee:

(i) Passengers arriving from Canada whose journey originates in Canada;

(ii) Crew members who are on duty on a commercial aircraft;

(iii) Airline employees, including "deadheading" crew members, who are traveling on official airline business;

(iv) Diplomats, except for United States diplomats, who can show that their names appear on the accreditation listing maintained by the United States Department of State. In lieu of the accreditation listing an individual diplomat may present appropriate proof of diplomatic status to include possession of a diplomatic passport or visa, or diplomatic identification card issued by a foreign government;

(v) Passengers departing and returning to the United States without hav-

ing touched a foreign port or place other than Canada;

(vi) Passengers arriving on any commercial aircraft used exclusively in the governmental service of the United States or a foreign government, including any agency or political subdivision of the United States or a foreign government, so long as the aircraft is not carrying persons or merchandise for commercial purposes. Passengers on commercial aircraft under contract to the United States Department of Defense (DOD) are exempted if they have been precleared abroad under the joint DOD/APHIS Military Inspection Program;

(vii) Passengers arriving on an aircraft due to an emergency or forced landing when the original destination of the aircraft was a foreign port; and

(viii) Passengers transiting the United States and not subject to inspection.

(ix) Passengers moving from the United States Virgin Islands to Puerto Rico.

(3) APHIS user fees shall be collected under the following circumstances:

(i) When through tickets or travel documents are issued indicating travel to the customs territory of the United States which originates in any location other than Canada;

(ii) When through tickets or travel documents are issued in Canada indicating an arrival in the customs territory of the United States following a stopover (layover) in a location other than Canada; and

(iii) When passengers arrive in the customs territory of the United States in transit from a location other than Canada and are inspected by APHIS.

(4) *Collection of fees.* (i) Any person who issues tickets or travel documents on or after May 13, 1991, is responsible for collecting the APHIS user fee from all passengers transported into the customs territory of the United States to whom the APHIS user fee applies.

(A) Tickets or travel documents must be marked by the person who collects the APHIS user fee to indicate that the required APHIS user fee has been collected from the passenger.

(B) If the APHIS user fee applies to a passenger departing from the United States and if the passenger's tickets or

travel documents were issued on or after May 13, 1991, but do not reflect collection of the APHIS user fee at the time of issuance, then the carrier transporting the passenger from the United States must collect the APHIS user fee upon departure.

(C) APHIS user fees collected from international passengers pursuant to paragraph (f) of this section shall be held in trust for the United States by the person collecting such fees, by any person holding such fees, or by the person who is ultimately responsible for remittance of such fees to APHIS. APHIS user fees collected from international passengers shall be accounted for separately and shall be regarded as trust funds held by the person possessing such fees as agents, for the beneficial interest of the United States. All such user fees held by any person shall be property in which the person holds only a possessory interest and not an equitable interest. As compensation for collecting, handling, and remitting the APHIS user fees for international passengers, the person holding such user fees shall be entitled to any interest or other investment return earned on the user fees between the time of collection and the time the user fees are due to be remitted to APHIS under this section. Nothing in this section shall affect APHIS' right to collect interest for late remittance.

(5) *Remittance and statement procedures.* (i) The carrier whose ticket stock or travel document reflects collection of the APHIS user fee must remit the fee to the United States Department of Agriculture, National Finance Center, APHIS User Fee Collections, P. O. Box 73562 Chicago, IL 60673. The travel agent, United States-based tour wholesaler, or other entity, which issues its own non-carrier related ticket or travel document to a passenger who is subject to an APHIS user fee under this part, must remit the fee to APHIS, unless by contract the carrier will remit the fee.

(ii) APHIS user fees must be remitted to the United States Department of Agriculture, National Finance Center, APHIS User Fee Collections P. O. Box 73562 Chicago, IL 60673, for receipt no later than 31 days after the close of the calendar quarter in which the APHIS

user fees were collected. Late payments will be subject to interest, penalty, and handling charges as provided in the Debt Collection Act of 1982 (31 U.S.C. 3717). Refunds by a remitter of APHIS user fees collected in conjunction with unused tickets or travel documents shall be netted against the next subsequent remittance.

(iii) The remitter must mail with the remittance a written statement to the United States Department of Agriculture, National Finance Center, APHIS User Fee Collections, P.O. Box 73562, Chicago, IL 60673. The statement must include the following information:

(A) Name and address of the person remitting payment;

(B) Taxpayer identification number of the person remitting payment;

(C) Calendar quarter covered by the payment; and

(D) Amount collected and remitted.

(iv) Remittances must be made by check or money order, payable in United States dollars, through a United States bank, to "The Animal and Plant Health Inspection Service."

(6) Carriers contracting with United States-based tour wholesalers are responsible for notifying the United States Department of Agriculture, National Finance Center, Billings and Collections Branch, P.O. Box 60950, New Orleans, LA 70160, of all flights contracted, the number of spaces contracted for, and the name, address, and taxpayer identification number of the United States-based tour wholesaler, within 31 days after the close of the calendar quarter in which such a flight occurred; *except that*, carriers are not required to make notification if tickets, marked to show collection of the APHIS user fee, are issued for the individual contracted spaces.

(7) *Compliance.* Each carrier, travel agent, United States-based tour wholesaler, or other entity, subject to this section, must allow APHIS personnel to verify the accuracy of the APHIS user fees collected and remitted and to otherwise determine compliance with the 21 U.S.C. 136a and this paragraph. Each carrier, travel agent, United States-based tour wholesaler, or other entity must advise the United States Department of Agriculture, National

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Finance Center, Billings and Collections Branch, P.O. Box 60950, New Orleans, LA 70160, of the name, address, and telephone number of a responsible officer who is authorized to verify APHIS user fee calculations, collections, and remittances. The United States Department of Agriculture, National Finance Center, Billings and Collections Branch, P.O. Box 60950, New Orleans, LA 70160, must be promptly notified of any changes in the identifying information submitted.

(8) *Limitation on charges.* Airlines will not be charged reimbursable overtime for passenger inspection services required for any aircraft on which a passenger arrived who has paid the airline passenger APHIS user fee for that flight.

(g) *Fees for export certification of plants and plant products.* (1) For each certificate issued by APHIS personnel, the recipient must pay the applicable APHIS user fee at the time and place the certificate is issued, or, in the case of a block of certificates, at the time the certificates are given to the shipper.

(2) There is no APHIS user fee for a certificate issued by a designated State or county inspector.

(3) If a designated State inspector issues a certificate, the State where the certificate is issued may charge for inspection services provided in that State.

(4) Any State which wishes to charge a fee for services it provides to issue certificates must establish fees in accordance with one of the following guidelines:

(i) *Calculation of a "cost-per-certificate" fee.* The State must:

(A) Estimate the annual number of certificates to be issued;

(B) Determine the total cost of issuing certificates by adding together

delivery,<sup>2</sup> support,<sup>3</sup> and administrative<sup>4</sup> costs; and

(C) Divide the cost of issuing certificates by the estimated number of certificates to be issued to obtain a "raw" fee. The State may round the "raw" fee up to the nearest quarter, if necessary for ease of calculation, collection, or billing; or

(ii) *Calculation of a "cost-per-hour" fee.* The State must:

(A) Estimate the annual number of hours taken to issue certificates by adding together delivery<sup>2</sup>, support<sup>3</sup>, and administrative<sup>4</sup> hours;

(B) Determine the total cost of issuing certificates by adding together delivery, support, and administrative costs; and

(C) Divide the cost of issuing certificates by the estimated number of hours taken to issue certificates to obtain a "cost-per-hour" fee. The State may round the "cost-per-hour" fee up to the nearest quarter, if necessary for ease of calculation, collection, or billing.

(5) The APHIS user fees are:

<sup>2</sup>Delivery costs are costs such as employee salary and benefits, transportation, per diem, travel, purchase of specialized equipment, and user fee costs associated with maintaining field offices. Delivery hours are similar hours taken by inspectors, including travel time, inspection time, and time taken to complete paperwork.

<sup>3</sup>Support costs are costs at supervisory levels which are similar to delivery costs, and user fee costs such as training, automated data processing, public affairs, enforcement, legal services, communications, postage, budget and accounting services, and payroll, purchasing, billing, and collecting services. Support hours are similar hours taken at supervisory levels, as well as hours taken in training, automated data processing, enforcement, legal services, communication, budgeting and accounting, payroll purchasing, billing, and collecting.

<sup>4</sup>Administrative costs are costs incurred as a direct result of collecting and monitoring Federal phytosanitary certificates. Administrative hours are hours taken as a direct result of collecting and monitoring Federal phytosanitary certificates.

(i)(A) \$50 for a certificate for a commercial shipment; or

(B) \$23 for a certificate for a low-value commercial shipment, if the following criteria are met:

(1) the items being shipped are identical to those identified on the phytosanitary certificate;

(2) the shipment is accompanied by an invoice which states that the items being shipped are worth less than \$1,250; and

(3) the shipper requests that user fee charged be based on the low value of the shipment;

(ii) \$23 for a certificate for a non-commercial shipment;

(iii)(A) \$50 for a certificate for reexport of a commercial shipment; or

(B) \$23 for a certificate for reexport of a low value commercial shipment, if the following criteria are met:

(1) The items being shipped are identical to those identified on the phytosanitary certificate;

(2) The shipment is accompanied by an invoice which states that the items being shipped are worth less than \$1,250; and

(3) The shipper requests that the user fee charged be based on the low value of the shipment;

(iv) \$50 for a processed product certificate for a commercial shipment;

(v) \$7 for reissuing any certificate or certificate for reexport; and

(h) *Refunds of APHIS user fees.* (1) A shipper who pays for a block of certificates to cover commercial shipments may obtain a refund or a credit against future APHIS user fees under the following circumstances:

(i) If a certificate from the block is voided;

(ii) If a certificate from the block is returned unused;

(iii) If the shipper pays for inspection outside of normal business hours (8 a.m. to 4:30 p.m.) under §354.1 of this part.

(iv) If a certificate from the block is used for a noncommercial shipment; or

(v) If a certificate from the block is used to reissue another certificate.

(2) The amount of any refund or credit will be the amount overcharged, less \$7 to cover APHIS administrative expenses.

(i) *Payment methods.* For payment of any of the APHIS user fees required in paragraph (g) of this section, we will accept personal checks for amounts less than \$100, and checks drawn on commercial accounts, cashier's checks, certified checks, traveler's checks, and money orders for any amount. All payments must be for the exact amount due.

(j) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of user fees for any import or entry services listed below, of \$56.00 per hour, or \$14.00 per quarter hour, with a minimum fee of \$14.00, for each employee required to perform the following services. If the services must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then the premium user fee rate as listed below applies, as well as the 2-hour minimum charge and a commuted traveltime period required by §354.1(a)(2). If the services requested are performed on a Sunday, the hourly user fee rate will be \$74.00, or \$18.50 per quarter hour, with a \$18.50 minimum. If the services requested are performed on a day other than Sunday outside the normal tour of duty of the employee providing the service, the hourly user fee rate will be \$65.00, or \$16.25 per quarter hour, with a \$16.25 minimum:

(1) Conducting inspections, on vessels or in storage areas, of solid wood packing material or cargo when a shipment arrives without a certificate or exporter statement required under §319.40-5(g) or §319.40-5(h) of this chapter, or with an incomplete certificate or exporter statement; and

(2) Supervising the separation of cargo from solid wood packing material denied entry under this subpart

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and the destruction or reexportation of the solid wood packing material.

(Approved by the Office of Management and Budget under control numbers 1515–0062, 0579–0094, or 0579–0052)

[56 FR 14844, Apr. 12, 1991, as amended at 57 FR 769, 770, Jan. 9, 1992; 57 FR 62472, 62473, Dec. 31, 1992; 58 FR 14307, Mar. 17, 1993; 58 FR 38270, July 16, 1993; 61 FR 2664, Jan. 29, 1996; 61 FR 15371, Apr. 8, 1996; 62 FR 39754, July 24, 1997; 63 FR 50111, Sept. 18, 1998; 64 FR 62096, Nov. 16, 1999; 66 FR 21060, Apr. 27, 2001; 67 FR 56218, Sept. 3, 2002]

#### § 354.4 User fees for certain domestic services.

(a) *Individual agreements for inspection services at ports of entry.* (1) Operators and owners of vessels or aircraft, or their agents, may enter into agreements with APHIS to receive, at points of entry in the United States inspection services in addition to the regular or on-call services available in connection with such vessels or aircraft.

(2) Agreements may be made to cover the following types of services:

(i) Opening and operating a new inspection station at a port of entry; and

(ii) Providing one-time or occasional inspection services at a location where APHIS does not normally provide such services.

(3) Owners and operators of vessels or aircraft, or their agents, must contact the Regional Director, USDA, APHIS, Plant Protection and Quarantine,<sup>5</sup> for the State where they want APHIS to provide services, to make an agreement.

(4) All agreements must include the following:

(i) Name, mailing address, and telephone number of the operator or owner of the vessel or aircraft, or, if applicable, the operator's or owner's agent;

(ii) Explanation of inspection services to be provided;

(iii) Date(s) and time(s) inspection services will be provided;

(iv) Location (street address, port of entry, berth, dock, gate, etc.) and if applicable, identity (identification number, name, etc.) of vessel or aircraft or other thing to be inspected;

(v) An estimate of the actual cost, as calculated by APHIS, to provide the described inspection services for 6 months;

(vi) A statement that APHIS agrees to provide the described inspection services;

(vii) A statement that the owner or operator of the vessel or aircraft, or if appropriate, his or her agent, agrees to pay, at the time the agreement is entered into, a user fee equal to the estimated cost of providing the described inspection services for 6 months;

(viii) A statement that APHIS will credit an amount equal to all user fees received for services provided at the location to the owner or operator's account, until the total amount of user fees credited to the account is equal to the amount of money paid into the account by the owner or operator of the vessel or aircraft, or if appropriate, his or her agent, at the time the agreement was entered into; and

(ix) A statement that the owner or operator of the vessel or aircraft, or if appropriate, his or her agent, agrees to maintain a balance in the user fee payment account equal to the cost of providing the services described for 6 months, as calculated monthly by APHIS.

(5) APHIS will enter into an agreement only if qualified personnel can be made available to provide the services to be provided.

(6) An agreement can be terminated by either party on 30 days written notice.

(7) If, at the time an agreement is terminated, any unobligated funds remain in the user fee account, APHIS will return them to the owner or operator, or his or her agent.

[57 FR 770, Jan. 9, 1992, as amended at 57 FR 14475, Apr. 21, 1992; 58 FR 38269, July 16, 1993; 59 FR 67611, Dec. 30, 1994]

#### § 354.5 Penalties for nonpayment or late payment of user fees.

(a) If a person requesting a service for which an APHIS user fee is payable, is delinquent in paying any APHIS user

<sup>5</sup>A list of the Regional Directors, USDA, APHIS, Plant Protection and Quarantine and the States for which they are responsible, may be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Operational Support—Director's Office, 4700 River Road, Unit 131, Riverdale, Maryland 20737–1236.