

delivery,² support,³ and administrative⁴ 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,² support,³ and administrative⁴ 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.

(h)[Reserved]

(i) *Payment methods.* For payment of any of the AQI 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

²Delivery 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.

³Support 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.

⁴Administrative 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.

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 per hour, or \$14 per quarter hour, with a minimum fee of \$14 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, 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, 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 and the destruction or reexportation of the solid wood packing material. (Approved by the Office of Management and Budget under control numbers 1651–0019, 0579–0094, or 0579–0052).

[69 FR 71679, Dec. 9, 2004, as amended at 71 FR 50328, Aug. 25, 2006; 72 FR 70765, Dec. 13, 2007; 74 FR 32399, July 8, 2009; 75 FR 10644, Mar. 9, 2010]

§ 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

§ 354.5

7 CFR Ch. III (1–1–11 Edition)

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,⁵ 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 fee due under either title 7 or title 9, Code of Federal Regulations, or is delinquent in paying the interest on any delinquent APHIS user fee, then APHIS will not provide the service requested.

(b) If APHIS is in the process of providing a service for which an APHIS user fee is due, and the user has not paid the fee within the time required, or if the payment offered by the user is insufficient or not in compliance with the regulations in this part, then APHIS will take the following action:

(1) If an APHIS user fee is due for a certificate or a certificate for reexport, APHIS will not issue the certificate.

(2) If an APHIS user fee is past due by more than 30 days, APHIS will impose a late payment penalty and interest charges in accordance with 31 U.S.C. 3717.

[57 FR 771, Jan. 9, 1992]

⁵A 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.