

immediately upon publication in the **Federal Register**.

*B. Executive Order 12866 (Regulatory Planning and Review)*

This final rule is not a “significant regulatory action” under section 3(f)(1) of Executive Order 12866, “Regulatory Planning and Review,” therefore the Office of Management and Budget has not reviewed this rule. DHS anticipates that the changed filing deadline in this final rule will not increase REAL ID-related compliance costs to the affected entities and, in most cases, will provide advantages by changing the filing deadline.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. This final rule, however, makes changes for which notice and comment are not necessary.

Accordingly, DHS is not required to prepare a regulatory flexibility analysis. 5 U.S.C. 603, 604.

*D. Paperwork Reduction Act*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*E. Executive Order 13132 (Federalism)*

A rule has implications for federalism under Executive Order 13132, “Federalism,” if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

*F. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Unfunded Mandates Reform Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. This final rule will not result in such an expenditure.

*G. Executive Order 13175 (Tribal Consultation)*

This rule does not have tribal implications under Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*H. Executive Order 13211 (Energy Impact Analysis)*

We have analyzed this rule under Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.” We have determined that it is not a “significant energy action” under that Order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**List of Subjects in 6 CFR Part 37**

Document security, driver’s licenses, identification cards, incorporation by reference, motor vehicle administrations, physical security.

**The Amendments**

- For the reasons set forth above, the Department of Homeland Security amends 6 CFR part 37 as follows:

**TITLE 6—DOMESTIC SECURITY**

**CHAPTER I—DEPARTMENT OF HOMELAND SECURITY, OFFICE OF THE SECRETARY**

**PART 37—REAL ID DRIVER’S LICENSES AND IDENTIFICATION CARDS**

- 1. The authority citation for part 105 continues to read as follows:

**Authority:** 49 U.S.C. 30301 note; 6 U.S.C. 111, 112.

**§ 37.63 [Amended]**

- 2. Amend § 37.63(b) by removing the date “October 11, 2009” and adding in its place the date “December 1, 2009”.

**Janet Napolitano,**

*Secretary.*

[FR Doc. E9–23381 Filed 9–25–09; 8:45 am]

**BILLING CODE 9110–9M–P**

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**7 CFR Part 354**

[Docket No. APHIS–2009–0055]

**Commuted Traveltime**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations concerning overtime services provided by employees of the Agency’s Plant Protection and Quarantine (PPQ) program by adding or amending commuted traveltime allowances for travel between certain locations in the District of Columbia, Florida, Illinois, and Minnesota. Commuted traveltime allowances are the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by PPQ employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for these locations.

**DATES:** *Effective Date:* September 28, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ms. Terri Burrell, Director, Resource Management Staff, PPQ, APHIS, 4700 River Road Unit 120, Riverdale, MD 20737–1238; (301) 734–5575.

**SUPPLEMENTARY INFORMATION:**

**Background**

The regulations in 7 CFR, chapter III, require inspection, certification, or quarantine of certain plants, plant products, or other commodities intended for importation into, or exportation from, the United States.

When these services must be provided by an employee of the Animal and Plant Health Inspection Service (APHIS) on a Sunday or holiday, or at any other time outside the employee’s regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354 for services provided by an employee of APHIS’ Plant Protection and Quarantine (PPQ) program. Under circumstances described in 7 CFR 354.1(a)(2), this fee may include the cost of commuted traveltime. The regulations in 7 CFR 354.2 contain administrative instructions prescribing commuted traveltime allowances, which

reflect, as nearly as practicable, the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending 7 CFR 354.2 by adding or adjusting commuted traveltime allowances for travel between certain locations in the District of Columbia, Florida, Illinois, and Minnesota. The new allowances are set forth in the regulatory text at the end of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

**Effective Date**

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after

publication of this document in the **Federal Register**.

**Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

The number of requests for overtime services of a PPQ employee at the locations affected by this rule represents an insignificant portion of the total number of requests for these services in the United States.

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 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

**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 7 CFR Part 354**

Animal diseases, Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

■ Accordingly, we are amending 7 CFR part 354 as follows:

**PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES**

■ 1. The authority citation for part 354 continues to read as follows:

**Authority:** 7 U.S.C. 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 354.2, the table is amended as follows:

■ a. Under the District of Columbia, Florida, and Illinois, by adding, in alphabetical order, new entries to read as set forth below.

■ b. Under Minnesota, in the first entry for Duluth, by removing under Metropolitan area, the number “1” and adding the number “2” in its place.

■ c. Under Minnesota, by removing the entry for Silver Bay.

**§ 354.2 Administrative instructions prescribing commuted traveltime.**

\* \* \* \* \*

COMMUTED TRAVELTIME ALLOWANCES  
[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
* * * * *			
District of Columbia:			
* * * * *			
Washington, DC Metropolitan area (including Arlington and Alexandria, VA; Andrews AFB, MD; and Washington Navy Yard).	Baltimore, MD .....		2
Florida:			
* * * * *			
Panama City .....	Mobile, AL .....		7
* * * * *			
Illinois:			
* * * * *			
Undesignated ports .....	.....		3
* * * * *			

Done in Washington, DC, this 22nd day of September 2009.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E9-23327 Filed 9-25-09; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 354

[Docket No. APHIS-2009-0048]

RIN 0579-AC99

#### User Fees for Agricultural Quarantine and Inspection Services

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the user fee regulations by adjusting the fees charged for certain agricultural quarantine and inspection (AQI) services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. The recent downturn in the U.S. economy has negatively impacted travel volumes, and, as a result, our user fee collections, which fund these services, have diminished. Although the volume of international travel and trade has decreased, inspection and related support services continue to be provided at their existing levels, so expenses have not decreased. As a result, our user fee collections have not been sufficient to enable us to provide those services and maintain a reasonable reserve balance. We are therefore increasing our AQI user fees in order to provide adequate funds for these purposes.

**DATES:** This interim rule is effective October 1, 2009. We will consider all comments that we receive on or before November 27, 2009.

**ADDRESSES:** You may submit comments by either of the following methods:

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0048> to submit or view comments and to view supporting and related materials available electronically.

• *Postal Mail/Commercial Delivery:* Please send two copies of your comment

to Docket No. APHIS-2009-0048, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2009-0048.

**Reading Room:** You may read any comments that we receive on this docket in our reading room. The reading room is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** For information concerning program operations, contact Mr. William E. Thomas, Director, Quarantine Policy, Analysis, and Support, PPQ, APHIS, 4700 River Road Unit 131, Riverdale, MD 20737; (301) 734-5214. For information concerning rate development, contact Mrs. Kris Caraher, User Fee Section, Financial Services Branch, Financial Management Division, MRPBS, APHIS, 4700 River Road Unit 55, Riverdale, MD 20737-1232; (301) 734-0882.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a), referred to below as the FACT Act, authorizes the Animal and Plant Health Inspection Service (APHIS) to collect user fees for agricultural quarantine and inspection (AQI) services. The FACT Act was amended on April 4, 1996, and May 13, 2002.

The FACT Act, as amended, authorizes APHIS to collect user fees for AQI services provided in connection with the arrival, at a port in the customs territory of the United States, of:

- Commercial vessels,
- Commercial trucks,
- Commercial railroad cars,
- Commercial aircraft, and
- International airline passengers.

According to the FACT Act, as amended, these user fees should recover the costs of:

- Providing the AQI services for the conveyances and the passengers listed above,
- Providing preclearance or preinspection at a site outside the

customs territory of the United States to international airline passengers, commercial vessels, commercial trucks, commercial railroad cars, and commercial aircraft, and

- Administering the user fee program.

#### Introduction

In an interim rule published in the **Federal Register** on December 9, 2004 (69 FR 71660-71683, Docket No. 04-042-1), and effective on January 1, 2005, we amended the user fee regulations in 7 CFR part 354 by adjusting the fees charged for certain agricultural quarantine and inspection (AQI) services that are provided by the Animal and Plant Health Inspection Service (APHIS) and the Customs and Border Protection (CBP) Bureau of the Department of Homeland Security in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. Prior to the interim rule, user fees had not been adjusted since October 1, 2001. Due to the attacks of September 11, 2001, and the resulting increased security concerns, the Federal Government began to inspect a greater volume and variety of cargo entering the United States than it had before. In addition, the attacks of September 11 resulted in a reduction in airline travel, which lowered fee revenues. We determined that the fee adjustments contained in the December 2004 interim rule were needed to recover the costs of this increased inspection activity and to account for routine inflationary increases in the cost of doing business. The adjusted AQI user fees contained in that interim rule covered fiscal years (FYs) 2005 through 2010. A final rule affirming the interim rule without change was published in the **Federal Register** on August 24, 2006 (71 FR 49984-49986, Docket No. 04-042-2).

However, the effects of the recent and unanticipated downturn in the U.S. economy have been felt by all Americans, both personally and in their business concerns. These recent events have negatively impacted travel volumes and funds in the AQI user fee account. Due to the decrease in travel, we are collecting less in user fees while still maintaining the necessary enhanced level of inspection and related support services that we have since September 11, 2001. Although the volume of international travel and trade has decreased, inspection and related support services continue to be provided at their existing levels, expenses have not decreased. Moreover, while we have limited new hiring to