

§ 354.4

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

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,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

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.

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]

PART 355—ENDANGERED SPECIES REGULATIONS CONCERNING TERRESTRIAL PLANTS

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AUTHORITY: 16 U.S.C. 1532, 1538, and 1540; 7 CFR 2.22, 2.80, and 371.3.

SOURCE: 49 FR 42912, Oct. 25, 1984, unless otherwise noted.

Subpart—Purpose and Definitions

§ 355.1 Purpose.

Pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531

et seq.), the Secretary is responsible for the enforcement of the provisions of the Act and Convention that pertain to the importation, exportation, or re-exportation of terrestrial plants.¹ The regulations in this part are for the purpose of implementing this authority. Regulations of the U.S. Department of the Interior that correlate with the regulations in this part are contained in 50 CFR chapter I.²

[66 FR 21060, Apr. 27, 2001]

§ 355.2 Definitions.

Terms used in the singular form in this part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this part, shall be construed, respectively, to mean:

Act. The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Convention. The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, 27 U.S.T. 1087, signed on March 3, 1973, and the Appendices thereto.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

Engage in business as an importer, exporter, or reexporter of terrestrial plants. To import, export, or reexport terrestrial plants for the purpose of selling,

¹Under section 11 of the Act (16 U.S.C. 1540), it is unlawful for any person to knowingly violate any provision of the Act, any permit or certificate issued under the Act, or any regulation promulgated under the Act. Section 11 of the Act also provides for criminal, civil, and administrative penalties for any such violation.

²Plant Protection and Quarantine also administers programs under the Lacey Act Amendments of 1981, as amended (16 U.S.C. 3371 through 3378), 7 U.S.C. 2814, and the Plant Protection Act (7 U.S.C. 7701–7772), which authorize additional prohibitions and restrictions on the importation of plants subject to this part (see other parts of 7 CFR chapter III for regulations containing prohibitions and restrictions under these authorities).