

Environmental Protection Agency

§264.1312

(3) At the time of submission of the data file upload, a responsible representative of the receiving facility must make a CROMERR compliant certification that to the representative's knowledge or belief, the data and images submitted are accurate and complete representations of the facility's received manifests, and that the facility acknowledges that it is obli-

gated to pay the applicable per manifest fee for each manifest included in the submission.

§264.1312 User fee calculation methodology.

(a) The fee calculation formula or methodology that EPA will use initially to determine per manifest fees is as follows:

$$Fee_i = \left(\frac{\text{System Setup Cost}}{\text{Years} \times N_t} \right) + \left(\text{Marginal Cost}_i + \frac{\text{O\&M Cost}}{N_t} \right) \times (1 + \text{Indirect Cost Factor})$$

System Setup Cost = Procurement Cost + EPA Program Cost

O&M Cost =

Electronic System O&M Cost + Paper Center O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade eManifest System Related Services

Where Fee_i represents the per manifest fee for each manifest submission type "i" and N_t refers to the total number of manifests completed in a year.

(b)(1) If after four years of system operations, electronic manifest usage

does not equal or exceed 75% of total manifest usage, EPA may transition to the following formula or methodology to determine per manifest fees:

$$Fee_i = \left(\frac{\text{System Setup Cost}}{\text{Years} \times N_t} \right) + \left(\text{Marginal Cost}_i + \frac{\text{O\&M}_i \text{ Cost}}{N_i} \right) \times (1 + \text{Indirect Cost Factor})$$

System Setup Cost = Procurement Cost + EPA Program Cost

O\&M_{fully electronic} Cost =

Electronic System O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade eManifest System Related Services

O\&M_{all other} Cost = Electronic System O&M Cost + Paper Center O&M Cost + Help Desk Cost + EPA Program Cost + CROMERR Cost + LifeCycle Cost to Modify or Upgrade eManifest System Related Services

Where N_i refers to the total number of one of the four manifest submission types "i" completed in a year and $\text{O\&M}_i \text{ Cost}$ refers to the differential O&M Cost for each manifest submission type "i."

(2) At the completion of four years of system operations, EPA shall publish a notice:

(i) Stating the date upon which the fee formula set forth in paragraph (b)(1) of this section shall become effective; or

(ii) Stating that the fee formula in paragraph (b)(1) of this section shall not go into effect under this section, and that the circumstances of electronic manifest adoption and the appropriate fee response shall be referred

§ 264.1313

to the System Advisory Board for the Board's advice.

§ 264.1313 User fee revisions.

(a) *Revision schedule.* (1) EPA will revise the fee schedules for e-Manifest submissions and related activities at two-year intervals, by utilizing the applicable fee calculation formula prescribed in § 264.1312 and the most recent program cost and manifest usage numbers.

(2) The fee schedules will be published to users through the e-Manifest program website by July 1 of each odd numbered calendar year, and will cover the two fiscal years beginning on October 1 of that year and ending on September 30 of the next odd numbered calendar year.

(b) *Inflation adjuster.* The second year of each two-year fee schedule shall be adjusted for inflation by using the following adjustment formula:

$$\text{Fee}_{i\text{Year}2} = \text{Fee}_{i\text{Year}1} \times (\text{CPI}_{\text{Year}2-2} / \text{CPI}_{\text{Year}2-1})$$

Where:

$\text{Fee}_{i\text{Year}2}$ is the Fee for each type of manifest submission "i" in Year 2 of the fee cycle;
 $\text{Fee}_{i\text{Year}1}$ is the Fee for each type of manifest submission "i" in Year 1 of the fee cycle;
 and

$\text{CPI}_{\text{Year}2-2} / \text{CPI}_{\text{Year}2-1}$ is the ratio of the CPI published for the year two years prior to Year 2 to the CPI for the year one year prior to Year 2 of the cycle.

(c) *Revenue recovery adjusters.* The fee schedules published at two-year intervals under this section shall include an adjustment to recapture revenue lost in the previous two-year fee cycle on account of imprecise estimates of manifest usage. This adjustment shall be calculated using the following adjustment formula to calculate a revenue recapture amount which will be added to O&M Costs in the fee calculation formula of § 264.1312:

$$\text{Revenue Recapture}_i = (\text{N}_{i\text{Year}1} + \text{N}_{i\text{Year}2})_{\text{Actual}} - (\text{N}_{i\text{Year}1} + \text{N}_{i\text{Year}2})_{\text{Est}} \times \text{Fee}_{i(\text{Ave})}$$

Where:

Revenue Recapture_i is the amount of fee revenue recaptured for each type of manifest submission "i;"

$(\text{N}_{i\text{Year}1} + \text{N}_{i\text{Year}2})_{\text{Actual}} - (\text{N}_{i\text{Year}1} + \text{N}_{i\text{Year}2})_{\text{Est}}$ is the difference between actual manifest numbers submitted to the system for

40 CFR Ch. I (7–1–23 Edition)

each manifest type during the previous 2-year cycle, and the numbers estimated when we developed the previous cycle's fee schedule; and

$\text{Fee}_{i(\text{Ave})}$ is the average fee charged per manifest type over the previous two-year cycle.

§ 264.1314 How to make user fee payments.

(a) All fees required by this subpart shall be paid by the owners or operators of the receiving facility in response to an electronic invoice or bill identifying manifest-related services provided to the user during the previous month and identifying the fees owed for the enumerated services.

(b) All fees required by this subpart shall be paid to EPA by the facility electronically in U.S. dollars, using one of the electronic payment methods supported by the Department of the Treasury's *Pay.gov* online electronic payment service, or any applicable additional online electronic payment service offered by the Department of Treasury.

(c) All fees for which payments are owed in response to an electronic invoice or bill must be paid within 30 days of the date of the invoice or bill.

§ 264.1315 Sanctions for delinquent payments.

(a) *Interest.* In accordance with 31 U.S.C. 3717(a)(1), delinquent e-Manifest user fee accounts shall be charged a minimum annual rate of interest equal to the average investment rate for Treasury tax and loan accounts (Current Value of Funds Rate or CVFR) for the 12-month period ending September 30th of each year, rounded to the nearest whole percent.

(1) E-Manifest user fee accounts are delinquent if the accounts remain unpaid after the due date specified in the invoice or other notice of the fee amount owed.

(2) Due dates for invoiced or electronically billed fee amounts shall be 30 days from the date of the electronic invoice or bill.

(b) *Financial penalty.* In accordance with 31 U.S.C. 3717(e), e-Manifest user fee accounts that are more than 90 days past due (*i.e.*, not paid by date 120 days from date of invoice) shall be charged an additional penalty of 6%