



Questions and Answers

Proposed Adjustments to Agriculture Quarantine Inspection (AQI) Program User Fees

Compiled from the May 29, 2014 Stakeholder Webinars

Scope of the User Fee Review

Q: The estimated revenue is based on agriculture inspections. However, all transport units, even those that do not contain agricultural goods, will be inspected if the method of transport is subject to agriculture inspection. Was this taken into consideration when determining the actual costs of inspections?

All costs associated with each fee category are accounted for in the activity based cost model. Revenue estimates are based on the projected workload multiplied by the unit cost of the activity.

Q: The estimated revenue exceeds costs in the short term. Will this surplus be taken into account when the fees are reassessed in 2016?

The estimated surplus will be used to replenish the AQI reserve account. This account is used to continue AQI activities without interruption when economic changes cause a decrease in fee revenue. The reserve account should have enough funding to fully support AQI operations for 3 months. If costs change or the funding level of the reserve account exceeds the target amount, the fees will be adjusted accordingly through the rule making process.

Q: Will APHIS conduct an assessment after the fees are changed to make sure the adjustments have resolved the revenue shortfall?

APHIS will continually update the activity based cost model to track program costs and generate revenue projections. We will regularly compare revenue projections with actual revenue collected to ensure accuracy and analyze the impact of the changes on the revenue shortfall once the final rule is enacted and the adjusted fees are implemented.

Q: Did the analysis break down costs by the geographic origin or destination of the conveyance?

AQI activities are conducted when a conveyance arrives at the port of entry regardless of the conveyance's geographic origin or destination. The conveyance's origin or destination does not contribute to activity costs and were not considered in the user fee review.

Q: Did the user fee review take into account the most used modes of conveyance by geographic location and consider the impact of fee increases in those geographies?

Each of the proposed fees looked at the costs related to those modes of conveyance associated with the fee category. The costs of the activities associated with the fee category were used to establish a unit cost. The unit cost was then rounded up in all cases. The difference between the unit cost and the rounded cost provides for the funding of a reserve account which is intended to be able to fully fund the AQI activities for three months without revenue. This methodology is in line with Federal guidance on fees, is equitable based upon the premise of the beneficiary (or in this case the cause of government action) pays the costs that the Federal government incurs. Geography does not influence the cost of providing AQI services.

Q: Were state and local government costs for pest and disease management activities considered in the user fee review?

State and local government costs for pest and disease management activities were not included in the analysis. AQI is a Federal program that addresses threats to agricultural and natural resources that come with the movement of commodities and conveyances into the country. APHIS does not have the authority to set fees or collect revenue to recover costs associated with state or local government activities.

Q: Did the Government Accounting Office (GAO) establish a threshold for administrative burden?

GAO has not established a threshold for administrative burden, but instead provides guidance to agencies in terms of what they should consider when establishing user fees. GAO's Federal User Fees Design Guide can be found at <http://www.gao.gov/assets/210/203357.pdf>.

Sea Passenger Fee

Q: Does the proposed fee for sea passengers include all modes of maritime transport (i.e., ferries)?

The proposed fee would be added only to tickets sold to cruise ship passengers.

Q: Will day cruises in the Great Lakes be subject to the sea passenger fee?

If the vessel makes a foreign port of call and passengers leave and re-enter the vessel or new passengers board, the passengers will be subject to inspection and the fee.

Truck Transponder Fee

Q: What is the potential "cap" on commercial truck fees?

Trucks that use a transponder pay an annual fee that is equivalent to a specific number of border crossings. Any crossing above that specific number made during the annual period covered by the fee is free. By limiting the fee to a certain amount, we create an economic incentive for using transponders.

Trucks that use transponders benefit from the capped fee and reduced border wait times that result from faster processing. The Federal government also benefits from the use of transponders because they make the border crossing process more efficient, resulting in a cost savings. Based on our analysis, trucks with transponders cross an average of 106 times per year. APHIS is proposing to adjust the transponder fee from 20 to 40 times the individual truck fee or the equivalent of 40 border crossings.

Q: Did you consider the fact that increasing the truck transponder fee by 205% would discourage some carriers from using transponders, resulting in a less efficient process?

While the increase will likely discourage a portion of the population from purchasing a transponder, the proposed fee balances revenue sufficiency and loss from the capped fee with government costs savings and the economic incentive for truckers that transit the border faster.

Q: Why is APHIS increasing the truck transponder fee by such a significant amount?

While the proposed increase is significant, it is aligned with the actual costs of providing agriculture inspections of trucks. Through the user fee review and the activity based cost model, we now know the actual costs associated with this fee category. We are proposing to increase the fees accordingly to recover more of our costs for providing these services. While this increase represents a substantial adjustment, an adjustment of this scale will not likely occur again unless the costs to provide agriculture inspections of trucks change significantly.

Q: Is it possible for APHIS to charge the importers instead of increasing the truck transponder fee?

Currently, there is no practical way for APHIS to charge importers, especially in those situations where a truck might be carrying goods from more than one importer. This would require new methods of capturing data from manifests and would likely increase the cost to truckers who would have to meet different information requirements to ensure that the appropriate importers were charged.

Treatment Fee

Q: How is "treatment" defined?

A "treatment" is any form of mitigation applied to cargo or a conveyance to eliminate the potential of live quarantine pests entering the United States. The two most common treatments are fumigation and cold treatment.

Q: For a methyl-bromide fumigation treatment, will the \$375 fee be applied based on the USDA-logged fumigation, the airway bill, or the container itself?

Each enclosure will generate a \$375 charge.

Q: How will the treatment fee be applied to containers (i.e., 20 pallets) versus break bulk cargo (i.e., 4000+ pallets)?

The fee will be applied to each treatment enclosure regardless of the number of pallets in an individual enclosure. Break bulk cargo shipments would likely be divided into multiple enclosures. For example, if there are 4000 pallets and they are divided into seven stacks for fumigation, this would be considered seven treatments. Accordingly, the fee would be applied to each treatment.

Q: The vast majority of our fumigation treatments are performed in the evenings and on weekends. As such, we pay overtime for APHIS officers to oversee the treatments. Will the proposed treatment fee be charged in addition to APHIS' hourly overtime?

Yes. The proposed treatment fee would be charged in addition to the hourly overtime rate for treatments conducted outside normal business hours.

Q: Will the proposed treatment fee be applied to the reading of cold treatment charts and pest identification per container?

The proposed treatment fee would be applied per container. Pest identification services are not covered by the proposed treatment fee.

Q: If cargo from multiple containers is assembled into a stack for cold treatment, will the stack be considered a single treatment?

If the treatment is done in the United States at an approved facility, it would be considered one treatment.

Q: How would APHIS bill the proposed treatment fee? Would the charge be referenced at the time of fumigation as APHIS overtime charges are now, and then billed to the treatment facility the following month?

Yes. We would bill the treatment facility as is currently done for overtime.

Q: Would the fee be charged by CBP at the time of arrival or by the USDA-approved treatment facility when the treatment is applied?

The fee would be charged at the time of treatment.

Q: If a shipment is divided into two or more stacks for a cold treatment, the stacks are placed in one room and they are treated at the same time, is the room considered a single enclosure?

Yes, if the room would be considered a single enclosure.

Q: In the case of vessels that apply cold-treatment in transit, will the treatment fee be charged by APHIS to read the charts generated by the treatment once the ship enters the port?

Yes, the fee will be charged when APHIS reads the charts from the treatment.

Q: Will APHIS charge the treatment fee to read cold treatment charts when the ship arrives or just in those situations when the cold treatment needs to be redone?

APHIS will charge the treatment fee to read the charts and for those treatments that need to be redone.

Q: Will the treatment fee be also charged for the fumigation of exports?

The proposed treatment fee applies only to imports.

Q: If there are two containers placed under one tarp for fumigation, will the treatment fee be charged to each container or will the charge be split between the two containers.

Two containers under one tarp would be considered one treatment. As such, the fee would be applied once and the charge would be split between the two containers.

Q: Are cold treatments applied on conventional break bulk vessels be identified by bill of lading, by vessel hold or chamber, or by deck?

Cold treatments are commonly identified by compartment, for example, hatch and two decks (1ab) (1cd).

Q: To whom will vessel cold treatment fees be invoiced?

Currently, APHIS intends to invoice either the agent or the shipping line, but we are looking for comments on what might be most efficient.

Q: To whom will the treatment fees be billed?

For fumigations, we are proposing to bill the fumigator. For cold treatments, we are proposing to bill the shipping line or the agent.

Efforts to Reduce Costs

Q: Has APHIS considered having the exporting country inspect commodities and certify their health by providing a certificate through the International Trade Data System (ITDS)?

APHIS works closely with a number of countries to pre-clear commodities before they depart for the United States. The cost to pre-clear commodities is paid by the exporter. As one of 47 government agencies working to help bring the International Trade Data System (ITDS) online, APHIS is looking closely at all of its export and import processes to determine how we might harmonize requirements, streamline processes, and reduce costs to create a more efficient trade system.

Q: During the presentation, you indicated that cost projections are based on activity and output consistent with the baseline. In addition to fee increases, what factors did you consider to decrease operating costs by increasing the efficiency of your current activities?

The user fee review and the activity based cost model documented the actual costs of services as they are currently provided. That said, at APHIS, we are constantly looking for more efficient ways to conduct

not only AQI activities, but all aspects of our work. For example, we have been testing risk-based sampling approaches at our Plant Inspection Stations. Risk-based sampling allows us to maintain a statistically robust sampling program while requiring fewer inspections of lower risk shipments. This results in a cost savings for both the importer and the government.

User Fees and Reimbursable Overtime

Q: Vessel operators recently received notices from CBP Port Directors indicating that agriculture reimbursable overtime will be charged beginning June 1, 2014, pursuant to 7 CFR 354. Is this overtime being charged on behalf of APHIS or will APHIS bill vessels for overtime services separately?

CBP is responsible for the clearance of vessels. APHIS is responsible for clearing and recertifying cold treatments applied to vessel cargo. Overtime incurred by either CBP or APHIS will be billed according to each agency's regulations for the services rendered. Neither CBP nor APHIS will bill or collect overtime on behalf of the other.

User Fees and the U.S.-Canada Regulatory Cooperation Council

Q: Under the U.S.-Canada Regulatory Cooperation Council (RCC) and similar initiatives with Mexico, when do you expect mutual recognition of agricultural inspections to avoid further APHIS inspections?

APHIS fully supports the goals of the RCC and we are committed to continuing our work with Canada and Mexico to harmonize our regulations, including evaluating opportunities for a more integrated approach to agriculture inspections. At this time, we cannot predict when these efforts will be complete, nor can we determine the exact impact these initiatives will have on U.S. port operations.

Guarantees of Service and Accurate Billing

Q: According to the Federal Register Notice, APHIS is seeking to recover CBP costs that are billed directly to AQI activity accounts. This includes salaries and benefits of CBP Agriculture Specialists. How can we be certain that we are not to be charged by APHIS, through the proposed user fees adjustments, and by CBP, though its own user fees, for the same services?

The APHIS activity-based cost model takes agriculture activity cost data from CBP's cost model and integrates it with APHIS activity cost data to determine the full and accurate costs of AQI services. Because CBP's cost model breaks down costs by service type (e.g., agriculture) and neither APHIS' nor CBP's cost model will allow double counting of costs, we are confident that users are not being charged by APHIS and CBP for the same services.

Q: Will the proposed fee adjustments guarantee that there will always be enough inspectors to provide services the same day they are needed?

While we cannot guarantee same day service, it is the intent of the agriculture inspection program to give priority to perishable products and to make every effort to decrease wait times for inspection.

Factors Driving Costs

Q: If CBP costs to inspect air passengers are \$677 million, or 79% of total AQI costs, why would airline passenger fees be reduced by 25% and truck transponder fees increased more than 200%?

Each fee was evaluated separately to determine if the revenue generated by the fee was aligned with the cost to provide the service. For that reason, the proposed adjustments are relative to the fees themselves, not the overall revenue generated by the fees. In the case of the airline passenger fee, the current fee generates more revenue than we need to cover the costs of the AQI services provided. As such, we are proposing to reduce the fee. In the case of truck transponders, the current fee doesn't generate enough revenue to cover the costs of the AQI services provided, and we are proposing to increase the fee. The proposed increase of the truck fee is not related to the proposed decrease of the air passenger fee.

Q: Why do the proposed fee adjustments include not just the costs to conduct inspections, but also other operational costs, such as program accounting, scientific research, etc.?

The program costs covered by each fee are specific to the activities that are conducted in each fee category. These include direct activities, such as inspections, and indirect activities, such as pest detection, risk analysis, etc.

Application of Fees

Q: Which AQI services does APHIS provide relative to an imported vessel or truckload of grain? Which AQI services does CBP provide for the same imported vessel or truckload of grain? In a situation where both APHIS and CBP provide AQI services, do the proposed user fees apply to the services provided by both APHIS and CBP?

APHIS provides scientific risk analysis and pest identification and develops import policies and inspection procedures. CBP inspects the cargo and the conveyance. They provide the data used for future analysis and take actions as necessary on the results of the inspection. The fees apply to the services provided by both agencies and were derived from the costs generated by each.

Time Line for Implementing Proposed Fees

Q: When will the proposed fees be implemented?

Per guidance from the Office of Management and Budget, the adjusted fees will be implemented no sooner than 3 months after publication of the final rule. It is too soon to determine when the final rule might be published.

Q: When will the fees be adjusted or revised?

APHIS will consider revising the fee schedule again in 2016, unless there is an emergency or other unforeseen circumstance that requires a fee adjustment.

Other

Q: Is there a contingency plan or fees for responding to a disaster that occurs during transport?

Responding to an emergency that occurs during transportation of a commodity does not fall under the AQI program. AQI funds are used only for activities directly related to the delivery of the program.

Q: How are fees calculated if the commodity is confiscated by APHIS or CBP?

A fee would be charged to inspect the conveyance. If a pest is detected during the inspection, APHIS will instruct the importer to treat, re-export, or destroy the commodity. If a treatment is available and the importer chooses that option, the treatment fee would apply. If the importer chooses to re-export or destroy the shipment, the action would be done at the importer's expense.

Q: What is the percentage of non-compliant products found currently through inspection?

The percentage ranges from less than 1% to more than 25% depending on the commodity.