



**United States Department of Agriculture
Animal and Plant Health Inspection Service**

Agricultural Quarantine Inspection User Fees Policy Questions and Answers



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GENERAL USER FEE QUESTIONS

Question 1: User Fee. What is a user fee?

Answer: A user fee is a fee charged for government goods or services above and beyond what is normally available to the public (*User Fee Design Guide*, GAO-08-386SP Federal User Fees, A Design Guide). A user fee is charged for a benefit received by individuals or firms from the government to compensate for the costs of the goods or services provided.

Question 2: User Fees versus Taxes. What is the difference between a user fee and a tax?

Answer: User fees are related to a voluntary transaction or request for government goods or services above and beyond what is normally available to the public. Taxes arise from the government's power to raise revenue and need not be related to any specific benefit, and payment is not optional; when Congress imposes taxes, it need not consider benefits bestowed by the government on an individual or firm but may base taxation solely on the ability to pay. For more information, see *User Fee Design Guide*, GAO-08-386SP Federal User Fees, A Design Guide.

Question 3: Agricultural Quarantine Inspection (AQI) Program. What is the AQI Program?

Answer: The Agricultural Quarantine and Inspection (AQI) program plays a critical role in facilitating the safe trade of agricultural commodities while protecting U.S. agriculture and the environment from invasive plant and animal pests and diseases. As volumes of international trade and travel both increase, so do the risks that foreign animal and plant pests and diseases can enter and establish themselves in the United States. These invasive pests and diseases can pose grave threats to America's agriculture and economy.

USDA's Animal and Plant Health Inspection Service (APHIS) and the Department of Homeland Security's Customs and Border Protection (CBP) work together to carry out AQI program activities to intercept foreign animal and plant pests before they can enter the country. Under the program, APHIS tracks emerging and new pest situations around the world; assesses and analyzes pest risks and pest movements in trade; develops and applies methods to reduce pest risk and movement in trade; develops passenger and cargo targeting, sampling, and inspection protocols; inspects live plant shipments; and monitors and stops illegal movements of agricultural goods in foreign commerce. CBP conducts inspections of international passengers, commercial vessels, trucks, aircraft and railcars at U.S. ports of entry using APHIS protocols.

Question 4: Agricultural Quarantine Inspection (AQI) Services. Who provides AQI services?

Answer: USDA’s Animal and Plant Health Inspection Service (APHIS) and the Department of Homeland Security (DHS), Customs and Border Protection (CBP) work together to carry out AQI program activities to intercept foreign animal and plant pests before they can enter the country.

Question 5: Agricultural Quarantine Inspection (AQI) User Fees. Why does the Animal and Plant Health Inspection Service (APHIS) charge AQI user fees?

Answer: The Secretary of Agriculture was given the legal authority to collect fees to recover the costs of the AQI program. Both APHIS and the Department of Homeland Security’s Customs and Border Protection provide services related to the AQI program. APHIS collects the fee on behalf of both agencies.

Question 6: Fee Types. What types of AQI user fees are there?

Answer: There are nine types of AQI user fees as follows:

User Fee Class
Commercial Vessel
Commercial Truck
Commercial Truck (Transponder)
Commercial Railroad Car
Commercial Railroad Car (Prepaid)
Commercial Aircraft
International Air Passenger
International Cruise (Sea) Passenger
Treatment Monitoring

Question 7: Authority to Charge AQI User Fees. Does APHIS have authority to charge AQI user fees? Where is this authority found in the U.S. Code?

Answer: User fees were authorized by section 2509(a) of the Food, Agriculture, Conservation and Trade (FACT) Act of 1990 (21 U.S.C.136a), as amended by the Omnibus Budget Reconciliation Act of 1990 (Budget Reconciliation Act). This statute, known as the 1990 Farm Bill, authorized the Secretary of Agriculture to prescribe and collect user fees sufficient to cover the costs of providing specific services. On April 4, 1996, the Farm Bill section 2509 was amended by section 504 of the Federal Agriculture Improvement and Reform (FAIR) Act of 1996. It was amended again on May 13, 2002.

Question 8: APHIS AQI User Fee Regulations. Where are the AQI user fee Federal regulations listed? Where can they be found on-line?

Answer: APHIS’ AQI user fee regulations are listed in the Code of Federal Regulations (CFR) 7, part 354.3, User Fees For Certain International Services. The AQI user fee Federal regulations are listed on the: *Government Printing Office (GPO)* website at

<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=7:5.1.1.1.14&idno=7#7:5.1.1.1.14.0.42.3>, and the APHIS website at http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/business-services/sa_mrpbs_divisions/sa_fmd/sa_user_fees/ct_user_fees_main?1dmy&urile=wcm%3apath%3a%2Faphis_content_library%2Fsa_our_focus%2Fsa_business_services%2Fsa_mrpbs_divisions%2Fsa_fmd%2Fsa_user_fees%2Fct_aphis_user_fees

Question 9: AQI User Fee References. Are there any other guidelines or policies available related to AQI user fees other than the regulations and these Policy Questions and Answers?

Answer: Yes. Other guidelines, policy, and procedures can be found in the Budget and Accounting Manual (BAM) within the Financial Management Division, and on the APHIS website at: http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/business-services?1dmy&urile=wcm%3apath%3a%2Faphis_content_library%2Fsa_resources%2Fsa_manuals_and_guidelines,

(Click on the BAM, Chapter 3, Where APHIS Gets Its Funding; Chapter 9, Revenue and Receivables; and/or Chapter 10, Cost Identification and Recovery)

Question 10: AQI User Fee Evaluation. How often are AQI user fees evaluated and updated?

Answer: APHIS reviews user fees on an annual basis to confirm that the fees are adequately recovering the program's costs for the services provided. Every two years, APHIS submits a report to the USDA Office of the Chief Financial Officer (OCFO), which includes an analysis of current charges, evaluation of the potential charges, and a schedule of planned reviews for the upcoming fiscal years.

Question 11: User Fee Process. What process does the government follow to identify the costs recovered through AQI user fees?

Answer: An independent accounting firm reviewed the user fee schedule using industry recognized processes and best practices to provide a clear cost accounting of how much it actually costs to deliver AQI services. The review also calculated the future costs of the program based on improvements both APHIS and CBP will make, projected program growth rates, and expected changes in imports and international passenger volumes.

Question 12: First AQI User Fees Set. When did APHIS start charging AQI user fees?

Answer: The first APHIS AQI user fees were implemented on May 13, 1991 for international air passengers, commercial vessels, commercial trucks, and commercial railroad cars from all countries except Canada. The commercial aircraft user fee was implemented on February 9, 1992, for commercial aircraft from all countries except from

Canada. There are additional exemptions for the user fees described in later sections for each type of conveyance. The exemption for Canada was lifted in January 1, 2007.

Question 13: First Fees Put in Place for Canadian Conveyances. When did APHIS start charging AQI user fees for Canadian conveyances?

Answer: As of January 1, 2007, air passengers arriving in the United States from Canada were no longer exempt from the international air passenger user fee. Effective March 1, 2007, the removal of the inspection exemption for Canadian-grown fruits and vegetables and the user fee exemption for all commercial vessels and commercial aircraft entering the United States from Canada took effect. The user fee exemption for commercial trucks and commercial railroad cars entering the United States from Canada took effect June 1, 2007.

Question 14: AQI User Fee Responsibilities within the Financial Management Division (FMD). What are FMD’s AQI user fee responsibilities?

Answer: FMD’s AQI user fee responsibilities are as follows:

FMD Branch/Section	AQI User Fee Responsibilities
<p>Review and Analysis Branch (RAB)</p>	<ul style="list-style-type: none"> • Develops and implements AQI user fees. • Develops proposals for AQI user fee changes based on analyses of accounting reports, program data, projected trends, and contacts with PPQ’s headquarters, field, and port personnel as well as with DHS-CBP’s Revenue Division. • Reviews legislation authorizing AQI user fees and develops proposals for implementing new AQI user fees. • Presents recommendations for new or revised AQI user fees, supported by all pertinent documentation, to the appropriate Agency officials. Also, RAB obtains concurrence from the PPQ Deputy Administrator and Directors and approval from the APHIS Administrator. • Coordinates with PPQ’s Deputy Administrator and Directors and the Policy and Program Development (PPD), Regulatory Analysis and Development (RAD) Staff, the publication of new or revised AQI user fees in the <i>Federal Register</i>. • Informs the National Finance Center (NFC) and the Minneapolis Financial Operations Branch (FOB) of new or revised AQI user fees and the effective date of implementation. • Acts as liaison with NFC, Minneapolis FOB, and other controlling agents (e.g., U.S. Treasury, and DHS) to coordinate billing and collection and audit activities for AQI user fees.

Minneapolis Financial Operations Branch (FOB)	<ul style="list-style-type: none"> • Conducts AQI debt management and transaction processing of AQI user fee collections that flow through APHIS' St. Louis AQI Lockbox.
Budget Execution and Support Branch (BESB)	<ul style="list-style-type: none"> • Manages all aspects of AQI fund transfers to DHS-CBP.

Question 15: Plant Protection and Quarantine (PPQ) Program's AQI User Fee Responsibilities. What are PPQ's AQI user fee responsibilities?

Answer: PPQ's AQI user fee responsibilities are as follows:

- Performs ongoing reviews of programs to ensure the most economical and efficient use of resources and assist in ensuring compliance with established billing and collection systems. Monitoring and controlling program costs.
- Advises FMD of program developments that may affect AQI user fees charged.
- Assists FMD in the review of AQI user fees applicable to their programs.
- Concurs with new or revised AQI user fees prior to approval by the APHIS Administrator.
- Assigns the appropriate priority status to user fee dockets.
- Notifies all field stations and DHS-CBP personnel of new or revised AQI user fees and the effective date of implementation. If publication of AQI user fees is not required, PPQ will notify all interested parties.
- Notifies PPQ officials of their current financial position through the monthly status of funds process, and develops special reports, as needed.

Question 16: Policy and Program Development's (PPD) AQI User Fee Responsibilities. What are PPD, Regulatory Analysis Division's (RAD) AQI user fee responsibilities?

Answer: RAD staff's AQI user fee responsibilities are as follows:

- Writes Federal Register AQI user fee dockets.
- Coordinates the necessary economic analyses and clearances for publication of AQI user fee dockets.
- Notifies appropriate offices of the publication date of final rules and their effective dates.

Question 17: AQI Services. What services do AQI user fee collections pay for?

Answer: AQI user fees pay for AQI services DHS-CBP and APHIS provide in connection with the arrival, at air, ocean, rail and land border ports of international air passengers, cruise line passengers, commercial aircraft, commercial vessels, commercial railroad cars, commercial trucks, commodity treatment oversight. The fees recover the costs of providing AQI services described above, as well as overhead and other indirect costs of administering the user fee program.

Question 18: AQI Services. What specific AQI services is APHIS responsible for?

APHIS is responsible for:

- Monitoring pest data from around the world to uncover new pathways that might bring pests to our shores.
- Inspecting and treating commodities in their country of origin and pre-clearing U.S. military equipment, cargo, and household goods to mitigate pest risks prior to export to the United States.
- Inspecting and certifying foreign sources of clean planting stock.
- Inspecting and certifying maritime vessels departing Asian gypsy- moth infested countries to keep this devastating pest out of the United States.
- Harmonizing quarantines, exclusion strategies and other safeguarding initiatives with Mexico, Canada, and countries in the Greater Caribbean Region to guard against the introduction of high-risk pests.
- Analyzing and assessing pest risks to focus on port-of-entry inspection activities and target what is truly risky in an ever-changing global trade environment.
- Developing import policies and procedures to ensure that adequate safeguards, such as inspections or treatments, are applied to prevent the introduction of plant pests and diseases.
- Inspecting live plants and propagative plant material – items that present the highest pest risk to U.S. agriculture and the environment – to intercept pests before they can enter the United States.
- Identifying pests and determining actions to mitigate risks.
- Developing, conducting and monitoring treatments to eliminate viable pests from agricultural goods and commodities entering the United States.
- Training APHIS Safeguarding Specialists, CBP agricultural specialists, and canines to detect and keep pests out of the country.
- Monitoring U.S. markets to find smuggled products and mitigate the risks they present.
- Investigating violations and enforcing trade compliance requirements.

Question 19: AQI Services. What specific AQI services is CBP responsible for?

Answer: CBP is responsible for the pre-arrival analysis, targeting, selection, and examination of the following in order to determine entry status and compliance with agricultural regulations:

- Passenger/conveyances (land/border passenger and vehicular clearance operations).
- Land/border pedestrians.
- Airline passengers.
- Cruise line passengers.
- Railcar passengers and commercial rail cargo.
- Commercial bus passengers.

- Commercial trucks.
- Commercial aircraft.
- Commercial ferries.
- Commercial vessels.
- Private aircraft.
- Military aircraft and military vessels.
- International mail.
- Expedited courier and any other cargo, conveyances, or passengers.

Question 20: AQI Services. Do AQI user fees pay for any export services?

Answer: No. AQI user fees do not pay for export services. However, the Farm Bill of 1990 gave APHIS the authority to charge fees that cover the costs of performing a variety of services related to importing and exporting animals, animal products, and plants. APHIS has established recovery cost fees to:

- Inspect and quarantine animals imported into and exported from the United States.
- Inspect animal byproducts imported into and exported from the United States.
- Perform certain veterinary diagnostic laboratory services.
- Inspect shipments overseas that are bound for the United States (preclearance).
- Issue phytosanitary certificates for plant materials offered for export.

Question 21: Plant Protection and Quarantine (PPQ) Preclearance Program. What is the PPQ preclearance program?

Answer: In conjunction with International Services (IS), preclearance inspections, treatments and/or other mitigation measures are conducted in foreign countries under the direct supervision of qualified APHIS personnel in accordance with phytosanitary procedures specified by the Agency. These procedures are designed to identify and/or mitigate the risk of exotic pest introductions through action taken in foreign countries. Integrity checks to ensure compliance with the program guidelines may be conducted at the U.S. port of entry. Proposals for agricultural commodity Preclearance programs are typically developed jointly by the host country's plant protection service and participating industry stakeholders. If requested, APHIS will provide appropriate host country officials with assistance in work plan development.

Preclearance activities serve to perform the following functions:

- Conduct offshore agricultural commodity Preclearance inspections, treatments and/or other mitigation measures in foreign countries under the direct supervision of qualified APHIS personnel in accordance with phytosanitary procedures specified by the Agency;
- Support trade facilitation and pest exclusion by approving and/or proposing new programs;
- Expedite the movement of commodities and giving additional protection to U.S. Agriculture;

- Ensure compliance with program guidelines and APHIS Preclearance protocols; and Certify offshore plant production facilities for specific phytosanitary concerns.

Question 22: Plant Protection and Quarantine (PPQ) Preclearance Program versus Agricultural Quarantine Inspection (AQI) Program. Do PPQ's preclearance program and AQI program cover the same type of activities?

Answer: No. The AQI program includes risk assessment and analysis, pest identification, treatment and mitigation protocols, policy development and administration, and inspections of international air passengers, commercial vessels, commercial trucks, commercial aircraft, and commercial railroad cars at U.S. ports of entry. Conversely, the preclearance program includes inspections, treatments and/or other mitigation measures conducted in foreign countries under the direct supervision of qualified APHIS personnel in accordance with phytosanitary procedures specified by the Agency.

Question 23: Plant Protection and Quarantine (PPQ) Preclearance Program versus Agricultural Quarantine Inspection (AQI) Program. Do I need to pay an AQI user fee for preclearance activities at foreign countries (e.g. vessel certification inspections)?

Answer: No. There are no user fees for the preclearance activities. PPQ preclearance activities are typically covered under Cooperative Service Agreements (CSA). The authority is located in 7 U.S.C. 7701 and 7 U.S.C. 7753. This section allows the USDA Secretary "to cooperate" ... authority to enter into agreements. Most of this type of work is being done using CSAs because of the high costs involved in conducting preclearance activities at foreign locations.

Question 24: Preclearance Funded by Trust Funds. If preclearance is funded by trust funds and CBP said some of their activities come from user fees. Are any of those user fees AQI-related?

Answer: Cost for offshore activities, i/e., those performed outside the customs territory of the United States, are not directly related to the AQI program and are not included in the AQI cost base. CBP, has no trust fund spending related to Preclearance Operations. There are AQI user fee activities conducted at Preclearance facilities. These AQI user fee activities are monitored with our Cost Management Information Systems codes just like at our U.S. ports of entry. We conduct the same AQI user fee activities at Preclearance facilities that we would at any U.S. port of entry, whether we are in Toronto or Minneapolis. Please note that for CBP, Preclearance is **not** conducted outside of the customs territory of the United States. Preclearance facilities are considered within the customs territory of the U.S.

Question 25: Agricultural Quarantine Inspection (AQI) User Fee Collections. Who collects the AQI user fees from customers? What is the timing for collecting and remitting the fees to APHIS?

Answer: User fee collections information is as follows:

AQI User Fee Category	Who Collects the Fee?	When is Collection Due?
Commercial Vessels 7CFR 354.3 (b)	DHS/CBP	Monthly
Commercial Trucks 7CFR 354.3 (c)	DHS/CBP	Monthly
Commercial Railroad Cars 7CFR 354.3 (d)	Association of American Railroads (AAR) and National Railroad Passenger Corporation (AMTRAK) provide statements to APHIS and railroad companies with the amounts due. Individual Railroad companies send their payments along with the AAR or AMTRAK statement to APHIS' lockbox.	Statements from AAR and AMTRAK to APHIS and the payments from the individual railroad companies are both due to APHIS within 60 days after the end of each calendar month in which the railroad cars entered the U.S.
Commercial Aircraft 7CFR 354.3 (e)	APHIS collects the fees directly from Air Carriers - - They remit on an honor basis to APHIS' lockbox.	Carriers remit their fees along with detailed statements to APHIS' lockbox no later than 31 days after the close of the calendar quarter in which the aircraft arrivals occurred.
International Air Passengers 7CFR 354.3 (f)	Air carriers as well as charter services, student ticket sellers. - - They remit on an honor basis.	Collected user fees and a detailed statement are remitted to APHIS' lockbox no later than 31 days after the close of the calendar quarter in which the aircraft arrivals occurred.
International Cruise Passengers 7CFR 354.3 (f)	Cruise Vessels - - They remit on an honor basis.	Collected user fees and a detailed statement are remitted to APHIS' lockbox no later than 31 days after the close of the calendar quarter in which the vessel arrivals occurred.
Treatments 7CFR 354.3 (h)	Treatment companies and vessels who perform cold treatment will collect fees - - They remit on an honor basis. If APHIS performs treatment, APHIS collects the fee directly from the importer for whom the treatment is being provided	Collected user fees and a detailed statement are remitted to APHIS' lockbox no later than 31 days after the close of the calendar quarter in which the fees were collected.

Question 26: Agricultural Quarantine Inspection (AQI) User Fee Collections. Does APHIS collect user fees on a calendar year or fiscal year basis?

Answer: APHIS uses a calendar year for AQI user fee collection purposes

Question 27: Agricultural Quarantine Inspection (AQI) User Fees Collections. Does APHIS record collected user fees on a calendar year or fiscal year?

Answer: AQI User fees are reported on a calendar year. Commercial aircraft clearance, international air passenger, commercial vessel, commercial trucks, rail car, international cruise passenger, and treatment fees are issued on the calendar year, and the fees are reported in the quarter they were due, not the quarter we receive them in. Transponder (decal) fee is prepaid permit, issued on the calendar year, one annual payment to the

owner of the commercial. Transponder fee are reported in the quarter we receive them in. Except when billed, AQI collections should always be recorded in the current budget period (i.e. 16XX), this does not need to relate to the quarter the fund are paying, just when they were received.

Question 28: Agricultural Quarantine Inspection (AQI) User Fees Lockbox Information. Where should I send my AQI user fee payment?

Answer: Lockbox information is as follows;

Type of Collection:	Send To:
International Air Passenger User Fees, Cruise Passenger User Fees, Commercial Aircraft User Fees and/or Treatment User Fees	USDA, APHIS, AQI PO BOX 979044 St. Louis, MO 63197-9000
PPQ Export/Import Certificates	USDA, APHIS PO Box 979043 St. Louis, MO 61397-9000
Overnight Payments to all programs U.S. Bank	Attn: Government Lockbox (box #) 1005 Convention Plaza St Louis, MO 63101 Contact Phone number: 314-418-6635
Commercial ROT - All Payments	USDA, APHIS, ROT PO Box 979042 St. Louis, MO 63197-9000
Military ROT Check Credit Card Payments Military Unit should Contact DMT: 1-877-777-2128	USDA, APHIS PO Box 979043 St. Louis, MO 63197-9000
Wildlife Service Payments	USDA, APHIS PO Box 979043 St Louis, MO 63197-9000

Question 29: Agricultural Quarantine Inspection (AQI) User Fees Accounting Codes. What accounting codes are involved with the AQI user fees?

Answer: In Financial Management Modernization Initiative (FMMI), under Treasury Symbol 12X5161, Fund AP005161AV (Special AQI-CAT A), with the following Funded Programs (WBS Codes):

User Fee	WBS Codes
International Air Passengers	AP.AQ.PASS
Commercial Aircraft	AP.AQ.AIRC
Commercial Vessels	AP.AQ.VESS
Commercial Railroad Cars	AP.AQ.RAIL
Commercial Trucks	AP.AQ.TRUK
Commercial Truck Transponders	AP.AQ.DECL
Cruise Passengers	AP.AQ.CRUS
Treatment	AP.AQ.TRET

Question 30: Forms Used For Agricultural Quarantine Inspection (AQI) Program. Are there any forms used for the AQI Program?

Answer: Yes. There are some forms uses by the Financial Management Division, Debt Management Team (DMT), to set up AQI accounts, to report AQI activity, to notify carriers of payments due to APHIS, and to process refunds. Please see description in 1-4 below.

1. **New Account Set-up Worksheet:** Form completed by carriers to set up a new AQI account.
2. **Remittance Worksheet:** Form completed by airlines, cruise lines, railroads, treatment facilities, and vessels responsible for cold treatment to report their activity for the month or quarter.
3. **AQI Reminder Letter:** Form used by the DMT as a reminder letter to carriers for AQI payment. The form can also be used by a carrier to report that there was not activity for the period.
4. **Vendor/Customer Refund Form:** Form completed by the carrier to provide the necessary information to the DMT to process an AQI refund.
5. **APHIS 94:** Form completed by PPQ employees that perform treatment to report their activity for the quarter.

There are some other forms use by APHIS-Plant Protection and Quarantine. For a complete list of APHIS and APHIS-PPQ forms please go to http://www.aphis.usda.gov/wps/portal/aphis/resources/forms?urlile=wcm%3apath%3a%2Faphis_content_library%2Fsa_resources%2Fsa_forms%2Fct_ppq_forms, then click on APHIS Forms and/or PPQ Forms.

QUESTIONS ON 21 USC § 136 (a)(1)(5)(6) - COLLECTION OF FEES FOR INSPECTION SERVICES

Question 31: Agricultural Quarantine Inspection (AQI) User Fee Account. What is the AQI user fee account?

Answer: The AQI user fee account is a fund established in the U.S. Treasury which shall contain all of the user fees collected for inspection services, as well as late payment penalties and interest charges collected.

Question 32: *Reserved for future use.*

Question 33: *Reserved for future use.*

¹ The first digit is for the Budget Fiscal Year, it changes for all collections submitted on/after October 1 each year

QUESTIONS ON AGRICULTURAL QUARANTINE INSPECTION (AQI) USER FEE REFUNDS

Question 34: Agricultural Quarantine Inspection (AQI) Refunds. In what circumstances AQI user fees could be refunded?

Answer: The following scenarios could result in a refund of AQI user fees:

- A carrier is no longer flying internationally and has a credit due to an overpayment on their account.
- A carrier substantially overpays their user fees and states that not getting a refund would be a financial burden.
- When a commercial vessel or truck has paid in advance and need to be reimbursed.

Question 35: Agricultural Quarantine Inspection (AQI) Refund Review and Approval. Who reviews and approves AQI user fee refunds?

Answer: The APHIS-FMD-FOB, Debt Management Team, is responsible for coordinating and reviewing each refund request on a case-by-case basis and approving or denying the refund to the customer.

Question 36: Agricultural Quarantine Inspection (AQI) Refund Request Process. What needs to be submitted if a customer wants to request an AQI refund?

Answer: The requestor of the refund must provide proof that exemption criteria have been met and proof that they paid the user fee(s). The account holder must provide, in writing, a detailed explanation why the account holder feels a refund is due. It should also include the following: company name, address, phone number; a contact person; the Tax Payer Identification Number (TIN), the carrier name (if applicable), and **all** certified supporting documentation. Inquiries and requests for AQI user fee refunds are directed to the address indicated below:

USDA, APHIS, MRPBS, FMD
 Attention: Supervisor, FOB, Debt Management
 100 North 6th Street, Suite 510C
 Minneapolis, MN 55403

Question 37: Agricultural Quarantine Inspection (AQI) Refund Request Process. How long does it usually take for a customer to get a refund?

Answer: A refund check should take approximately 30 days for a customer to receive once processed through the APHIS-FMD-FOB, Debt Management Team.

QUESTION ON 7 CFR § 354.1 - OVERTIME WORK AT PORT OF ENTRY

Question 38: Charges for Reimbursable Overtime (ROT). What does the customer pay if he/she receives services outside the normal tour of duty of the employee? Are there overtime charges involved?

Answer: There are two types of ROT rates: 1) regular overtime rates; and 2) the Airport Airways Development Act (AADA) overtime rates.

Regular Overtime. Regular overtime rates were developed for inspections performed outside the regular tour-of-duty of employees on weekdays, holidays, and Sundays. Regular overtime rates are intended to recover the full cost of providing inspection services after tour-of-duty hours. Regular overtime rates include the cost of inspection personnel services, program delivery, program direction and support, management support costs, billing and collection costs, and departmental charges.

AADA Overtime. Public Law 94-353 established limitations on the amount to be charged to aircraft owners and operators for inspection and clearance of aircraft. Rates established for inspections under the AADA, recover only the cost actually incurred in performing the inspection. All overhead costs, such as program direction and support, management support, and departmental charges, are excluded from the rates. There are set AADA rates for Weekday/Holiday and Sunday overtime. In addition, a maximum rate of \$25.00 is established under the AADA for the border clearance of any private aircraft or vessel for all inspection services provided by U.S. Government agencies combined.

Fees for ROT services are provided in the chart below:

Outside the employee's normal tour of duty	Overtime rates (per hour)		
	[Effective date of final rule]- Sept. 30, 2016	Oct. 1, 2016-Sept. 30, 2017	Beginning Oct. 1, 2017
Monday through Saturday and holidays	\$75	\$75	\$75
Sundays	99	99	100

QUESTIONS ON 7 CFR § 354.3 (b) FEE FOR INSPECTION OF COMMERCIAL VESSELS

Question 39: Commercial Vessel Definition. What is a commercial vessel?

Answer: APHIS regulation in 7 CFR § 354.3(a) defines a commercial vessel as: “Any watercraft or other contrivance used or capable of being used as a means of transportation on water to transport property for compensation or hire with the exception of any aircraft or ferry.”

Question 40: Commercial Vessel Payments. Who actually pays the commercial vessel user fee?

Answer: For the inspection of commercial vessels, the master, licensed deck officer, or purser of any commercial cargo vessel which is subject to inspection under part 300 or 9 CFR chapter I, subchapter D, and which is either required to make entry at the Customs House under 19 CFR 4.3 or is a United States-flag vessel proceeding coastwise under 19 CFR 4.85, shall, upon arrival, proceed to Customs and pay an agricultural quarantine and inspection (AQI) user fee, is responsible for payment of the AQI user fee. For exemptions of the AQI user fee, see question 43.

The AQI user fee for commercial vessels is \$825.00.

Question 41: When to Charge the Commercial Vessel User Fee. When must the commercial vessel user fee be paid?

Answer: The commercial vessel user fee must be paid upon arrival at the port of entry. Exemptions are noted in question 43.

Question 42: When to Charge the Commercial Vessel User Fee. Is the user fee charge only at first direct arrival port or at every port if going coastwise?

Answer: Charges should be collected at every port of arrival.

Question 43: Commercial Vessel User Fee Exemptions. Are there any exemptions for paying the commercial vessel user fee?

Answer: The following categories of commercial vessels are exempt from paying an AQI user fee:

Commercial Vessel User Fee Exemptions 7 CFR § 354.3 (b)(2)	
Cruises to Nowhere	Foreign passenger vessels making at least three trips a week from a port in the United States to the high seas (including “cruises to nowhere”) and returning to the same port in the United States, not having touched any foreign port or place.
Tugboats	Any vessel which, at the time of arrival, is being used solely as a tugboat; i.e., tugboats towing vessels on the Great Lakes.
Vessels Under 100 Net Tons	Any vessel weighing under 100 net tons.

Government Vessels	Vessels used exclusively in the governmental service of the United States or a foreign government, including any agency or political subdivision of the United States or a foreign government, so long as the vessel is not carrying persons or merchandise for commercial purposes.
Distressed Vessels	Vessels arriving in distress or to take on bunkers, sea stores, or ship's stores.
Ferry Boats	Ferry boats are exempt based on the definition of a commercial vessel. Commercial vessel. Any watercraft or other contrivance used or capable of being used as a means of transportation on water to transport property for compensation or hire, with the exception of any aircraft or ferry.
Fueling stop in Canada	Vessels returning to the United States after traveling to Canada solely to take on fuel.

Question 44: Commercial Vessel User Fee Exemptions. What if the customer's vessel weighs less than 100 net tons?

Answer: No user fee would be required or collected at the port of entry for a vessel weighing under 100 net tons. Commercial vessel user fees are assessed for inspection of commercial vessels with a weight of 100 net tons or more.

Question 45: Commercial Vessel User Fee Exemptions. Do cruise lines continue to pay AQI charges for vessel inspection once the passenger fee goes into effect on December 28, 2015?

Answer: No, based on our activity based cost analysis, we have determined that the sea passenger fee is adequate to recover the costs we incur in inspecting both passengers and cruise ships.

Question 46: Ferry Boats. Do operators of ferry boats have to pay the commercial vessel user fee?

Answer: No, based on the definition of a commercial vessel. A commercial vessel is any watercraft or other contrivance used or capable of being used as a means of transportation on water to transport property for compensation or hire, with the exception of any aircraft or ferry.

Question 47: Payment Cap. Are the payments capped per vessel per year on number of trips that can be charged?

Answer: No, the cap for commercial maritime vessels was removed.

QUESTIONS ON 7 CFR § 354.3 (c) - FEE FOR INSPECTION OF COMMERCIAL TRUCKS

Question 48: Commercial Truck Definition. What is a commercial truck?

Answer: APHIS regulation in 7 CFR § 354.3(a) defines a commercial truck as: "A self-propelled vehicle designed and used for transporting property for compensation or hire. Empty trucks and truck cabs without trailers fitting this description are included."

Question 49: Commercial Truck User Fee Payments. Who actually pays the commercial truck user fee?

Answer: The driver or other person in charge of a commercial truck that is entering the customs territory of the United States and that is subject to inspection under 7 CFR part 330 or under 9 CFR, chapter I, subchapter D, must, upon arrival proceed to Customs and pay the AQI user fee.

Question 50: When to Charge the Commercial Truck User Fee. When do customers pay the commercial truck user fee?

Answer: The driver or another person in charge of a commercial truck that is entering the customs territory of the United States and that is subject to inspection, must, upon arrival proceed to Department of Homeland Security, Customs and Border Protection (CBP), and pay an AQI user fee for each arrival. Inquiries can be made to CBP, Revenue Division, at (317) 614-4471 or (317) 614-4491.

Question 51: Definition of a Truck Transponder/Decal. What is a commercial truck transponder?

Answer: It is a prepaid permit/decal at a maximum charge per calendar year of 40 times the AQI user fee for each arrival. The decal is issued by calendar year to the owner, agent, or person in charge of a commercial truck. The decal is permanently affixed with adhesive to the lower left hand corner of the vehicle windshield or on the left wing window. Otherwise the decal should be affixed in accordance with the accompanying instructions when it is issued, to show that the vehicle is exempt from payment of the fee for individual arrivals during the applicable calendar year or any remaining portion of that year.

Question 52: Truck Transponders. Where can I obtain a commercial truck transponder?

Answer: Applicants must apply to the Department of Homeland Security, Customs and Border Protection (CBP), for prepaid AQI transponders. Applicants should refer to CBP's regulations (19 CFR § 24) for specific instructions. The user fee for a truck transponder per calendar year is 40 times the current AQI user fee for each arrival. Truck drivers should locate the CBP office at the nearest land border port of entry and remit payment there.

Question 53: *Reserved for future use.*

Question 54: Exemptions. Are there any exemptions from paying the commercial truck user fee?

Answer: No. Currently, there are no exemptions.

Question 55: Customs and Border Protection (CBP) Truck Fees. Doesn't CBP commercial truck user fee already pay for this?

Answer: No. The CBP commercial truck user fee is a separate fee from the APHIS commercial truck user fee. An owner, operator, or agent of a truck, when paying the CBP user fee, must also pay for the APHIS commercial truck user fee. Refer to CBP regulations (19 CFR § 24) for specific instructions.

Question 56: Commercial Truck Non-Agricultural Shipments. Does the fee apply to non-agricultural shipments?

Answer: Yes, it applies to all commercial trucks, as agricultural pests do hitchhike on vehicles and non-agricultural commodities.

Question 57: Commercial Truck Transport Non-Agricultural Products. Does the AQI user fee apply to commercial trucks that do not transport any agricultural products at all? Like flatbed trailers and trucks?

Answer: Yes, the fee applies to all commercial trucks regardless of what they are carrying. The regulation applies the AQI user fee to all commercial trucks, including empty trucks and truck cabs.

Question 58: Foreign Trucks. Does the AQI fee also apply to foreign trucks? Does Canadian and Mexican drivers have to pay these fees?

Answer: Yes, the AQI fees apply to all commercial trucks regardless of nationality, so Canadian and Mexican drivers are also charged.

Question 59: Border Commercial Zone. For Mexico, there has been the 25 mile Border Commercial Zone set up at the borders. Are the trucks staying within the Border Commercial Zone required to pay AQI fees?

Answer: The corresponding CFR (7CFR354) does not provide any exemption for commercial trucks entering the United States into the 25 mile Border Commercial Zone.

Therefore, trucks entering this zone that meet the parameters for being charged the user fee would have to pay the charge.

Question 60: Drayage- Commercial Trucks Repackaged. Drayage is when a truck contents from Mexico is re-structured when it enters the U.S. border, allowing U.S. drivers for then take the packages to specific U.S. destinations. Does the AQI fee equally apply to the Mexico truck entering, or does it apply to the smaller U.S. trucks that are repackaged? Or does it no apply?

Answer: The drayage is charged by the facility, and is not managed by CBP or covered by any user fee paid by the trade.

Question 61: Commercial Truck Importing and Exporting. Does the DTOP program and the AQI fees apply to those importing nothing, but rather exporting?

Answer: The fee is for the inspection of commercial trucks crossing the border into the United States, regardless of whether importing, exporting or empty.

QUESTIONS ON 7 CFR § 354.3 (d) - FEE FOR INSPECTION OF COMMERCIAL RAILROAD CARS

Question 62: Commercial Railroad Car Definition. What is a commercial railroad car?

Answer: APHIS regulation in 7 CFR § 354.3(a) defines a commercial railroad car as: “A railroad car used or capable of being used for transporting property for compensation or hire.” The regulation is silent on a definition of loaded.

Question 63: When to Charge the Commercial Railroad Car User Fee. When will a commercial railroad car user fee be charged?

Answer: An AQI user fee will be charged for each loaded commercial railroad car entering the customs territory of the United States and that is subject to inspection.

Question 64: Commercial Railroad Car Payment. Who is responsible for paying the commercial railroad car user fee?

Answer: The railroad company receiving a commercial railroad car in interchange at a port of entry or, barring interchange, the railroad company moving a commercial railroad car in line haul service into the customs territory of the United States, is responsible for paying the AQI user fee. The AQI user fee for commercial loaded railroad car is \$2.00.

Question 65: Commercial Railroad Car Payment. Who is responsible for remitting the user fee to APHIS?

Answer: The railroad company shall remit the AQI user fee calculated by the Association of American Railroads (AAR), and the National Railroad Passenger Corporation (AMTRAK) shall remit the AQI user fee it has calculated within 60 days after the end of each month in which commercial railroad cars entered the customs territory of the United States.

Question 66: Commercial Railroad Car User Fee Prepayment. Can the commercial railroad car user fee be prepaid during a calendar year?

Answer: Yes. Railroad companies may, at their option, prepay the user fee for each commercial loaded railroad car during a calendar year.

Question 67: Commercial Loaded Railroad Car User Fee Prepayment. What is the cap on railroad car user fees prepayment?

Answer: If the user fee is prepaid for all arrivals of a commercial loaded railroad car during a calendar year, the user fee is an amount 20 times the user fee for each arrival.

Question 68: Commercial Railroad Car User Fee Exemptions. Are there any exemptions from paying the commercial railroad car user fee?

Answer: Yes. The following categories of commercial railroad cars are exempt from paying an AQI user fee:

(i) Any commercial railroad car that is part of a train whose journey originates and terminates in Canada, if— (A) The commercial railroad car is part of the train when the train departs Canada; and (B) No passengers board or disembark from the commercial railroad car, and no cargo is loaded or unloaded from the commercial railroad car, while the train is within the United States;

(ii) Any commercial railroad car that is part of a train whose journey originates and terminates in the United States, if— (A) The commercial railroad car is part of the train when the train departs the United States; and (B) No passengers board or disembark from the commercial railroad car, and no cargo is loaded or unloaded from the commercial railroad car, while the train is within any country other than the United States; and

(iii) Locomotives and cabooses.

Question 69: Empty Commercial Railroad Car. What is the user fee for an empty commercial railroad car?

Answer: The regulations do not have specific definition for “empty railroad car”, however, the regulation notes in 7 CFR § 354.3(d) (1) that “The AQI user fee for each arrival of a

loaded railroad car is shown in the following table.” It is assumed that the AQI user fee is due for “loaded” railroad cars except for the exemptions noted in Question 56.

Question 70: Charging User Fees For U.S. Movements Transiting Through Canada Where Cars Are Handled In More Than One Train. As cars move from U.S. origins across Canada on the Canadian Pacific or Canadian National to U.S. destinations, they are handled in more than one "train". That is, a car will move in a train from Detroit to Toronto where it is switched and put in a different train moving from Toronto to Montreal. At Montreal it will be switched again and put into a train going to New York, Vermont or to Maine as the case may be. There are no trains that move as a unit from a Midwest US origin to a US destination in New England. Cars are sealed and move in bond through Canada and, from a U.S. Customs clearance standpoint, could be said not to exist. Does the fact that a particular car is handled in different trains as it crosses Canada make it subject to the to the commercial railroad car user fee?

Answer: Customers are not required to pay an AQI user fee as long as the car remains sealed and the exemption requirements are met as noted in Question 56.

Question 71: Charging Fees for Railroad Cars Not Carrying Agriculture or Animal Products. Is a fully loaded railroad car coming from Canada to the United States subject to the commercial railroad car user fee regardless of whether they carry agriculture or animal products?

Answer: Yes. The fee applies since it is a loaded railcar. All conveyances present an agricultural risk (even if low risk) and are subject to inspection upon arrival into the United States.

QUESTIONS ON 7 CFR § 354.3 (e) - FEE FOR INSPECTION OF COMMERCIAL AIRCRAFT

Question 72: Commercial Aircraft Definition. What is a commercial aircraft?

Answer: APHIS regulation in 7 CFR § 354.3(a) defines commercial aircraft as: “Any aircraft used to transport persons or property for compensation or hire.”

Question 73: Commercial Aircraft User Fee. What services does the commercial aircraft user fee cover?

Answer: The commercial aircraft user fee covers the inspection of the cargo on board the aircraft and the actual conveyance.

Question 74: Commercial Aircraft User Fee Payments. Who is responsible for paying commercial aircraft user fees?

Answer: Air carriers are responsible for paying the commercial aircraft user fee for flights arriving into the customs territory of the United States. There are exemptions (see question 69) for some aircraft landings not being subjected to the fee.

The user fee for commercial aircraft is \$225.00.

Question 75: Commercial Aircraft User Fee Billing. How is the commercial aircraft user fee billed to airlines?

Answer: The Federal government does not bill the airlines. Air carriers are responsible for remitting the commercial aircraft user fee on an honor basis.

Question 76: Commercial Aircraft User Fee Remittance. Who is responsible for remitting the commercial aircraft user fee to APHIS?

Answer: Each carrier must remit the appropriate fees to USDA-APHIS-AQI, P.O. Box 979044, St. Louis, MO 63197-9000, for receipt no later than 31 days after the close of the calendar quarter in which the aircraft arrivals occurred. Please refer to 7 CFR § 354.3 (e)(3) for more information about remittance and statement procedures for inspection of commercial aircraft.

Question 77: Commercial Aircraft User Fee Charge. When will a commercial aircraft user fee be charged?

Answer: A commercial aircraft user fee will be charged for each commercial aircraft (international commercial aircraft) which is arriving, or which has arrived and is proceeding from one United States airport to another under a Bureau of Customs and Border Protection "Permit to Proceed," or an "Agricultural Clearance or Safeguard Order" (PPQ Form 250).

Question 78: Permit to Proceed. What is the purpose and definition of a "permit to proceed" as it relates to the air passenger user fees?

Answer: A permit to proceed from one domestic airport to another shall be filed by the aircraft commander or agent with the Customs officer in charge at the clearance airport. The permit to proceed shall include a declaration by the aircraft commander or agent, which shall be signed on entry at the next domestic airport. (19 CFR 122.83)

Question 79: Permit to Proceed Who is responsible for issuing the permit to proceed-U.S. Customs or Airline?

Answer: The airline (aircraft commander) is responsible for filling out the permit to proceed which shall be signed by the Customs officer in charge at the clearance airport. Per 19 CFR 122.83 (d) "A permit to proceed from one domestic airport to another shall be filed by the aircraft commander or agent with the Customs officer in charge at the clearance airport." The aircraft commander will present the permit to proceed at the next airport.

Question 80: Permit to Proceed with inspection formalities performed at first port of arrival. In the two scenarios, when is the aircraft user fee charged?

Scenario 1) If the crew and passengers get off (during normal hours) the airplane and are inspected, garbage is removed, new food is boarded, cargo destined for arrival port is off loaded, aircraft itself is inspected, and cargo manifest is reviewed by CBP.

Scenario 2) If the aircraft arrived at an overtime hour, and the garbage remained on board, but all other clearance processes identified above were conducted.

Answer: For the first scenario, an aircraft user fee is charged at the first port of arrival only since the APHIS clearance of the aircraft, passengers, and crew is completed.

If the aircraft arrived at an overtime hour with all inspection formalities performed except for the removal of garbage at the first port of arrival, an aircraft user fee is charged at the first port of arrival and again when the garbage is removed, and a "permit to proceed" or PPQ Form 250 is issued.

Question 81: Purpose of the Commercial Aircraft Inspection. What is the purpose of the commercial aircraft inspection?

Answer: The purpose of the inspection performed on international aircraft arriving at airports in the customs territory of the United States is to screen for the presence of contaminants, pests, or invasive species. Also, the purpose is to monitor the storage and removal of regulated international garbage from the aircraft to ensure consistency with all regulatory requirements; identifying pests found during the inspection; and safeguarding shipments pending Animal and Plant Health Inspections Service, Plant Protection and Quarantine determination for treatment or final disposition.

Question 82: Commercial Aircraft Inspection. What agency conducts the commercial aircraft inspection?

Answer: The Department of Homeland Security, Customs and Border Protection, is responsible for the inspection and clearance of commercial aircraft.

Question 83: Difference in Inspection Services for Commercial Aircraft versus International Air Passenger. What does the commercial aircraft user fee pays for versus what the international air passenger user fee pays for?

Answer: The international air passenger user fee covers the costs for services to inspect selected passenger baggage entering the customs territory of the United States from a foreign country. We do not inspect the garbage. We have it safeguarded for destruction and have compliance agreements with companies who are monitored and that carry out the destruction. Our mission is to make sure no unwanted foreign agriculture products, such as plants and plant products, animal or animal byproducts, and pests are being brought into

the United States. APHIS can include the cost of inspecting commercial aircraft that carry passengers in the international air passenger user if those costs directly relate to passenger baggage or passenger garbage. APHIS does not include the cost of inspecting cargo or the cargo hold area of the plane in the passenger fees.

The commercial aircraft user fee covers the inspection of the aircraft itself, cargo inspection, cargo hold area inspection and monitoring aircraft disinfection if: (1) such services occur during regular hours of service (0800-1630, Monday through Friday); or (2) inspection of the cargo is concurrent with inspection of the aircraft. Cargo owners may request inspection outside of regular hours of service. In that case, they would pay reimbursable overtime under 7 CFR § 354.1.

Question 84: When a flight arrives at point A from an international airport outside the U.S. and continues to point B, is it always necessary for a permit to proceed to be issued? Further, if the flight then goes back to point A from point B, is another permit to proceed required? Ex: FRA-JFK-IAH-JFK-FRA is a permit to proceed required for the IAH-JFK sector (in other words, is the journey now considered wholly domestic U.S. because JFK was a previous stop, so therefore, no permit to proceed is required)? Additionally, if the flight continues from point B to point C, does that change the permit to proceed requirements? Ex: FRA-ATL-ORD-JFK-FRA.

Answer: Generally, a permit to proceed is required to move from one US airport to another US airport until the aircraft (including passengers, crew, cargo, trash, etc.) originating outside the US completes the Federal inspection process. If the aircraft (including all passengers, crew, cargo, trash, etc.) completes the inspection process at the first US airport, then no permit to proceed to the next US airport is necessary. However, if the aircraft (or its passengers, or its crew, or its cargo, etc.) does not complete the inspection process at the first US airport, then a permit to proceed to the next US airport is required. Basically, the idea behind a permit to proceed is to inform the “next” US airport know that some portion of the inspection process was not completed at the previous US airport(s). Once the inspection process is completed (i.e. once the final passengers, cargo, garbage originating in FRA [from the example above] have been offloaded, no more permits to proceed will be necessary for any remaining journeys to a US airport.

To more directly address your examples: In most circumstances a permit to proceed would not be required for the IAH to JFK leg because all passengers, cargo, etc. from FRA will have been offloaded at JFK (the first time) or IAH.

For the FRA-ATL-ORD-JFK-FRA, the permit to proceed requirements do not change. For both examples, permits to proceed will be required until the inspection process is completed. If the inspection process is completed at ATL, then no permit to proceed is needed. If the inspection process starts at ATL and is finished at ORD, then a permit to proceed is required to go from ATL to ORD, but not from ORD to JFK. If the inspection process starts at ATL, continues at ORD, and finishes at JFK, then a permit to proceed is required to go from ATL to ORD and ORD to JFK.

Question 85: Permit to Proceed: Using the examples in Question No. 84 above, please advise at which location(s) a permit to proceed is required for the following:

Answer:

a. Cargo offload at first and second U.S. points (JFK + IAH; ATL + ORD); no cargo offload at final US point (JFK). A Permit to Proceed would be required to move from JFK to IAH and from ATL to ORD, as you are informing Customs with the Permit to Proceed that there are items on the aircraft that have not been through cleared.

b. Cargo offload is only at the first point of arrival in the U.S. (JFK; ATL). No Permit to Proceed is necessary.

c. Cargo offload only at first and second U.S. points (JFK + IAH; ATL + ORD), but a crew change occurs at the final US point (JFK). A Permit to Proceed would be required to move from JFK to IAH and from ATL to ORD, as you are informing Customs with the Permit to Proceed that there are items on the aircraft that have not been cleared.

d. In addition, for c above, would the requirement be the same if instead of a crew change, there was waste and/or food removal. As waste and/or food from a foreign country has not been cleared from the aircraft or gone through inspection prior to arriving at JFK, a permit to proceed would be necessary to move from JFK to IAH and from IAH to JFK in the first example, and from ATL to ORD and ORD to JFK in the second example.

e. Between points within the U.S. there is no bonded cargo onboard for offload within the U.S. (all cargo is export only) is a permit to proceed required? Whether or not a permit to proceed is issued, is the APHIS aircraft clearance fee also due for ORD? Ex: MAN-JFK-ORD-FRA, all cargo is offloaded at JFK. Cargo is loaded at JFK for export only to FRA. Flight continues to ORD to pick up additional cargo destined for FRA, no cargo offload at ORD. A Permit to Proceed is not required as all cargo originating outside the US is offloaded at JFK (and presuming all passengers, waste, etc. get off at JFK as well). Additionally, an aircraft clearance fee is not in this instance when going to ORD.

f. If the aircraft makes an unscheduled stop for fuel, but no cargo, crew, passengers, food or waste is removed, is a permit to proceed required—i.e. the first U.S. point is only a “fuel and go”? Whether or not a permit to proceed is issued, is the APHIS aircraft clearance fee due at the unscheduled stop? The APHIS Aircraft Clearance Fee would not be charged for this stop if no cargo is removed from or placed on the aircraft, no passengers get on or off the aircraft, no crew members get on or off the aircraft, no food is placed on the aircraft, and no garbage is removed from the aircraft” per 7 CFR 354.3 (e)(2)(vi).

A Permit to Proceed would not be necessary in this instance if no cargo is removed from or placed on the aircraft, no passengers get on or off the aircraft, no crew members get on or off the aircraft, no food is placed on the aircraft, and no garbage is removed from the aircraft” per 7 CFR 354.3 (e)(2)(vi).

g. Conversely, to f, if an unscheduled stop occurs, if any of the “triggers” occur, is the permit to proceed required? Ex: Flight Trip FRA-DFW makes an intermediate stop at ORD due to a passenger medical emergency. One passenger deplanes at ORD and the flight continues to DFW—no other passengers, crew, food, or waste is removed at ORD. Is a permit to proceed required; whether or not a permit to proceed is issued, is the APHIS aircraft clearance fee due at ORD? Since a passenger has gotten off the plane, a permit to proceed from ORD to DFW would be required and the APHIS Aircraft Clearance Fee would be due for the stop at ORD.

Question 86: Commercial Aircraft User Fee Exemptions. What criteria must be met for exemption of the commercial aircraft user fee?

Answer: One of the following criteria below must be met for exemption of the commercial aircraft user fee:

Commercial Aircraft Clearance User Fee Exemptions 7 CFR § 354.3 (e)(2)	
Government Plane	Any aircraft used exclusively in the governmental services of the United States or a foreign government, including any Agency or political subdivision of the United States or a foreign government, as long as the aircraft is not carrying persons or merchandise for commercial purposes.
Emergency Landing	Any aircraft making an emergency or forced landing when the original destination of the aircraft was a foreign port.
Planes With 64 or Fewer Seats	Any passenger aircraft with 64 or fewer seats, which is not carrying the following cargo: Fresh fruits, fresh vegetables, plants, unprocessed plant products, cotton or covers, sugarcane, or fresh or processed meats; and which does not offer meal service other than beverages and prepackaged snacks that do not contain meats derived from ruminants, swine or poultry or fresh fruits and fresh vegetables. Aircraft exempt from the user fee would still be subject to the garbage handling requirements.
Virgin Islands and Puerto Rico	Any aircraft moving from the United States Virgin Islands to Puerto Rico.
In transit Stops	Any aircraft making an in transit stop at a port of entry, during which the aircraft does not proceed through any portion of the Federal clearance process, such as inspection or clearance by APHIS or CBP, no cargo is removed from or placed on the aircraft, no passengers get on or off the aircraft, no crew members get on or off the aircraft, no food is placed on the aircraft and no garbage is removed from the aircraft.
Canada: Exemption prior to March 1, 2007	Effective March 1, 2007, the removal of the inspection exemption for Canadian-grown fruits and vegetables and the user fee exemption for all commercial vessels and aircraft entering the United States from Canada took effect.

Question 87: Plant Protection and Quarantine (PPQ) versus Veterinary Services (VS) User Fee Charges. Who charges a user fee for an aircraft with passengers and animals which require an inspection, PPQ or VS? What if that aircraft is carrying animal products which require inspection?

Answer: Both PPQ and VS may charge user fees for two different, distinct services. PPQ assesses a fee to all international commercial aircraft for the inspection of the aircraft for plant pests. The VS user fee is assessed for services provided to the live animals on the aircraft.

Both PPQ and VS representatives may provide inspection and endorsement of animal product export health certificates. Which program provides this service depends upon which one is stationed closest to place where the inspection is to be done. If PPQ inspects the aircraft and provides the endorsement of the animal product certificate(s), these services are considered to be two separate services and appropriate user fees apply to both.

Question 88: Reimbursable Overtime. When will reimbursable overtime charges apply in addition to the commercial aircraft user fee?

Answer: Reimbursable overtime will be charged outside the normal tour of duty of the inspector or if:

- The aircraft is not subject to the commercial aircraft user fee,
- The cargo is inspected before or after Monday through Friday, or
- The cargo is not inspected concurrently with the aircraft.

Question 89: Limitation on Charges with Regards to Reimbursable Overtime. Are there any limitations on commercial aircraft user fee charges?

Answer: Airlines will not be charged reimbursable overtime for inspection of aircraft if: *(Also, refer to the chart below, Summary of Fee Regulations in 7 CFR § 354.3 (e) and (f)).*

- The aircraft is subject to the commercial aircraft user fee as prescribed in 7 CFR § 354.3 (e); and
- The cargo is inspected between 8:00 a.m. and 4:30 p.m., Monday through Friday; or
- The cargo is inspected concurrently with the aircraft.

**Summary of Fee Regulations in 7 CFR § 354.3 (e) and (f)
“Are User Fees Applicable? – Yes or No?”**

Fee Regulations in 7 CFR Part 354.3 (e) and (f)	On Entry to the U.S.				Between U.S. States and Puerto Rico			
	AQI User Fee		ROT		AQI User Fee		ROT	
	Comm. Aircraft	Intl. Air Passenger	For Aircraft Insp.	For Cargo Insp.	Comm. Aircraft	Intl. Air Passenger	For Aircraft Insp.	For Cargo Insp.

Commercial Aircraft with Cargo:								
<i>During Normal Hours</i> 8:00a.m.-4:30p.m. Monday-Friday	Yes	No	No	No	No	No	No	No
<i>Outside Normal Hours</i> If cargo is inspected concurrently with the aircraft	Yes	No	No	No	No	No	Yes	Yes
<i>Outside Normal Hours</i> If cargo is inspected separately from the aircraft	Yes	No	No	Yes	No	No	Yes	Yes
Commercial Aircraft with Passengers:								
<i>During Normal Hours</i> 8:00a.m.-4:30p.m. Monday-Friday	Yes	Yes	No	No	No	No	No	No
<i>Outside Normal Hours</i>	Yes	Yes	No	No	No	No	Yes	No

Question 90: Private Aircraft Definition. What is a private aircraft?

Answer: As established in 7 CFR § 354.1 (c)(1), a private aircraft means any civilian aircraft not being used to transport persons or property for compensation or hire.

Question 91: Charge for Private Aircraft. When does the \$25 maximum charge for private aircraft apply?

Answer: For any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrivals in or departure from the customs territory of the United States.

Question 92: Charge for Private Aircraft. How does the \$25 maximum charge apply to Puerto Rico when the private aircraft continues on to the mainland U.S.?

Answer: The \$25 maximum applies to the flights arriving into Puerto Rico. It does not apply to services required for the outboard flight from Puerto Rico to the U.S. mainland. If services are provided for the flight from Puerto Rico to the U.S. mainland during employee’s tour of duty (TOD) or hours listed, then there is no charge to the customer. This is covered by PPQ appropriated monies. If outside employee’s TOD or hours, then ROT is charged in accordance with 7 CFR § 354.1(a)(1)(i).

Question 93: When to Charge the Commercial Aircraft and International Air Passenger User Fee for Multiple Landings in the United States from Overseas Countries. Are user fees due for cargo flights and passengers if the port of entry is New York, and then Atlanta? Are the fees due in New York and Atlanta?

Answer: Any flights and passengers arriving in the United States from a foreign country are subject to inspection and would be required to pay the AQI user fees. The passenger user fee applies once for the inspection upon arrival into the United States.

The aircraft user fee is due for commercial aircraft arrivals from foreign destinations at the first landing. However, if the air carrier has a “Permit to Proceed,” as specified in Title 19, Code of Federal Regulations, 122.81 through 122.85, then the commercial aircraft clearance user fee is charged at subsequent U.S. port of entry(s) until cleared.

Question 94: Multiple Landings with Hawaii and Alaska Being the First Destination. Do cargo flights pay the commercial aircraft user fee only at the first port of entry?

Answer: Any international aircraft carrying cargo and landing first in either Hawaii or Alaska are subject to inspection and a commercial aircraft user fee is due to APHIS since both are within U.S. territory. If the aircraft proceeds to another port of entry in the U.S., that aircraft is not subject to an additional user fee at that next port since no inspection is warranted. This is true if the aircraft is fully cleared at the initial landing (if under permit to proceed, the fee is due at subsequent landings until the aircraft is fully cleared)

Question 95: Military Aircraft User Fee Charges. How would the commercial aircraft user fee apply to flights landing at military bases?

Answer: No commercial aircraft user fee would apply if the aircraft (flight) is used exclusively in the governmental services of the United States, and is not carrying persons or cargo for commercial purposes. This exemption regarding exclusive government use pertains to the specific flight, not to the aircraft itself.

Question 96: Military Exemptions. A military aircraft flew from Niagara Falls, New York, to Aguadilla, Puerto Rico, to pick up troops and returned to New York. Aircraft clearance inspection was performed on a Sunday. The aircraft had not been overseas, just coming from New York, returning to New York transporting Air National Guard Troops. Does the commercial aircraft user fee still apply in this situation?

Answer: Refer to 7 CFR § 354.3(e)(2) for a complete list of aircraft that are exempt. 7 CFR § 354.3 (e)(2)(ii) states, "Any aircraft used exclusively in the governmental services of the United States or a foreign government, including any Agency or political subdivision of the United States or a foreign government, so long as the aircraft is not carrying persons or merchandise for commercial purposes." So, as long as the aircraft was not carrying any merchandise or people commercially, then the flight/aircraft is exempt from the commercial aircraft user fee. However, because aircraft clearance services were performed on a Sunday, Reimbursable Overtime (ROT) is appropriate.

Question 97: Charging Owners/Operators of Commercial Aircraft with Military Contracts. Are commercial aircraft companies required to pay a user fee for military contracts that ferry United States Coast Guard helicopter crews from the United States to the Bahamas for deployment and return back to the United States. The United States Coast Guards bring their own food and return with nothing. Does the commercial aircraft user fee apply?

Answer: No. Exemptions would apply if the aircraft (flight) is used exclusively in the governmental services of the United States and is not carrying persons or cargo for commercial purposes, as outlined in 7 CFR § 354.3 (e)(2)(ii), Fees For Inspection of Commercial Aircraft.

Question 98: Customs Territory Definition. What is the definition of Customs Territory of the United States?

Answer: The Customs Territory of the United States includes the 50 states and Puerto Rico.

Question 99: Commercial Aircraft User Fee Charges between Puerto Rico and the U.S. Virgin Islands. If a flight originates in Puerto Rico and lands in the U.S. Virgin Islands, does the commercial aircraft user fee apply?

Answer: No. The AQI user fees are not applicable to passengers/ flights unless they are entering the Customs Territory of the U.S. 7 CFR 354.3 (a) defines Customs Territory of the U.S. to be the 50 States, the District of Columbia, and Puerto Rico. It does mention the U.S. Virgin Islands.

Question 100: Commercial Aircraft User Fee Charges between the U.S. Virgin Islands and Puerto Rico. If a flight originates in the U.S. Virgin Islands and lands in Puerto Rico, does the commercial aircraft user fee apply?

Answer: No. Flights/passengers moving from the U.S. Virgin Island to Puerto Rico are specifically exempted.

Question 101: Commercial Aircraft User Fee Charges between Puerto Rico and the British Virgin Islands. If a flight originates in Puerto Rico and lands in the British Virgin Islands, does the commercial aircraft user fee apply?

Answer: No. The fee would not apply because the flight originated in the United States.

Question 102: Commercial Aircraft User Fee Charges between the British Virgin Islands and Puerto Rico. If a flight originates in the British Virgin Islands and lands in Puerto Rico, does the commercial aircraft user fee apply?

Answer: Yes. The commercial aircraft user fee would be assessed for all foreign flights entering the customs territory of the United States. The British Virgin Islands are not a part of the "Customs Territory" of the United States.

Question 103: User Fee Charges for an international flight landing in the Northern Mariana Islands. If a flight originates in China and lands in in the Northern Mariana Islands, do the commercial aircraft and air passenger user fees apply?

Answer: No. The AQI user fees are not applicable. 7 CFR 354.3 (a) defines Customs Territory of the U.S. to be the 50 States, the District of Columbia, and Puerto Rico. It does not mention the Northern Mariana Islands.

Question 104: Charging Commercial Aircraft User Fees for Flights from a U.S. Air Force Base in Cuba to the United States. How would the user fee for commercial aircraft and international air passengers apply when traveling from the United States to U.S. Air Force Base in Guantanamo Bay, Cuba, and then back to the United States?

Answer: Any flights and passengers arriving from Guantanamo Bay, Cuba, are subject to inspection and would be required to pay the user fees. The user fees apply to all passengers/aircraft arriving from outside the customs territory of the United States. The Customs Territory of the United States is defined as the 50 States and Puerto Rico.

Question 105: Federal Aviation Administration and APHIS Commercial Aircraft Regulations. What is the difference between the regulations of APHIS and the Federal Aviation Administration (FAA) with regards to commercial aircraft?

Answer: Through various laws enacted by Congress, Federal agencies are given specific authorities, responsibilities, and duties to perform. Each agency is responsible for incorporating, developing, and publishing these authorities as regulations in the Code of Federal Regulations (CFR). Often, Federal agencies publish regulations on the same subject. This happens because the authorities delegated to several agencies may overlap. APHIS regulations included definitions that pertain to the APHIS/CBP inspection of international air passengers and means of conveyances. The FAA defines “commercial aircraft” as it applies to FAA regulations. APHIS defines “commercial aircraft” as it applies to APHIS regulations (7 CFR § 354.3 (a)). APHIS is not changing the FAA definition of “commercial aircraft.” Instead, APHIS had defined “commercial aircraft” in APHIS regulations only as its sole application in situations where AQI services are performed by APHIS or CBP personnel.

Question 106: Ferry Flights. Are “ferry flights” from a foreign location subject to the commercial aircraft user fee? The aircraft has no cargo and no passengers, other than the crew, are on board.

Answer: Yes. “Ferry flights” originating from a foreign port and landing within the customs territory of the United States are subject to inspection upon arrival.

Question 107: Aircraft Regulations for Aircraft with 64 or Fewer Seats. Is the commercial aircraft user fee applicable for an aircraft with 64 or fewer seats that is carrying passengers in the front of the plane but has seats removed in the back of the aircraft for cargo and is carrying some cargo (other than suitcases)?

Answer: The commercial aircraft user fee is not due for arriving aircraft from a foreign port into the customs territory of the United States, if the aircraft has 64 or fewer seats and is not carrying the following cargo: Fresh fruits, fresh vegetables, plants, unprocessed plant products, cotton or covers, sugarcane, or fresh or processed meats; and which does not offer meal service other than beverages and prepackaged snacks that do not contain meats derived from ruminants, swine, or poultry or fresh fruits and fresh vegetables. However,

the passenger user fee would apply. Also, refer to the chart below, *Summary of Fee Regulations for Aircraft with 64 or Fewer Seats in 7 CFR § 354.3 (e) and (f)*.

Summary of Fee Regulations for Aircraft with 64 or Fewer Seats in 7 CFR Part 354.3 (e) and (f). “Are User Fees Applicable? – Yes or No?”

Fee Regulations in 7 CFR Part 354.3 (e) and (f)	Aircraft with 64 or Fewer Seats				Between U.S. States and Puerto Rico			
	AQI User Fee		ROT		AQI User Fee		ROT	
	Comm. Aircraft	Intl. Air Passenger	For Aircraft Insp.	For Cargo Insp.	Comm. Aircraft	Intl. Air Passenger	For Aircraft Insp.	For Cargo Insp.
Commercial Aircraft 64 or fewer seats without cargo and no meal service or only beverages and prepackaged snacks:								
<i>During Normal Hours</i> 8:00a.m.-4:30p.m. Monday-Friday	No	Yes	No	No	No	No	No	No
<i>Outside Normal Hours</i>	No	Yes	Yes	No	No	No	Yes	No
Commercial Aircraft 64 or fewer seats without cargo and meal service containing meats derived from ruminants, swine, or poultry or fresh fruits and fresh vegetables:								
<i>During Normal Hours</i> 8:00a.m.-4:30p.m. Monday-Friday	Yes	Yes	No	No	No	No	No	No
<i>Outside Normal Hours</i>	Yes	Yes	Yes	No	No	No	Yes	No
Commercial Aircraft 64 or fewer seats with cargo (<u>fresh fruits, fresh vegetables, plants, unprocessed plant products, cotton or covers, sugarcane, or fresh or processed meats</u>) and no meal service or only beverages and prepackaged snacks:								
<i>During Normal Hours</i> 8:00a.m.-4:30p.m. Monday-Friday	Yes	Yes	No	No	No	No	No	No
<i>Outside Normal Hours</i> If cargo is inspected concurrently with the aircraft	Yes	Yes	No	Yes	No	No	No	Yes

(Continued) Summary of Fee Regulations for Aircraft with 64 or Fewer Seats in 7 CFR Part 354.3 (e) and (f). “Are User Fees Applicable? – Yes or No?”

Fee Regulations in 7 CFR Part 354.3 (e) and (f)	Aircraft with 64 or Fewer Seats				Between U.S. States and Puerto Rico			
	AQI User Fee		ROT		AQI User Fee		ROT	
	Comm. Aircraft	Intl. Air Passenger	For Aircraft Insp.	For Cargo Insp.	Comm. Aircraft	Intl. Air Passenger	For Aircraft Insp.	For Cargo Insp.
Commercial Aircraft 64 or fewer seats with cargo (<u>fresh fruits, fresh vegetables, plants, unprocessed plant products, cotton or covers, sugarcane, or fresh or</u>								

<i>processed meats</i>) and meal service containing meats derived from ruminants, swine, or poultry or fresh fruits and fresh vegetables:								
During Normal Hours 8:00a.m.-4:30p.m. Monday-Friday	Yes	Yes	No	No	No	No	No	No
Outside Normal Hours If cargo is inspected concurrently with the aircraft	Yes	Yes	No	Yes	No	No	No	Yes
Commercial Aircraft 64 or fewer seats with cargo (<i>no fresh fruits, fresh vegetables, plants, unprocessed plant products, cotton or covers, sugarcane, or fresh or processed meats</i>) and no meal service or only beverages and prepackaged snacks:								
During Normal Hours 8:00a.m.-4:30p.m. Monday-Friday	No	Yes	No	No	No	No	No	No
Outside Normal Hours If cargo is inspected concurrently with the aircraft	No	Yes	No	Yes	No	No	No	Yes
Commercial Aircraft 64 or fewer seats with cargo (<i>no fresh fruits, fresh vegetables, plants, unprocessed plant products, cotton or covers, sugarcane, or fresh or processed meats</i>) and meal service containing meats derived from ruminants, swine, or poultry or fresh fruits and fresh vegetables:								
During Normal Hours 8:00a.m.-4:30p.m. Monday-Friday	Yes	Yes	No	No	No	No	No	No
Outside Normal Hours If cargo is inspected concurrently with the aircraft	Yes	Yes	No	Yes	No	No	No	Yes

QUESTIONS ON 7 CFR § 354.3 (f) - FEE FOR INSPECTION OF INTERNATIONAL AIR PASSENGERS

Question 108: International Air Passenger User Fee. What does the international air passenger user fee pay for?

Answer: The international air passenger user fee covers the costs for services to inspect selected passenger baggage entering the customs territory of the United States from a foreign country. Our mission is to make sure no unwanted foreign agriculture products, such as plants and plant products, animal or animal byproducts and pests are being brought into the United States. APHIS can include the cost of inspecting commercial aircraft with the international air passenger user fee if those costs directly relate to passenger baggage. APHIS cannot include the cost of inspecting cargo in the passenger user fees.

Question 109: International Air Passenger User Fee Payments. Who is responsible for paying the international air passenger user fee?

Answer: Each passenger aboard a commercial aircraft, who is subject to inspection upon arrival from a place outside of the customs territory of the United States, must pay an AQI passenger user fee. "Subject to inspection" covers more international air passengers than those actually inspected, so all passengers who are subject to inspection must pay this fee, regardless of whether or not they are actually inspected. Issuers of international airline tickets or travel documents are responsible for collecting the international air passenger user fee from ticket purchasers and remitting those collections to USDA, APHIS. Issuers must collect the user fee applicable at the time tickets are sold. User fee exemptions are addressed in question 101.

Question 110: International Air Passenger User Fee Payment. When is the international air passenger user fee due? When do air passengers pay the international air passenger user fee?

Answer: Passengers remit the fee at the time they purchase the airline ticket. It is remitted with the payment for the airline ticket. Charter passenger fees are remitted via the airline or travel agent/broker.

Question 111: Exemptions for International Air Passenger User Fee. Are there any exemptions for paying the international air passenger user fee?

Answer: The following categories of passengers are exempt from paying the international air passenger user fee:

International Air Passenger User Fee Exemptions 7 CFR § 354.3 (f)(2)	
Crew Members	Crew members who are on duty on a commercial aircraft.
Airline Employees on Business	Airline employees, including "deadheading" crew members, who are traveling on official airline business.
Diplomats	Diplomats, except for United States diplomats, who can show that their names appear on the accreditation listing maintained by the United States Department of State. In lieu of the accreditation listing, an individual diplomat may present appropriate proof of diplomatic status to include possession of a diplomatic passport of visa, or diplomatic identification card issued by a foreign government.
Flights within the U.S.	Passengers departing and returning to the United States without having touched a foreign port or place.

Government Flights	Passengers arriving on any commercial aircraft used exclusively in the governmental service of the United States or a foreign government, including any agency or political subdivision of the United States or a foreign government, so long as the aircraft is not carrying persons or merchandise for commercial purposes. Passengers on commercial aircraft under contract to the United States Department of Defense (DOD) are exempted if they have been precleared abroad under the joint DOD/APHIS Military Inspection Program.
Emergency Landing	Passengers arriving on an aircraft due to an emergency or forced landing when the original destination of the aircraft was a foreign port.
Transiting Passengers	Passengers transiting the United States and not subject to inspection. (Intransit passengers). After March 12, 2004, passengers are subject to inspection regardless of whether passengers remain on the aircraft or disembark.
Virgin Islands and Puerto Rico	Passengers moving from the United States Virgin Islands to Puerto Rico.

Question 112: User Fee Services from Other Agencies. Doesn't the Department of Homeland Security (DHS), Customs and Border Protection (CBP) or the Transportation Security Administration (TSA) fees cover the APHIS international air passenger user fee and service?

Answer: No. The APHIS international air passenger user fee is a separate fee and service from the DHS-CBP or TSA's user fees. The APHIS international air passenger user fee applies for all passengers arriving into a port of entry within the customs territory of the United States and is specific to preventing unwanted foreign agriculture products, such as plants and plant products, animal or animal byproducts, and pests from being brought into the United States.

The DHS-CBP user fee provides services to manage, control, and protect our Nation's borders against terrorist threats and attacks. For more information on the CBP user fee please refer to the CBP website at http://www.cbp.gov/xp/cgov/trade/cargo_security/carriers/air_sea_fees/facthead.xml

The TSA user fee provides service to help ensure the safe and efficient flow of people and commerce. For more information on the TSA user fees please refer to the TSA website at <http://www.tsa.gov/stakeholders/september-11-security-fee-passenger-fee>

Question 113: Frequent Flyers. Are passengers liable for the international air passenger user fee on airline tickets purchased using frequent flyer miles?

Answer: Yes. 7 CFR § 354.3, User Fees For Certain International Services, does not mention airline tickets purchased using miles specifically; however, the exemptions listed do not say that tickets purchased using frequent flyer miles are exempt from the user fee. Since the regulations do not indicate an exemption, the international air passenger user fee applies.

Question 114: Ticket Refunds. What is the policy for ticket refund for international air passenger user fee?

Answer: Our regulations allow for airlines to take a “refund” of APHIS’ user fees collected in conjunction with unused tickets or travel documents, by netting the amount against the next quarterly remittance. Airlines must note on their quarterly documentation that they are doing so and provide documentation for passengers receiving refunds directly from the airline.

Question 115: In Transit Passengers. How do we charge for “in transit passengers” for the two scenarios below?

Scenario 1) In transit stop – passengers stay on the plane and fuel only.

Scenario 2) In transit stop – passengers disembark (in transit lounge) and fuel only.

Answer: Yes. A user fee is assessed. The user fee for international air passengers applies to both scenarios.

Passengers are subject to inspection regardless of whether passengers remain on the aircraft or disembark.

Question 116: “Technical Stop.” What is the purpose and definition of a “technical stop” as it relates to the international air passenger user fee?

Answer: A “technical stop” is a stop due to refueling, engine trouble, passenger trouble, etc. It can be routine (fuel stop) or unexpected due to a problem. Prior to September 11, 2001, many aircraft would stop in Alaska to refuel. No passengers got on or off, no cargo was added or removed, no crew members got on or off and the aircraft was not inspected. Since, September 11, 2001, these aircraft are now required to proceed through the inspection process in Alaska, regardless if the only reason for the stop is to refuel.

Question 117: Technical Stop. If an aircraft clearance is performed at both the first and destination port, when is the aircraft user fee charged?

Answer: The aircraft fee is charged at both the first port of arrival and the port of destination since part of the aircraft clearance took place at both ports.

Question 118: Technical Stop. When is the aircraft user fee charged if no crew or passengers get off at the first port of arrival, inspection formalities will be conducted at the destination port and a PPQ Form 250 is obtained to proceed immediately?

Answer: The aircraft user fee is charged at the subsequent port only. The port of arrival meets one of the aircraft clearance exemptions.

Question 119: Exemptions for Infants or toddlers. Are infants or toddlers exempt from the international air passenger user fee?

Answer: No. Regulation 7 CFR § 354 does not address any exemptions for infants/toddlers. The intent of the user fee policy is to charge the agricultural inspection fee for each passenger that is issued a ticket/flight coupon, regardless of the passenger's age. Lap infants are issued tickets/flight coupons/boarding passes.

Question 120: Charging for an Airline Ticket for an Infant or Toddler Seat. Does the international air passenger user fee apply if an airline requires that their customer purchases a ticket for a seat specifically for their infant or toddler?

Answer: Yes. The international air passenger user fee applies.

Question 121: Charging Extra for a Seat but Not a Ticket for an Infant or Toddler. Does the international air passenger user fee apply if an airline does not require that their customer purchase a ticket for a seat for their infant or toddler, but the airline charges an extra fee on the parent's ticket?

Answer: Yes. The international air passenger user fee still applies.

Question 122: Charging an Air Passenger User Fee When No Ticket Or Seat Fee Is Required From Passenger For Infant Or Toddler. Does the international air passenger user fee apply if the airline does not require a separate ticket for a seat for an infant/toddler and no extra fee is charged as part of the parent's ticket for the infant?

Answer: Yes. Per APHIS policy the international air passenger user fee still applies. Post 9/11 all passengers need to be accounted for including lap infants or toddlers regardless of whether or not a ticket or seat fee is required from passenger for infant or toddler. The airlines should collect and remit the user fee.

Question 123: Conversion Rates. Scenario: An airline sells tickets in several different currencies and then converts the foreign currency into their own local currency using a monthly average conversion rate. From there, the fees are converted into U.S. Dollars (USD), rounded to the nearest dollar amount that is evenly divisible by the user fee rate, and remitted to the respective agencies. Total passengers are excluded from the remittance form, and given this process, if there was an error in one of the conversion rates, the actual number of passengers may not be the amount that is evenly divided by the user fee rate and the remittance could be wrong.

Does the Animal and Plant Health Inspection Service (APHIS) have any policies regarding conversion rates? Is there an allowance, say +/- X%, for conversion rates used by the airlines?

Answer: APHIS does not have specific policy for conversion rates. However, every airline is required to provide the number of passengers that fees were remitted for. APHIS has

always followed the rationale that if fees are collected in a different currency, that currency is converted to USD and the entire amount is remitted to APHIS. APHIS has never agreed to allow amounts collected to be converted more than once and never allowed rounding. The amount collected is the amount remitted.

Question 124: Charging Air Passenger User Fees for Airline Employee's Family Members. Are family members of an employee of an airline charged an international air passenger user fee when there is no airfare charged?

Answer: Yes. An international air passenger user fee is due upon issuance of a flight coupon regardless of relationship of airline employee or whether they pay for the flight or not. Family members are not exempt from international air passenger user fees, and airline employees including "deadheading" crew members are only exempt when traveling on official airline business.

Question 125: Exemptions for Airline Employees. Are airline employees exempt from paying the international air passenger user fee?

Answer: Airline employees are required to pay the international air passenger user fee unless they are flying on official airline business.

QUESTIONS ON 7 CFR § 354.3 (f) - FEE FOR INSPECTION OF INTERNATIONAL CRUISE PASSENGERS

Question 126: International Cruise Passenger User Fee. What does the international cruise passenger user fee pay for?

Answer: The international cruise passenger user fee covers the costs for services to inspect selected passenger baggage entering the customs territory of the United States from a foreign country. Our mission is to make sure no unwanted foreign agriculture products, such as plants and plant products, animal or animal byproducts and pests are being brought into the United States. APHIS can include the cost of inspecting commercial vessels with the international cruise passenger user fee if those costs directly relate to passenger baggage. APHIS cannot include the cost of inspecting cargo in the passenger user fees.

Question 127: International Cruise Passenger User Fee Payments. Who is responsible for paying the international cruise passenger user fee?

Answer: Each passenger aboard a commercial vessel, who is subject to inspection upon arrival from a place outside of the customs territory of the United States, must pay an AQI passenger user fee. "Subject to inspection" covers more international cruise passengers than those actually inspected, so all passengers who are subject to inspection must pay this fee, regardless of whether or not they are actually inspected. Issuers of international cruise tickets or travel documents are responsible for collecting the international cruise passenger user fee from ticket purchasers and remitting those collections to USDA, APHIS. Issuers must collect the user fee applicable at the time tickets are sold. User fee exemptions are addressed in question 114.

Question 128: International Cruise Passenger User Fee Payment. When is the international cruise passenger user fee due? When do cruise passengers pay the international cruise passenger user fee?

Answer: Passengers remit the fee at the time they purchase the airline ticket. It is remitted with the payment for the airline ticket. Charter passenger fees are remitted via the cruise line or travel agent.

Question 129: Exemptions for International Cruise Passenger User Fee. Are there any exemptions for paying the international cruise passenger user fee?

Answer: The following categories of passengers are exempt from paying the international cruise passenger user fee:

International Passenger User Fee Exemptions 7 CFR § 354.3 (f)(2)	
Crew Members	Crew members who are on duty on a commercial aircraft.
Airline Employees on Business	Airline employees, including “deadheading” crew members, who are traveling on official airline business.
Diplomats	Diplomats, except for United States diplomats, who can show that their names appear on the accreditation listing maintained by the United States Department of State. In lieu of the accreditation listing, an individual diplomat may present appropriate proof of diplomatic status to include possession of a diplomatic passport of visa, or diplomatic identification card issued by a foreign government.
Flights within the U.S.	Passengers departing and returning to the United States without having touched a foreign port or place.
Government Flights	Passengers arriving on any commercial aircraft used exclusively in the governmental service of the United States or a foreign government, including any agency or political subdivision of the United States or a foreign government, so long as the aircraft is not carrying persons or merchandise for commercial purposes. Passengers on commercial aircraft under contract to the United States Department of Defense (DOD) are exempted if they have been precleared abroad under the joint DOD/APHIS Military Inspection Program.
Emergency Landing	Passengers arriving on an aircraft due to an emergency or forced landing when the original destination of the aircraft was a foreign port.
Transiting Passengers	Passengers transiting the United States and not subject to inspection. (Intransit passengers). After March 12, 2004, passengers are subject to inspection regardless of whether passengers remain on the aircraft or disembark.
Virgin Islands and Puerto Rico	Passengers moving from the United States Virgin Islands to Puerto Rico.

Question 130: Exemption of Fees. What U.S. places outside the continental United States are included in the exemption for fees:

Answer: The AQI user fee only applies when passengers on voyages are required to undergo U.S. Customs inspection, which applies when entering the U.S. in the 50 states or Puerto Rico. If passengers visit U.S. territories of Guam, the U.S. Virgin Islands, American Samoa, Federated States of Micronesia, Midway islands, Northern Marianas Islands, Republic of Palau, and Republic of the Marshall Islands they are not subject to inspection, but if any foreign ports are visited in addition, it is necessary to go through U.S. Customs. The cruise passenger AQI fee does not change the occurrence of Customs inspection and agricultural inspection does not take place independently from Customs inspection.

Question 131: Vessel Inspection Fee. Do cruise lines continue to pay AQI charges for vessel inspection once the passenger fee goes into effect?

Answer: No, based on our activity based cost analysis, we have determined that the sea passenger fee is adequate to recover the costs we incur in inspecting both passengers and cruise ships.

Question 132: Passengers Not Sold Tickets. If there are passengers to whom tickets are not sold to, and therefore do not collect money from, is the user fee still applicable for the following scenarios?

Scenario (1) Passengers that are given complimentary transportation because they are guests for entertainment (i.e. casino)

Scenario (2) Passengers that are given complimentary transportation because they are travel agents, tourism officials, or other guests that the marketing department invited.

Scenario (3) Passengers that are actual employees working on the ship.

Scenario (4) Passengers that are given complimentary transportation because they are employees of related subsidiaries of the ship's ultimate overseas parent company. For example, one Miami subsidiary provides support (reservations, accounting, IT) for the ship. Another related entity owns the casino on Bimini, which most of the ship's paying passengers visit. Often, parent company employees visit. No charge is made to employees of related subsidiaries who travel on the ship for work-related purposes.

Answer: For scenario 1 and 2, a user fee is due. Since the regulations do not indicate an exemption, the international passenger user fee applies, which states that each passenger aboard a commercial aircraft or cruise ship is subject to inspection upon arrival from a place outside of the customs territory of the United States, must pay an AQI user fee. For

scenario 3, no user fee is due. Regulations indicate an exemption for crewmembers onboard for purposes related to the operation of the vessel. For scenario 4, no user fee is due. Regulations indicate an exemption for all vessel crewmembers onboard for purposes related to the operation of the vessel. Such crewmembers include those that provide support for dining and entertainment.

Question 133: Ticket Refunds. What is the policy for ticket refund for international cruise passenger user fee?

Answer: Our regulations allow cruise lines to take a “refund” of APHIS’ user fees collected in conjunction with unused tickets or travel documents, by netting the amount against the next quarterly remittance. Cruise Lines must note on their quarterly documentation that they are doing so and provide documentation for passengers receiving refunds directly from the airline.

Question 134: User Fee Services from Other Agencies. Doesn’t the Department of Homeland Security (DHS), Customs and Border Protection (CBP) fees cover the APHIS international cruise passenger user fee and service?

Answer: No. The APHIS international cruise passenger user fee is a separate fee and service from the DHS-CBP. The APHIS international cruise passenger user fee applies for all passengers arriving into a port of entry within the customs territory of the United States and is specific to preventing unwanted foreign agriculture products, such as plants and plant products, animal or animal byproducts, and pests from being brought into the United States.

The DHS-CBP user fee provides services to manage, control, and protect our Nation’s borders against terrorist threats and attacks. For more information on the CBP user fee please refer to the CBP website at

http://www.cbp.gov/xp/cgov/trade/cargo_security/carriers/air_sea_fees/facthead.xml

Question 135: Payments in Installments. When would the cruise line remit the user fee when passengers pay in installments? Sometimes payments are over a year prior to the date of their voyage.

Answer: The user fee remittance shall be due for the quarter of departure.

Question 136: *Reserved for future use.*

Question 137: Multiple Ports: If a cruise ship goes from a foreign port into multiple ports in the U.S., how many times are the passengers subject to the vessel passenger user fee?

Answer: The vessel passengers were subject to Customs and Border protection once in this scenario, at the first port where they entered the U.S., so these passengers would only be subject to the vessel passenger fee one time.

Question 138: If a cruise goes from a foreign port #1, into U.S. port #A, into another foreign port #2, then back into another U.S. port #B, how many times are the vessel passengers subject to the vessel passenger fee? If it was all technically the same cruise?

Answer: At this time, passengers will be charged for AQI inspection once per ticket.

Question 139: Vessel Passenger Fee. If no passengers embark (get off the vessel) in the foreign country, are they subject to the per vessel passenger fee?

Answer: No.

Question 140: Vessel Conveyance Fee. Are vessel companies subject to the vessel conveyance user fee when they are operating as cruise vessels?

Answer: No. The “per head” vessel passenger fees pay for the costs of inspection for the vessels in this case.

Question 141: Vessel Conveyance Fee. Does the USDA Policy on cruise vessels not needed to pay the vessel conveyance fee affect the cruise vessel companies need to pay the (currently) \$13,395 CBP user fee?

Answer: No.

QUESTIONS ON 7 CFR § 354.3 (h) - FEE FOR INSPECTION OF TREATMENTS

Question 142: Treatment User Fee. What does the treatment user fee pay for?

Answer: The treatment user fee covers the costs for services to inspect import fumigation and cold treatment. The fee does not apply to export or for cold treatments applied aboard vessels that are not monitored by USDA or DHS CBP.

Question 143: Types of Treatments. What specific kinds of treatments does the treatment fee apply to and not apply to?

Answer: The treatment fee applies to fumigations and cold treatments applied or monitored by USDA, APHIS and DHS, CBP employees. The treatment fee does not apply to other types of treatments such as heat treatments, chemical treatments, etc.

Question 144: Treatment User Fee Payments. Who is responsible for paying the treatment user fee?

Answer: Each importer of a consignment of articles that require treatment upon arrival from a place outside of the customs territory of the United States, either as a reassigned condition of entry or as a remedial measure ordered following the inspection of the consignment, must pay the AQI user fee.

Question 145: Treatment Collection. Who is responsible for collecting the money and where to send the collected fee?

Answer: The fumigation company or shipping line (for cold treatment) performing the treatment will be responsible for collecting the fees from the owner of the cargo and mailing the money to a USDA lock box within 31 days of the calendar quarter ending. If PPQ conducts the treatment (i.e. Beltsville PIS) local PPQ will collect the fee from the owner, complete an APHIS Form 94 and mail it to the USDA lock box. For cold treatment collections, the accounting code to use on the APHIS Form 94 is 6XPQPQ0024AQIUFEETRETCDUSDA.

Question 146: *Reserved for future use.*

Question 147: Treatment User Fee Payment. When is the treatment user fee due? When are treatment user fees paid?

Answer: AQI treatment user fees must be remitted to lockbox for receipt no later than 31 days after the close of the calendar quarter in which the AQI user fees were collected. Late payments will be subject to interest, penalty, and handling charges as provided in the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3717).

Question 148: Treatment User Fee. How are the treatment user fees charged?

Answer: The AQI user fee is charged on a per-treatment basis, i.e., if two or more consignments are treated together, only a single fee will be charged, and if a single consignment is split or must be retreated, a fee will be charged for each separate treatment conducted.

Question 149: Overtime Fumigation. Are the AQI fees applied to overtime fumigations?

Answer: Yes. The fumigation fee applies regardless of whether on regular time or overtime. If a customer receives a fumigation outside the normal tour of duty of our employee, the customer is required to pay the fumigation fee in addition to reimbursable overtime charges. The costs of monitoring a treatment do not overlap with the cost of overtime charges.

Question 150: Treatment User Fee. How will treatments be counted?

Answer: Each fumigation enclosure, each cold treatment container/compartment, each warehouse cold treatment.

Question 151: Payment. When fees are payable to USDA, who will send the invoice to customers? Will it be sent on a per container basis or a weekly/monthly basis?

Answer: APHIS will not be sending an invoice. Amounts remitted are done on an honor basis and are based on the fumigation facility or shipping company's (in the case of cold treatments) internal records. AQI treatment user fees must be remitted to the lockbox for receipt no later than 31 days after the close of the calendar quarter in which the AQI user fees were collected. Please contact Melissa Mack, (612) 336-3383 or Greg Wilkes (612) 336-3254 or email them at ABSHELPLINE@aphis.usda.gov.

Question 152: Payment. Will containers be held until payment has been made to USDA?

Answer: The payment process will not affect the port of entry process.

Question 153: Overtime Charges. Will local PPQ still charge for overtime when performing treatments?

Answer: Yes, continue to complete APHIS Form 89's. The overtime charges apply in addition to the fumigation fee.

Question 154: Treating Commodities. Will User Fees be charged for treating commodities as part of a preclearance program?

Answer: No. So, in these cases these shipments are not monitored by APHIS, they are inspected at the exporting county's site and our costs for this work is already covered by preclearance agreements.

Question 155: Treatment User Fees. Can one ship's work of cargo require more than one treatment?

Scenario: A ship arrives on Monday morning. It discharges part of its cargo into the fumigation building during the day, where the cargo undergoes treatment that same night. The ship, however, holds more cargo than can be fumigated at one time. On Tuesday, then, the cargo that was fumigated the night before is removed and the remaining cargo on the ship is discharged during the day for fumigation that night.

Answer: APHIS considers the above scenario to represent 2 treatments. A treatment "unit" is the contents of a shipment or shipments under a single tarp or in a single chamber. That is, the enclosure is the treatment unit. The monitoring of a treatment unit is the basis of PPQ's activity cost. PPQ captures and records information for the treatment unit to report to the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

Question 156: Cold Treatment: If the cold treatment is conducted by the exporting country. Does the USDA treatment fee apply?

Answer: No, the treatment fee does not apply.

Question 157: Cold Treatment. Will this fee be payable to USDA for every container that undergoes Cold treatment while on the vessel or just for the containers requiring Cold treatment after vessel discharge?

Answer: If is payable for any APHIS monitored cold treatment, which may occur in containers in compartments of the ship during the voyage or upon arrival. There are cold treatments monitored by the exporting country and those would not incur an AQI user fee.

Question 158: Cold Treatment. Is the vessel conveyance fee charged per container or per reading?

Answer: The vessel conveyance fee is charged per vessel. The treatment monitoring fee for any containers undergoing cold treatment within compartments of the ship and monitored by APHIS is per container.

Question 159: Locations. If the cargo is placed in two buildings for treatment, does that result in two treatment fees?

Scenario: At the Port of Wilmington, DE cargo is generally placed in Building F for fumigation, but there are circumstances under which some cargo might also be placed in another building at the Port, yet treated at the same time as the cargo in Building F.

Answer: APHIS considers the above scenario to describe two treatments. The cargo is split into separate treatment units. A treatment “unit” is contained in each enclosure. The monitoring of a treatment unit is the basis of PPQ’s activity cost. PPQ captures and records information for the treatment unit to report to the Environmental Protection Agency under FIFRA.

Question 160: Multiple Treatment Fees. Does splitting one shipment of cargo into several fumigation enclosures result in multiple treatment fees?

Scenario: One shipment of cargo contains a variety of vegetable and root crops that must be fumigated at three different temperature ranges. The cargo is split up into three groups according to the required temperature range for fumigation.

Situation A: The three groups of cargo are each tarped, and they are fumigated at the same time.

Situation B: Two of the groups of cargo are at the proper temperature for fumigation, so they are treated at the same time. The third group, however, must warm up before it can be treated, so its treatment is delayed until the following night.

Answer: Situation A: APHIS considers this scenario to describe 3 treatments. Each group is tarped and treated as an individual treatment unit. The monitoring of a treatment unit is the basis of PPQ’s activity cost. PPQ captures and records information for the treatment unit to report to the Environmental Protection Agency under FIFRA.

Situation B: APHIS considers this scenario to describe 3 treatments. Each group is tarped and treated as an individual treatment unit.

Question 161: Increment Charges. Treatment that had no cost in the past will now be charged with set increments over 5 years. How does this work? When or how is this treatment service applied to vessels?

Answer: According to the rule the shipping line will be responsible to collect treatment fees and submit them to APHIS quarterly. This is the section that addresses that:

(2) Treatment provider. (i) Private entities that provide AQI treatment services to importers are responsible for collecting the AQI treatment user fee from the importer for whom the service is provided. Treatment providers must collect the AQI treatment fee applicable at the time the treatment is applied.

APHIS will be reaching out to fumigators and shipping lines with more information soon. The process will be similar to the way airlines submit passenger clearance fees.

Question 162: Preclearance. Will this apply to fresh products being exported from the countries outside the US territory to the US under a Preclearance Program? Are those products not subject to a fee since the treatment initiates and terminates in a country outside the US?

Answer: Preclearance goods are only subject to a fee when and if a pest is found and the goods require an additional treatment. The vendors can re-export the good if they choose not to have that good treated, and as such they would not incur the treatment fee.

QUESTIONS ON 7 CFR § 354.3(f) & (h)- CRUISE PASSENGERS & TREATMENT FEES

Question 163: *Reserved for future use.*

Question 164: *Reserved for future use.*

Question 165: Collection Process. What is the contact information for the APHIS Financial Management Division in Minneapolis office for new companies or companies that did not receive the information on setup up an account?

Answer:

USDA, APHIS Accounts Receivable Team
Email: ABSHELPLINE@aphis.usda.gov
Melissa Mack: (612) 336-3383
Greg Wilkes: (612) 336-3254
Fax: (612) 336-3563

Question 166: Collection Process. Can the companies collecting the User fee put the money into an interest bearing account prior to sending the money to the USDA?

Answer: Yes. More information can be found at:

https://www.aphis.usda.gov/aphis/ourfocus/business-services/user_fees/user_fees

Question 167: Collection Process. How often will the fee be collected per ticket?

Answer: The sea passenger fee will be collected only once per ticket at this time.

Question 168: Collection Process. How do companies submit the correct contact information for their company?

Answer: When filing out the New Account Sheet make sure you have the correct contact person or people listed; that is what we use for all contact information and correspondences.

Question 169: Collection Process. Do companies need to have a separate AQI account with USDA APHIS?

Answer: Yes. You need to have a separate USDA APHIS account for each user fee and program type. So you will need an account just for your AQI fees.

Question 170: Collection Process. How can companies get a receipt for amounts remitted to USDA?

Answer: Email the ABS helpline at ABSHelpline@aphis.usda.gov

Question 171: Collection Process. Remittances are due to USDA quarterly, but can companies pay more often if they want to?

Answer: We receive over 10,000 per month on average. APHIS prefers if you only remit quarterly

Question 172: Collection Process. How can companies make sure they receive credit for their remission?

Answer; Make sure to put your account number on the remittance. We receive over 10,000 per month on average and ones without account numbers take us longer to record.

Question 173: Collection Process. Are companies required to open a separate bank account at their bank in order to handle the USDA fee collections?

Answer: No. The companies must account for these collections separately for their other business within their own accounting methods/systems.

Question 174: Exemptions. Which ports are exempt from these fees?

Answer: Those covered under the definition of “Customs Territory of the United States” in 7CFR 354.3(A) Definitions.

Question 175: Audit. How often will these remissions be audited?

Answer: That is subject to CBP Audit scope and audit work plans.