

# Final Transcript

## **US DEPARTMENT OF AGRICULTURE**

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### **SPEAKERS**

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John Wagner  
Osama El-Lissy  
Bill Thomas  
Steve Kidd  
Kevin Harriger

### **PRESENTATION**

Moderator                   Ladies and gentlemen, thank you for standing by and welcome to the AQI Stakeholder Webinar. At this time all participants are in a listen-only mode. Later, there will be an opportunity for questions and comments. Instructions will be given at that time. As a reminder, this conference call is being recorded.

I would now like to turn the call over to our host, APHIS Administrator, Kevin Shea. Kevin, please go ahead.

Kevin

Thanks very much. I appreciate everyone taking the time to be with us today. We want to talk a little bit about our agricultural quarantine inspection user fee proposal. Let me just say today we're here to give you more information, answer some questions. We are still in the rule making period so we can't really answer what changes we might make, but we'll certainly take all of your suggestions into consideration as we go forward from here.

I want to begin by saying that we recognize that travel and trade are great things, great for our country, great for our economy, and we certainly support it. But like any good thing they also pose some risks, and they pose some risks for agriculture and natural resources. That's why we have this program, to try to mitigate that risk.

Just to give you a little example of some of the things that can happen, emerald ash borers came into this country, probably from Asia, but very well could have transshipped through Canada, and that means we no longer have ash trees in much of the Midwest, because that pest got into the country. It's one that got by us.

The Asian Longhorned Beetle is a similar kind of pest. It came to the country from overseas and has caused lots of damage in New York, Massachusetts, and Illinois.

These are the problems we're trying to mitigate, and some problems that we haven't had in this country and desperately don't want to have, things like foot-and-mouth disease. Foot-and-mouth disease got into the United Kingdom 14 years ago on some thrown away scrap food, from an airplane most likely, or a ship, in the United Kingdom, and it ended up costing the industry and the United Kingdom \$15 billion to \$20 billion to deal with that outbreak.

That's what's at stake here from the agricultural and the natural resources perspective. What we try to do is mitigate that risk. Here at the USDA, with our partners at Customs and Border Protection we determine what agricultural products can come into the country, and under what circumstances. And we inspect everything that comes into the country, whether it's agricultural or not, because as I pointed out earlier, many of the pests and disease problems we deal with in this country came here not on agricultural products at all, but could have come in a crate of television sets or computers, for all we know, because wood packing materials could carry the pests as well as any agricultural product.

This is all about mitigating risk. Prior to 1990 the cost of mitigating that risk was borne by US taxpayers. Congress appropriated money for this program. Since 1990 Congress has authorized user fees to cover the cost of this program, and expects us to cover the cost of the program through

user fees and not through taxpayer funded appropriations. We look at the various modes of transportation into the country, whether it's for air passengers, air cargo, sea cargo, cruise vessels, railcars, and trucks, and determine what we need to do to mitigate the risk posed by each of those methods of entry into the country, and we set fees according to those risks and according to the cost of mitigating those risks.

The last time we had a major change in these fees was 2004. There were some minor adjustments for inflation and pay raises over the course of the last 10 years, but no major revision of these fees. Since then a lot of things have happened.

For one thing, the value of goods imported into the country has increased by 82%. And from Canada alone it's increased by 50%, and it's now \$354 billion worth of goods imported from Canada. So, a 42% increase in the number of passengers arriving in the United States from abroad. And of course during this time DHS was stood up, and our friends in Customs and Border Protection now provide the front line inspection. We've had to have hundreds of inspectors over the last 10 years to deal with this increased volume. We've invested in x-ray machines, canine teams, and any other technology we can find to help mitigate risk and also not put too much of a burden on the import process, both in terms of money and time.

So, we needed to look at this. The shortfall that we determined is about \$90 million to \$100 million. That means that the user fees on an annual basis are generating \$90 million to \$100 million less than the cost of providing the program. That's being absorbed right now by Customs and Border Protection through their regular appropriations. We recognized that as a problem, and the GAO and members of Congress recognized that as a problem and directed us to correct it.

In addition to the fact that we have seen costs increase without the fees changing very much, we've also determined that over the years the cost by category had probably been diverted from what its original calculation was. We first determined these basic fees almost 25 years ago, and since then have pretty much just increased or decreased each individual fee on its own without taking a fresh look at whether indeed we were charging the proper fee among the various modes of transportation, whether it was air passengers, sea vessels, what have you. And frankly, we, and I'm sure many of you on the line here today, strongly suspected that the air passengers were paying more than they should and some of the other modes of transportation we found were paying less.

Something else that exacerbated this whole situation, of course, was the great recession, and in 2008-2009 the revenue generated by fees was at

least \$100 million below projections, fewer people traveling, fewer people entering the country, fewer goods entering the country. So we realized on our own, and with a good deal of prodding from many folks in the various industries and indeed Congress, that we needed to do something about this.

We wanted to make our proposal as credible as possible. We recognized that we'd have our own limitations with the federal government and doing this sort of thing. So, we contracted with Grant Thornton, a highly respected firm here in the DC area that has specific expertise in setting user fee rates with government programs.

As they set out about this they started with the basic principle, dictated by the Office of Management and Budget and the Congress, that there would be full cost recovery. It's not just the incremental cost of the inspector you might see looking through a shipment on any given day, but it's all the costs, direct or indirect, that are involved.

Grant Thornton looked at what we did in APHIS and in CBP, they used existing CBP cost modeling and reporting data, and helped the USDA develop data to determine the time and other costs associated with all of the various inspection functions that we do and all the things that support

that, for example, the risk analysis improvements concerning what to look at in the first place.

Steve Kidd and Bill Thomas later will get into some very specific details about how that played out. But in a nutshell, as we suspected, the fees we have been charging for air passengers were probably too high because the cost was less than the fee revenue generated, and the same was true for railcars entering the country as well. But for other categories, as we suspected, especially cargo, whether sea or air, and [indiscernible] trucks, that we were incurring far more costs than the revenue generated by the fees.

Some of you on this call may very well have participated in May 2013 when we first shared the cost table, and we didn't translate that into a fee at that time because we weren't ready to do that. But I think it was apparent that long ago, now almost two years ago, that we needed more revenue and that indeed we needed to readjust the fees to reflect the proper cost.

Over that time of course we finally did publish a proposal, had a comment period, extended the comment period, and some of you that are with us today remember we had a rather extraordinary post-comment period meeting where we talked about the fees some more. I personally, and

many members of my staff, have briefed members of Congress and their staffs over the course of the last year to talk about this.

We learned a lot. And while I'm not in a position today to tell you what the final rule will look like, because it is not final yet, there are things that we certainly have become aware of that we would probably look to adjust in the final fees when the rule does go final. But we want to give you this one opportunity again, one last opportunity to share with us anything you think we should know and don't know yet.

Before I turn it over to my colleagues from CBP I just want to make this one point. The total revenue that would be raised by these fees, or the increase, I should say, is about \$130 million annually. That is on import value of \$2.7 trillion. To say again, it's \$130 million on annual import values of \$2.7 trillion. I tried to figure that out on my calculator, but it put that little "E" sign on there that indicates it won't do that, but the best I can figure out it's one-half of one ten-thousandth of one percent.

So we have really tried to minimize the impact on these fees in aggregate. I acknowledge and recognize that on some modes of transportation the fee increases are more than others, but in aggregate we believe there to be a really modest portion of what the value of trade is and believe strongly that it would not cause a dramatic change in that trade at all.

With that, I want to turn this over to my colleague, John Wagner, who is the Assistant Commissioner for Field Operations at Customs and Border Protection. John?

John

Thank you, Administrator Shea. Good afternoon, everyone. First, let me thank the Animal and Plant Health Inspection Service for inviting me today to address everyone on this webinar.

As you know, the AQI user fee supports critical safeguarding activities that CBP officers and agriculture specialists perform in our ports of entry to protect our agriculture industry and the US economy. CBP's agriculture inspection safeguarding activities generate a majority of the AQI costs. This includes the inspection of commodities, conveyances, passenger baggage, monitoring compliance, performing targeting activities, and conducting many other related activities.

The last fiscal year, 2014, we seized more than 1.6 million prohibited plant and animal products, and we intercepted over 155,000 plant pests that were submitted to the Department of Agriculture for identification. As stated in our proposed rule, CBP maintains what we call activity-based costing models that accurately assign the costs for activities related to each fee area. We adhere to this methodology to determine the cost of AQI

activities and their associated outputs and services that directly and indirectly related to the delivery of the AQI services.

APHIS distributes a portion of this fee revenue to CBP to address these potential agriculture threats based on the distribution of work. Due to the increased levels of agriculture risk, these AQI user fee rates no longer reflect our true costs in CBP. Our annual shortfall for AQI duties now average about \$90 million to \$100 million, and, as Mr. Shea indicated, in the past we've used any salary funding sources to address and offset any shortfalls from the user fee collections.

Now, the president's 2015 budget request, which we support, included a reduction of \$93 million to CBP appropriations, and assumes full cost recovery from the second quarter forward for AQI activity. If the 2015 budget request is passed without the user fee rate adjustment CBP will face some serious challenges that could impact the delivery of our AQI services, and this situation in turn could lead to an increase in passenger wait times and cargo haul times in all environments. Therefore, we cannot maintain our present levels of service without the AQI user fee increases.

I'll stop there, and, again, thank you for the opportunity to participate in this webinar. And of course we appreciate everyone's continued support of our mission to protect the agriculture and our country's natural

resources. At this point I'll turn it back over to Administrator Shea.

Thank you.

Kevin Thank you very much, Commissioner Wagner. And one last set of brief comments from Osama El-Lissy, our Deputy Administrator for Plant Protection and Quarantine, who oversees the program from the APHIS perspective, has some comments.

Osama Very good. Thank you very much, Mr. Shea and Assistant Commissioner Wagner. I think you both hit most of the key points already, so I'll be brief. I would like to take a minute to comment on the tremendously important role of stakeholders in the rule making process and your influence in this rule in particular.

The information you will see here today is the result of an exhaustive peer review that was conducted by Grant Thornton, an independent and internationally recognized accounting firm with expertise in federal fee setting. The fee increases we propose are based on the documented costs to deliver AQI services. But you know our rule making process includes and is dependent on stakeholders' involvement and participation.

During the recent comment period we received more than 200 comments.

As you might imagine, more people expressed concerns over the proposed

fee changes, especially the new treatment fee. So, I want to echo Administrator Shea and say that we listened and considered carefully every comment you provided to us. While no hard decisions have been made, the final rule will likely be somewhat different than what we proposed because of the comments you shared with us. As you will see in a few minutes, the final rule is in departmental clearance and will go next to the Office of Management and Budget.

As we work through the remaining steps of the rule making process, I want to restate our commitment to you that we will continue to engage you and keep you informed as we work to finalize the fees for this vitally important program.

With that, I'll turn it over to Mr. Shea.

Kevin Thanks, Osama. Now, Bill Thomas, our AQI coordinator, and Steve Kidd, who's a management analyst who had a big role in setting the fees, will walk through the details. Bill?

Bill Thanks, Mr. Shea. The first slide of course that's up on the screen, we're going to talk about our agenda and objectives for today. We'll try to give you a quick AQI program overview, how we did our costing methodology to determine these fees, the activity-based costing model design and the

considerations that were used in the fees, using costs to inform the fee setting process, and that will be for the future as well. We will talk about what our proposed fees are, a summary of some of the public comments, a brief summary, and some of the next steps, and we'll open it up for questions right after that.

The AQI program has been described as a very large program that mitigates the risk to our agriculture and natural resources. It addresses concerns of unintentional introduction to foreign animal diseases, plant pests, and pathogens, and also intentional acts of agroterrorism. We accomplish this through many methods, but they include risk assessment and analysis, pest identifications, treatments, policy development, as well as the inspections of international passengers, commercial vessels, trucks, aircraft, and railcars at all US ports of entry.

APHIS and the Department of Homeland Security's Customs and Border Protection work together to accomplish this program. CBP currently does most of the port of entry inspections, including passengers, but APHIS is the US Government's executive agency for this program, and we set the fees that are going to be charged. The FACT Act is what allows us to collect these user fees from certain AQI services. Steve, do you want to take it?

Steve

Thank you, Bill. As mentioned earlier, in 2009, APHIS undertook a full and comprehensive review of the fees. One of the things that we really wanted to do was not only address concerns stakeholders had in the past about fees, transparency, fee equity, but we also wanted to really look and employ best practices, and also comply with a significant amount of federal fee setting guidance.

In order to do that, we engaged Grant Thornton. Their international expertise in this area was put to good use in not only working through what the costs were and being able to design a system in which we can use activity-based costing to determine the fees correctly, but they also worked very hard to pass that knowledge on to APHIS to develop expertise in activity-based costing so that we could look at the fees through this lens going forward.

The cost accounting methods used previously weren't as accurate. We had a concern that the fee pricing points were not correct, and as Mr. Shea had stated before, some of the fee payers were paying too much and some were paying too little. This was the equity issue that we wanted to address, and equity-based costing allowed us to achieve that.

Federal guidance also directs the agencies that collect these to include the full cost for the federal government. This is a federal program, and so we

went through and identified all the costs to the federal government in order to set the fees correctly.

The activity-based costing method ensures that the fee payer pays for the cost of services we've rendered, and then that's the full cost for the federal government. We wanted to ensure that any one fee area did not subsidize others, that fees are equitable and based on the services, and that those that required the AQI services pay only the costs. While working with Grant Thornton, the General Accountability Office came in and reviewed early our methodology and our findings at that time, and they agreed that we were in fact doing it the correct way.

Just to talk about activity-based costing really quick, for those who aren't aware of it, it is a two-step process that allows you to align costs with a cause and effect sort of relationship. What we do is we take the costs that are found in our financial systems of record, and we're able to align those costs with activities, and then through the activities we know how many activities they've placed for each of the fee services. So, in simplest terms, we're able to use the complete costs and determine unit costs for each AQI service that is rendered.

We also can use the model that Grant Thornton developed for us to do what-if scenarios so that we can better project any changes in fees over a

fee period that would be contained in the rule. And that is in fact what we did with the proposed rule fees.

When we went into this we wanted a national-level model that included not only APHIS activities but CBP as well, we wanted to ensure that it was rigorous and that it was defensible so that when we proposed the fees we could show how those fees were, in fact, developed. It needed to be flexible to support a variety of informational needs, both internally and externally for decision making, and it was repeatable, and that it had a methodology that we could use again and again, and change as the program changes. And we wanted the methodology to ensure that there was transparency so that we could raise the costs to ensure that they are correct.

Grant Thornton, in their development, were told that there were two primary purposes; one was for the fee setting, but we also wanted the information to support decision making and other management uses. And it had to be balanced with the work that was done and the available data. This is critical in that we didn't want to pose any new costs with new data that would be collected. As we move forward we may find opportunities to do that, just for greater transparency.

We started with the baseline model. This goes back to 2010. We used a variety of inflationary factors. We got some from the industry, and some

from the Office of Management and Budget. There was some information from the Office of the Chief Economist at the USDA. That allowed us to project out to the 2016 point. Since we knew that there were several initiatives being undertaken, we also included the projected cost for those initiatives. Those since have been realized as actual costs, and they were fairly accurate guesstimates, so we feel very strongly that the fees are correct.

The activity in the output structure in the baseline model is what is used for the final cost model that we use to determine the fees. Everything in the model has remained constant. There haven't been any changes, so we feel very confident in the information the model was able to supply.

As mentioned earlier, the fees are set on the actual workloads. We used inflationary factors, and then we've also, through the past years to—we had many of the update model with the actual workload counts, and the effects on the fees are non-existent. The fees stayed the same regardless of whether it was an estimated workload that we used in projecting and measuring that against the actual workloads.

Bill

The cost implications for fee setting, the FY2014 estimate was \$948.9 million, in '15 it goes up to \$957.6 million, and in 2016 it goes to \$966.4 million, quite a bit of money. And some of that is not user fees, some of

that is out of appropriated dollars, like passengers and cars coming across the border. But the fact still remains that we need to cover recovery costs to the federal government associated with fee services, and we have fee revenues from each fee service covered, the associated costs of providing the service to which fee payers are subject.

We have considered establishing new fees, and as we collect more data we will look at that more carefully. But we used GAO criteria to assess our options, both with the guiding principles of efficiency, equity, revenue adequacy, and the administrative burden on the fee itself.

Next, we're not going to go over it line by line, but it's the estimates and the actuals for a number of years across for each of the fee categories.

And as you can see when going across the top, the numbers generally do not decrease. We had a little bit of an actual count in air passengers being down, '12 to '13 there was a little increase, a bigger increase in '13, and then as you can see across the line it increased across the board. I think you'll find in general we've had increases in these numbers across the board for every category.

The proposed fees, I think most of you on this call, on the webinar today have heard this before, but I'll go over them again. Our air passenger fee will go from \$5 to \$4. That's what the Grant Thornton study found.

Commercial aircraft, however, will go from \$70.75 to \$225 per arrival. A commercial maritime vessel is paying \$496 today, and will pay \$825 as soon as the rule is made final. Commercial trucks will go from \$5.25 per arrival to \$8, unless they buy a transponder, which most trucks do, and that will go from \$105 per year to \$320 per year, which is quite a savings for the trucking industry. Commercial railcars, however, we found we were overcharging at \$7.75, and that will go to \$2.

We're proposing two new fees. Sea passengers, which currently doesn't have a fee, but ships themselves pay fees, but we are proposing a \$2 fee per passenger for clearance of all passengers coming into the country.

Treatments currently have no fee, and we are proposing a \$375 per treatment fee. The Grant Thornton study provided the information that enabled APHIS and CBP leaders to identify the new fees. The sea and passenger fee we would get from tickets sold, much like the design of the airline and passenger fee. And the treatment fee is based on the AQI activity related to the treatment undertaking, not the volume of goods being treated. Steve?

Steve

Some of you have probably seen this table from previous stakeholder outreach sessions that we've done, but I just wanted to review a couple of things.

The fees, again, are set with equity in mind, that the people, or the firms that are receiving the services, pay for the services that they receive. Now that we know the actual cost of these activities we can set the fees with great confidence. It's been many years since the fees have been adjusted, Mr. Shea had discussed that earlier, so with some of the jump that you see is an adjustment for inflation, and some of it is an adjustment to ensure equity.

The fees are set. This is for a period of three years, so you won't see adjustments in those three year periods unless something unforeseen happens. But these are fixed fees. We've taken steps to ensure that the fees align with the services that are being provided, and it is assured that there is no cross ups [indiscernible] between the fee parables.

Bill, I'll turn it back over to you.

Bill

Next section here we're going to talk about is a summary of some of the comments that we received. We received a total of 248 formal comments on the proposed rule. A lot of concerns regarding the treatment fee, the amount of the fee, the transparency of setting the fee, and who would be subject to pay. We've received many concerns about the increase in the commercial truck fee. We got a lot of public comments about the increase of the transponder, which was quite a bit of a percentage, but in light of

comparisons to the individual crossing fee it's still a great bargain. And the opposition of fee increase due to the potential economic impact, particularly regionally, and concerns that overtime fees are being counted twice in the user fees.

We looked at all these comments, as well as many of the other ones, very, very closely in coming up with what would come out of the final rule after all the dust settles.

Our next steps: we've reviewed and considered all the comments, and we will also listen today to anything that's brought up. The final rule is still in departmental clearance, meaning still within USDA, and it goes to OMB next, which will have up to 90 days. It doesn't necessarily have to take 90 days, but it can be up to 90 days before it clears that. It will come back to us for publication, assuming that OMB does not require any changes in the rule. The fees will go into effect 60 days after publication of the fees.

That brings us to the probably most important part, any questions that people may have that are on the webinar.

Moderator

Thank you. At this time we'll go ahead and open the call for questions. If you would like to ask a question, please press \*1 on your telephone

keypad. This will place your question in the order it was received. Once again, if you would like to ask a question, please press \*1 on your telephone keypad. And, I will pause for just a moment while we are gathering questions.

We'll go ahead and take our first question. It comes from Robin Bishop with North Florida Shipping. Robin?

Robin I'm sorry?

Moderator Yes, please go ahead.

Robin Right now we have 15 payments a year. We have a ship that comes in 34 times a year. I heard from someone in the Customs and Border Protection that that 15 limit per calendar year is not going to be in effect anymore, and in fact we'll be paying the \$825 for every voyage. Instead of a cap at 15 voyages, we'll be paying \$825 more per voyage, which is 34 times a year. Is that correct?

Bill That is correct. That Grant Thornton study took into account that the 15 vessel cap would not cover our costs, and that a vessel that comes in more than 15 times would have to pay that \$825 each time it came in.

Robin Yes, that's not exactly fair. We have a ship that comes in, carries empty containers, there might be one loaded container on board the whole ship, we never see an agriculture person, and this kind of logic doesn't fit us at all. It's going to cost us an extra \$25,000 a year. We're already paying a Customs user fee, and you're adding \$825; it's just astronomical.

Bill It may seem astronomical, but the Grant Thornton study took costs from APHIS and costs from CBP that were associated with the clearance of ships and cargo on ships, and that's how the fee came about. There was nothing added except the costs of the employees conducting these services.

Robin Well, I guess there's nothing that can be done about it. This is the first we've even heard about this, was about a month ago. We weren't involved in any questions, and answering question sessions beforehand or anything. I heard it through the grapevine. Somebody called me and said, "Hey, have you heard about this?" I just don't see why—well, never mind. I guess it's not going to matter. What's done is done, so I might as well just hang up.

Bill We'll certainly listen to what you're saying and look at it in the future, but as the Thornton study was done it looked at the totality of ships arriving in the United States, maritime vessels arriving, to arrive at this fee. It didn't

look at specific instances of a type of ship, but more the ships that arrive and how we can prorate that cost amongst the ships.

Robin                      Okay, thank you.

Moderator                We'll take our next question. It comes from Patricia Compres with Advance Customs Brokers and Consulting. Patricia?

Patricia                    Hello?

Moderator                Yes, go ahead.

Patricia                    Can you hear me?

Moderator                Yes, we can.

Patricia                    Out of the 248 comments that you had on our last comment period, I would assume that probably by reading some of the comments I read a large portion of those comments go to the treatment fee. I thought that after we listened and went to webinars, and did all that we did, and we were asked for comments, it was to take those comments and use them to adjust and see how this could be something that people could swallow better. And I don't see any change. The figures are the same. We're still

at \$375. The ships are still at \$825. Nothing has changed from the original proposal, so I don't understand why we're even here.

Kevin This is Kevin Shea. Let me just say that what we are trying to do today is show the information from the proposed rule. As everyone's been saying earlier, we took the earlier comments and we're taking comments today. This is not the final rule.

Patricia That's what they said last time, and I understand that. But what I'm saying is this is not the final rule, which is what was said the last time, send your comments. There were plenty of comments, 248 comments is a lot of people talking, where normally people don't comment that much. Yet none of those comments were taken into consideration.

So today again we're here spending our time listening, trying to help solve this problem to again write the same comments to do the same thing. It doesn't make any sense. Nothing has changed. Your numbers are the same, and our comments are the same.

Kevin What I'm trying to tell you is we have not finalized the rule, so this is not the final result. The final fee for treatment, if any, may not be \$375. We have heard you, and that's part of what we've been taking into consideration as we go through the review process. But I want to

emphasize this: this is not the final rule. What we are trying to give you today is just more detail on what the proposed rule said. And you're right, we certainly heard from lots of folks about the treatment fee, and that is something that is getting great consideration as we prepare to go to the final.

Patricia                      Okay, thank you.

Moderator                    Our next question is from Priscilla Lleras with Peruvian Asparagus Importers Association. Priscilla? Priscilla, go ahead, please. Priscilla, your line is open.

Alright, if you're not there we'll go ahead and take our next question. Just one moment, please. As a reminder you can ask a question by pressing \*1 on your telephone keypad.

Our next question is from Jim Casey with Airlines for America. Jim?

Jim                              Good afternoon. Two brief related questions. First is, given the conclusion that's been around for some time that current passenger fees are excessive and should be lowered, is there any possibility of those fees being lowered in an accelerated way in an interim final rule or some sort

of an exemption rather than awaiting the completion of the full rule making process?

And the second question is, with respect to commercial aircraft, is that one category, or do you anticipate dividing commercial aircraft between passenger carrying aircraft and cargo carrying aircraft?

Kevin I'll answer the first question. We do not intend to do an interim final rule regarding the air passenger fees, because, quite frankly, we could not operate this program if that revenue was immediately taken away. We just can't do that.

As for the second part, Bill, do you want to address that?

Bill Yes. All aircraft that are capable of carrying cargo will be charged the aircraft fee.

Kevin One other thing I'd like to point out is that the increase total for air carriers, if you combine passenger and cargo, is less than 10%. Now, I realize there's a very large increase for cargo carrying airplanes, but there's a very significant decrease for passengers, a 20% decrease, and when you net those things out the overall increase for airlines is less than 10%.

Moderator            Were there any follow up questions or comments? Okay, if there are no further comments we'll go to our next question. It comes from Marisa Weiss with Science Policy Exchange. Marisa?

Marisa                 Hi. My name is Marisa Weiss. I'm calling from the Science Policy Exchange at Harvard Forest at Harvard University. Our view is that inspections are very important for protecting the health of forests and the other plants in the United States. As Kevin Shea mentioned at the start of the call, research shows that damages to US trees from forest insects costs local governments an estimated \$1.7 billion per year. That's a big cost being borne specifically by local municipalities, so therefore we do support efforts to ensure that these user fees cover the costs.

Our question is: do you expect that the increased user fees will support increased inspection and greater interception of pest and diseases, or is this basically going to maintain the status quo?

Bill                    We're constantly looking for new ways to do inspections for new things to inspect and target, and that was brought up initially by CBP, that they do quite a bit of targeting of cargo in terms of their inspections. There's a whole background to doing inspections, including risk analysis and risk mitigations that are done before inspections occur. I think those kinds of

activities will probably get more pointed in the future, so we can try to target better as time goes on.

I don't think the point is in doing more inspections, but figuring out what we need to inspect. And I think that's what the user fees will allow us to do in the future.

Marisa Thank you.

Moderator Our next question is from Martin Rojas with the American Trucking Association. Martin?

Martin Good afternoon. This is Martin Rojas with American Trucking. A couple of comments. First, I was surprised by the use of the total value of imports as a baseline to figure out the percentage that their AQI fees are going to cost us, because we're not dealing with charging the fees to the entire import industry. We're just really talking about the transportation carriers. So from an equity perspective perhaps comparing the \$190 million per year that you're going to be raising compared to the revenue generated by the transportation industry might be more appropriate rather than all the imports.

It is interesting that when you talk about equity you're not considering other areas for which potentially you could be looking at fees charged. And in your proposed rule you basically stated that you weren't likely to consider such fees on imports directly because of potential trade issues, going against GATT and other trade agreements. So that's something for consideration.

The other thing, I agree with your statements about being able to use better risk analysis and how to consider what goods to inspect. Right now CBP has a program called Customs-Trade Partnership Against Terrorism related to security, and it's reduced the number of inspections that carriers and imports have to go through. And no consideration was given of that program within the APHIS proposed rule as a potential means of maybe less inspections could be a lower fee, so that's something to be considered.

Lastly, I continue to push on the fact that there doesn't seem to be enough coordination with two of our largest trade partners, Canada and Mexico, in a way to really coordinate the inspections process, or the regulations per se. And there was just a meeting back in October of the RTC, where I saw Osama on this issue related to coordinating some of the regulations so that we don't have to charge fees, especially fees on a constant basis, for inspecting more and more vehicles. The idea there is to improve border

efficiency, not to make it more expensive to move across the border. So, I'd like to get your thoughts on those points. Thank you.

Osama Martin, this is Osama. I think on the last point you are correct. We are discussing those issues with Mexico and Canada, and we have already established some processes in place that would help in expediting the clearance, including reducing the level of the inspection requirements, such as the NARP program between Mexico and the US. So, good point, and we continue to work with our partners in Mexico and Canada to explore those opportunities.

Bill Kevin, would you like to answer the C-TPAT part, Kevin Harriger?

Kevin H. Yes. Thank you, Bill. It's Kevin Harriger, Executive Director with the Agriculture Program. I work for Mr. Wagner.

The Customs-Trade Partnership Against Terrorism is a very, very strong program with over 10,000 entrants, people that participate in that. The principle behind that with the supply chain, the sterility of the supply chain and ensuring that from origin all the way through to consumption, if you will, that we have a sterile corridor and the assurances that we have for the participants in the program. We are looking at that as well with APHIS to ensure, from a wood packaging material standpoint, from a

carrier and conveyance cleanliness, non-contamination with noxious weeds, other contaminants that would be a non-starter, if you will, those sorts of components of an existing program of C-TPAT we are looking now at incorporating.

We have talked at our Customs Advisory Committee, our FACA group that advises our commissioner on the customs operations and commercial operations. We have spoken on behalf of Customs and Border Protection to implement certain components into that supply chain dynamic. We've met with the World Shipping Council. We've put PowerPoints together on Asian gypsy moths for clean for maritime, both for the vessel and for the containers, wood packaging material. We've put documents together for trade.

All of these things are supported by our agriculture user fee and in all the environments, that's specific to vessels obviously on AGM, but also in all the other venues is to take the principles behind the sterility of the supply chain and ensuring that there's that overlay from an agricultural perspective. Thanks, Bill.

Bill

Thanks.

Moderator

We'll take our next question. It comes from—

Martin                      Could I—

Moderator                Go ahead.

Martin                      Could I have a follow up just real quick, because I think that some of the discussion that's going on right now is exactly the reason why there's Executive Order 13563, as well as some of the interest up on Capitol Hill related to a conversation between stakeholders and the agency taking place prior to even the rule being developed. And these are a lot of these points that should have been discussed with stakeholders, as the Executive Order certainly encourages, and APHIS, I think, has kind of missed the mark at this point.

That's why the interest by industry, not just by trucking but by others, to sort of get together with you to have a more serious discussion rather than going through the presentations again, to really figure out what are the particular steps that we can take to improve this process, both for you and for the stakeholders that are impacted by this. We're mutual partners, I think we all want to reach the same goal, but clearly we need to do this at a more partnership level. Thank you.

Moderator We'll take our next question from Peter Kucherepa with Canada Department of Foreign Affairs.

Peter The question that I have is regarding your last slide that involves next steps. You provide an outline of what the next steps are to this regulatory process, and I'm inquiring if you have dates that go along with the next steps, or estimates of dates that go along with the next steps. Thank you.

Kevin We'll move it as rapidly as we can, and I hope to have it moved to the next step within the next month or two. But I can't give you an exact time. This is a very thorough process, lots of review takes place, not only within USDA but within the Office of Management and Budget. There's lots of review that takes place here, and I wish I could give you a more specific time than that, but I cannot. I can tell you it won't be this month or next month when the rule is final.

Moderator Our next question comes from Gerald Sweeney with Vanguard Pest Control. Gerald?

Gerald Yes, I'm here. APHIS spends a lot of time justifying why they need increases, and I think we all understand that. I think our problems are as to how these things are being allocated. My concern is the treatment fee. In the Port of New York we have many small importers, and this fee of

\$375 a treatment is going to kill them. There are treatments out there where one treatment consists of 300 or so pallets of fresh fruit or something, and that guy gets charged \$375, and then we have all these little guys who come in with one or two skids and he's paying \$375. In many cases that fee is more than what his cargo is worth, so it's grossly unfair.

But I do have a suggestion. Every treatment that is done, the inspector has, or knows, the number of pallets that is being fumigated, and it would be a simple matter for him to log in on his 429 Fumigation Report how many skids were fumigated. And then they could assign a fee per pallet, not a treatment fee, but based on how many pallets were being treated. This would equitably fair for the big guy, as well as the little guy, and it will keep them in business.

Another concern that I have is that APHIS is excluding a number of classes from being charged a fee because they say it's too difficult. I really don't find that as a good excuse. If Dunkin' Donuts can take my credit card for a dollar's worth of coffee, I see no reason why APHIS can't figure out some way to assign fees to these other classes. So that's it for me, guys. Thank you for listening.

Kevin

Thanks for your comments.

Bill Thanks.

Moderator Our next question is from Mary Barnicle with United Airlines. Mary?

Mary Good afternoon, and thank you for hosting this webinar. I have two questions, one following up on Mr. Casey's from A4A. United, to start with, represents a major fee payer, as you know, we pay approximately \$5 million in aircraft fees annually, and United passengers pay probably in the zone of \$25 million in APHIS air passenger fees. And we have objected to and questioned the air passenger fees, as you know, since at least 2004.

With regard to the air passenger fees, the first question, how do you square your statutory responsibility to charge by person and user when you have told us at least three times today that you know, and probably have known since the Grant Thornton study, that you are charging our passengers more than the cost of those users?

And my second question regards a follow up to Mr. Casey's question on type of aircraft and aircraft inspection fees for commercial aircraft. We filed in comments the fact that there are very, very different cargo capacities in aircraft, from a 75-seat commuter truck that would carry

about under 900 pounds of cargo capacity, including baggage, a B747 could carry 250 times that, but I believe you're saying that both of those aircraft would be charged the same inspection fee. Can you explain or justify that?

Kevin

I'll answer your first question. We are moving as rapidly as we can to change the passenger fee through the regulatory process. We can't change it without going through the regulatory process in either direction, so that's what we're trying to do. We're going to do that as soon as we can get it moved through this process.

As to your second question, we are indeed charging the same fee for simplicity for the airlines, and to all the payers, really, and we did take in consideration, as did Grant Thornton, whether it made sense to try to get very granular on the fees. And our considered judgment was that it was not. And that is why the fee is set up the way it is, to try to make it simpler for the payer, as well as for the government.

Moderator

If there are no further comments, I will move to the next question. This comes from Priscilla Lleras with Peruvian Asparagus Importers.

Priscilla

Yes, good afternoon. This question is focused towards treatments. We understand that the final rule is in the departmental clearance. But once

the rule is identified will there be another opportunity to collaborate with industry and for us to provide comments to APHIS, either before the rule, or after the rule comes from the OMB review? I say this just to help provide a conceivable solution not to have such a financial burden and impact on the US industry, on US consumers, as well as trade with other countries.

Kevin

The direct answer to your first part of that question is no, there will not be another comment period, or another opportunity to exchange views. However, the fees are not forever, and that means that we can always revisit them based on any new information we might get.

But in the meantime, while the rule is under consideration within USDA, and eventually the Office of Management and Budget, if you do have a very specific suggestion please share that with us now. When I say “now” I don’t mean literally on the call right now, but get that to us as soon as you possibly can, and we’ll be happy to look at it. Because indeed this is the one fee we’ve looked at very closely more than the others, in the sense that it’s a new fee so we wanted to be very careful about it. And I don’t think the final rule will be exactly the same as the proposed rule, but if you have anything specific, by all means get it to us now.

Priscilla                    So you're saying that your office is open to us sending you conceivable solutions, just as we've sent in the comments, and even some that were made on this call?

Kevin                        Yes.

Priscilla                    My second question would be, who do we address them to?

Bill                            You have my e-mail, Priscilla. This is Bill Thomas.

Priscilla                    I do. Okay, thank you.

Moderator                 The next question is from Tom Keefer with Diamond State Port Corporation. Tom? I'm sorry. Tom, go ahead, please.

Tom                            Hi, can you hear me?

Moderator                 Yes, we can.

Tom                            Okay. This has to do with the issue of, I guess, granularity, as you point out. I would think the charges again for airplanes whether they carry 500 pounds or 5,000 pounds, and ships that have 250 containers on them or 8,000 or 9,000 containers, I would think that's a different level of effort

required on the part of the USDA and should be priced differently, as opposed to one set fee for everybody. I realize there's an ease of billing, but I think we're talking about dollars, and if we can get maybe a scale that more represents the work involved as opposed to just a flat fee I think people might be a little bit more accepting of some increase.

Bill Grant Thornton did look at that. And the data that was available wasn't granular enough for us to make a decision in terms of ships. In other words, we didn't have data that told us which ships had 8,000 containers versus 100 containers.

Kevin And I would like to add that, as I said a few minutes ago that even once this rule becomes final it doesn't mean we won't be revisiting the rule in the future and revisiting how the fees are assessed. We'll constantly be reassessing whether that does make good sense for both the payers and for us to do it that way. So, we're not ignoring that possibility.

Tom Well, I just think that that type of level of drilling down should have happened by Grant Thornton. Ships are not vanilla. Airplanes are not vanilla. Somebody had to do a time and motion study on this to figure out how much work is involved for an 8,000 TEU vessel versus a 1,000 TEU vessel. And that's a huge difference, I would think, between both, between large and small airplanes. That's all I have to say. There's too

much money involved. The rate is considerably higher, and it just doesn't make any sense to have a blanket charge for an airplane or a ship regardless of their cargo carrying capabilities. That's all I have to say.

Moderator           And we'll take our next question. It comes from Kurt Reichert with Western Fumigation. Kurt?

Kurt                    Good afternoon. I'd like to thank the USDA for this opportunity to comment a little further on this proposal. My question might have a couple of parts, depending on the answers.

The first main question really is, is the overtime fee going to be collected in addition to the treatment fee, or would the treatment fee replace the overtime fee?

Bill                    Right now, the way the rule is written is if you have a fumigation on overtime, overtime would be collected. The new overtime rule is not anywhere near final publication yet, so the old rates would still apply.

Kevin                 And I want to point out that that is certainly one of the comments that we're paying very, very close attention to as we move toward finalizing the rule.

Kurt                    Okay. And then in relation to that, since we are pretty much forced to do these fumigations on overtime, we've currently been paying the overtime fees, whereas, in other areas that we operate in, say log fumigations, they're done during the day where the inspector is present and no fee is charged. Are you also looking at possibly adding a regular time charge, or during a regular business hour charge to try to recoup some of these fees?

Bill                    The fees for log fumigations are collected by issuance of a Phytosanitary Certificate. That's the collection process for exports, which is quite different from imports. But right now—

Kurt                    Well, it—

Bill                    It wouldn't be—

Kurt                    I'm sorry, Bill. The duplication [ph] where they are fumigated during the day, so we—

Bill                    The user fee would apply in overtime.

Kurt                    Okay, in lieu of overtime, so if you do a fumigation in the evening you would pay overtime, whereas somebody that can do it during the day

would be at a competitive advantage, I guess. They wouldn't be charged the overtime?

Bill We will be looking at our business processes to see how we can build in efficiencies, I will say that.

Kurt Okay. And then one last question, if I could. The treatment fee, have we decided or honed in on how that's going to be assessed? Is it per inspector, per stack fumigated per evening?

Bill It's going to be per stack fumigated per evening. We may even use a similar form to what you're getting billed overtime on, so the actual bill would come out of Minneapolis. But that's what's being proposed. It's not a done deal yet.

Kurt Okay. Thank you, Bill.

Moderator Our next question is from Mary Jane Norris with the Maryland Port Administration.

Mary Jane Thank you. I did have a question that I think has been answered. One of my concerns is the export logs. With the export logs the Phytosanitary

normal cost is what will prevail. Does that mean the \$375 fee will not be assessed against that?

Bill It will not be assessed, right.

Mary Jane Okay. And on the import side, I very much agree with the comments that the gentleman from Vanguard made. It's going to be imperative that port customers know how much they're going to be charged, so we're going to need a very specific definition of how you identify per treatment. In some situations obviously the cargos are done by skids or by pallets. In our situation it's done per container. And luckily for us we have enclosed buildings, but that doesn't mean that our buildings will be filled to the maximum capacity every single time, so customers do need to know in advance. I'm hoping that by the time the final rule comes out there's going to be something very, very explicit that addresses that.

Bill I think we will define what the unit of treatment will be in the final rule.

Mary Jane Okay. The last comment I have is, I don't think anybody is arguing the fact that fees need to be assessed, and even the formula that Grant Thornton used, which quite honestly I don't understand, but they obviously have come up with these numbers. But was there any consideration given to the fact that these cargos, they definitely enhance

the US economy, they create jobs, there's transportation jobs that are just wrapped up in all of this, was any consideration given to that? Because now we have to wonder will we, not just as individual ports, but will we end up losing cargos because of this? I don't know if we will or not. But I'm just curious to know, was any consideration given to the spinoff of these situations not just the volume of cargo itself?

Kevin

Well, I would say that Congress intended for us to charge fees for this service, and implicitly they had to consider that sort of thing. Whether they did that really explicitly, of course, that's always subject to speculation. But the Congress intended for us to recover the full costs of providing this service. And I know there was some disagreement with my denominator, but I would say that this still amounts to a very, very low percentage of the value of things being imported and our best economic analysis is that it would not significantly in any way reduced imports.

Mary Jane

Okay. Then maybe, I don't know how late, we're pretty late in the game, so I don't know what the odds are of this proposed, and again I'm talking about the treatment fee, that is so ambiguous to say "per treatment." So, if your numbers are based on value, then maybe the treatment fee needs to be based also on the value of the commodity that is being treated. Because you can be treating, I don't know, household goods, as an

example, and it just doesn't flow simply and I do think customers are going to be concerned about it.

I have one other question, and that's on this \$825 fee. I'm assuming that that fee will be assessed when the vessel arrives at the first US port of call, when Ag does a full inspection? Or is this anticipated to happen at each port of call?

Bill                      Each port of call.

Mary Jane              Each port of call, so every—

Bill                      That's how it's done now up to 15. The difference will be the 15 cap will be lifted.

Mary Jane              Wow. Okay. Well, I know that you've received all these comments, so I do hope that some of these other considerations will be looked at very, very carefully, because this is huge. This is huge. But I thank you, and we'll just go from here. Thank you for your time.

Kevin                     Thank you.

Moderator            Okay, at this time we have five remaining questions that we'll get through before we end the call today. Our next question is from Dennis Mahoney with United States Great Lakes Shipping. Dennis?

Dennis                Thank you. Yes, indeed, I just have a couple of comments to make. I agree with the preponderance of the callers calling in today expressing the reservations that they have about these fees and how they were formulated, and I think we all have a number of questions about how to keep them fair.

One of the comments, and you can correct me if I'm wrong, and I probably jotted this note down incorrectly, but when it was mentioned that you were trying to raise \$130 million on \$2.7 trillion of imports and then coming up with the comment about the calculator, or whatever, and I can certainly understand that because my calculator doesn't do trillions either, but something about one-half of one ten-thousandth of one percent of the value might be what it works out to.

But when it comes to the fairness, and I think a couple of the other commenters have said the same, that maybe the way to do it more fairly would have to do on the same formulation, might be basically just on, say, an addendum to the import fees on a percentage of value. I think this also, when it comes to fairness and the first call I think said it extremely well,

the ship that calls 34 times and they seldom if ever even encounter or have the attendance of an APHIS officer, or agriculture representative being involved with anything.

But, anyway, there are a number of trades, here in the Great Lakes we do a lot of bulk cargos and a lot of cargos from Canada. We represent Canadian flagships that frequent and trade in bulk cargos that basically require absolutely nothing, as the reference to empty containers, which for the most part probably would require nothing in the way of inspections to bulk cargos such as stone, or aggregates, or the like, or mineral sands, or whatever, which basically requires nothing in the way of attendance.

I do realize that our garbage is inspected on board the ships, so there are some costs, but certainly I do know that some of the principals that we represent as vessel agents are extremely concerned about this idea of a cap. It sounds onerous enough to increase the basic fee by 60%, but then when you lift the cap and you have ships that—one of our principals ran the calculations, their cost for APHIS fees will more than triple by lifting that cap and basically the amount of services they're getting is extremely minimal, and the attendance of a representative from AQI is minimal.

So we certainly have, I think, maybe the idea would be not only just maybe it would be more fair, an ad valorem rate structure on the value of

the cargo, but also consideration to what the type of cargo it is and does it actually generate a need. If you're importing lumber, that's certainly something, you know, food products, etc., obviously I would think all of the concerns about pests and bugs and whatnot were considerably higher for some commodities. But I would think potentially the rate should be set on the basis of the trade, the commodity, and you said the study was supposed to be indicative of a reflection of the accurate cost.

And I also understand, one more comment, just briefly, that this whole idea of asking for, submitting comments and then AQI coming back and basically saying, thank you very much for your comments, we certainly appreciate them, and we have reviewed these things, and now we've done an exhaustive review, and we find out that our original estimations are apparently exactly on the mark, and there hasn't been a recommendation for a single adjustment or reduction or modification.

Anyhow, those are my comments.

Kevin

I can reply to some of those. One, an ad valorem rate would be in violation of most international trade obligations. We really can't do an ad valorem. Second, in terms of an empty vessel, an empty vessel, as [indiscernible] as it may sound, may still be carrying problems. It can

carry a Gypsy moth egg mass on it very easily. So, just because it's empty doesn't mean it doesn't pose some kind of threat.

Also, you're right that there's very rarely an APHIS person at any of these inspections, because our colleagues in Customs and Border Protection are carrying that out. And even if it's not a specific agriculture inspector, the general front line Customs inspector is also inspecting for agriculture purposes. So, there's always something going on there.

In terms of the review, I would just ask everyone that's on the call to just kind of understand the process; we can't, at this part of the process, tell you what the final rule would be. We did this today to try to give you one last chance, as the Congress directed us to do in the recent appropriations bill, so that we can hear if there's something we haven't heard before. We've certainly heard lots and lots from you about the fumigation fee, treatment fee, and I think you'll see something different reflected in the final rule because of the very specific things that we saw about that.

Also, in terms of the fact that sometimes a person or a vessel might not get an agricultural inspection, that could be true, because we are trying to target the inspections to the most significant risk. But everyone is subject to the inspection, and every vehicle, or railcar, or truck is subject to the inspection, because at any time that risk could change. And also, quite

frankly, we need the deterrent impact of everyone knowing they could see an agriculture inspector, whether that's a USDA person or a CBP person.

So, I would just like to make those few comments back to you. I appreciate what you said, and I understand. Maybe we can move on to the next one, operator.

Moderator           The next question is from Donald Brown with Cruise Line International Association.

Donald                Good afternoon. Can you hear me?

Kevin                 Yes.

Donald                I want to first thank the administrator and the acting assistant commissioner for participating in today's call, and for the opportunity to comment.

For the Cruise Lines International Association and the industry we represent I just wanted to emphasize, as we did in our comments to the record, that we support reasonable user fees for services that are rendered and received.

Now, I think the presentation today, while trying to provide more transparency to the process used in arriving at the final rule, which is trying to clear agency clearance and go to OMB, may still not provide that level of comfort that we as an industry are looking for from regulatory bodies.

And just to put that in context, and this is not a new comment, this is in our comments to the record, but I think worthy of emphasis here, with a user fee of \$2 for international passengers, \$2 on the chart doesn't look like much money, but in context the annual fee for a cruise vessel, one of our larger cruise vessels, could go from \$7,440 a year for one ship, to over \$600,000 a year for that same ship based on the user fee as proposed.

Now, I don't know whether in the final rule that's drafted and is in clearance, whether that provides any relief, I don't know that you can indicate it or if we'll just have to wait and see, but that is an overwhelming increase. And I don't know that many appreciate that.

So that's my comment. And we're still looking for clarification on whether that fee increase would be applied just once per voyage for that international passenger, or each time they call on a US port during a voyage. Thank you for the opportunity to comment, and I query whether you have any response to those remarks.

Kevin We appreciate your comments, and we're certainly going to try to clarify the final rule of the application.

Generally speaking, I would anticipate that it would work like the airline fee works, in that you pay with your ticket. So, I would think that it would work the same way for cruise ship passengers. The airline passengers pay a one-time, currently \$5, proposed \$4 fee, and so I would think that a cruise passenger would pay \$2 on their ticket, so not two times four if they stop at four different places. But we'll try to make sure that it's clarified in the final rule.

Moderator Okay, and we have a few questions left. Because we are limited on time, we do ask for you to be brief with your questions and comments. The next question is from John Kloosterman with United Airlines. John?

John Thank you. I'd like to echo the previous callers. Thanks for the opportunity to have this call. I have two questions, following up on some of the previous discussions. First, APHIS has told us in the documentation in the docket for this proposal that APHIS segregates the AQI fees collected by the type of user. You've said it a few times on this call and in the docket, that air passengers have been overpaying for many years, so I

wanted to ask if you could tell us what the reserve amount currently is in the air passenger account.

Secondly, you've told us that Grant Thornton wasn't granular with regard to the cargo carrying capacity of an aircraft, but according to the Grant Thornton documentation of the docket it appears that they were granular enough at least to propose that aircraft fees be applied only to all cargo aircraft. This would also align to the recent GAO findings that the AQI costs attributed to commercial air passenger aircraft are included with the costs that they listed under air passenger, consistent with the fee authority. So, I wanted to ask if you can explain what went into the decision not to apply the aircraft fees only to the all cargo aircraft, consistent with the charging authority of the brief structures for other modes of conveyance. Thanks.

Bill I can handle that. I'm still a little confused by the question. You're saying that your understanding is that we're not going to charge cargo aircraft?

John No, my understanding is that you are going to charge all, but that Grant Thornton's analysis included only charges to cargo only aircraft as part of their analysis.

Bill No, they looked at the totality of costs associated with cargo coming off aircraft, which includes passenger planes and cargo planes.

John Okay.

Bill That whole cost was rolled up into one for clearance of cargo off the aircraft.

John That doesn't seem to comport with the documentation we've seen, but I'll take your word for that. How about the first question?

Bill Can you repeat that?

John Sure. You told us that the AQI fees are accounted for in different types of accounts by type of user. So, if air passengers have been paying more than their share based on the actual cost, how much is in the reserve amount for air passengers at present?

Kevin The fees are set by mode, but the overall account is not. So there is not a specific reserve account for passengers versus cargo versus railcars. That's an aggregated amount. It just doesn't work that way. It's simply aggregated. All revenue is aggregated. But we attempt to set the fees

upfront on the proper basis, and that's what we're trying to do now is to get that back on a proper basis.

Moderator Thank you. Our next question is from Nilda Soler with Customized Brokers. Nilda?

Nelly Hi. Yes, good afternoon. Actually, this is Nelly Yunta with Customized Brokers. Thank you for taking my comments. Even if it's repetitive, I have to join on the concerns regarding treatment fees. I agree with the callers that indicated the unfairness of the fee for specific industries, and also for smaller volume importers on the per treatment fee.

And if no change on the proposed rule will be considered after all the comments we made against it, would any of the funds be applied to expedite the request to change regulations on treatment as an example on the Peruvian Asparagus?

And also if I may add, regarding ship calls without a cap, that will bring our fees to close to a million dollars from just over \$100,000, because we average 988 calls per year. So, we hope you reconsider applying a cap, because otherwise we're going to have to pass that to importers, and in turn to consumers, and we're all going to be paying for this. Thank you very much, again, for taking my call.

Bill Thank you.

Kevin Osama, you had something you wanted to say?

Osama Yes. This is Osama. One brief comment regarding the treatment. As you know, we're only going to require treatment when we intercept a pest, generally speaking, so we understand the concern about unit size one pallet versus containers, but if we don't find pests and we don't treat, then we will not charge the user fee. Please keep this in mind, and certainly we are committed to working with you, with exporters to try to mitigate those pests offshore as much as possible so we can reduce the level of treatments onshore as commodities [ph] come across the world.

Moderator And our last question today is from Thomas Verbitski with David Oppenheimer and Company. Thomas?

Thomas Good afternoon, and thank you for taking the call. Just looking at the methodology of Grant Thornton's treatment fees of \$375 per treatment, I'm just curious how the metric was applied. If you look at the biggest stacks in the largest fumigation ports in the country, over 60,000 cartons, it comes to six-tenths of a cent. Then if you do it at the pallet level, say at an airport, it's \$3.90 a carton, just saying, at 100 cartons on a pallet. How

that could be assessed as something that's fair or that can be absorbed by a shipper or a grower simply just doesn't seem to be practical. If the number was taken against the total cost of services divided by the number of treatments, no one's questioning that the government needs to accrue the money, but the methodology as to how it's applied is certainly suspect by the import industry.

Bill                      Okay, let me give you an example, since I've worked a little bit in this industry.

Thomas                 Bill?

Bill                      Yes.

Thomas                 Okay.

Bill                      We have three pallets of grapes that came in from Chile last night, and I went out to fumigate them. How long did it take me to fumigate those grapes?

Thomas                 A few hours.

Bill Three, three hours. Now, I go out tonight and I fumigate 1,000 pallets of grapes, how long do you think it took me to fumigate those grapes?

Thomas Well, depending on the number of stacks.

Bill It's one single stack, let's say a single stack with a lot of pallets under it, how long do you think it would take me, maybe three hours and 10 minutes?

Thomas Okay.

Bill The approximate cost for Bill Thomas to go out and accomplish a fumigation is the same for 3 pallets as it was for 1,000 pallets. And that's what Grant Thornton really looked at, is how much time is an inspector for APHIS spending on a treatment. We didn't look at the relative value of the cargos. We looked at how much time does an inspector have to spend in order to accomplish the treatment goal, which is completion of the treatment. Some are two hours; some are up to 12, 16 hours, some of the wood ones. But most of what we fumigate is in the two to three hour range. Those costs really don't vary in terms of what it costs APHIS to send somebody out.

Thomas No, but it will—

Bill                                That's what Grant Thornton looked at. Now, your suggestions we've looked at and are very sensitive to what the costs are going to be, and as has been said, we have taken them into serious consideration.

Thomas                            Okay.

Moderator                        Mr. Shea, I'll turn the call back over to you for closing comments.

Kevin                                Thanks very much. I appreciate everyone taking the time to be on the call with us today. We hope to finalize these things and hopefully you will see at least some, if not many, of the things that you suggested be reflected in some fashion in the final rule when and if it's published. Thank you very, very much.

Moderator                        Thank you. This will conclude our conference. Thank you for joining us today.