

March 2013

AGRICULTURAL
QUARANTINE
INSPECTION FEES

Major Changes
Needed to Align Fee
Revenues with
Program Costs



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Why GAO Did This Study

The AQI program guards against agriculture threats by inspecting international passengers and cargo at U.S. ports of entry, seizing prohibited material, and intercepting foreign agricultural pests. The program, which cost \$861 million in 2011, is funded from annual appropriations and user fees. GAO has reported several times on the need to revise the fees to cover program costs as authorized. In 2010, APHIS initiated a review of AQI costs and fee design options. APHIS and CBP are considering options for a new fee structure. Pending departmental approval, APHIS expects to issue a proposed rule in fall 2013. GAO was asked to examine issues related to the AQI fees. This report examines 1) the fees currently charged and proposed revisions; 2) how fee revenues are allocated between the agencies; and 3) the extent to which fee collection processes provide reasonable assurance that all AQI fees due are collected. To do this, GAO reviewed AQI fee and cost data, and relevant laws, regulations, and policies; observed inspections at ports of entry; and interviewed APHIS and CBP officials.

What GAO Recommends

GAO is making a number of recommendations aimed at more fully aligning fees with program costs, aligning the division of fees between APHIS and CBP with their respective costs, and ensuring that fees are collected when due. Further, GAO suggests Congress amend the AQI fee authority to allow the Secretary of Agriculture to set fee rates to recover the full costs of the AQI program. USDA and DHS generally agreed with the recommendations.

View [GAO-13-268](#). For more information, contact Susan Irving, Director for Federal Budget Analysis, 202-512-6806, irvings@gao.gov

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AGRICULTURAL QUARANTINE INSPECTION FEES

Major Changes Needed to Align Fee Revenues with Program Costs

What GAO Found

GAO's analysis of the Agricultural Quarantine Inspection (AQI) fee and cost data revealed a more than \$325 million gap between fee revenues and total program costs in fiscal year 2011, or 38 percent of AQI program costs. The program, which is co-administered by the Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) and Department of Homeland Security (DHS) Customs and Border Patrol (CBP), has a gap for several reasons: 1) APHIS's authority does not permit it to charge all persons seeking entry to the United States (e.g., pedestrians) and does not permit it to charge the costs of those inspections to others; 2) APHIS has chosen not to charge some classes of passengers, citing administrative fee collection difficulties; 3) CBP does not charge a portion of all primary inspections to agriculture functions, as required by CBP guidance; 4) APHIS does not consider all imputed costs (that is, costs incurred by other agencies on behalf of the AQI program) when setting fees; and 5) the allowable rates for overtime services are misaligned with the personnel costs of performing those services. APHIS is considering fees that would better align many, but not all, AQI fees with related inspection activity costs. APHIS and CBP can take additional steps to better align fees with costs; however, additional authority will be needed to fully recover all program costs.

Contrary to APHIS-CBP agreements and APHIS policy, the distribution of fee collections between CBP and APHIS is significantly misaligned with AQI costs. In 2005, CBP and APHIS agreed to divide AQI collections in proportion to each agency's share of AQI costs. However, in fiscal year 2011, for example, CBP incurred over 80 percent of total program costs but received only 60 percent of collections, while APHIS incurred 19 percent of program costs but retained 36 percent of collections. CBP bridges the gap between its AQI costs and its share of the fee revenues with its annual appropriation. In keeping with its authorities and with good practices for fee-funded programs, APHIS carries over a portion of AQI collections from year to year to maintain a shared APHIS-CBP reserve to provide a cushion against unexpected declines in fee collections. APHIS's stated goal is to maintain a 3- to 5-month reserve but the preliminary fee proposal would fund the reserve at a level higher than the 5 month maximum. Further, the 5-month maximum target balance is the amount officials say they would need to completely shut down the program, and therefore does not reflect realistic program risks. Further, this is more than the amount required to cover shortfalls during both the 2009 financial crisis and the events of September 11, 2001, and would increase reliance on appropriated funds to cover current program costs.

APHIS's and CBP's collection processes do not provide reasonable assurance that all AQI fees due are collected. Specifically, APHIS does not collect AQI fees for railcars consistent with its regulations, resulting in a revenue loss of \$13.2 million in 2010. Further, CBP does not verify that it collects fees due for every commercial truck, private aircraft, and private vessel, resulting in an unknown amount of revenue loss annually. CBP has tools available to help remedy these issues but does not require their use. Until APHIS and CBP improve oversight of these collection processes, they will continue to forgo revenue due the government, which will increase reliance on appropriated funds to cover program costs.

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Abbreviations

APHIS	Animal and Plant Health Inspection Service
APIS	Advanced Passenger Information System
AQI	Agricultural Quarantine Inspection
CBP	U.S. Customs and Border Protection
CFO	Chief Financial Officer
CMIS	Cost Management Information System
DHS	Department of Homeland Security
FACT	Food, Agriculture, Conservation, and Trade Act of 1990
Treasury	Department of the Treasury
USDA	U.S. Department of Agriculture
WADS	Work Accomplishment Data System

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GAO

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

March 1, 2013

The Honorable Susan M. Collins
United States Senate
The Honorable Dianne Feinstein
United States Senate
The Honorable Kirsten E. Gillibrand
United States Senate

The movement of people and goods across U.S. borders is vital to the U.S. economy but also poses risks because imported products sometimes contain exotic pests and diseases that have resulted in billions of dollars in damages and lost agricultural revenues. Further, the terrorist attacks of September 11, 2001, heightened concerns about agriculture's vulnerability to terrorism, including the deliberate introduction of livestock, poultry, and crop diseases.¹ The Agricultural Quarantine Inspection (AQI) program helps to guard against these threats by inspecting international passengers and cargo, seizing prohibited material, and intercepting foreign agricultural pests at U.S. ports of entry. The AQI program is co-administered by the Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS), which has authority to set AQI user fees, and the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP). The AQI program is funded in part with revenues from fees assessed on those subject to inspection and in part with monies from CBP's annual Salaries and Expenses appropriation. In 2006 we recommended that DHS and USDA work together to revise the user fees to ensure that they cover the AQI program's costs.² In 2007 and 2008, we reported on various other challenges related to these fees, including that AQI user fees were misaligned with program costs.³ In 2010, APHIS hired a contractor to conduct a comprehensive fee review to determine the full cost of AQI services, identify potential changes to the

¹GAO, *Homeland Security: Actions Needed to Improve Response to Potential Terrorist Attacks and Natural Disasters Affecting Food and Agriculture*, [GAO-11-652](#) (Washington, D.C.: Aug. 19, 2011).

²GAO, *Homeland Security: Management and Coordination Problems Increase the Vulnerability of U.S. Agriculture to Foreign Pests and Disease*, [GAO-06-644](#) (Washington, D.C.: May 19, 2006).

³GAO, *Federal User Fees: Key Aspects of International Air Passenger Inspection Fees Should Be Addressed Regardless of Whether Fees Are Consolidated*, [GAO-07-1131](#) (Washington, D.C.: Sept. 24, 2007) and *Federal User Fees: Substantive Reviews Needed to Align Port-Related Fees with the Programs They Support*, [GAO-08-321](#) (Washington, D.C.: Feb. 22, 2008).

fee structure, and recommend new fees. Efforts to better align fees with costs are important, especially in an environment of tightening discretionary budgets, because user fees can reduce reliance on taxpayer funding of federal programs that provide a service to an identifiable beneficiary.

In this context, you asked us to examine the AQI user fees. This report assesses the following objectives: (1) the AQI fees currently charged and how, if at all, the proposed revisions would improve efficiency, equity, and revenue adequacy, and reduce administrative burden; (2) how, if at all, changes to the allocation of fee revenues between USDA and DHS could improve efficiency, equity, and revenue adequacy, and reduce administrative burden; and (3) the extent to which APHIS and CBP fee collection processes provide reasonable assurance that all AQI fees due are collected.⁴

To address these objectives we analyzed the AQI fees using principles of effective user fee design—efficiency, equity, revenue adequacy, and administrative burden—on which we previously reported.⁵ Specifically,

- **Efficiency:** “Efficiency” refers to requiring identifiable beneficiaries to pay for the costs of services, allowing user fees to simultaneously constrain demand and reveal the value that beneficiaries place on the service. If those benefiting from a service do not bear the full social cost of the service, they may seek to have the government provide more of the service than is economically efficient. User fees may also foster production efficiency by increasing awareness of the costs of publicly provided services and therefore increasing incentives to reduce costs where possible.
- **Equity:** “Equity” refers to everyone paying their fair share, but the definition of fair share can have multiple facets. Under the beneficiary-pays principle, the beneficiaries of a service pay for the cost of providing the service. Under the ability-to-pay principle, beneficiaries who are more capable of bearing the burden of fees should pay more for the service than those with less ability to pay.

⁴Also at your request, in September 2012, we reported more broadly on AQI program challenges. See GAO, *Homeland Security: Agriculture Inspection Program Has Made Some Improvements, but Management Challenges Persist*, [GAO-12-885](#) (Washington, D.C.: Sept. 27, 2012).

⁵See GAO, *Federal User Fees: A Design Guide*, [GAO-08-386SP](#) (Washington, D.C.: May 29, 2008).

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- **Revenue adequacy:** “Revenue adequacy” refers to the extent to which the fee collections cover the intended share of costs. It encompasses variations in collections over time relative to the cost of the program. Revenue adequacy also incorporates the concept of revenue stability, which generally refers to the degree to which short-term fluctuations in economic activity and other factors affect the level of fee collections.
 - **Administrative burden:** “Administrative burden” refers to the cost of administering the fee, including the cost of collection and enforcement as well as the compliance burden (the administrative costs imposed on the payers of the fee).

As we reported, these principals interact and are often in conflict with each other so that there are tradeoffs to consider among the principles when designing a fee. For example, a fee closely aligned with the cost of the services provided to a particular user may promote efficiency and the beneficiary-pays aspect of equity, but could impose a higher administrative burden and conflict with the ability-to-pay aspect of equity.

In addition, the Office of Management and Budget (OMB) provides guidance to executive branch agencies through Circular No. A-25. This circular establishes federal guidelines regarding user fees including the scope and types of activities subject to user fees and the basis upon which the fees are set. It also provides guidance for executive branch agency implementation of fees and the disposition of collections. Further, the Chief Financial Officers (CFO) Act of 1990⁶ requires an agency’s CFO to review, on a biennial basis, the fees, royalties, rents, and other charges for services and things of value and make recommendations on revising those charges to reflect costs incurred. The Statement of Federal Financial Accounting Standards Number 4, Managerial Cost Accounting Concepts and Standards for the Federal Government⁷ establishes standards for federal agencies to use in reporting the costs of their products, services, and activities.

We reviewed APHIS’s cost study and proposed revisions, relevant statutes and regulations, and AQI cost and fee revenue data. We analyzed APHIS and CBP AQI cost data and interviewed APHIS and

⁶Pub. L. No. 101-576, 104 Stat. 2838 (Nov. 15, 1990), relevant sections codified at, 31 U.S.C. § 902.

⁷Federal Accounting Standards Advisory Board, Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Standards and Concepts (July 31, 1995).

CBP officials. We assessed the reliability of the data and determined that they were sufficiently reliable for our purposes. In addition, we selected a nonprobability sample of ports of entry to visit: Miami, Florida; Port Huron, Michigan; San Diego, California, and its surrounding areas; and Seattle and Blaine, Washington. In selecting these ports we considered factors including the presence or absence of agriculture inspections for which AQI user fees were and were not charged; passenger and cargo volumes; the diverse set of inspection challenges faced by ports in varied parts of the country; different types of ports (e.g., land border, seaports, etc.) and our resource constraints. While information from these visits cannot be generalized to other ports of entry, themes we identified from the visits allowed us to understand commonalities and differences in inspection practices and fee collection processes at various ports and provide illustrative examples. We also visited APHIS's Plant Protection and Quarantine offices in Miami, San Diego, and Seattle to understand the AQI-related work conducted by APHIS in the field. More details on our scope and methodology appear in appendix I.

We conducted this performance audit from April 2012 to March 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The AQI program provides for inspections of imported agricultural goods, products, passenger baggage, and vehicles, including commercial aircraft, ships, trucks, and railcars, to prevent the introduction of harmful agricultural pests and diseases. CBP has responsibility for inspection activities at ports of entry,⁸ including

- reviewing passenger declarations and cargo manifests and targeting high-risk passengers and cargo shipments for agricultural inspection;
- inspecting international passengers, luggage, cargo, mail, and means of conveyance; and

⁸The Homeland Security Act of 2002 transferred certain AQI activities from APHIS to the then newly-created CBP. Whenever USDA prescribes regulations, policies, or procedures for administering the activities transferred to CBP, USDA is to coordinate with DHS (6 U.S.C. § 231(d)(2)).

-
- holding suspect cargo and articles for evaluation of plant and animal health risk in accordance with USDA regulations, policies, and guidelines.

Inspection procedures vary somewhat depending on what pathway is being inspected (e.g., passengers, cargo, vessels, etc.) but, generally, CBP officers conduct a combined primary inspection for agriculture, customs, and immigration issues,⁹ and, as needed, make referrals to CBP agriculture specialists who conduct more detailed secondary inspections.

APHIS has responsibility for other AQI program activities, including

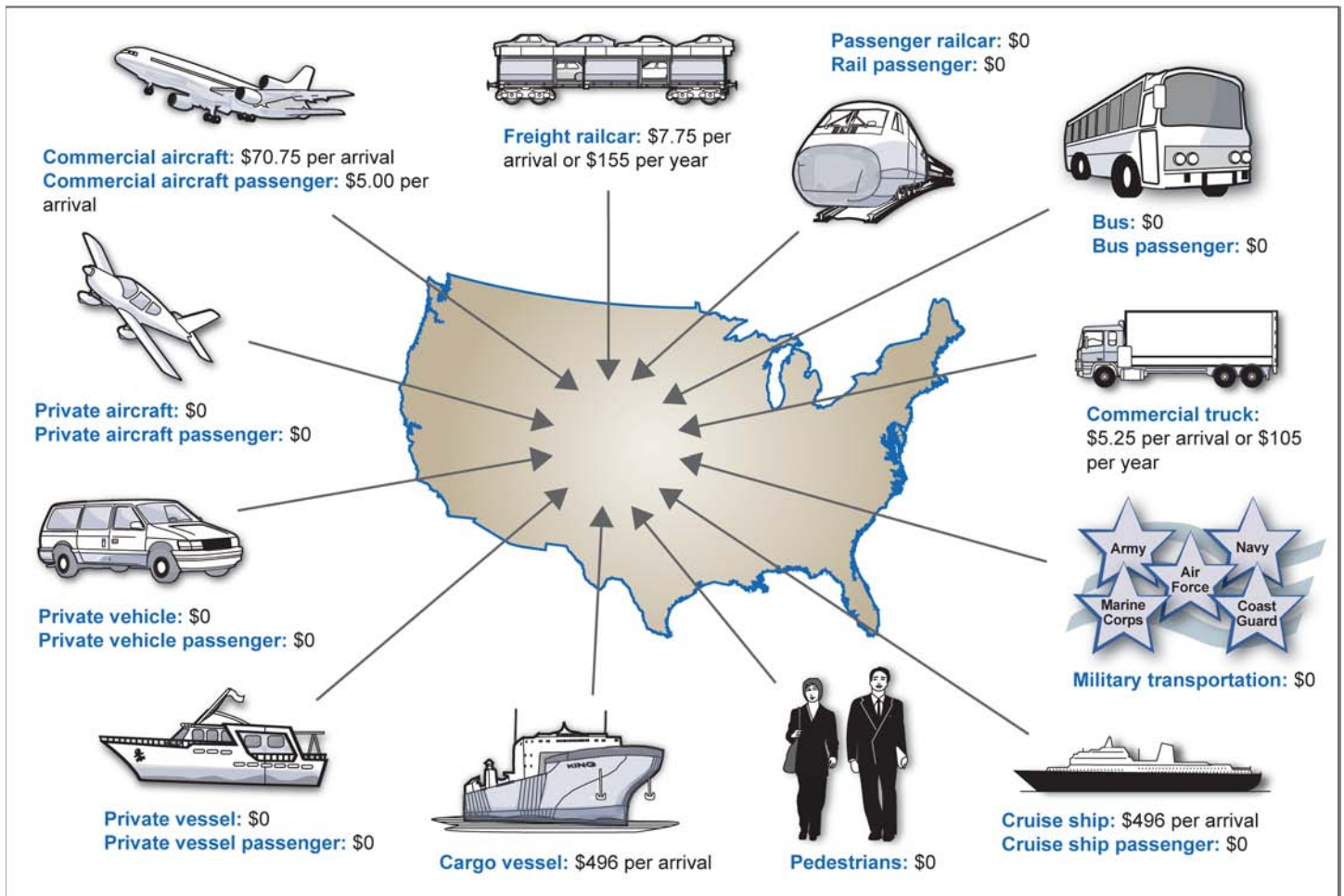
- setting AQI user fee rates and administering the collected fees;
- setting inspection protocols;
- providing training;
- providing pest identification services at plant inspection stations and other facilities; and
- applying remedial measures other than destruction and re-exportation, such as fumigation, to commodities, conveyances, and passengers.

APHIS lacks the authority to recover the full costs of the AQI program through fees. Section 2509(a) of the Food, Agriculture, Conservation, and Trade (FACT) Act of 1990¹⁰ authorizes APHIS to set and collect user fees sufficient to cover the cost of providing and administering AQI services in connection with the arrival of commercial vessels, trucks, railcars, and aircraft, and international passengers. APHIS does not have the authority to charge AQI fees to pedestrians or military personnel and their vehicles, nor to recover the costs of these inspections through the fees assessed on others (see fig. 1). AQI fee collections are divided between CBP and APHIS. Gaps between AQI fee collections and program costs are generally covered by CBP using its Salaries and Expenses appropriation, which is authorized for necessary expenses related to agricultural inspections, among other activities.

⁹See Appendix II for a summary of the three fees charged for these inspection activities.

¹⁰21 U.S.C. 136a.

Figure 1: Current AQI User Fee Rates for People and Vehicles Arriving in the United States



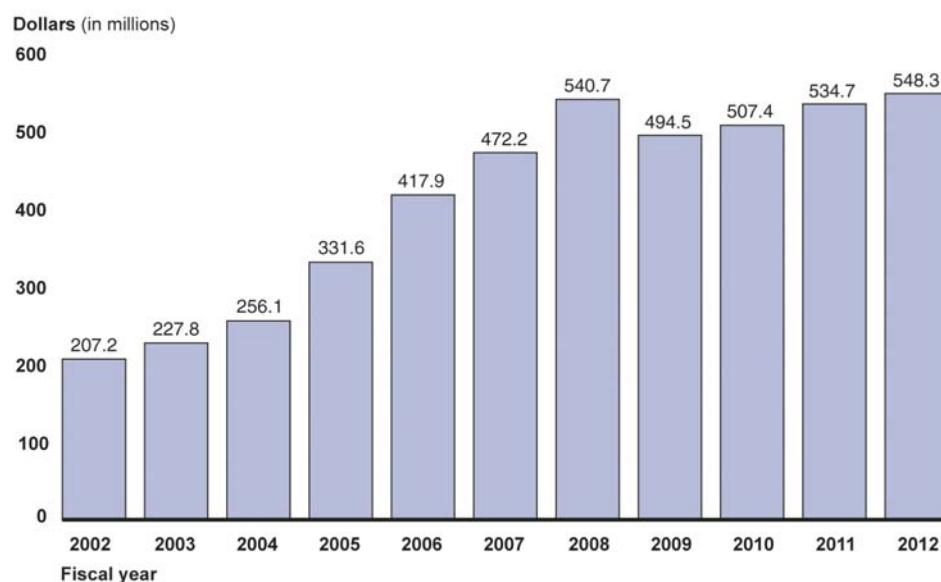
Sources: GAO analysis of APHIS and CBP information; Art Explosion (art).

Note: These fee rates took effect on October 1, 2009, and remain in effect until new rates are established through rulemaking. The amount of fees paid annually by commercial vessels (i.e., cargo vessels and cruise ships) is capped at a dollar amount equivalent to 15 payments per year.

In fiscal year 2012, AQI fee revenues totaled approximately \$548 million (see fig. 2). As authorized by the FACT Act, these funds remain available without fiscal year limitation and may be used for any AQI-related purpose without further appropriation. When funds are available until expended, agencies may carry forward unexpended collections to subsequent years and match fee collections to average program costs over more than 1 year. Such carryovers are one way agencies can establish reserve accounts, that is, revenue to sustain operations in the

event of a sharp downturn in collections. APHIS uses some of the AQI fee collections in this way. We have previously reported that a reserve can be important when fees are expected to cover program costs and program costs do not necessarily decline with a drop in fee revenue.¹¹

Figure 2: Total AQI User Fee Collections



Source: GAO analysis of APHIS financial data.

Note: These data include interest collected on late AQI fee payments and on-the-spot penalties. According to APHIS officials, APHIS was not able to isolate these collections from fee collections, except in fiscal year 2011 when they totaled \$570,912. For consistency, this figure includes these interest and penalty collections in every fiscal year.

APHIS maintains two types of reserves. APHIS refers to the first reserve as the “shared reserve” because it is meant to cover both APHIS and CBP needs in the event that fee collections decline unexpectedly. The second reserve is an “APHIS-only” reserve, and is funded from APHIS’s portion of total AQI collections. The APHIS-only reserve is intended to provide APHIS with budgetary flexibility. Between the two reserves, APHIS aims to maintain a total reserve balance equal to 3 to 5 months of AQI program costs.

¹¹GAO-08-386SP.

As previously mentioned, in 2010, APHIS engaged a contractor to conduct a thorough review of AQI program costs and options for redesigning AQI fees. In addition, APHIS contracted for an economic analysis to ensure that the proposed fees would not have unintended consequences. In reviewing the AQI fees, the contractor identified the direct and indirect costs of the AQI program for both APHIS and CBP by pathway, to the extent the agencies captured these costs for fiscal year 2010. The contractor also conducted activity-based costing to serve as the basis for future fee setting.¹² These practices are consistent with federal cost accounting standards.

The contractor assumed the accuracy of the data provided from both APHIS and CBP. Our recent work¹³ reported that data quality is an ongoing issue with AQI data systems, including the Work Accomplishment Data System (WADS), one of the data sources used by the contractor.¹⁴ However, Office of Management and Budget Circular A-25 states that when reviewing user fees, full cost should be determined or estimated using the best available records of the agency, and new cost accounting systems do not need to be established solely for the purpose of rate-setting. The contractor also solicited input from stakeholders as part of the fee review process, a practice consistent with our *User Fee Design Guide*.¹⁵

APHIS is using the AQI cost model developed by the contractor as well as the findings from the fee review to update the AQI fee schedule. According to APHIS officials, as of February 2013, APHIS and CBP are considering staff recommendations for a new fee structure, including new fee rates. Pending approval from both USDA and DHS, APHIS expects to publish a notice in the Federal Register with a proposed new fee

¹²Activity-based costing (ABC) uses cost drivers to assign costs through activities to outputs. The ABC cost assignment is a two-stage procedure. The first stage assigns the costs of resources to activities and the second stage assigns activity costs to outputs.

¹³[GAO-12-885](#).

¹⁴A majority of the CBP data was derived from the agency's APHIS Discoverer data-warehouse and additional information came from the agency's Operations Management Report data warehouse. These data-warehouses aggregate data from a number of databases including the WADS module of the Agriculture Quarantine Activity Systems (AQAS). According to APHIS officials, although a data quality assessment was not in the scope of the AQI fee review contract, the contractor inquired about potential data quality issues.

¹⁵[GAO-08-386SP](#).

schedule in the fall of 2013. As such, it is important to note that the current staff recommendations for AQI fees are subject to change and that the fee structure and rates APHIS establishes will be informed by many factors, including public comments through the rulemaking process.

APHIS Currently Does Not Fully Recover Program Costs

In Fiscal Year 2011 There Was a Nearly 40 Percent Gap Between Total Identified AQI Costs and Collections

In fiscal year 2011—the most recent year for which data were available—AQI fee collections covered 62 percent of total identified AQI program costs, leaving a gap of more than \$325 million between total AQI costs and total AQI collections. This gap was covered with funds from CBP's Salaries and Expenses appropriation and by funds from other agencies to cover imputed costs. Although the AQI program is often referred to as a fully fee-funded program, it is not. Fees assessed on individual pathways are to be set commensurate with the costs of services with respect to a particular pathway. For passenger fees, the costs of services include the costs of related inspections of the vehicle. Once revenue is earned from one pathway, however, it may be spent on any AQI-related program cost. For example, revenue earned from commercial airline passenger inspections may be spent on private air passenger inspection activities. However, as shown in table 1, APHIS has chosen not to charge some classes of passengers, and the collections of the AQI program as a whole do not equal total identified program costs.

Table 1: Total Identified Costs and Revenues of AQI Program, Fiscal Year 2011

	Pathways	Identified cost	Fee revenue ^a	Percentage fee funded
Fees currently charged	Commercial aircraft ^b	\$175,091,488	\$49,571,978	28%
	Commercial trucks	74,359,800	15,189,400	20
	Commercial vessels ^c	101,907,247	26,812,768	26
	Freight rail	5,198,244	8,905,153	171
	Commercial aircraft passengers ^d	277,838,102	433,679,205	156
Statutory authority to charge, but fees not charged	Private vehicle passengers	129,356,001	0	0
	Bus passengers	23,068,027	0	0
	Cruise vessel passengers	17,860,031	0	0
	Private vessel passengers	4,935,014	0	0
	Private aircraft passengers	11,360,258	0	0
	Rail passengers	1,628,624	0	0
No statutory authority to charge	Pedestrian	34,628,757	0	0
	Military	3,960,739	0	0
	Total	\$861,192,332	\$534,158,504	62%

Source: GAO analysis of APHIS financial data.

^aThe overall gap between AQI costs and revenues is currently covered by annual appropriations to CBP and to other agencies that pay imputed costs of the AQI program.

^bThe costs listed here include only the costs attributable to cargo aircraft. Costs attributed to commercial passenger aircraft are included with the costs listed under air passengers, consistent with fee authority. However, the revenues listed here include fees assessed on cargo aircraft and passenger aircraft in fiscal year 2011. The costs of both courier and individual mail inspections are included in the cost of cargo aircraft.

^cThe costs listed for commercial vessels exclude AQI costs attributable to cruise vessel passengers (listed separately), but the fee revenue listed includes fees assessed on cruise vessels.

^dFor passenger fees, the costs of services include the costs of related inspections of the vehicle.

Several other factors also compound the gap between AQI program costs and total AQI fee collections, as discussed below. Specifically, CBP's AQI costs are understated, AQI fee rates do not reflect imputed costs, and CBP and APHIS do not fully recover the costs of AQI-related reimbursable overtime services.

CBP's AQI Costs Are Currently Understated By An Unknown Amount

CBP does not capture all time spent on agriculture activities in its Cost Management Information System (CMIS)—the system in which CBP tracks its activities and determines personnel costs. Both to accurately set AQI fee rates to recover program costs and to allocate fee revenues between APHIS and CBP proportionate with each agency's program costs, CBP must accurately track its expenses related to the AQI program. In 2005, CBP agreed to report its AQI-related expenses to

APHIS quarterly. CBP officers' and agriculture specialists' time is generally charged to a mix of CMIS codes to represent the variety of activities they perform. Although this mix of codes will understandably vary, CBP guidance specifies that time spent by officers conducting primary inspections—which, as previously discussed, include aspects of agriculture, customs, and immigration inspections—is to be attributed to a mix of CMIS codes representing each of these three functions. We found, however, that at 31 ports and other locations,¹⁶ CBP did not charge any primary inspection time to agriculture-related CMIS codes for all or a portion of fiscal year 2012, which means that AQI costs at these ports are being understated. Further, CBP officers at ports we visited described different procedures for using CMIS codes and wide variation in the extent to which they verify that CMIS codes accurately capture work activities. Because CBP's AQI costs are underreported by some unknown amount in CMIS, APHIS does not have complete information about CBP's AQI-related costs and therefore is unable to consider total program costs when setting AQI fee rates.

CBP headquarters oversees ports' use of CMIS to track AQI expenses by providing guidance and training, and by annually reviewing CMIS data from about 50 of the highest-volume ports. In addition, CBP field offices review CMIS codes for ports in their jurisdiction on a quarterly basis. CBP headquarters also produces CMIS guidance, which includes a CMIS code dictionary and a notice that the time officers spend on primary inspection should be charged to customs, immigration, and agriculture codes. Instructions for reviewing the use of CMIS codes are also provided to ports. Although the instructions provide brief examples, they do not specify how ports should determine the appropriate mix of codes to use or the frequency with which ports should conduct work studies. At some locations we visited, CBP officials said that headquarters does not provide sufficient CMIS guidance to enable accurate and consistent reporting of staff activities. CBP headquarters officials told us that they provide semiannual training which is intended to ensure correct CMIS use at ports. However, attendance at these training sessions is not required and officials said there is high turnover among CMIS practitioners at the ports and field offices.

¹⁶Other locations include CBP operations outside of the United States.

**AQI Fee Rates Are Currently
Not Set to Recover AQI
Imputed Costs**

The current AQI fee rates do not cover imputed AQI program costs.¹⁷ APHIS estimated that these costs were about \$38 million in fiscal year 2011, the most recent year for which data were available. In 2008 we recommended that the Secretary of Agriculture include these costs when setting AQI fees consistent with federal accounting standards, OMB Circular No. A-25 guidance, and USDA policy.¹⁸ APHIS agreed with the recommendation and, as we will discuss more fully later on in this report, has included some, but not all, of these costs in its recent analysis of AQI costs. Because APHIS is authorized to set AQI fees to recover the full cost for each pathway,¹⁹ it is important that the agency accurately captures full program costs.

**Current AQI-related
Reimbursable Overtime Costs
and Fee Rates Are Misaligned**

The AQI program does not fully recover costs for reimbursable overtime agriculture inspection services in part because (1) the reimbursement rates paid by users are set by APHIS regulations and do not cover the agencies' overtime costs, (2) CBP does not consistently charge for these services, and (3) when CBP does charge it does not timely collect payments for these services. CBP is authorized to charge for overtime for agriculture inspection and related services in some situations, known as reimbursable overtime. When a CBP officer or agriculture specialist performs an inspection service on a Sunday or holiday or while the employee performing the inspection is on overtime, CBP is to bill the user for the service. This can happen, for example, when an importer requests an inspection of agricultural produce outside of normal duty hours.

Reimbursable overtime collection rates are not aligned with the agencies' current staff costs, which means any reimbursable overtime collections do not fully cover costs to perform these services. APHIS has the authority to set reimbursable charges to recover the full costs of overtime services, but the reimbursement rates have not been adjusted since 2005. Under the APHIS regulations, CBP may charge \$51 per hour for agriculture-

¹⁷Imputed costs are costs of goods or services incurred on behalf of an agency that are paid by another federal entity, such as certain retirement benefits paid to retirees by the U.S. Office of Personnel Management.

¹⁸In [GAO-08-321](#) we recommended that USDA include all indirect and imputed costs when setting AQI fee rates and either transfer the appropriate portions of those collections to the general fund of the Treasury or seek congressional approval to spend those monies on related AQI program costs. This recommendation is consistent with the Statement of Federal Financial Accounting Standards Number 4, Managerial Cost Accounting Concepts and Standards for the Federal Government.

¹⁹21 U.S.C. 136a.

related overtime Monday through Saturday and holidays, and \$67 per hour on Sunday. When we asked CBP officials for their average annual costs for overtime agriculture inspections they told us that they have not calculated these costs. However, CBP was able to create such an analysis for us using August 2012 as an example. CBP estimated that its average salary cost for overtime agricultural inspections in August 2012 was approximately \$85 per hour, and it billed approximately \$55 per hour for those services. They further estimated that for that month, reimbursable agriculture overtime services cost the agency approximately \$58,000, while the agency only billed approximately \$37,000 for those services—or about 64 percent of the cost.²⁰ APHIS's rates for reimbursable agriculture overtime services are similarly misaligned with its costs. APHIS and CBP officials worked together to develop a draft proposed rule to update the overtime rates, but according to APHIS officials it has been on hold since summer 2011.

CBP headquarters encourages ports to charge for reimbursable overtime services and provides guidance clarifying how they should do so. This practice is consistent with effective fee design principles; as we have previously reported, if a service primarily benefits identifiable users, users should pay for that service.²¹ However, CBP personnel at some ports told us they do not charge for reimbursable agriculture services provided because their port does not get to keep the reimbursable overtime funds.²² In addition, officials at three ports said it is administratively burdensome to process the reimbursable overtime forms.

CBP does not ensure that reimbursable overtime is collected when charged. APHIS regulations require that agriculture-related reimbursable overtime be paid for in advance and that overtime services be denied to

²⁰According to CBP officials, CBP officers and agriculture specialists are paid overtime pursuant to the Customs Officer Pay Reform Act (19 U.S.C. § 267) and, in some instances, the amount paid by CBP under this Act for overtime work exceeds the amount that CBP is authorized to bill for the reimbursable overtime services.

²¹In addition, taxpayer funding can be less economically efficient than user fee funding. See [GAO-08-386SP](#).

²²CBP personnel at two ports of entry we visited said that although there is a demand for these services, they sometimes do not offer these services at all. They said that this is because the cost of providing these services comes out of a portion of the port's general overtime budget but that payments collected are not returned to the port; rather, reimbursable overtime collections are credited to CBP's Salaries and Expenses account. They said that they generally prioritize use of their overtime budgets to backfill for personnel on leave and support mission-critical activities.

anyone whose account is more than 90 days delinquent.²³ Nonetheless, according to CBP data, as of August 31, 2012, the agency had more than \$200,000 in past-due overtime agriculture inspection bills, of which more than \$160,000 is more than a year past-due. Some bills are as old as 2004, and one company has more than \$9,000 in past-due bills that were issued from 2004 through 2012. Although CBP can and does assess interest for past-due reimbursable overtime bills, it does not consistently deny overtime services to entities with accounts more than 90 days delinquent.

The Fees Currently under Consideration Would Not Fully Recover Costs for All Pathways nor Directly Charge the Users of Certain Services

APHIS Might Remove Caps on Commercial Rail and Vessels but Not Trucks, Leaving a Revenue Gap

APHIS is considering new or updated fees for AQI services. However, the fees might not recover the costs of all commercial trucks. APHIS lost \$85 million in revenue in fiscal year 2010 due to capping the annual amount of AQI fees paid by commercial rail, vessels, and trucks, but as of February 2013, the staff recommendations APHIS is considering would remedy only the revenue loss for commercial rail and vessels. According to APHIS data, in fiscal year 2010, the caps on rail and vessel fees resulted in a combined revenue loss of about \$46 million, while the caps on truck entries resulted in a \$39 million loss for that year. These revenue losses are currently covered by CBP through its annual appropriation or by AQI user fees collected from other pathways. As we have previously reported, charging users the full cost of the inspection they are receiving can promote economic efficiency and equity by assigning costs to those who both use and benefit from the services being provided.²⁴

Commercial trucks seeking entry into the United States can either pay the \$5.25 AQI fee each time they cross the border, or they can pay a one-time flat AQI fee of \$105 each calendar year. To pay the annual AQI fee,

²³7 C.F.R. § 354.1.

²⁴[GAO-08-386SP](#).

trucks must use an electronic transponder which must be purchased in advance. Although the \$105 annual AQI truck transponder fee is equivalent to paying for 20 arrivals each year, according to APHIS data, in 2010, trucks with a transponder cross the border 106 times a year on average.²⁵ In Otay Mesa, California, for example, we observed trucks which CBP officers told us typically make up to three to four border crossings a day, dropping off their cargo nearby and returning for another shipment.

APHIS is considering raising the per-entry truck fees to more closely align fees with costs. To encourage use of truck transponders, APHIS is considering setting the fee rate for transponders at a rate equivalent to the price of 40 arrivals but still well below the average number of arrivals for trucks with transponders. In this way, APHIS hopes to provide a financial incentive to use transponders to both minimize CBP's administrative burden (by reducing the number of fee collection transactions at the border) and to reduce wait times at border crossings. According to a CBP estimate, trucks with transponders save at least 10 minutes when crossing the border because they do not have to pay the fee at the time of crossing, benefiting trucking firms and shippers. This time savings is, in and of itself, another incentive for truck transponder use. Shorter wait times at the border also support the CBP mission to foster international trade.

The contractor assisting APHIS with its fee review did not propose a way for APHIS to better align truck fees with the full cost of truck inspections while still incentivizing the use of transponders, but noted that for the long term, APHIS should look into other possible alternatives, including examining the feasibility of implementing toll-based transponders, which would allow trucks to pay for each crossing while still retaining a low administrative burden for CBP and time savings of the current transponder system. Table 2 demonstrates, for illustrative purposes only, various combinations of per-entry and annual transponder fee rates to more closely align commercial truck fees with costs under the current system. For example, one example adds a portion of the cost of inspecting trucks with transponders to the per-arrival fee for trucks, which would provide an incentive for the use of transponders (see table 2). In another example, trucks could purchase different "packages" of arrivals at

²⁵The contractor could not determine the distribution around that average.

a discounted rate (50 arrivals, 100 arrivals, 200 arrivals, etc.). In commenting on a draft of this report, APHIS officials said that because the distribution around the mean number of arrivals is unknown, it would be difficult to determine the effects of a change in truck transponder pricing.

Table 2: GAO Illustrative Examples of Fee Rates That Would More Closely Align Truck Fees with Full Costs

Example 1: Transponders pay the full cost of their average crossings	
<i>Per-arrival fee</i>	<i>Estimated AQI fee rate for transponders if fee was set to collect full cost of inspections</i>
\$7.00	\$707.50
Example 2: Per-entry fees are increased to cover the costs of incentivizing transponders	
<i>Estimated AQI fee rate if the revenue loss from the transponder cap was added to the non-transponder AQI fee</i>	<i>Transponder fee</i>
\$48.00	\$280.00
Example 3: Tiered levels of service	
<i>Per-arrival fee</i>	<i>Transponder fees by "package"</i>
\$7.00	50 arrivals: \$250 100 arrivals: \$500 200 arrivals: \$1000

Source: GAO analysis of APHIS data from fiscal year 2011 AQI Cost Model.

APHIS Might Not Include Fees for Additional Passengers Due to Anticipated Collection Challenges

As previously discussed, although APHIS has authority to charge AQI fees to all international passengers, it currently only charges fees to international commercial air passengers.²⁶ As of February 2013, APHIS is not considering fees for international passengers aboard private aircraft, private vessels, buses, and railcars, citing administrative burdens and anticipated challenges relating to collecting these fees. Because APHIS does not currently charge fees to inspect these passengers, these costs are covered by CBP's annual appropriations or AQI fees paid by other users. This reduces economic efficiency and equity of the fees because

²⁶21 U.S.C. 136a(a)(1)(A).

the costs of the inspections are not assigned to those who both use and benefit from them.

APHIS's authority permits it to charge all passengers for the cost of inspecting both passengers and the vehicle in which they arrive, but does not always permit APHIS to do the reverse; that is, to include in the vehicle AQI fees the cost of inspecting the passengers arriving in the vehicle. Charging the cost of inspecting bus, private aircraft, private vessel, and rail passengers and the vehicles in which they arrive to the passengers themselves would be administratively burdensome because there is no existing mechanism for collecting fees from these classes of passengers. However, in several instances, CBP can and does charge customs fees—fees collected to help offset the costs of customs inspections—to private vehicles rather than the passengers. If APHIS had statutory authority to charge all vehicles in which passengers travel, rather than only the passengers themselves, then APHIS could leverage existing customs fee collection mechanisms to minimize administrative burden in collecting AQI fees.²⁷ We previously recommended that USDA and DHS develop a legislative proposal, in consultation with Congress, to harmonize customs, immigration, and AQI fees.²⁸ To date, a proposal to harmonize these three fees has not been introduced.²⁹

Bus passengers. The cost of bus passenger inspections totaled about \$23 million, or about \$4 per passenger, in fiscal year 2011. CBP officials told us that it would be difficult to collect the fee from individual passengers. In June 2012, our limited observations of the inspection process for bus passengers at San Ysidro, California, revealed logistical challenges consistent with these concerns. In this port, bus passengers get off the bus and are processed along with pedestrians crossing the border, which would make it difficult to properly separate out and charge a fee only to bus passengers.

To avoid these kinds of logistical challenges, bus passenger fees could be collected using the air passenger fee model in which the fee is collected by the airline and then remitted to APHIS periodically. However,

²⁷[GAO-08-386SP](#).

²⁸[GAO-08-321](#).

²⁹In fiscal year 2011, CBP submitted a legislative proposal to consolidate customs and immigration inspection user fees.

APHIS's fee review noted that barriers to entry for the bus passenger industry are lower than air and cruise vessel industries—which could mean a large and changing list of bus companies from which APHIS would need to collect fees. Because of this, an APHIS official stated, this type of remittance model could be burdensome to maintain and audit. The official also told us that APHIS has discussed both a possible transponder approach to collect fees for buses, and an approach in which buses with over 15 seats and buses with fewer than 15 seats pay different fee rates. In commenting on a draft of this report, APHIS officials said that due to logistical challenges, they would have to seek new legislative authority to allow for the collection of fees for the bus rather than charging a fee for the individual passenger.

Private aircraft and private sea vessels. The total cost of inspecting private aircraft passengers³⁰ in fiscal year 2011 was about \$11 million, which equates to approximately \$34 per passenger or \$93 per aircraft for each arrival. The cost of inspecting private vessel sea passengers³¹ for fiscal year 2011 was about \$4.9 million, which equates to approximately \$20 per passenger or \$61 per vessel for each arrival. As stated above, AQI's statute authorizes it to charge passengers, but not the private aircraft or vessels in which those passengers arrive. However, CBP charges a customs fee of \$27.50 per year for each private plane and vessel at least 30 feet long.³² Absent a change in APHIS's statutory authority allowing it to charge private aircraft and vessels for AQI services, APHIS and CBP cannot leverage the CBP infrastructure already used to collect customs inspections fees for private aircraft and vessels.

APHIS considered the effect of charging new fees for private aircraft and vessels, but as of February 2013, the fees APHIS is considering might not recover the costs of AQI services for these users. APHIS's fee review noted that it would be relatively easy to administer an annual fee on private aircraft or vessels using CBP's current process, but concluded that the potential revenue would be very small. However, the potential

³⁰The cost of inspecting private airplane passengers includes the cost of inspecting the private airplane in which the passengers arrive.

³¹The cost of inspecting private sea vessel passengers includes the cost of inspecting the private vessel in which the passengers arrive.

³²19 C.F.R. § 24.22(e).

revenue from such a fee would be greater than the AQI fees currently assessed on freight rail.

It is also worth noting that even if an AQI vessel fee was piggybacked onto the customs vessel fee, vessels presenting similar agriculture risks may not all be subject to an AQI fee. As mentioned above, CBP's customs fee applies to private vessels that are at least 30 feet long. However, one CBP official told us that many private vessels arriving at his port are only about 20 feet long and thus are not required to pay the customs fee, but that these vessels still present agriculture risks similar to larger vessels because 20-foot vessels are large enough to store food. According to APHIS officials, APHIS has not assessed the agricultural risks posed by smaller vessels and said that the risks would likely vary at each port.

Rail passengers. Rail passenger inspections cost the AQI program about \$1.6 million in fiscal year 2011, or almost \$6 per passenger. As stated previously, AQI's statute authorizes it to charge rail passengers seeking to enter the country for the costs of inspecting the passengers as well as the railcar in which they are riding. CBP charges a customs inspection fee for each passenger railcar, but APHIS does not charge an AQI fee. Absent a change, APHIS and CBP cannot leverage the infrastructure used for a per-car fee for customs inspections currently charged for the arrival of each railroad car carrying passengers.

APHIS Might Revise the Vessel Inspection Fees to Recover the Costs of Sea Vessel Passenger Inspections

In 2005 APHIS set AQI commercial vessel fees—which are levied on cruise and cargo vessels alike—to cover the costs of inspecting vessel passengers. According to its authorizing statute, APHIS may set fees to cover the costs of AQI services for arriving international passengers, and commercial aircraft, trucks, vessels, and railcars. The amount of the fee must be commensurate with the costs of AQI services for each pathway (i.e., class of passengers or entities paying the fees), preventing cross-subsidization of costs between users in setting the fee rates. The way the fees are currently set, the vessel fee includes the cost of inspecting vessel passengers, such as passengers arriving on cruise ships. APHIS is considering replacing the cruise vessel fee with a sea passenger fee that would recover the costs of inspecting both sea passengers and the cruise vessels. The cost of inspecting cruise passengers for fiscal year 2011 was about \$17.9 million. Charging an inspection fee to sea passengers would not require a new collections infrastructure because commercial vessel passengers currently pay user fees for customs inspections, which are remitted to CBP by the party—such as the cruise line—issuing the ticket or travel document. As we mentioned previously,

APHIS Might Create User Specific Fees For Some, But Not All, Specialized AQI Services

in 2008 we recommended that DHS develop a legislative proposal, in consultation with Congress, to harmonize the customs, immigration, and AQI fees.³³ To date, a proposal to harmonize these three fees has not been introduced.³⁴ In addition, we previously reported that existing collection mechanisms can be leveraged to minimize administrative burden in collecting fees.³⁵

APHIS is considering a new fee for treatments and monitoring but might not change current AQI policy for two other specialized AQI services—permits for importing commodities and monitoring of garbage compliance agreements—that benefit only a limited set of users yet the costs are borne by other AQI fee payers. By continuing to include the costs of these specialized services in the regular AQI fees for each pathway, the users that benefit most from these services do not know how much they are paying for these services—which may encourage overuse of these services—while other fee payers are paying for services they do not use. As we have previously reported, a more tailored, user-specific approach to fee-setting better promotes equity and economic efficiency by assigning costs to those who use or benefit from the services.³⁶

Treatments and treatment monitoring. APHIS is considering a new fee for conducting and monitoring treatments, for example, fumigation. APHIS's treatment and monitoring costs combined were about \$14 million in fiscal year 2011.³⁷ Treatments may be required when a pest is identified on or in a shipment, or, treatment may be required as a condition of entry for certain commodities. Treatments are obtained in one of two ways. First, and most commonly, treatments are provided by a private third-party company who charges the importer accordingly. APHIS

³³[GAO-08-321](#).

³⁴In fiscal year 2011, CBP submitted a legislative proposal to consolidate customs and immigration inspection user fees.

³⁵[GAO-08-386SP](#).

³⁶We have previously reported on the tension between the desire for an administratively simpler fee design that sets rates based on the average cost of services provided to all users and the desire for a more tailored, user-specific approach to fee-setting that better promotes equity and economic efficiency by assigning costs to those who use or benefit from the services. See [GAO-08-386SP](#).

³⁷APHIS does not track costs separately for conducting and monitoring of treatments, so it cannot identify the specific costs related to each activity. The contractor's report recommended that they do so.

monitors these treatments, generally at no additional costs to the importer, to ensure compliance with APHIS policies and procedures. Second, and less commonly, in certain instances APHIS provides both treatment and monitoring services for certain commodities, generally at no additional cost to the importer. Because the cost of treatment and monitoring provided by APHIS is bundled into the AQI fees for air cargo, maritime cargo, commercial trucks and rail cargo, these services—including those for repeat offenders who require treatments regularly—are subsidized by other shippers. Further, importers may not be aware of the costs being incurred for APHIS's treatment and monitoring services. Directly charging importers for these services may encourage importers to work with growers whose products do not regularly require treatment because importers would directly incur the costs of the treatments. In keeping with basic economic principles, this may also improve the economic efficiency of the fees.

Import commodity permits. Permits are required to import and transport certain agricultural commodities. Although APHIS has authority to charge for permits, under the current system these services are paid for indirectly through the AQI fees. In fiscal year 2011, APHIS issued 12,152 permits for the import of commodities such as wood products, plants, and soil. Multiple commodities can be listed on a single permit, which is valid for that importer for a year. APHIS spent about \$13 million in fiscal year 2011 on permit-related activities; as mentioned previously, the cost of these permits is included in the regular inspection fees for air cargo, maritime cargo, trucks, and rail cargo. As such, importers may not be aware of the cost incurred for their permit application and adjudication, which may lead to inefficient use of APHIS resources if importers “overpurchase” permit applications. According to APHIS officials, importers sometimes obtain permits that they do not use. The contractor's report proposed a charge of \$1,075 for each commodity permit and \$1,775 for each pest permit. However, APHIS officials were concerned that charging for permits may create an unintended barrier to trade and retaliatory actions by other countries with which we trade.

Monitoring of compliance agreements for regulated garbage. Costs related to monitoring compliance with regulated garbage agreements were projected to be about \$36 million in fiscal year 2013. CBP monitors compliance agreements for disposal of regulated international garbage but does not currently charge additional fees for these services. APHIS guidance requires that agriculture specialists monitor all facilities with compliance agreements quarterly—generally airports and seaports that serve international travel. In addition, officials stated that certain ships,

such as cruise ships, have compliance agreements and the disposal of their garbage is regularly overseen by CBP agriculture specialists. APHIS might continue to include these costs in inspection fees for air, maritime, truck, and rail cargo rather than capture them under a separate fee for monitoring compliance agreements.

The Fees Currently under Consideration Might Include Some, But Not All, Imputed Costs

The fees APHIS is considering would recover imputed costs paid by the Office of Personnel Management and the Department of Labor on behalf of APHIS and CBP and attributable to the AQI program.³⁸ By incorporating some imputed costs in its analysis of AQI program costs, APHIS makes progress in implementing our 2008 recommendation. However, APHIS's analysis does not include costs of processing AQI collections borne by the Department of the Treasury (Treasury) for costs related to collecting, depositing, and accounting for certain AQI fee collections. We previously reported that agencies authorized to charge full-cost recovery fees could include the Treasury's cost of collections in their fee rates and deposit these funds into the Treasury.³⁹ APHIS officials told us that Treasury has not yet provided APHIS with a statement of these costs.⁴⁰ However, federal accounting standards specify that when such costs are unknown, a reasonable estimate may be used.

³⁸APHIS estimated these imputed costs would total \$28.6 million in fiscal year 2013. If the AQI fees were set to cover imputed costs, APHIS would transfer the APHIS portion of those fee revenues to the miscellaneous receipts account of the Treasury.

³⁹See GAO, *Budget Issues: Electronic Processing of Non-IRS Collections Has Increased but Better Understanding of Cost Structure is Needed*, [GAO-10-11](#) (Washington, D.C.: Nov. 20, 2009). These receipts would be credited to the general fund of the Treasury as miscellaneous receipts consistent with guidance in OMB Circular A-25.

⁴⁰Treasury plans to provide a statement of the costs of processing collections to each agency in fiscal year 2013.

The Distribution of Fee Collections among CBP, APHIS, and the AQI Reserve Is Misaligned with AQI Costs

APHIS's and CBP's Shares of Fee Revenues Are Misaligned

CBP's share of AQI fee revenue is significantly lower than its share of program costs.⁴¹ For example, in fiscal year 2011 (the most recent year for which APHIS could provide this data), CBP incurred 81 percent of total AQI program costs, but received only 60 percent of fee revenues; APHIS incurred 19 percent of program costs but retained 36 percent of the revenues, as shown in table 3. Further, although AQI costs exceeded AQI fee revenues by more than \$288 million in fiscal year 2011—a gap that was bridged in part using amounts from CBP's annual Salaries and Expenses appropriation—APHIS used more than \$25 million of the AQI fee collections to increase the AQI reserve balance that year.

Table 3: APHIS and CBP AQI Costs and Distribution of Fee Revenues, Fiscal Year 2011

	CBP	APHIS	AQI reserve	Total
AQI costs (dollars in millions) ^a	\$667.1	\$156.2	-	\$823.3
AQI costs (percentage of total AQI costs)	81%	19%	-	100%
Distribution of fee revenues (dollars in millions)	\$319.1	\$190.3 ^b	\$25.3 ^c	\$534.7
Distribution of fee revenues (percentage of total)	60%	36%	5%	100%

Source: GAO analysis of AQI cost model data and APHIS financial data.

Notes: Totals may not add due to rounding.

^aAQI costs listed here exclude imputed costs paid by another agency. In fiscal year 2011, total AQI costs including imputed costs were \$861.6 million (\$696.2 million for CBP and \$165.4 for APHIS).

^bIn fiscal year 2011, APHIS obligated \$190.3 million of fiscal year 2011 fee revenues and an additional \$0.4 million from the APHIS reserve, for total APHIS AQI obligations of \$190.7 million.

⁴¹As discussed earlier in this report, total costs of the AQI program and, in particular, CBP's costs are understated by an unknown amount.

^cNear the beginning of the fiscal year, APHIS and CBP agreed to the percentage split of fee revenues based on their estimate that AQI fee collections would total \$507.4 million in fiscal year 2011. Actual collections were \$534.7 million. Of the additional \$27.3 million of fee collections, \$1 million each was distributed to APHIS and CBP and \$25.3 million was added to the shared AQI reserve. APHIS also added an additional \$4.2 million to its reserve balance in 2011 from prior year recoveries and made another adjustment that increased the APHIS reserve by an additional \$1.0 million.

In 2005, CBP and APHIS agreed that user fee collections should be allocated based on each agency’s expected annual costs. Each fiscal year, APHIS and CBP agree to an estimate of total AQI revenues for that year and how those funds will be allocated between the agencies. For 2006, the agencies agreed on a 61/39 percent split for CBP and APHIS, respectively. Table 4 shows the planned division of revenues between CBP and APHIS for 2010 to 2013. The 63/37 percent split has changed little since the 2006 distribution.⁴²

Table 4: Estimated Allocation of AQI Fee Revenues

Dollars in millions

Fiscal year	Fee revenues allocated to CBP	Percent of estimated fee revenues allocated to CBP	Fee revenues allocated to APHIS	Percent of estimated fee revenues allocated to APHIS	Total estimate of AQI fee revenues
2010	\$312.2	63%	\$185.8	37%	\$498.0
2011	318.1	63	189.3	37	507.4
2012	344.8	63	205.2	37	550.0
2013	349.6	63	208.1	37	557.7

Source: GAO analysis of APHIS and CBP agreements.

Although the 2005 agreement states that AQI funds will be distributed between CBP and APHIS in proportion to each agency’s AQI-related costs, this does not happen in practice. Rather, the 63/37 percent split means that APHIS retains AQI fee revenues sufficient to cover all of its estimated AQI costs—including costs attributable to AQI services for which no fees are authorized or charged—and transfers the remainder of the estimated fee revenues to CBP.⁴³ In other words, APHIS covers all its

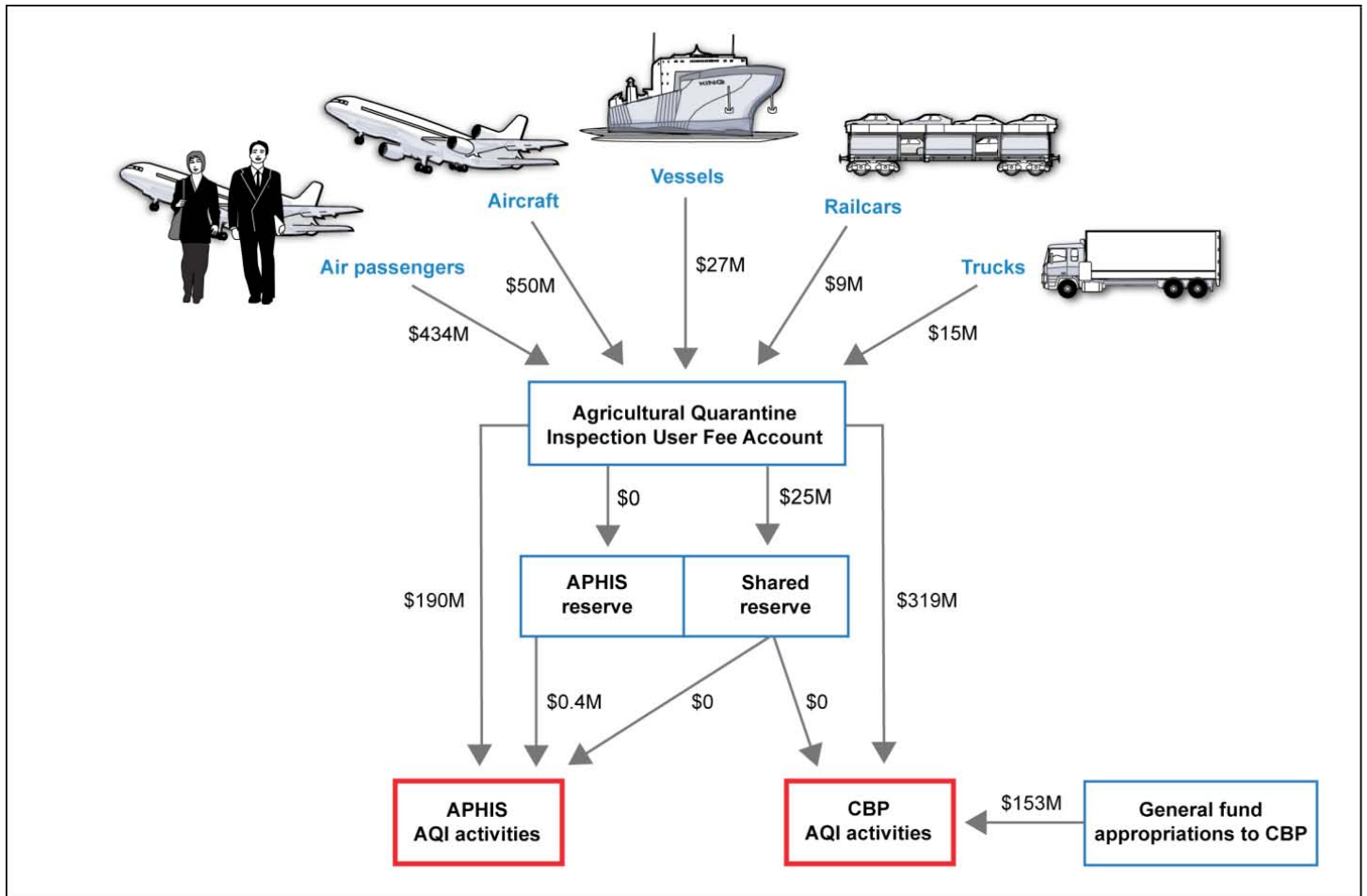
⁴²The funding split was changed from the 61/39 percent split to a 63/37 percent split in fiscal year 2007 to adjust for the lifting of AQI fee exemptions for flights and air passengers arriving from Canada.

⁴³APHIS estimates that in fiscal year 2012, it had more than \$39 million in AQI costs attributable to inspection services for which no fees are charged. Under the fees APHIS is considering, this amount would drop to approximately \$21 million in 2013 if a new fee structure was in place.

AQI costs with AQI fee revenues, while CBP does not. To bridge the resulting gap, CBP uses its annual appropriation.

Because the 63/37 percent split is based on estimated revenues, APHIS and CBP developed an adjustment process for when actual AQI fee collections differ from the amount that was expected. When total actual fee collections for the year exceed (or fall short of) the estimate, the difference is added to (or taken from) the shared reserve. As previously mentioned, the shared reserve is money that is carried over each year and is meant to cover both APHIS and CBP needs in the event that fee collections decline unexpectedly. If, however, APHIS's costs are greater or less than the estimated 37 percent, the difference is added to or taken from a second reserve; as mentioned previously, this is known as the APHIS-only reserve. For example, according to APHIS officials, a USDA hiring freeze has resulted in lower-than-expected APHIS AQI spending in recent years. Specifically, because APHIS costs were lower than the estimated 37 percent in fiscal year 2012, APHIS took a portion of the 37 percent allocated to it and put some of those funds into this second reserve. Figure 3 shows the total actual distribution of AQI program funding among CBP, APHIS, and both reserve funds in fiscal year 2011.

Figure 3: Distribution of AQI Program Funding Among CBP, APHIS, and the AQI Reserve, Fiscal Year 2011



Sources: GAO analysis of APHIS and CBP information; Art Explosion (art).
 Note: Dollars in millions.

APHIS and CBP also adjust the 63/37 percent split as they see how actual revenues compare with estimates. For example, in fiscal year 2011, fee revenues were higher than estimated and APHIS and CBP each received distributions of \$1 million more than the initial estimate. Table 5 shows the distributions and obligations of actual AQI fee revenues for recent years.

Table 5: Distributions and Obligations of Actual AQI Fee Revenues, Fiscal Years 2010 through 2012

Dollars in millions

Fiscal year	Fee revenues transferred to CBP	Percentage of fee revenues transferred to CBP	Fee revenues obligated by APHIS	Percentage of fee revenues obligated by APHIS	Fee revenues added to the reserve	Percentage of fee revenues added to the reserve	Total AQI fee revenues collected
2010	\$312.2	62%	\$185.8 ^a	37%	\$9.4 ^b	2%	\$507.4
2011	319.1	60	190.3 ^c	36	25.3 ^d	5	534.7
2012	348.8 ^e	64	188.2 ^e	34	11.3	2	548.3

Source: GAO analysis of APHIS financial data.

Notes: Totals may not add due to rounding.

^aIn addition, APHIS spent \$3.6 million from its reserve balance for total 2010 APHIS AQI obligations of \$189.4 million.

^bAPHIS added an additional \$7.4 million to its reserve balance in 2010 from prior year recoveries from APHIS accounts and funds released by the FACT Act.

^cIn addition, APHIS spent \$0.4 million from its reserve balance for total 2011 APHIS AQI obligations of \$190.7 million.

^dAPHIS added an additional \$4.2 million to its reserve balance in 2011 from prior year recoveries and made another adjustment that increased the reserve by an additional \$1 million.

^eAPHIS transferred \$4 million from its initial allocation to CBP.

The Fees APHIS is Currently Considering Would Overfund the Total AQI Reserve, Increasing Reliance on CBP’s Appropriated Funds to Cover Program Costs

We have previously reported that maintaining a reserve balance is important for fee programs to ensure that program operations can be sustained in case fee revenues decline but workload does not. According to APHIS officials, APHIS’s target balance for the total reserve is 3 to 5 months worth of AQI costs. Officials told us that this level would ensure the stability of the program in case of potential fluctuations in fee volumes, bad debts, unanticipated crises, or the need for one time capital expenditures. The upper end of the target—5 months—is the amount APHIS officials estimate would be needed to completely shut down the inspection program if it were to cease. However, a maximum target balance aligned with more realistic program risks would also allow for lower reserve levels. The rationale for maintaining a reserve balance as a buffer against a complete program shutdown is not as compelling when a fee-funded program also has access to annual appropriations from the general fund, as Congress has an opportunity to weigh its funding priorities on an annual basis.

Moreover, our analysis of APHIS’s cost and collection projections shows a higher total reserve balance than the 3- to 5-month target. The total

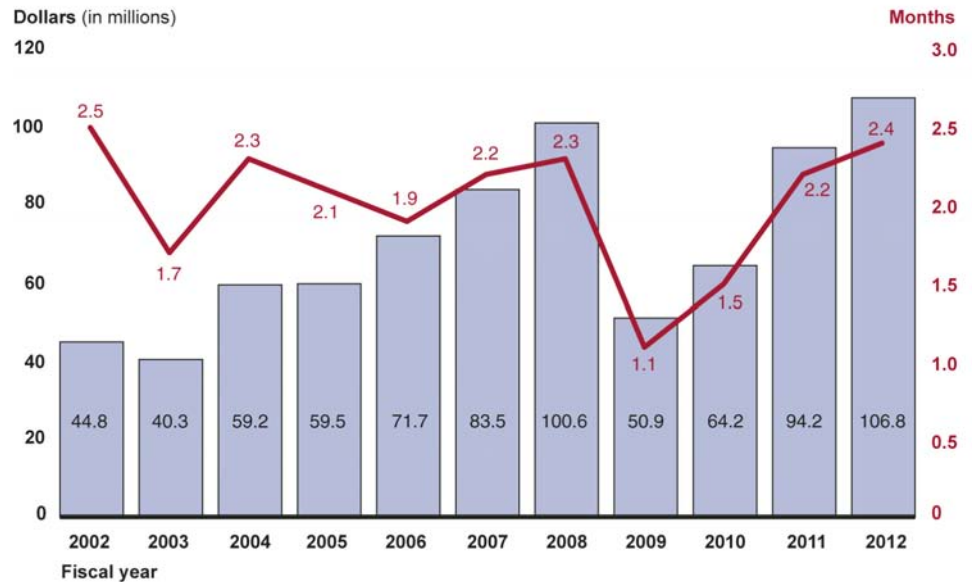
reserve balance was approximately \$107 million at the end of fiscal year 2012, which represents about 2.4 months of the AQI program costs paid with AQI fee revenues that year.⁴⁴ Our analysis of APHIS data shows that the balance in the total AQI reserve would grow by an estimated \$55 million, \$75 million, and \$96 million in fiscal years 2013, 2014, and 2015, respectively. This would bring the reserve balance to approximately \$333 million—or more than triple the fiscal 2012 balance. To further put this amount in perspective, \$333 million would have paid more than 7 months of AQI costs paid with fee revenues in fiscal year 2012.⁴⁵ An unnecessarily high total reserve balance means that monies that could be used to pay for AQI program costs would instead be carried over for possible future needs. This strategy would increase reliance on CBP's annual appropriation to pay for current AQI-related costs.

APHIS's projected level for the shared reserve fund exceeds the historical use of the fund (see figure 4). In past crises, APHIS and CBP used much less than APHIS's total reserve balance target of 3 to 5 months worth of AQI costs. During the financial crisis in fiscal year 2009, AQI collections dropped by more than \$46 million compared to the prior year and the reserve fund dropped by about \$50 million, reducing the reserve from 2.3 months of fiscal year 2008 costs paid with fee revenues to 1.1 months of fiscal year 2009 costs paid with fee revenues, as shown in figure 4. In addition, after the events of September 11, 2001, the reserve fund dropped from approximately \$68 million on October 1, 2001, to just less than \$45 million on September 30, 2002, reducing the reserve to about 2.5 months of fiscal year 2002 costs paid with fee revenues.

⁴⁴This excludes AQI costs covered by the appropriation to CBP's Salary and Expenses Account.

⁴⁵In February 2013 APHIS provided us with various sets of updated projections of amounts it would add to the reserve but not in time for us to assess the reliability of the data and incorporate it into this report.

Figure 4: Fiscal Year End Total Reserve Balance



Source: GAO analysis of APHIS financial data.

Note: Data on months of APHIS and CBP AQI costs exclude AQI costs funded with CBP's appropriation. The reserve balance includes both the shared reserve and the APHIS reserve. In fiscal year 2012, the APHIS reserve balance was \$50.7 million and the shared reserve balance was \$56.1 million.

APHIS and CBP Do Not Ensure that All AQI Fees Due are Collected

APHIS Does Not Collect AQI Railcar Fees Consistent with Its Regulations

APHIS's collection practices for the AQI fees assessed on railcars are not consistent with APHIS regulations. According to the APHIS fee regulations,⁴⁶ railcars seeking to enter the United States may pay AQI fees in one of two ways. First, they can pay a \$7.75 fee for each arrival of a loaded commercial railcar. Second, they can prepay a flat fee of \$155 annually for a specific railcar. The \$155 annual fee is equal to the cost of 20 individual arrivals. According to APHIS officials, no railcar companies

⁴⁶7 C.F.R. § 354.3.

choose the \$155 flat fee; rather, all choose to pay the \$7.75 per arrival fee. However, rather than collecting this fee for each arrival of a loaded railcar (as required by APHIS regulations), APHIS only collects fees for the first 20 arrivals a railcar makes each year.⁴⁷ Because of this, in fiscal year 2010, APHIS lost \$13.2 million in railcar fee revenue because about 1.7 million railcar arrivals did not pay a fee even though a fee was due.

CBP Does Not Verify Payment for Commercial Truck, Private Vessel, and Private Aircraft Fees

CBP does not verify that it collects applicable user fees for every commercial truck, private aircraft, and private vessel for which the fees are due, resulting in an unknown amount of lost revenue. We have previously reported that internal controls should generally be designed to assure that ongoing monitoring occurs in the course of operations.⁴⁸ Per APHIS and CBP regulations, commercial trucks entering the United States must pay AQI and customs user fees by purchasing an annual transponder or paying the fees upon each arrival. Trucks without transponders pay fees upon arrival by cash, check, or credit card. CBP personnel at ports we visited compared the amount of cash deposited for AQI and customs user fees to the number of cash register transactions to ensure against theft, but did not verify that all trucks that were supposed to pay the fees actually paid the fees. In other words, CBP cannot be sure that it collected these fees from all trucks required to pay them. The Automated Commercial Environment system alerts CBP when an arriving truck does not have a transponder and therefore owes the fee at the time of crossing, but CBP does not require officers to record in the system that the truck has paid the fee, or review this information to verify whether all trucks paid the fees.

Similarly, CBP does not consistently verify that all arriving private aircraft and private vessels have a customs user fee decal, as required. As we stated previously in this report, per CBP regulations, private aircraft and private vessels more than 30 feet long arriving in the United States must pay an annual \$27.50 customs user fee. As proof of payment, these

⁴⁷The regulations specify that no credit toward the annual railcar AQI fee is given for user fees paid for individual arrivals. In other words, if, for example, a rail company makes and pays for 7 arrivals, then decides midway through the year that they wish to instead pay the flat \$155 fee, the 7 individual arrival fees they already paid do not count toward the flat fee.

⁴⁸GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C., November 1999).

aircraft and vessels receive a customs user fee decal.⁴⁹ As APHIS's fee review noted, the customs decal could provide an administratively simple mechanism on which to piggyback an AQI fee for private aircraft and vessels. However, absent more rigorous oversight of proper payment for customs decals this strategy would not be as effective as it otherwise could be.

For private aircraft, the Advanced Passenger Information System (APIS) can show the customs user fee decal number before arrival. However, APIS neither requires that the decal number be entered nor flags aircraft for which decal numbers are not entered. For private vessels, the Pleasure Boat Reporting System and the Small Vessel Arrival System both include a field for the customs user fee decal number. However, the decal number is not a required field in either system and the systems do not link to the Decal and Transponder Online Procurement System to provide an automated mechanism to verify the decal number. According to CBP officials, CBP officers are to physically verify the decal during their inspection of the aircraft or vessel upon arrival. However, CBP does not verify that this actually occurs, nor are procedures in place nationwide to ensure that CBP officers collect the decal user fee as required if arriving vessels and aircraft lack a valid decal. Further, on one of our site visits to a small airport, the CBP officers conducting the inspections were unfamiliar with the process they should follow if an aircraft arrived without a decal; port records showed that the last time a customs user fee decal had been sold at that airport was in 2010. Later that day, port officials informed us that shortly after our visit an aircraft arrived without a decal and the officers collected the decal fee. We also observed inspections of private vessels that arrived without customs decals; the CBP officer conducting the inspections did not collect the decal user fees, but instead informed the vessel owners of the requirement to get a decal.

Conclusions

The AQI program is a key component in the nation's efforts to protect against exotic diseases and pests and the billions of dollars in damage they can cause. Analyzing and understanding the costs of providing these important services—for which CBP and APHIS have joint responsibility—are important so that the agencies and Congress have the best possible information available to them when designing, reviewing, and overseeing

⁴⁹19 C.F.R. § 24.22(e).

AQI fees and operations. This is especially true given the increasing need for fiscal restraint in an environment of tightening discretionary budgets. By conducting a thorough review of AQI program costs and options for redesigning AQI fees, APHIS has taken important steps in identifying and strengthening the link between AQI program costs and fee collections. However, the current AQI fee structure does not (1) recover full costs from some users, as authorized; (2) charge fees to some passengers that APHIS is authorized to charge but chooses not to for policy reasons; and (3) align fees with the program costs to maximize economic efficiency and equity. As of February 2013, the fees APHIS is considering would not fully remedy these issues (partly because of gaps in AQI's statutory authority and partly because APHIS chooses not to fully exercise the AQI fee authorities), thus requiring APHIS and CBP to continue to rely on appropriated funds to bridge the historical gap of nearly 40 percent between AQI program costs and collections. Similarly, because the reimbursable overtime rates for agriculture inspections are not aligned with personnel costs to perform the inspections and because not all ports consistently charge for those reimbursable services or collect payment in a timely way, a portion of those costs are subsidized by CBP's appropriation.

Absent authority to either charge all pathways for AQI services or to permit cross-subsidization among pathways when setting fees—that is, allowing fees paid by some users to be set to recover the costs of services provided to other users—the AQI program cannot recover its full costs and must continue to rely on appropriated funds. Furthermore, APHIS does not charge fees in all instances in which the authority exists to do so because administrative costs for collecting fees from certain passengers would be high and the statutory authority limits the recovery of such costs through fees assessed on vehicles in which passengers travel (a method CBP uses for some other inspection fees).

Regular, timely, and substantive fee reviews are especially critical for programs—like AQI—that are mostly or solely fee funded to ensure that fee collections and program costs remain aligned. Although APHIS is to be commended for its in-depth review of the AQI user fees and program costs, until APHIS includes all imputed costs when setting fee rates and CBP ensures that its CMIS cost data accurately reflect program costs at all ports, APHIS will not be able to set fees to recover the full costs of AQI services.

Because the fee revenues distributed to each agency are not aligned with costs and funding of the AQI reserve is greater than the level needed to

address realistic program risks, CBP relies more heavily on its appropriation to fund AQI costs that could otherwise be funded with AQI fee revenues. APHIS and CBP have not followed their 2005 agreement to allocate fee collections based on each agency's costs, essentially overfunding APHIS and underfunding CBP.

Finally, the AQI program is forgoing revenues because CBP and APHIS do not ensure that all fees due are collected. APHIS does not collect railcar fees for the arrival of all railcars in accordance with regulations, and CBP does not use available controls to verify that commercial trucks have paid the AQI fee. Similarly, because CBP does not use available information to verify that all arriving private aircraft and private vessels have valid customs decals, the agency does not have assurance that it is collecting all fees that are due. Until APHIS and CBP improve oversight of these collection processes, they will continue to forgo revenue due the government, which will increase reliance on appropriated funds to cover program costs.

Matters for Congressional Consideration

In light of declining discretionary budgets, to reduce or eliminate the reliance of the AQI program on taxpayer funding, Congress should consider allowing USDA to set AQI fees to recover the aggregate estimated costs of AQI services—thereby allowing the Secretary of Agriculture to set fee rates to recover the full costs of the AQI program.

Congress should consider amending USDA's authorization to assess AQI fees on bus companies, private vessels, and private aircraft and include in those fees the costs of AQI services for the passengers on those buses, private vessels, and private aircraft.

Recommendations for Executive Action

To help ensure that USDA considers full AQI program costs when setting AQI fee rates, we recommend that

- the Secretary of Agriculture include all imputed costs borne by other federal agencies and attributable to the AQI program, and
- the Secretary of Homeland Security direct CBP to update and widely disseminate comprehensive guidance to ports on the correct use and review of CMIS codes. Specifically, the guidance should reiterate that a portion of CBP officers' primary inspection time should be charged to agriculture and cover how, and with what frequency, ports should conduct work studies to determine the correct allocation of staff time.

CBP should also consider making CMIS training mandatory for CMIS practitioners.

To help ensure that fee rates are set to recover program costs, as authorized, and to enhance economic efficiency and equity with consideration of the administrative burden, we recommend that the Secretary of Agriculture

- establish an AQI cruise passenger fee aligned with the costs of inspecting cruise passengers and vessels and collected using the existing processes for collecting cruise passenger customs fees;
- establish a fee for passenger railcars aligned with the costs of inspecting rail passengers and railcars and collected using the existing processes for collecting passenger railcar customs fees;
- eliminate caps on the commercial vessel and commercial rail AQI fees;
- set truck fee rates to recover the costs of AQI services for trucks while maintaining a financial incentive for trucks to use transponders; and
- recover the costs of AQI services for buses and bus passengers by either establishing a bus passenger fee that is remitted by the bus companies or seeking legislative authority to establish a bus fee that covers the costs of bus passenger inspections.

To align reimbursable overtime revenues with the costs of those agriculture inspections, we recommend that

- the Secretaries of Agriculture and Homeland Security work together to amend overtime regulations for agriculture services so that reimbursable overtime rates that CBP and APHIS charge are aligned with the costs of those services; and
- the Secretary of Homeland Security
 - ensure that ports consistently charge for agriculture overtime services that are eligible for reimbursement and
 - deny agriculture-related reimbursable overtime inspection services to entities with bills more than 90 days past due, consistent with APHIS regulations.

To help ensure that AQI fee rates are structured to maximize economic efficiency and equity while minimizing administrative burden, we recommend that the Secretary of Agriculture

- charge user fees for AQI permit applications;
- charge user fees for treatment services; and

charge user fees for the costs of monitoring compliance agreements for regulated garbage.

To better align the distribution of AQI fee revenues with AQI costs, we recommend that

- the Secretaries of Agriculture and Homeland Security work together to allocate AQI fee revenues consistent with each agency's AQI costs, and
- the Secretary of Agriculture establish an AQI reserve target that is more closely aligned with program needs and risks, based on past experience.

To ensure that inspection fees are collected when due, we recommend that

- the Secretary of Agriculture revise its processes for collecting AQI railcar fees to conform to USDA regulation and
- the Secretary of Homeland Security establish internal controls to alert personnel when fees are not paid, and use available information to verify that arriving trucks, private aircraft, and private vessels pay applicable inspection user fees.

Agency Comments and Our Evaluation

We provided a draft of this report to the Secretaries of Agriculture and Homeland Security for their review and comment. We received written comments from USDA and DHS, which are reprinted in appendixes III and IV, respectively. In addition, both agencies provided technical comments, which we incorporated as appropriate.

DHS concurred with our recommendations and described corrective actions the agency plans to take to implement them.

USDA agreed with the majority of the recommendations we made to the Secretary of Agriculture. However, USDA said that with respect to nine of the recommendations, the agency is preparing to initiate notice and comment rulemaking regarding the AQI fees. Therefore, USDA stated, it would be inappropriate to firmly commit to any particular component or a specific amount of fees at this time. USDA commented that, at this time, they cannot agree with our recommendation to establish a fee to recover the costs of AQI services for buses and bus passengers, but that they would work with CBP to assess whether USDA should seek authority to establish a bus fee that covers the cost of bus passenger inspections and whether such a fee would be practical. As we stated in our report, we recognize that USDA may not currently have the authority to assess this fee on the vehicles rather than the passenger. We continue to believe that

APHIS should recover the costs of AQI services for bus passengers, as authorized, or seek legislative authority to establish a bus fee that covers the costs of bus passenger inspections. We continue to encourage APHIS and CBP to explore options for implementing such a fee in a way that would minimize the administrative burden of the fee.

USDA disagreed with our recommendation to charge user fees for the costs of monitoring compliance agreements for regulated garbage, stating that compliance agreements save money because the agency does not need to provide a service, and that charging a fee to those that provide the service would be a disincentive to enter into such an agreement. However, APHIS regulations state that any person engaged in the business of handling or disposing of garbage must first enter into a compliance agreement with APHIS. USDA further asserted that recovering the costs of compliance agreements through the current AQI fees is fair and simple. However, the costs of compliance agreements being paid through AQI fees assessed on cargo pathways (air, vessels, trucks, and rail) benefit entities that handle garbage for users that do not pay AQI fees, including private aircraft and private vessels. We continue to believe that the users of these specialized services should be charged directly, consistent with Circular A-25, promoting efficiency and equity by ensuring that the beneficiaries of the service pay for the service.

We are sending copies of this report to the Secretaries of Agriculture and Homeland Security, the appropriate congressional committees, and other interested parties. In addition, the report is available at no charge on GAO's website at <http://www.gao.gov>.

Should you or your staff have any questions about this report, please contact me on (202) 512-6806 or irvings@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix V.



Susan J. Irving
Director for Federal Budget Analysis, Strategic Issues

Appendix I: Objectives, Scope, and Methodology

To analyze the Agricultural Quarantine Inspection (AQI) fees, we assessed (1) the AQI fees currently charged and how, if at all, the proposed revisions would improve efficiency, equity, and revenue adequacy, and reduce administrative burden; (2) how, if at all, changes to the allocation of fee revenues between the Department of Agriculture (USDA) and the Department of Homeland Security (DHS) could improve efficiency, equity, and revenue adequacy, and reduce administrative burden; and (3) the extent to which Animal and Plant Health Inspection Service (APHIS) and U.S. Customs and Border Protection (CBP) fee collection processes provide reasonable assurance that all AQI fees due are collected.

To address these objectives we analyzed the AQI fees using principles of effective user fee design—specifically, efficiency, equity, revenue adequacy, and administrative burden—on which we previously reported.¹ These principles draw on various laws and federal guidance.² To assess the current AQI fees and proposed revisions, we examined documentation provided by APHIS related to the activity-based cost model APHIS and the contractor used to analyze AQI costs and the AQI fee structure; observed a demonstration of CostPerform, the software used for the activity-based costing; and analyzed cost and fee revenue data and documentation provided by both APHIS and CBP. We also interviewed APHIS officials responsible for the review and fee-setting process. To assess the reliability of data from the activity-based costing model, we reviewed whether costs were ascribed to activities in a logical manner and discussed the reliability of the data with knowledgeable agency officials. Based on these assessments, we determined that the AQI cost data from the activity-based costing model were sufficiently

¹See GAO, *Federal User Fees: A Design Guide*, [GAO-08-386SP](#) (Washington, D.C.: May 29, 2008).

²Office of Management and Budget Circular No. A-25 establishes federal guidelines regarding user fees including the scope and types of activities subject to user fees, the basis upon which the fees are set, and the disposition of collections. The Chief Financial Officers (CFO) Act of 1990 requires an agency's CFO to review, on a biennial basis, the fees, royalties, rents, and other charges for services and things of value and make recommendations on revising those charges to reflect costs incurred (Pub. L. No. 101-576, 104 Stat. 2838 (Nov. 15, 1990), *relevant sections codified at*, 31 U.S.C. § 902). The *Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Standards and Concepts* establishes standards for federal agencies to use in reporting the costs of their products, services, and activities (Federal Accounting Standards Advisory Board, *Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Standards and Concepts* (July 31, 1995).

reliable for our purposes. We reviewed the analysis of the economic impact of proposed changes to fee rates, which was performed as part of the fee review. This analysis evaluated the economic impact of proposed fee scenarios on both the U.S. economy and selected industries to determine if any fee scenarios considered would create an unreasonable burden on these industries or consumers. Specifically, a contractor analyzed short and long-run economic impacts by evaluating the impact on the price of individual goods and services, corresponding changes in U.S. consumer purchases, and the resulting impact throughout the U.S. economy. All scenarios showed economic impacts that were very small relative to the size of the affected sectors and had an overall minimal impact on the national economy. Because the contractor found the effects to be minimal, it did not apply behavioral responses to changes in fee prices to the proposed fees.

To examine how changes to the allocation of fee revenue could improve efficiency, equity, and revenue adequacy, and reduce administrative burden, we compared the existing and proposed fee structures to applicable statutes and regulations and to criteria from GAO's *User Fee Design Guide*.³ We used APHIS and CBP data to analyze AQI costs and fee collections. We also discussed fee design options with APHIS and CBP officials. Further, we analyzed the extent to which CBP attributes a portion of primary inspection time to agriculture-related cost accounting codes by analyzing data from CBP's cost management information system. In addition, to examine how APHIS and CBP fee collection processes have ensured that all AQI fees are collected, we interviewed APHIS and CBP officials, examined documents related to fee collection procedures, and observed fee collection processes at ports of entry. To assess the reliability of the CBP and APHIS data, we analyzed the data for internal consistency and discussed the data with CBP and APHIS officials. We also compared the APHIS data on collections and obligations of AQI fee revenue and AQI reserve balances to another published source of this information and found them to be consistent. Based on these assessments, we determined that the CBP and APHIS data were sufficiently reliable for our purposes.

To address all of these objectives, we visited a nonprobability sample of seven ports of entry to observe CBP inspection procedures and discuss

³[GAO-08-386SP](#).

issues related to AQI user fees. We determined that, for our purposes and considering resource constraints, seven is a sufficient number of site visit ports. We visited the ports of Blaine, Washington; Miami, Florida; Otay Mesa in San Diego, California; Port Huron, Michigan; San Diego, California; San Ysidro, California; and Seattle, Washington. We selected these ports of entry based on entry pathways, particularly those that charge fees, such as commercial rail and commercial vessels; volume of entries; diversity of inspection challenges; and geographic proximity to each other. We also visited APHIS Plant Protection and Quarantine (PPQ) offices in Miami, San Diego, and Seattle to understand the AQI-related work being conducted by APHIS in the field. We determined that a nonprobability sample was sufficient for our purposes because we used the site visit information to understand commonalities and differences in inspection practices and fee collection processes at various ports and for illustrative examples of how fee design and implementation affect equity, efficiency, revenue adequacy, and administrative burden. Because we used a nonprobability sample, the information we obtained from these visits cannot be generalized to other CBP ports of entry. On the site visits, we interviewed CBP and APHIS officials and observed agriculture inspections and AQI fee collection processes. We also interviewed AQI program stakeholders, including ship agents and customs brokers. We conducted a content analysis on our site visit interviews and observations to identify common themes.

We conducted this performance audit from April 2012 to March 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Fees Charged for Arrival Inspections

Users	AQI Fees ^a	Customs Fees ^b	Immigration Fees ^c
Commercial aircraft	\$70.75		
Commercial trucks	\$5.25 per arrival or \$105 per year	\$5.50 per arrival or \$100 per year	
Commercial vessels	\$496	\$437	
Freight railcar	\$7.75 per arrival or \$155 per year	\$8.25 per arrival or \$100 per year	
Passenger railcar		\$8.25 per arrival or \$100 per year	
Commercial aircraft passengers	\$5	\$5.50	\$7
Private vehicle passengers			
Bus passengers			
Cruise vessel passengers		\$5.50	\$7
Private vessel passengers			
Private aircraft passengers			
Rail passengers			
Pedestrian			
Military			
Private Aircraft		\$27.50	
Private Vessel		\$27.50	
Dutiable Mail		\$5.50	

Source: GAO analysis of relevant laws and regulations.

^a7 C.F.R. § 354.3. The amount of AQI fees paid annually by commercial vessels is capped at a dollar amount equivalent to 15 payments per year. Certain vessels, railcars, commercial aircraft, and commercial aircraft passengers are exempted from the AQI fees.

^b19 C.F.R. § 24.22. The customs inspection commercial vessel fee is capped at \$5,955 for a vessel in a calendar year and barges and other bulk carriers from Canada or Mexico pay a reduced fee of \$110 per arrival, but not more than \$1,500 in a calendar year. Certain vessels, railcars, air passengers, vessel passengers, and private vessels are exempted from the fees.

^c8 U.S.C. § 1356. Air and vessel passengers from certain locations, including Canada and Mexico, pay a reduced immigration inspection fee of \$3 per arrival.

Appendix III: Comments from the U.S. Department of Agriculture



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

FEB 20 2013

Ms. Susan J. Irving, Director
Federal Budget Analysis
Strategic Issues
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Irving:

The United States Department of Agriculture (USDA) has reviewed the U.S. Government Accountability Office's (GAO) Draft Report, "Agricultural Quarantine Inspection Fees: Major Changes Needed to Align Fee Revenues with Program Costs" (GAO 13-268). While USDA agrees with the majority of the GAO Recommendations, we offer the following perspectives on each Recommendation.

GAO Recommendation (1)

To help ensure USDA considers full AQI program costs when setting AQI fee rates, GAO recommends that the Secretary of Agriculture include all imputed costs borne by other federal agencies and attributable to the AQI program.

USDA Response (1)

USDA acknowledges this recommendation and has gathered imputed costs data with the potential outcome being the initiation of notice and comment rulemaking regarding the AQI fees. Many factors are involved in notice and comment rulemaking, including consideration of comments. It would be inappropriate to firmly commit to any particular component or a specific amount of fees at this time since the proposed rulemaking has not been publically issued.

GAO Recommendation (2)

To help ensure that fee rates are set to recover program costs, as authorized, and to enhance economic efficiency and equity with consideration of the administrative burden, GAO recommends that the Secretary of Agriculture **establish an AQI cruise passenger fee aligned with the costs of inspecting cruise passengers and vessels and collected using the existing processes for collecting cruise passenger customs fees.**

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USDA Response (2)

USDA acknowledges this recommendation and has gathered data to consider regarding a cruise ship passenger fee with the potential outcome being the initiation of notice and comment rulemaking regarding the AQI fees. Many factors are involved in notice and comment rulemaking, including consideration of comments. It would be inappropriate to firmly commit to any particular component or a specific amount of fees at this time since the proposed rulemaking has not been publically issued.

GAO Recommendation (3)

To help ensure that fee rates are set to recover program costs, as authorized, and to enhance economic efficiency and equity with consideration of the administrative burden, GAO recommends that the Secretary of Agriculture **establish a fee for passenger rail cars aligned with the costs of inspecting all rail passengers and railcars and collected using the existing processes for collecting passenger railcar customs fees.**

USDA Response (3)

USDA acknowledges this recommendation and has gathered data to consider regarding a passenger rail fee with the potential outcome being the initiation of notice and comment rulemaking regarding the AQI fees. Many factors are involved in notice and comment rulemaking, including consideration of comments. It would be inappropriate to firmly commit to any particular component or a specific amount of fees at this time since the proposed rulemaking has not been publically issued. USDA will work with Customs and Border Protection (CBP) to conduct studies to determine if collection of the fee is economically efficient. APHIS would need to seek new legislative authority to allow for the collection of fees for the inspection of the vehicle of transportation itself rather than the current authority that allows only for charging a fee for the individual passenger.

GAO Recommendation (4)

To help ensure that fee rates are set to recover program costs, as authorized, and to enhance economic efficiency and equity with consideration of the administrative burden, GAO recommends that the Secretary of Agriculture **eliminate caps on the commercial vessel and commercial rail AQI fees.**

USDA Response (4)

USDA acknowledges this recommendation and has gathered data to consider eliminating or modifying the caps with the potential outcome being the initiation of notice and comment rulemaking regarding the AQI fees. Many factors are involved in notice and comment rulemaking, including consideration of comments. It would be inappropriate to firmly commit to any particular component or a specific amount of fees at this time since the proposed rulemaking has not been publically issued.

GAO Recommendation (5)

To help ensure that fee rates are set to recover program costs, as authorized, and to enhance economic efficiency and equity with consideration of the administrative burden, GAO recommends that the Secretary of Agriculture **set truck fees rates to recover the costs of AQI services for trucks while maintaining a financial incentive for trucks to use transponders.**

USDA Response (5)

USDA acknowledges this recommendation and has gathered data to consider regarding a financial incentive for trucks to use transponders with the potential outcome being the initiation of notice and comment rulemaking regarding the AQI fees. Many factors are involved in notice and comment rulemaking, including consideration of comments. It would be inappropriate to firmly commit to any particular component or a specific amount of fees at this time since the proposed rulemaking has not been publically issued.

GAO Recommendation (6)

To help ensure that fee rates are set to recover program costs, as authorized, and to enhance economic efficiency and equity with consideration of the administrative burden, GAO recommends that the Secretary of Agriculture **recover the costs of AQI services for buses and bus passengers by either establishing a bus passenger fee that is remitted by the bus companies or seek legislative authority to establish a bus fee that covers the costs of bus passenger inspections.**

USDA Response (6)

Because our CBP partners have deemed such fees impractical for collection purposes, USDA cannot agree with this recommendation at this time. APHIS would need to seek new legislative authority to allow for the collection of fees for the inspection of the vehicle of transportation itself rather than the current authority that allows only for charging a fee for the individual passenger. USDA will work with CBP to identify data needed to analyze whether we should seek authority and whether the practical considerations can be overcome.

GAO Recommendation (7)

To align reimbursable overtime revenues with the costs of those agriculture inspections, GAO recommends that the Secretaries of Agriculture and Homeland Security work together to amend overtime regulations for agriculture services so that reimbursable overtime rates that CBP and APHIS charge are aligned with the costs of those services.

USDA Response (7)

USDA acknowledges this recommendation and has gathered data to consider amended overtime rates with the potential outcome being the initiation of notice and comment rulemaking regarding the AQI fees. Many factors are involved in notice and comment rulemaking, including consideration of comments. It would be inappropriate to firmly commit to any particular component or a specific amount of fees at this time since the proposed rulemaking has not been publically issued.

GAO Recommendation (8)

To help ensure that AQI fee rates are structured to maximize economic efficiency and equality while minimizing administrative burden, GAO recommends that the Secretary of Agriculture **charge user fees for AQI permit applications.**

USDA Response (8)

USDA acknowledges this recommendation and has gathered data to consider charging fees for permit applications with the potential outcome being the initiation of notice and comment rulemaking regarding the AQI fees. Many factors are involved in notice and comment rulemaking, including consideration of comments. It would be inappropriate to firmly commit to any particular component or a specific amount of fees at this time since the proposed rulemaking has not been publically issued.

GAO Recommendation (9)

To help ensure that AQI fee rates are structured to maximize economic efficiency and equality while minimizing administrative burden, GAO recommends that the Secretary of Agriculture **charge user fees for treatment services.**

USDA Response (9)

USDA acknowledges this recommendation and has gathered data to consider charging fees for treatment services with the potential outcome being the initiation of notice and comment rulemaking regarding the AQI fees. Many factors are involved in notice and comment rulemaking, including consideration of comments. It would be inappropriate to firmly commit to any particular component or a specific amount of fees at this time since the proposed rulemaking has not been publically issued. User fees for treatments are currently under consideration by APHIS.

GAO Recommendation (10)

To help ensure that AQI fee rates are structured to maximize economic efficiency and equality while minimizing administrative burden, GAO recommends that the Secretary of Agriculture **charge user fees for the costs of monitoring compliance agreements for regulated garbage.**

USDA Response (10)

USDA does not agree with this Recommendation. Compliance agreements actually save money since the Agency does not have to provide a service. Charging a fee to those that provide the service would be a disincentive to enter into such an agreement. Further, USDA believes that if a fee was to be charged directly to those that enter into a compliance agreement with APHIS, those firms would charge the cost of the agreement plus an overhead cost back to the users of the services provided. Therefore, USDA believes that burdening AQI fees with this cost is not the most efficient means of recovering the costs fairly. The current method of recovering costs allows APHIS to retain a simple fee structure.

GAO Recommendation (11)

To better align the distribution of AQI fee revenues with AQI costs, GAO recommends that the **Secretaries of Agriculture and Homeland Security work together to allocate AQI fee revenues consistent with each agency's AQI costs.**

USDA Response (11)

USDA agrees with this Recommendation. AQI fee revenues should be allocated consistent with each agency's costs using activity based costing models and with consideration of continual cost containment and business process improvement. We will implement this recommendation as soon as we have a revised user fee schedule in place.

GAO Recommendation (12)

To better align the distribution of AQI fee revenues with AQI costs, GAO recommends that the Secretary of Agriculture **establish an AQI reserve target that is more closely aligned with program needs and risks, based on past experience.**

USDA Response (12)

USDA agrees with this Recommendation. APHIS and CBP have determined that based upon the risks presented by invasive plants and pests, as well as other threats to agriculture, retaining a three to five month reserve will provide a safeguard to allow continuous services for both Agencies--in the event of unforeseen decrease in user fee collections due to natural disasters, deliberate attacks, reductions in international trade and traffic resulting from changed economic conditions, or other instances that could cause an increase in workload for the AQI program or a sudden decrease in volumes and fees needed to fund operations.

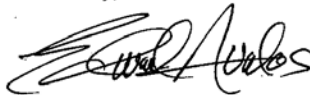
GAO Recommendation (13)

To ensure that inspection fees are collected when due, GAO recommends that the Secretary of Agriculture **revise its processes for collecting AQI railcar fees to conform to USDA regulation.**

USDA Response (13)

USDA acknowledges this recommendation and has gathered data to consider how to more appropriately collect these fees with the potential outcome being the initiation of notice and comment rulemaking regarding the AQI fees. Many factors are involved in notice and comment rulemaking, including consideration of comments. It would be inappropriate to firmly commit to any particular component or a specific amount of fees at this time since the proposed rulemaking has not been publically issued.

Sincerely,



Edward Avalos
Under Secretary
Marketing and Regulatory Programs

Appendix IV: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

February 8, 2013

Ms. Susan J. Irving
Director for Federal Budget Analysis, Strategic Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Draft Report, GAO-13-268, "AGRICULTURAL QUARANTINE INSPECTION FEES:
Major Changes Needed to Align Fee Revenues with Program Costs"

Dear Ms. Irving:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO's) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's positive recognition of U.S. Customs and Border Protection's (CBP's) vital role at U.S. ports and its partnership with the U.S. Department of Agriculture (USDA) in protecting the nation against exotic diseases and foreign agricultural pests. CBP collaborates regularly with USDA concerning the Agricultural Quarantine Inspection (AQI) program and is committed to continuing to improve internal business process that will further strengthen the programs overall accountability and transparency.

The draft report contained 19 recommendations, 6 of which were directed to DHS and with which the Department concurs. Specifically, GAO recommended that:

Recommendation 1: The Secretary of Homeland Security direct CBP to update and widely disseminate comprehensive guidance to ports on the correct use and review of Cost Management Information System (CMIS) codes. Specifically, the guidance should reiterate that a portion of CBP officers' primary inspection time should be charged to agriculture and cover how, and with what frequency, ports should conduct work studies to determine the correct allocation of staff time. CBP should also consider making CMIS training mandatory for CMIS practitioners.

Response: Concur. In 2007, CBP implemented the Unified CBP Overtime Scheduling System (COSS) Location Rotation Process (UCLRP) throughout CBP's 300-plus ports. This process was created to further refine the process of aligning CBP Officers' primary inspection work between the customs, immigration, and agriculture functions. The UCLRP was designed to ensure accurate capture of activities being performed by CBP Officers while being mindful of

the burden that having several hundred activity codes can have on operations if implemented incorrectly. CBP is committed to continuing to refine this process and maximize accuracy across field office locations.

CBP's milestones for corrective actions are outlined below.

- Review and revise current policies and guidance for the UCLRP, emphasizing the requirement to distribute activities among customs, immigration, and agriculture functions.
- Develop methodology and reporting requirements, to be signed off by Port Directors or their equivalent. This will determine the distribution of primary inspection activities between customs, immigration, and agriculture functions.
- Conduct regular reviews of UCLRP implementation to ensure ports are appropriately allocating activity hours to the customs, immigration, and agriculture functions on the basis of their methodologies submitted as part of item 2.
- Review current Cost Management Information System training policies and require the completion of training in order to retain access to create schedules at the port or higher levels.

Estimated Completion Date (ECD): April 30, 2014

Recommendation 2: The Secretaries of Agriculture and Homeland Security work together to amend overtime regulations for agriculture services so that reimbursable overtime rates that CBP and APHIS charge are aligned with the costs of those services.

Response: Concur. CBP has examined the reimbursement rates for overtime and proposed a rule on revised overtime rates. USDA's and CBP's legal teams have reached an agreement in regards to the language of the draft rule. CBP is committed to continue the efforts with the USDA to meet and discuss finalizing the rule for overtime rate adjustments.

To monitor the progress and milestones needed to implement AQI overtime rate adjustments, CBP will:

- Conduct discussions on reimbursable overtime rate adjustments and overtime billing/charges.
- Meet and discuss CBP recommendations with USDA
- Reconcile responses from all parties.
- Implement recommendations to address overtime rate adjustments and charging/collecting for reimbursable overtime.

ECD: January 31, 2014

Recommendation 3: The Secretary of Homeland Security should ensure that ports consistently charge for agriculture overtime services that are eligible for reimbursement.

Response: Concur. CBP's Office of Field Operations (OFO) will collaborate with the CBP Office of Administration (OA) to review OFO's current policy as it relates to charging agriculture overtime services that are eligible for reimbursement. In addition, OFO will provide additional training and guidance as required and ensure proper administrative controls and oversight is included. ECD: September 30, 2013

Recommendation 4: The Secretary of Homeland Security deny agriculture-related reimbursable overtime inspection services to entities with bills more than 90 days past due, consistent with APHIS regulations.

Response: Concur. CBP OFO will collaborate with the CBP OA to review OFO's current policy as it relates to charging agriculture overtime services that are eligible for reimbursement. In addition, OFO will provide additional training and guidance to field personnel to ensure that agriculture-related reimbursable overtime inspection services to entities with bills more than 90 days past due are denied in accordance with USDA APHIS regulations. ECD: September 30, 2013

Recommendation 5: The Secretaries of Agriculture and Homeland Security work together to allocate AQI fee revenues consistent with each agency's AQI costs.

Response: Concur. CBP has been meeting with USDA on a quarterly basis to discuss fluctuations in AQI fee revenue. Specifically, if collections have increased over anticipated amounts, then a discussion is held in regard to increasing the CBP codicil agreement. Conversely, if collections decline, the topic changes to mitigating the risks relating to the shortfalls. CBP intends to continue having regular meetings with USDA to ensure that the resources are properly distributed between the two agencies. A study examining the AQI fee rates and costs is underway with an advisory services firm and USDA. Once complete, the findings will be used by USDA to support adjustments to the existing AQI fee rates. Because the fee rate adjustments would increase revenue, CBP intends to engage USDA to ensure that the fee-sharing percentage will be based upon the agricultural inspection costs incurred by each agency.


CBP believes that the timeline for the revised fee-sharing process should be based on the same timeframe used in negotiating the annual codicil for each year's fee-sharing agreement. Further, CBP believes there should be discussions on the results of the final advisory services firm study with the USDA, incorporating the findings into the revenue-sharing percentage into the annual codicil. At this time, the advisory services firm has not specified a completion date for the study. ECD: October 31, 2014

Recommendation 6: The Secretary of Homeland Security establish internal controls to alert personnel when fees are not paid, and use available information to verify that arriving trucks, private aircraft, and private vessels pay applicable inspection user fees.

Response: Concur. CBP OFO will collaborate with CBP's OA and CBP's Office of Information and Technology to develop an automated mechanism to verify that trucks, private aircraft, and private vessels pay applicable inspection user fees and alert personnel when fees are not paid. Upon completion of the automated mechanism, OFO and OA will distribute appropriate guidance and training to field personnel regarding the use of the system and reminding them to take appropriate action to collect fees. ECD: January 3, 2014

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. We look forward to working with you in the future.

Sincerely,



Jim H. Crumpacker
Director
Departmental GAO-OIG Liaison Office

Appendix V: GAO Contacts and Staff Acknowledgments

GAO Contact

Susan J. Irving, (202) 512-6806 or irvings@gao.gov

Staff Acknowledgments

In addition to the contact named above, Jacqueline M. Nowicki, Assistant Director, and Susan Etzel, Senior Analyst in Charge, managed all aspect of this assignment. Laurel Plume and Alexandra Edwards made key contributions to this report. Michelle Cooper, Kate Lenane, Felicia Lopez, Mary Denigan-Macauley, Rebecca Gambler, Sarah McGrath, Donna Miller, Cynthia Saunders, Anne Stevens, and Jack Warner also made important contributions.

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