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Washington, DC 20548

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December 20, 2004

The Honorable Thad Cochran
Chairman
The Honorable Tom Harkin
Ranking Minority Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Bob Goodlatte
Chairman
The Honorable Charles W. Stenholm
Ranking Minority Member
Committee on Agriculture
House of Representatives

Subject: *Department of Agriculture, Animal and Plant Health Inspection Service:
User Fees for Agricultural Quarantine and Inspection Services*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Agriculture (USDA), Animal and Plant Health Inspection Service, entitled "User Fees for Agricultural Quarantine and Inspection Services" (RIN: 0579-AB88). We received the rule on December 9, 2004. It was published in the Federal Register as an "interim rule and request for comments" on December 9, 2004. 69 Fed. Reg. 71660.

The interim rule adjusts the fees charged for certain agricultural quarantine and inspection (AQI) services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at port in the customs territory of the United States. The adjusted AQI user fees will cover fiscal years 2005 through 2010.

Enclosed is our assessment of the USDA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the USDA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Robert Robinson,

Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Chief, Regulatory Analysis and
Development
Department of Agriculture

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
ENTITLED
"USER FEES FOR AGRICULTURAL QUARANTINE
AND INSPECTION SERVICES"
(RIN: 0579-AB88)

(i) Cost-benefit analysis

The USDA performed a cost-benefit analysis of the interim rule. The analysis projects costs for fiscal years 2005 through 2010 based on fiscal year 2004 costs of \$327 million. It increased the amount by a factor of 1.5 percent for each year for pay increases and general inflation cost increases. In addition, a 25-percent factor of the cost of the program was added to contribute to a reserve fund that USDA states is necessary to ensure continuity of services in cases of fluctuation in volumes, bad debt, carrier insolvency, and other unforeseen events.

USDA finds the projected revenue from the fees will range from \$355,800,650 in fiscal year 2005 to \$381,310,508 in fiscal year 2010. Without the increases, USDA's analysis shows program-funding shortfalls of \$112.5 million to \$123.8 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Administrator of the USDA has determined that the interim rule will not have significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

Since the interim rule was not preceded by a general notice of proposed rulemaking, the requirements of the Act do not apply. 2 U.S.C. 1532(a).

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

Because of the need to ensure adequate funding and continued operation of AQI services, the Administrator has determined that "good cause" exists under 5 U.S.C. 553 to forego public comment and issue the rule as an interim rule with request for comments.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The interim rule does not contain any information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The interim rule is promulgated under the authority found in section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended, 21 U.S.C. 136a.

Executive Order No. 12866

The interim rule has been reviewed by OMB and found to be an “economically significant” regulatory action under the order.