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Washington, DC 20548

B-327509

November 13, 2015

The Honorable Pat Roberts
Chairman
The Honorable Debbie Stabenow
Ranking Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable K. Michael Conaway
Chairman
The Honorable Collin C. Peterson
Ranking 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, Animal and Plant Health Inspection Service (APHIS) entitled "User Fees for Agricultural Quarantine and Inspection Services" (RIN: 0579-AD77). We received the rule on October 29, 2015. It was published in the *Federal Register* as a final rule on October 29, 2015. 80 Fed. Reg. 66,748. The rule has a stated effective date of December 28, 2015.

The final rule amends the user fee for agricultural quarantine and inspection services regulations by adding new fee categories and adjusting current fees charged for certain agricultural quarantine and inspection services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international passengers arriving at ports in the customs territory of the United States. The final rule also adjusts or removes the fee caps associated with commercial trucks, commercial vessels, and commercial railcars. APHIS determined that revised user fee categories and revised user fees are necessary to recover the costs of the current level of activity, to account for actual increases in the cost of doing business, and to more accurately align fees with the costs associated with each fee service.

Enclosed is our assessment of APHIS'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 of the procedural steps taken indicates that APHIS complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Judy Lee
Congressional Review Coordinator
Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON 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-AD77)

(i) Cost-benefit analysis

The Department of Agriculture, Animal and Plant Health Inspection Service (APHIS) prepared an analysis of the potential costs and benefits associated with this final rule. APHIS determined that the principal outcomes of the final rule will be the increase in user fee funding of agricultural quarantine and inspection (AQI) services, reduced reliance on appropriated funding, and closer alignment, by class, of user fee revenues and costs. For fiscal years 2015–2017, APHIS estimated user fee funding of AQI services under the rule to be \$340.2 million more and appropriated funding of AQI services to be \$165.3 million less than would occur with continuation of the current fee schedule.

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

APHIS stated that it prepared a Final Regulatory Flexibility Analysis that examined the potential economic effects of this rule on small entities. In its submission to us, the agency indicated that it had not certified that the rule would not have a significant impact on a substantial number of small entities. The final rule states that APHIS determined that most of the businesses that will likely be affected by the rule are likely to be small, and that APHIS responded to comments from small-entity stakeholders and other businesses on possible effects of the rule on their operations in the final rule.

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

In its submission to us, APHIS indicated that it had not prepared a written statement under the Act for this rule.

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

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

On April 25, 2014, APHIS published a proposed rule and requested comments by June 24, 2014. 79 Fed. Reg. 22,895. On July 1, 2014, APHIS published a notice extending the deadline for comments until July 24, 2014. 79 Fed. Reg. 37,231. APHIS received 234 comments from trucking companies, maritime shipping companies, commercial cruise lines, airlines, and associations representing all of those industries; producers of flowers, fruits, and vegetables and importers and shippers of those commodities; companies providing fumigation treatments;

port officials; federal, state, and foreign government representatives; and individuals. APHIS responded to the comments in the final rule.

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

The final rule does not contain any new information collection or recordkeeping requirements under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is authorized by section 2509(a) of the Food, Agriculture, Conservation, and Trade (FACT) Act of 1990, as amended (21 U.S.C. 136a).

Executive Order No. 12,866 (Regulatory Planning and Review)

The rule was determined to be economically significant for purposes of the Order and was therefore reviewed by the Office of Management and Budget.