

Supporting Statement
OMB Clearance 0579-0094
User Fee Regulations, 7 CFR 354 and 9 CFR 130

A. JUSTIFICATION

March 2012

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Food, Agriculture, Conservation and Trade Act of 1990, as amended, authorizes the Secretary of Agriculture to prescribe and collect fees to cover the cost of providing certain agricultural quarantine and inspection (AQI) services. Specifically, the Act gives the Secretary the authority to charge for the inspection of international passengers, commercial vessels, trucks, aircraft, and railroad cars, and to recover the costs of providing the inspection of plants and plant products offered for export. The Secretary is authorized to use the revenue to provide reimbursements to the accounts that incur costs associated with the AQI services provided.

The Act also authorizes the Secretary to prescribe and collect fees to reimburse the Agency for the cost of carrying out the provisions of the Federal Animal Quarantine Laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance. In addition, the Secretary is authorized to prescribe and collect fees to recover the cost of carrying out provisions of 31 U.S.C. 136a which relate to veterinary diagnostics.

The Animal and Plant Health Inspection Service (APHIS) is asking OMB to approve for 3 years its use of information collection activities related to user fee collections.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

APHIS uses the following information activities to ensure that the fees collected are correct and that they are remitted in full and in a timely manner. The party responsible for collecting and remitting fees (ticketing agents for transportation companies) must allow APHIS personnel to verify the accuracy of the fees collected and remitted, and otherwise determine compliance with the statutes and regulations. APHIS is requiring that whoever is responsible for making fee payments provide the name, address, and telephone number of a responsible officer or company representative who is authorized to verify fee calculations, collections, and remittances. The information contained in each request identifies the specific service requested and the time in which the requester wishes the service to be performed. This information is needed for the animal import centers and port offices to schedule the work and to calculate the fees due. Requesters of APHIS services are usually repeat customers, and, in many cases, request that APHIS bill them for its services.

APHIS Form 81, Statement of Services: AQI User Fees. APHIS utilizes the collection and reporting system currently in place for the U.S. Bureau of Customs and Border Protection (CBP), Department of Homeland Security (DHS), for collection of fees from international passengers. The remittance and statement procedures were developed by CBP through consultation with commercial airline companies and their representatives. To minimize the impact on the airlines, APHIS is using the same collection and reporting system for the collection of fees for clearance of the aircraft. In addition, since both fees utilize the same collection system, at their option, the airlines can combine payments for the passengers and aircraft clearance on one check and consolidate the collected information on one supporting document. This makes the collection and remittance process easier and less timely for the airlines.

The procedures and the information requested for the passengers and aircraft are used to ensure the correct user fees are collected and remitted in full in a timely manner. The requirements, are also used to ensure that the fees are properly credited. APHIS must rely on others to collect and remit the fees to the Agency. However, APHIS is responsible for ensuring that the fees collected are correct and that they are remitted in full and in a timely manner. To ensure this, the party responsible for collecting and remitting fees must allow APHIS personnel to verify the accuracy of the fees collected and remitted, and otherwise determine compliance with the statutes and regulations.

APHIS also requires that whoever is responsible for making fee payments provide the name, address, and telephone number of a responsible officer who is authorized to verify fee calculations, collections, and remittances. Unlike CBP and the Immigrations and Customs Enforcement Agency, APHIS fees were not set by statute. The APHIS statute requires that APHIS adjust the amount of the fees to reflect the cost of administering AQI services. It is, therefore, imperative that the party collecting and remitting fees provide APHIS with the information requested in the regulations.

In addition, the regulations allow operators/owners of commercial trucks to apply for a joint annual truck decal currently referred to as a “transponder.” This is optional in lieu of paying a fee for each individual crossing, and the use of the transponder speeds up the ongoing entry process. The transponder CBP issues is a joint CBP/APHIS one, and customers purchase them once per year. Applicants who wish to pay the annual fee apply to CBP.

To eliminate duplication, applicants only complete one form for the joint transponder, and submit one check. CBP distributes the funds between the two agencies. Without this information, APHIS cannot ensure that the correct user fees are collected, remitted in full, and properly credited. In addition, APHIS would not be able to ensure substantial compliance with the statute. Noncompliance with the statute could result in misappropriation of public funds and lost revenues to the Federal Government.

Import/Export Animals/Animal Products and Veterinary Diagnostics. The regulations established user fees for various services APHIS provides related to importation and exportation of live animals, animal products, animal byproducts, organisms and vectors, and germplasm (semen, embryos, and ova [fertilized eggs]). These fees cover import-related inspections and

services provided at ports along the U.S. borders and at other air, ocean, and rail ports of entry; and the inspection and approval of facilities handling imported animals or certain animal products, organisms, or vectors. These fees also cover miscellaneous services related to the import or export of live animals, animal products, animal byproducts, organisms and vectors, and endorsing export health certificates are provided.

These user fees pay for the government to clear the following for import into the U.S.: feeder animals, horses, in-bond and in-transit animals; and any other ruminants. A user fee is charged for each animal imported into the U.S. or being moved through the U.S. The user fee is charged per animal, as all animals being imported into the U.S. through a port along the U.S. border are individually handled. The requests for services can be in writing, by telephone, or in person. The information contained in the request identifies the specific service requested and the time in which the requester wishes the service to be performed. This information is necessary in order for the animal import centers and port offices to schedule the work and to calculate the fees due.

VS Form 17-129, Application - Import or In Transit Permits (Request Space at USDA Operated Quarantine Facilities): This form is used for horses, ruminants, swine, wild ruminants and wild swine intended for exhibition in a zoological park, elephants, hippopotami, rhinoceroses, poultry, animal and poultry semen, cattle embryos, embryos from all ruminants and swine from FMD-affected countries, sheep and goat germplasm from scrapie-affected countries, hedgehogs and tenrecs from FMD-free countries, and animals and animal products imported via the regionalization process.

Before APHIS can quarantine animals at a USDA operated quarantine facility, the importer must reserve space there. If this were not done, APHIS' quarantine facilities would operate on a first come, first served basis, and there would be no means by which APHIS could guarantee space for anyone. This form also tells APHIS from which country or region the animals originate. The information supplied on the application also enables APHIS to inform the importer concerning the necessary import requirements that must be met based on the disease status of the country or region from which the animals originate.

VS Form 16-3, Application for Permit to Import Controlled Material and/or Import or Transport Organisms or Vectors, is a dual-purpose form used as a management control by APHIS, Veterinary Services (VS), in the issuance of an import permit. The VS Form 16-3 is the application and agreement form used by individuals seeking a permit.

VS Form 16-7, Additional Information for Cell Cultures and Their Products, is used by commercial and research importers for the importation of pharmaceutical and diagnostic products and organisms. This application is for cell cultures only and is in addition to the VS Form 16-3, Application for Permit to Import. It is used as part of a decision matrix for issuing import permits. The additional information is necessary for the importation of cell cultures, such as: cell line designation and passage; type and source of culture media; nutritive factors of animal origin in the culture media, if animal serum is used; source of animal enzymes; and if the cell line is Hybridoma.

PPQ Form 250, Aircraft Clearance or Safeguard Order. is used to advise receiving airport of destination status of aircraft when leaving the first port of arrival (used for nonscheduled movements).

PPQ Form 577, Phytosanitary Certificate. The exporter completes the “Description of Consignment” section of this form before submitting it to appropriate Plant Protection Quarantine (PPQ) personnel for further processing. This form certifies that the domestic plants or plant products described by the exporter have been inspected according to appropriate procedures, are considered to be free from plant diseases and insect pests, and are considered to conform to the requirements of the receiving country.

PPQ Form 578, Export Certificate for Processed Plant Products. The exporter completes the “Description of Consignment” section of this form before submitting it to appropriate PPQ personnel for further processing. This form is designed to assist in the foreign marketing of processed and manufactured plant products not otherwise eligible for certification under the Phytosanitary Certificate (PPQ Form 577). This document affirms that processed or manufactured products described by the exporter are believed to be free from injurious plant pests based upon inspection, or based upon the processing to which the products have been subjected.

PPQ Form 579, Phytosanitary Certificate for Re-export. The exporter completes the “Description of Consignment” section of this form before submitting it to appropriate PPQ personnel for further processing. This form is used to certify that the foreign plants or plant products described on the form were imported into the United States from a specified country of origin, were packed in the original containers, or were replaced in new ones. This form also certifies that, based on the country of origin’s phytosanitary certificate and/or an additional inspection, the plants or plant products are considered to conform to the current phytosanitary regulations of the receiving country and have not been subjected to the risk of infection or infestation during storage in the United States.

APHIS has reviewed paperwork requirements of the user fee program and has made every effort to streamline its’ processes and minimize the impact on the public. Wherever possible, APHIS is using existing billing and collection methods to minimize the cost to the Agency and the public. If the work is not performed, individuals and business entities would not be able to import animals into the U.S. This could adversely affect both import and export trade in agriculture with all other countries.

Recordkeeping: Section 354.3(d)(6) Compliance. AAR, AMTRAK, and each railroad company responsible for making AQI user fee payments must allow APHIS personnel to verify the accuracy of AQI user fees collected and remitted and otherwise determine compliance with 21 U.S.C. 136a and this paragraph. The AAR, AMTRAK, and each railroad company responsible for making AQI user fee payments must advise the U.S. Bank, United States Department of Agriculture (USDA), APHIS, AQI, P.O. Box 979044, St. Louis, MO 63197-9000, of the name, address, and telephone number of a responsible officer who is authorized to verify AQI user fee calculations, collections, and remittances, as well as any changes in the identifying information submitted.

Section 354.3(d)(4) Compliance. Each carrier subject to this section must allow APHIS personnel to verify the accuracy of the AQI user fees remitted and to otherwise determine compliance with 21 U.S.C. 136a and this paragraph. Each carrier must advise the U.S. Bank, United States Department of Agriculture (USDA), APHIS, AQI, P.O. Box 979044, St. Louis, MO 63197-9000, of the name, address, and telephone number of a responsible officer who is authorized to verify AQI user fee calculations and remittances, as well as any changes in the identifying information submitted.

Section 354.3(d)(7) Compliance. Each carrier, travel agent, United States-based tour wholesaler, or other entity subject to this section must allow APHIS personnel to verify the accuracy of the AQI user fees collected and remitted and to otherwise determine compliance with 21 U.S.C. 136a and this paragraph. Each carrier, travel agent, United States-based tour wholesaler, or other entity must advise the U.S. Bank, United States Department of Agriculture (USDA), APHIS, AQI, P.O. Box 979044, St. Louis, MO 63197-9000, of the name, address, and telephone number of a responsible officer who is authorized to verify AQI user fee calculations, collections, and remittances, as well as any changes in the identifying information submitted.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

APHIS has taken steps to decrease the information requested from individuals who use its import/export and veterinary diagnostic services. APHIS uses the USDA National Finance Center's Billing and Collection (BLCO) system to establish accounts and issue monthly bills to customers of our Veterinary Services Program. The BLCO system allows APHIS to establish accounts for these repeat customers and consolidate all monthly activity into a single bill, which can be paid with one check rather than having to pay for each and every service as they receive it.

In addition, most VS offices are equipped with computer-generated credit card machines and accept approximately 85 percent of the public's user fee payments through this method. This eliminates the need for respondents to write and mail check or money order payments, thereby reducing the burden imposed.

APHIS implemented an online Animal Preservation System for customers to simplify, expedite, and pay for their reservations of stall space at the APHIS Miami Animal Import Center. This eliminated a manual faxing process and reduced customer burden hours by 50 percent. The data acquired through the information collection activities associated with APHIS' import and regionalization programs can be transmitted to APHIS electronically.

VS Form 17-129 can be retrieved from the Internet, completed and signed by the importer, and then mailed or faxed to APHIS. The URL for the VS Form 17-129 is http://www.aphis.usda.gov/import_export/forms.shtml Instructions are posted with this form.

VS Form 16-3 can be retrieved from the Internet, completed and signed by the importer, and then mailed or faxed to APHIS. The URL for the VS 16-3 is http://www.aphis.usda.gov/import_export/forms.shtml Instructions are posted with this form.

VS Form 16-7 can be retrieved from the Internet, completed and signed by the importer, and then mailed or faxed to APHIS. The URL for the VS 16-7 is http://www.aphis.usda.gov/import_export/forms.shtml Instructions are posted with this form.

PPQ Form 250 was not a transaction determined by APHIS to be practicable for automation under GPEA. This form must accompany aircraft to its final destination and after final disposition action, the form must be returned to the originating office.

The new Phytosanitary Certificate Issuance and Tracking (PCIT) system tracks the inspection of agricultural commodities and certifies compliance with plant health standards of importing countries. This capability provides USDA/APHIS/PPQ better security, reporting functions, and monitoring capabilities for exported commodities. Access to the PCIT system is available nationwide. It is available at http://www.aphis.usda.gov/import_export/plants/plant_exports/pcit.shtml Customers can pay for certifications on-line.

PPQ Form 578 (Export Certificate for Processed Plant Products) -- This form is posted at www.aphis.usda.gov/import_export/plants/plant_exports/export_certificates_forms.shtml for informational purposes only. There are no plans to automate this form because it is an accountable document.

PPQ Form 577 (Phytosanitary Certificate) -- This form is posted at www.aphis.usda.gov/import_export/plants/plant_exports/export_certificates_forms.shtml for viewing purposes only. This is not a downloadable form and is posted for information purposes only. There are no plans to automate this form because it is an accountable document which contains several safety features. Therefore, there are no instructions posted with this form.

PPQ Form 579 (Phytosanitary Certificate for Reexport) -- This form is posted at www.aphis.usda.gov/import_export/plants/plant_exports/export_certificates_forms.shtml for viewing purposes only. This is not a downloadable form and is posted for informational purposes only. There are no plans to automate this form because it is an accountable document which contains several safety features. Therefore, there are no instructions posted with this form.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

While respondents collect fees and provide similar types of air passenger information to CBP, each Agency's information is unique to them. Also, CBP and APHIS exempt different passengers, so the information provided to each Agency is different. Aircraft clearance information that is collected is unique to APHIS. The methods used to collect import/export and veterinary diagnostic information is unique to APHIS. Therefore, there is no duplication.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB 83-1), describe any methods used to minimize burden.

The request for information has been kept to a minimum. Since everyone must submit the same information, regardless of the size of the entity, no specific consideration has been given to small businesses or small entities. However, APHIS' efforts to streamline systems are beneficial to small entities, as well as all other users of its services. APHIS estimates that 2,500 of the total 51,981 respondents are small entities.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The law specifically requires at least quarterly submission of the user fee money for air passenger and clearance of international aircraft collections be conducted. If the certification statement was not required, it would be impossible to ensure the correct fees are collected and remitted in full, and that the fees are properly credited to the appropriate respondent. In addition, due to the unpredictability of insolvency of airlines, collections conducted less frequently than quarterly would severely hamper APHIS' ability to collect revenues owed, especially in bankruptcy situations. In order to properly control the issuance of decals for commercial trucks, the information collection must be conducted.

The import/export and veterinary diagnostics information is only provided at the time the service is requested and fees are collected either at the time of the request or through monthly billing. It is not possible to collect the information less frequently. If the information were not collected, APHIS would not be able to perform the service since the fees collected will fund the work.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5.

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

The information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5.

- 8. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting forms, and on the data elements to be recorded, disclosed, or reported. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, soliciting comments on the information collection prior to submission to OMB.**

Informal consultations in 2011 with persons for whom the Agency services revealed no problems. The following references are listed:

AQI User Fees:

Air Transport Association
 1301 Pennsylvania Avenue, N.W.,
 Suite 1100
 Washington, DC 20004-1707
 Mr. John P. Heimlich, Vice President and Chief Economist
 (202) 626-4000

Association of American Railroads
 Business Services Division
 7001 Weston Parkway, Suite 200
 Cary, NC 27513
 Mr. Richard F. Hobb
 (919) 651-5028

Import/Export and Veterinary Diagnostic User Fees:

North American Cavalor Inc.
523 Hill Road
Dalton, GA 30721

International Horse Transport
104 Titicus Road, Suite G
North Salem, NY 10560

On Wednesday, August 17, 2011, APHIS published in the Federal Register, a 60-day notice seeking public comments on its plans to request a **3-year renewal** of this collection of information. No comments from the public were received.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

This information collection activity does not involve any payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No additional assurance of confidentiality is provided with this information collection. Any and all information obtained in this collection shall not be disclosed except in accordance with U.S.C. 552a.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

APHIS does not ask any questions of a personal or sensitive nature.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

Number of respondents – 51,981

Frequency of response varies, see attached APHIS Form 71

Annual burden hours – 15,997

Burden hours were determined by experienced APHIS personnel and industry input.

The cost to the public was determined by multiplying the total number of burden hours by the wages per hour rate. APHIS estimated that the average hourly wage rate is \$21.90. Therefore, the total cost to the public would be \$21.90 per hour x 15,997 burden hours per year = \$350,334.

\$ 21.90 is the hourly rate derived from the U.S. Department of Labor, Bureau of Labor Statistics May 2008 Report - Occupational Employment and Wages in the United States. See <http://www.bls.gov/news.release/ocwage.t03.htm>

- 13. Provide estimates of the total annual cost burden to respondents or recordkeepers resulting from the collection of information (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.**

There is no additional cost burden to the respondents.

- 14. Provide estimates of annualized cost to the Federal Government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.**

The purposes of the APHIS User Fees Programs are related to the information collection with respect to the enforcement of the Food, Agriculture, Conservation and Trade Act of 1990, as amended by the Omnibus Budget Reconciliation Act of 1990 and to ensure compliance with the regulations. The cost to the Agency is minimal because the only increased burden is the result of collecting the fees. The cost estimated is based on clerical salary, minimal supplies, and Agency support costs. The estimated cost for the Federal Government is \$413,416. See APHIS Form 79, "Summary of Information Collections (Public Burden)."

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

ICR Summary of Burden:

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	295,881	0	0	50,284	0	245,597
Annual Time Burden (Hr)	15,998	0	0	2,242	0	13,756
Annual Cost Burden (\$)	0	0	0	0	0	0

There is an adjusted increase in the number of respondents from 46,728 to 51,981 resulting in a difference of 5,253. The number of responses increased from 245,597 to 295,851 with a difference of 50,284, and the burden hours increased from 13,756 to 15,998 with a difference of 2,242. The increases are due to an increase in respondents because more people are participating in the animal import and export business.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

There are no plans to publish or tabulate data.

17. If seeking approval to not display the expiration date for OMB approval of forms used in the information collection, explain the reasons that display would be inappropriate.

VS Forms 16-3 and 17-129 are used in 6 or more collections; therefore, it is not practical to include an OMB expiration date because of the various expiration dates for each collection. APHIS is seeking to not display the OMB expiration date on these forms.

APHIS has no plans to seek approval for not displaying the OMB expiration date on the following forms: APHIS Form 81, PPQ Forms 577, 578, 579, and 250, and VS Form 16-7.

18. Explain each exception to the certification statement identified in the "Certification for Paperwork Reduction Act."

APHIS certifies compliance with all provisions of the Act.