October 15, 2015

The Honorable Thomas J. Vilsack  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue  
Washington, D.C.  20250

Dear Mr. Secretary:

I am writing to express serious concerns on behalf of the airline industry about the Agricultural Quarantine and Inspection (AQI) fee structure that was recently approved by the Office of Management and Budget. The new fee structure (docketed at APHIS-2013-0021) appears poised to continue the U.S. Department of Agriculture’s longstanding noncompliance with the FACT Act that authorizes it to set and collect AQI fees. Any final rule to set new AQI fees must end APHIS’ decades of overcharging the commercial airlines industry. The Department should immediately reduce air passenger AQI charges and withdraw the unjustified proposed 300 percent fee increase on aircraft operators.

Airlines for America member carriers and their customers pay hundreds of millions of dollars in AQI fees annually. For more than 10 years we and our members have repeatedly urged APHIS to amend AQI fees to end charging commercial airlines far above the costs they impose. As you know, the Act requires the Secretary of Agriculture to ensure that in setting quarantine and inspection fees that the amount of the fees “is commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees.” 21 U.S.C. § 136a (a) (2). The Department’s own data, now public, as well as other government reports, show that APHIS overcharged air passengers $148 million in AQI during one recent typical year alone. These charges in excess of authority likely exceed $1 billion across the past decade. These known, excess AQI charges to commercial airlines were and are an unjustifiable subsidy from our industry to other types of AQI users, harm the traveling public; and violate existing law.

Passenger AQI Fees

As proposed in the notice of proposed rulemaking, APHIS’ new fee structure rule would reduce the air passenger fee from the current $5 to $4. Docketed Department documents confirm that this amount includes all costs of inspecting passenger aircraft. This overdue fee reduction

should happen immediately, not await the final rule. There is no justification for the proposed rule’s plan to collect additional “reserve” amounts in air passenger fees above APHIS’ costs given APHIS’ known excess collections from air passengers. Justice demands that the air passenger AQI account be credited with the estimated billion dollars in fees collected from but not expended on commercial airlines.

Aircraft AQI Fee Must Limit Fees to Cost by Type of Service

The Department has also proposed a massive increase in AQI fees to be paid by aircraft operators in the proposed rule. The potential AQI fee increase for each arriving international aircraft from today’s $70.75 to $225 is far too large. This fee will drive some international air service out of the market and the Department has not proven that its inspection costs are this high. If made final, this dramatic increase in aircraft inspection fees will harm consumers, airlines, shippers and U.S. competitiveness. Projected collections from commercial airlines approaching $200 million annually would leave the airline industry with an outsized portion of the bill for AQI services even though only a minority of freight enters the United States by air. As you are aware, air passenger flights are the only type of AQI user for which APHIS proposes a fee both on the passenger and on the mode. This double taxation is unjustified. Data the Department has made public and a Government Accountability Office report describes show that the air passenger fee covers all costs of inspecting passenger aircraft.

In docketed comments, Airlines for America asked APHIS to eliminate AQI fees for passenger flights to account for the fact that air passenger fees fully cover all aircraft inspection costs. A final fee schedule should also eliminate excessive proposed collections for reserves and reduce aircraft inspection fees for all users.

Respectfully,

Nicholas E. Calio

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