Appendix for Memorandum of Agreement (MOA) between the US Department of Homeland Security (DHS) and the US Department of Agriculture (USDA) Article 5, Transfer of Funds

I. Purpose

This Appendix outlines the procedures and conditions that USDA Animal and Plant Health Inspection Service (APHIS) will use to transfer funds to DHS Customs and Border Protection (CBP) for the Agriculture Quarantine Inspection (AQI) activities carried out by CBP and funded by the AQI User Fee Account. It also outlines the process CBP and APHIS will follow to distribute user fee funds between the two agencies and financial reporting on the use of those funds.

II. Background

The Homeland Security Act of 2002 (the Act). Section 421 of the Act transferred to DHS functions of APHIS relating to agricultural import and entry inspection. Section 421(e)(2)(B) and (f)(1) and (2) of the Act provides authority for an agreement between USDA and DHS for the transfer of funds from USDA to DHS for activities carried out by DHS for which such fees were collected.

Memorandum of Agreement. The Secretary of USDA and Secretary of DHS signed the MOA required under Section 421(e) of the Act, on February 28, 2003. Article 5 of the MOA pertains to transfer of funds.

III. Responsibilities

APHIS and CBP Understand and Agree to:

1. CBP and APHIS recognize that the transfer of AQI port inspection user fee operating funds depends on the collection of AQI User Fees, the amount of which is influenced by market forces affecting international travel and commerce. The collections to the AQI User Fee account declined sharply after September 11, 2001, but have recovered over time. Accordingly, CPB and APHIS will develop budgets that allow the maintenance of an account reserve by APHIS, designed to cushion the blow of unexpected decreases in revenues.

2. CBP and APHIS will each designate a Chief Budget Liaison and an alternate to carry out the duties outlined in this Appendix, including the quarterly and annual reporting. The designated Chief Budget Liaisons will have at least four face-to-face meetings to discuss AQI funding during each fiscal year.

3. At the beginning of FY 2006, $33 million will be designated as the account reserve. This reserve will not be allocated to either CBP or APHIS. By the end of FY 2010, the financial goal is to establish a total minimum reserve of $95 million which equates to approximately 25% of the operating resources for the current level of effort for the AQI operations.

4. APHIS and CBP agree that of the AQI user fee available collections, minus the reserve, 60.64% will be designated for transfer to CBP to support the AQI user fee program and 39.36% will be designated to support APHIS' AQI user fee program. These percentages were determined based on the projected cost and level-of-effort required to carry out the FY 2006 program. The proportion designated to each agency will be reviewed, and adjusted if needed, at least annually by the designated Chief Budget Liaisons based on the expected cost of the respective programs and the best available information on expected annual fee collections. The last transfer from APHIS to CBP will be made in August in order to accommodate operational planning needs of CBP. Annually these agreements will take the form of a codicil to this Appendix, to be signed by the designated Chief Budget Liaisons.

5. Both APHIS and CBP will exercise control over their annual agreed upon allocations. For example, if CBP does not spend its entire FY 2006 transfer allocation estimated to be $211 million, they will carry any balance forward into FY 2007 to be used to carry out AQI user fee program functions.

6. CBP and APHIS agree that APHIS will propose revised fee schedules as necessary, taking into account CBP funding needs for the transferred AQI user fee functions as well as funding needs for the AQI user fee activities remaining in APHIS. Calculations will take into account projected Federal pay increases and inflation, as well as increased program needs.

APHIS Understands and Agrees to:

1. Initiate bimonthly revenue transfers to CBP beginning in November using an SF-1151, Non-Expenditure Transfer form. However, if the cash balance in the account is not sufficient to transfer the full amount in advance, transfers may take place monthly.

2. Calculate the APHIS AQI level-of-effort in Full-Time-Equivalent (FTE) staff years and associated program costs for comparison with the CBP level of effort in FTE staff years and program cost calculations, quarterly and annually.

3. Carry out the rulemaking function to propose and codify any necessary changes to the AQI User Fee program.

4. Inform the CBP Chief Budget Liaison when each AQI User Fee distribution to CBP has been initiated by APHIS.

5. Provide within 45 days after each quarter, a breakdown of AQI user fee collections, by activity. Collection amounts will be updated to reflect account adjustments, such as audit findings.

CBP Understands and Agrees to:

1. To provide the necessary information for auditing of the user fee costs and rates. CBP will report expenditures by each AQI fee type (*e.g.,* international passengers, commercial aircraft, etc.).

2. At the end of each quarter, and by November 15 following the end of each fiscal year, CBP will provide APHIS with an accounting of expenses incurred in the AQI program from CBP' Cost Management Information System (CMIS).

3. Calculate the CBP AQI level-of-effort in Full-Time-Equivalent (FTE) staff years and associated program costs for comparison with the APHIS level of effort in FTE staff years and program calculations, quarterly and annually.
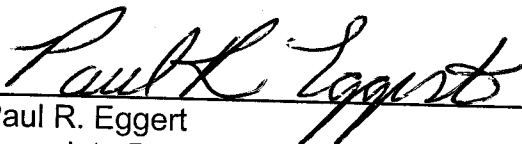
VI. Effective Date and Changes to This Appendix

This document will serve as an appendix to Article 5 of the MOA and can be amended by mutual agreement at any time by agreement of the parties in writing. This agreement will be effective when signed by both designated officials.

_____   9/14/05
Richard L. Balaban   DATE
Assistant Commissioner for Finance
Customs and Border Protection

_____   10-05-05
Paul R. Eggert   DATE
Associate Deputy Administrator
Animal and Plant Health Inspection Service