



Sent via Electronic Submission to Docket

April 25, 2016

Mr. Michael Poe  
Office of Budget and Program Analysis, USDA  
Jamie L. Whitten Building, Room 101-A  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250

**RE: Docket No. USDA-2016-0001-0045**  
**Retrospective Review/Identifying and Reducing Regulatory Burdens**

Dear Mr. Poe:

Thank you for the opportunity to respond to the above-referenced Request for Information regarding potential changes to the USDA regulatory program. The Maritime Exchange for the Delaware River and Bay, a nonprofit trade association, engaged its members within the Delaware River port community when compiling these comments.

Additional Identifiers. The Agriculture Pest Exclusion Coordinator is a pilot program currently taking place at southern border ports that involves increased identification turnaround time and authority with USDA. We recommend that USDA expand this program and provide enhanced identification criteria to CBP. In particular, Delaware River port operators and customers frequently experience cargo processing and release delays resulting from identifier unavailability.

Cargo Release Authority. At present, in CBP's Cargo Release Authority (CRA) program, inspectors identify certain non-actionable pests and then receive release authority on those pests so as to not hold up cargo. However, pests approved under the CRA program are limited to an approved USDA list, and many of the pests that Agriculture specialists find and submit are not on this list. We suggest that CBP Agriculture specialists should again wield the same cargo release authority they enjoyed when the agriculture inspection program fell under USDA prior to 2004.

Absence of uniformity in practices and procedures. We recommend uniform operating procedures and policies so both personnel and the maritime community are clear on what is expected and required for compliance. Streamlined and universal communications would benefit the regulated public. A lack of consistency with respect to communications and interpretation of rules and policies is a troublesome issue. It is not unusual to encounter differing policies and requirements in ports that are less than 20 miles apart, or variances in operating procedures from region to region throughout the country.

For example, differing personnel, each with his or her individual set of operating procedures, report every other week for the same position. This leads to a varied performance of identical responsibilities and duties and the maritime community not knowing from one week to the next what is expected or required of them to comply.

Further, from an operational standpoint, manual rather than electronic transmission of information is ineffective. USDA specialists are faxing hand-written documents containing transposed numbers, a recipe for human error. Currently, there is no uniformity of data transmission or procedures. Depending on which specialist is working the import desk, hand written log sheets are either faxed or sent via email. We recommend specifically that the USDA Completed Container – Cold Treatments log sheet be emailed in either Excel or Word, thereby eliminating faxing of the log sheet and allowing users to select and enter containers into the system quickly and accurately.

Allocation of new treatment fee. Industry is concerned that USDA is forcing fumigators to act in the role of collection agent. The fair way to allocate treatment fees among customers is to identify their percentage of cargo in each fumigation. However, calculating each customer's pro-rata portion of the treatment fee is an accounting nightmare and would require up to half of an accounting employee's time during the Chilean fruit season. This further results in untimely billings as percentage calculations are not immediately available.

We ask that USDA provide guidance outlining acceptable approaches.

Risk Analysis. Many USDA regulations have not yet been modernized to account for risk-based decision making. For example, rules require inspection of 2% of bananas regardless of potential risk-mitigating factors such as C-TPAT participation, frequent shippers, known importers, etc. USDA must update inspections regulations to incorporate a well-defined systems approach concerning products.

Wood Packing Materials. We strongly recommend that CBP and USDA revisit their joint policy requiring re-export of non-compliant or infested wood packing materials. This current process is counter-productive to keeping pests out of the country. It would be far more beneficial for the U.S. environment and for commerce to allow alternative treatments such as fumigation or incineration.

Once again, thank you for the opportunity to comment on this important issue. We very much appreciate USDA's initiative in soliciting stakeholder suggestions in its efforts to promote economic growth, job creation, and protection of the health and safety of consumers.

Sincerely,

A handwritten signature in black ink that reads "Dennis Rochford". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Dennis Rochford  
President

cc: Lisa Humber, Vice President