



How Current and Pending Regulations Affect the Produce Supply Chain

Tuesday, September 9, 2014





How Current and Pending Regulations Affect the Produce Supply Chain

Panelists:

- Kenny Lund, Vice President, Support Operations, Allen Lund Company, Inc.
- Lance Jungmeyer, President, Fresh Produce Association of the Americas
- Ken Mobley, General Manager, Earth Source Trading Inc.
- Jon Samson, President, Agricultural and Food Transporters Conference













Overview of the Trucking Industry

- **Trucking companies are small businesses**
- **There are over 500,000 carriers in the U.S.**
 - **This includes owner-operators, small, midsize and large fleets**
- **2.75 Million Class 8 trucks**
- **The average trucking company has less than 6 trucks**
- **Low percentage of trucks are driven by teams**

Overview of the Trucking Industry

- **90% of trucking companies have 6 trucks or less**
- **97.2% of trucking companies have 20 trucks or less**

Overview of the Trucking Industry

- Refrigerated Trucking companies are even smaller
- Refrigerated carriers are dominated by owner/operators and companies with less than 5 trucks
- Driver/Owner knowledge is key to success



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Overview of the Trucking Industry

- One of the best examples of the Free Market System at work
- Many players, many moving parts, no dominant players
- Less Capacity (trucks)
 - Class 8 Truck Production
 - Regulations
 - CARB
 - Available Drivers



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EXEMPTIONS

○ "§ 1.904 *Non-covered business* means a shipper, receiver, or carrier engaged in transportation operations that has less than \$500,000 in total annual sales."



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EXEMPTIONS

○ "§ 1.904 *Transportation operations*...do not include any transportation activities for raw agricultural commodities that are performed by a farm."



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FSMA CARRIER RESPONSIBILITIES

○ § 1.906(d) "Each freezer and mechanically refrigerated cold storage compartment in vehicles or transportation equipment ... must be equipped with an indicating thermometer, temperature-measuring device, or temperature-recording device installed to show the temperature accurately within the compartment."



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FSMA SHIPPER RESPONSIBILITIES

○ "§ 1.906(b)(2) "the shipper must visually inspect the vehicle ... for cleanliness. The shipper must determine that the vehicle ... is in appropriate sanitary condition for the transport of the food"



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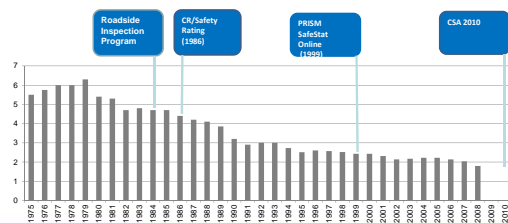
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FSMA SHIPPER RESPONSIBILITIES

- § 1.906(a)(2) "Responsibility ...must be assigned to competent supervisory personnel."



Large Truck Involvement Rate in Fatality Crashes Per 100 Million VMT



SAFETY

- A decline in highway deaths of 20% from 2008 to 2009
- The lowest fatality rate - 1.16 deaths for every 100 million vehicle miles traveled - on record
- The lowest overall number of deaths - 3,380
- In 2010 it dropped to 1.10



Impact of Government Activity on Port Operations

Ken Mobley
General Manager
Earth Source Trading, Inc.





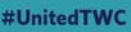
Government Activity

- Proposed changes to the fees required for the Agricultural Quarantine Inspection (AQI) Program
- Changes to the container inspection process





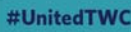
Proposed Adjustments to Inspection Program Fees

- **Agricultural Quarantine Inspection (AQI) program**
 - Role in safe trade
 - Protect U.S. agriculture & environment
 - Two government agencies work together
 - APHIS - Animal and Plant Health Inspection Service
 - CBP - Customs and Border Protection
- **Current AQI user fee structure doesn't cover cost to perform the AQI service (U.S.D.A. Study 2010FY)**
 - GAP \$129M
 - Rates unchanged for 10 years

Intent of New Fee Schedule

- **Ensure proper funding for resources for the security and protection of U.S. agriculture**
- **Cover rising service cost without using appropriated funds or excessive revenue collected in other fee categories**

AQI Proposed Fee Adjustments




- **Increase hourly rates for overtime services**
- **Adjust AQI inspection-fee schedule**
 - Decrease inspection fee for railcar, international air passenger
 - Increase inspection fee for commercial airlines, cargo vessels & trucks
 - **New fees**
 - International sea passenger
 - Treatments

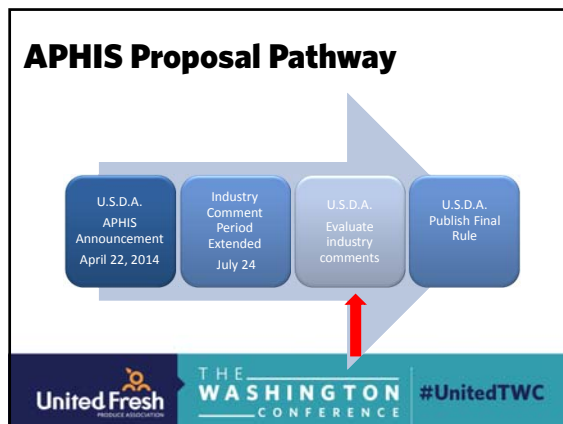
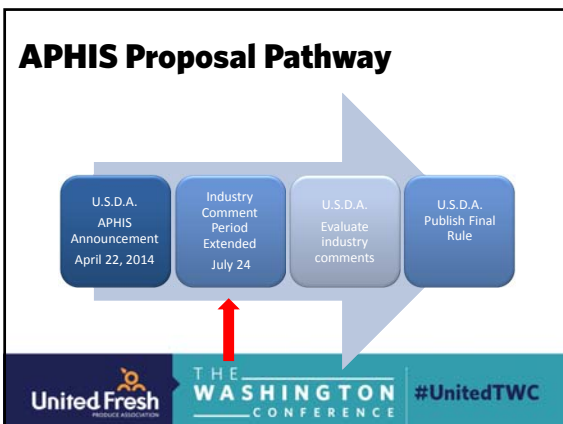




Impact of Fee Change




- **Higher import costs**
 - Increased hourly rate and existing user services
 - New treatment fee
- **Unpredictable import cost**
 - Flat treatment fee causes higher or lower unit cost depending on shipment size
 - Complicates cost management and grower returns
- **Additional fees lead to higher consumer cost**





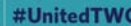
Government Activity

- U.S.D.A. Proposed Adjustments to Agricultural Quarantine Inspection (AQI) Program User Fee - April 22, 2014
- Changes to the container inspection process



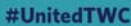
Container Inspection Change Overview

- Customs and Border Protection (CBP) initiated changes to the container examination process beginning Jan 2012
- New Centralized Exam Station (CES) examination began in New York/Newark port
- Expanding nationwide
- Process significantly different and impacted importers



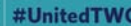
Comparison of Container Examination Process - New York/Newark

Prior to January 2012	Post January 2012
USDA Inspection at terminal	Containers transferred to Centralized Exam Station (CES) warehouse
Importer forecast availability	CBP inspectors perform inspection at CES
Import process 2-3 day duration	No forecast ability
12 marine terminal sites for exams	Import process 5-12 day duration
	4 CES warehouses

Post Change Point of View

CBP reports	Importers Report
<ul style="list-style-type: none"> ○Improved inspection quality ○Reduced inspection time ○Reduced overtime meets budget constraints ○Reduced equipment maintenance 	<ul style="list-style-type: none"> ○Increased days to process container ○Increased cost <ul style="list-style-type: none"> ▪CES drayage fee ▪CES daily warehouse fee ▪Potential Steamship detention charges ○Reduced shelf life ○High shrink ○Loss of control ○Difficult managing programs

Industry Suggestions Implemented

Trial Port of New York/CBP Ag

- 2014 DHS allowed for overtime CBP Ag inspections
- 2014 CES expanded operating hours to include evenings & weekends





Impact of Government Activity on Port Operations

- U.S.D.A. Proposed Adjustments to Agricultural Quarantine Inspection (AQI) Program User Fee
- Changes to the container inspection process

United Fresh representatives and industry leaders are best combination to work with government





Good Information Sources

- http://www.aphis.usda.gov/newsroom/2014/04/pdf/AQI_fees.pdf
- <http://www.liiea.org/resourceDocs/ces---centralized-exam-stations-cbp.pdf>
- www.federalregister.gov
 - Docket No. APHIS 2013-0021

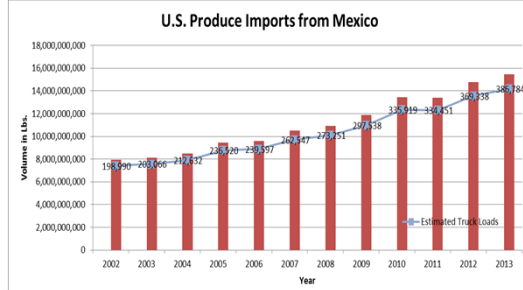


Mexican Fruits & Vegetables

Issues and Strategies for Trade Between the United States And Mexico

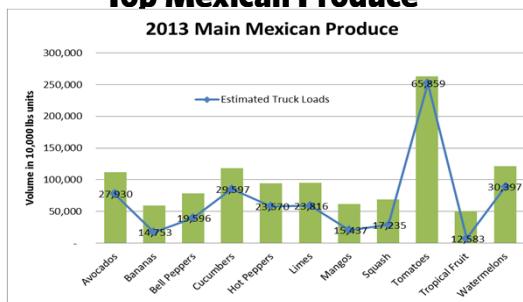


Southwest Border Crossing Trends



Top Mexican Produce

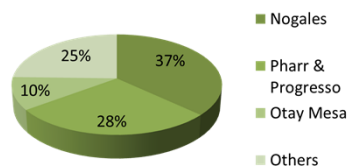
2013 Main Mexican Produce



Distribution by Port of Entry


(by volume)

Mexican Imports by POE (Season 2013)




U.S. side of the Border - Customs Officers Needed

- In order to effectively and efficiently cross produce at the Southwest Border, more Customs officers (CBPOs) are needed.
- While Border Patrol staffing has jumped dramatically, Customs staffing has fallen behind.


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Customs Officers Needed

- The recently passed Omnibus Bill contained 2,000 CBPOs for the nation's busiest ports.
- Nogales, Ariz., has the new Mariposa Port of Entry, which alone needs at least 250 more CBPOs to run at capacity.
- Nogales will be getting 120 more CBPOs, or Customs officers.
- It is unclear how many CBPOs are going to Texas and California ports of entry.


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Mexican Side of the Border

To efficiently move fresh produce, Mexico needs more food safety and quality inspectors. Mexico and the U.S. should develop a Memorandum of Understanding in which the U.S. will recognize Mexican authorities in food safety, quality inspections and supply chain security.


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Cha-ching?!?!?




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The Border as a Cash Register

- More and more, cash-strapped Federal agencies are looking to increase or add new fees at the border.
- Customs has established mechanisms for adding extra services via pay to play.
- USDA/APHIS aims to increase the AQI fees. A single truck fee would go from \$5.25 to \$8.00 (45% increase).
- FDA continues to float the concept of an imported food safety fee.


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Rolling back the Benefits of NAFTA

- Taken together, the trend by agencies to tax imports would roll back many of the benefits of NAFTA.
- Each new fee may invite retaliatory measures by foreign governments, harming U.S. exports.


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AFTC

1 of 4 ATA Conferences
Established in 1995 exclusively for HOS ag exemption
Mini trade association within ATA
Food Safety rules of major concern to carriers



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Food Safety Modernization Act (FSMA)


- Main focus - Sanitary transportation of human and animal food (STF)
- Broad coalition working with FDA
- Key Concerns
 - ✓ Understated Cost estimates w/out the benefit
 - ✓ Use of "Adulteration" leading to increased cargo claims
 - ✓ Recordkeeping requirements
- Crucial Messaging - Shipper communication with carrier and receiver



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Additional Regulatory Issues

- 34 Restart to HOS
 - ✓ Negative impact from two night rest periods
 - ✓ Working with Congress to delay changes
- Livestock exemption from rest break
- Cargo Securement exception for Ag products
- And the list goes on... (sleep apnea, drug testing, CSA, etc.)



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