



# CUSTOMS & QUARANTINE AGENCY, GUAM

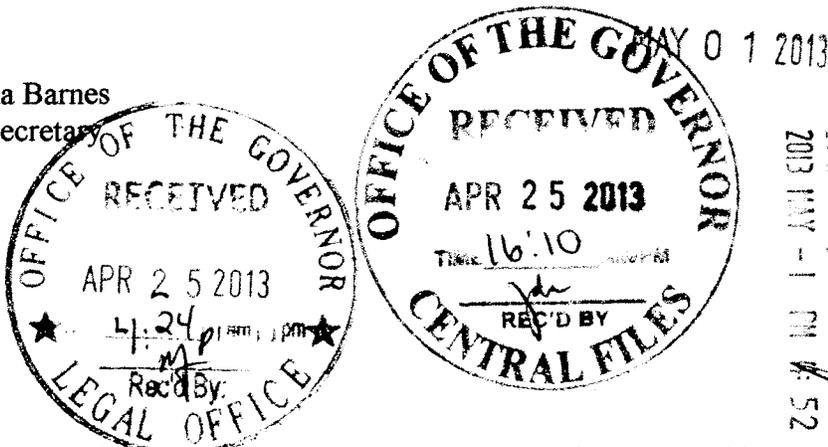
Guam's First Line of Defense • Protecting Our Island, Our People, Our Resources

Director's Office

Director of Customs – Pedro A. Leon Guerrero, Jr.  
Chief of Customs – Col. Raffaele M.J. Sgambelluri

CQA-DIR-099-13

The Honorable Tina Muna Barnes  
Senator and Legislative Secretary  
I Mina'trentai Dos Na  
Lihselaturan Guåhan  
Suite 101  
155 Hesler St.  
Hagåtña, Guam 96910  
Ph.: (671) 472-3455/6  
Fax: (671) 472-3400



**Subject:** *This is a Transmittal to I Mina'trentai Dos Na Lihselaturan Guåhan of Proposed Rules and Regulations pursuant to the Administrative Adjudication Law as it pertains to Title 4, GAR, Chapter 2, Article 5, §2505(a)(2) of the Customs, Agriculture, and Quarantine Inspection Services Charge.*

Dear Senator Barnes,

Buenas yan Hafa Adai! On April 5, 2013, the Customs and Quarantine Agency held a public hearing on proposed amendments to Title 4, GAR, Chapter 2, Article 5, §2505(a)(2) of the Customs, Agriculture, and Quarantine Inspection Services Charge rules and regulations. After due review and consideration being given to input provided by the public, the Agency hereby submits to I Mina'trentai Dos Na Lihselaturan Guåhan proposed amendments to Title 4, GAR, Chapter 2, Article 5, §2505(a)(2) for legislative review and adoption in accordance with the Administrative Adjudication Law, as well as legislative standards and code of rules that may be applicable. Included herewith are the following:

1. One (1) printed and identical electronic (word) version of the approved proposed regulations (Prepared in Bill Form and attached as an appendix);
2. One (1) printed and identical electronic (word) version of the entire record of any public hearings on the rules hereby incorporated as the following:
  - a. Published Notice of Public Hearing
  - b. Review Sheet of documents maintained for review during the public hearing notice period;
  - c. Evidence of proposed regulations and economic impact study maintained for public review on Agency Website;
  - d. Public Hearing Oral/Written Testimony Sign In Sheet
  - e. Electronic audio file of the public hearing;
  - f. Public Hearing Transcript;
  - g. Economic Impact Study;
  - h. January 8, 2013 Letter from Japan Airlines; and

358

32-13-358  
Office of the Speaker  
Judith T. Won Fat, Ed. D.  
Date 5/1/13  
Time 4:32  
Received by [Signature]

Office of the Legislative Secretary  
Senator Tina Muna Barnes  
Date 5-1-13  
Time 4:32  
Received by Jane

CFD0413-1747

- i. January 14, 2013 CQA Response Letter to Japan Airlines
- 3. Department of Administration - Letter of Review and Approval;
- 4. Compiler of Laws - Letter of Review and Approval; and
- 5. Attorney General of Guam - Letter of Review and Approval

Based upon the foregoing, I approve and certify that the Agency has complied with all requirements of the Administrative Adjudication Law, as well as any legislative standards/code of rules that may be applicable, as it pertains to the promulgation of these regulations. In this regard, we humbly submit these proposed regulations for final legislative review and adoption under these processes. If you should have any questions, please contact me at 475-6202 where I can be of service. Thank you for your kind consideration on this very important matter.

Sincerely,

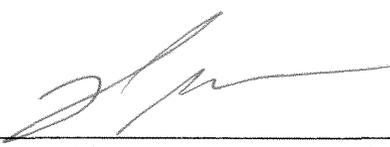
  
PEDRO A. LEON GUERRERO, JR.  
Director of Customs

APPROVED AND CERTIFIED AS  
COMPLIANT WITH ALL  
REQUIREMENTS:

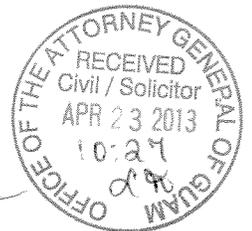
  
The Honorable Edward B. Calvo,  
Governor of Guam

MAY 01 2013  
Date

APPROVED AND CERTIFIED AS  
COMPLIANT WITH ALL  
REQUIREMENTS:

  
The Honorable Leonardo M. Rapadas  
Attorney General of Guam

4/24/13  
Date  
13-0328



Cc: Senator Frank Aguon

# ITEM

# 1

PROPOSED AMENDMENT TO TITLE 4, GAR, CHAPTER 2, ARTICLE 5, RULES AND REGULATIONS CUSTOMS  
AGRICULTURE QUARANTINE INSPECTION SERVICE CHARGE, GIAA PASSENGER FEE

**I MINA 'TRENTAI DOS NA LIHESLATURAN GUÅHAN  
2013 REGULAR SESSION**

**Introduced by:**

**THE CUSTOMS AND QUARANTINE AGENCY ENACTS THE  
FOLLOWING RULES AND REGULATIONS TO AMEND TITLE 4,  
GOVERNMENT ADMINISTRATIVE RULES AND REGULATIONS,  
CHAPTER 2, ARTICLE 5, §2505(a)(2) OF THE CUSTOMS,  
AGRICULTURE, AND QUARANTINE INSPECTION SERVICE  
CHARGE PURSUANT TO 5GCA73, §73151.**

1           **Section 1.**    The Customs and Quarantine Agency held a public hearing on proposed  
2 amendments to Title 4, Government of Guam Rules and Regulations, Chapter 2, Article 5, §2505  
3 (a)(2) of the Custom, Agriculture, and Quarantine Inspection Service Charge on Friday, April 5<sup>th</sup>,  
4 2013.

5           **Section 2.**    Pursuant to the provisions of 5GCA Chapter 9, the Administrative  
6 Adjudication Law, this proposed amendment to the regulations must undergo legislative review  
7 and approval before they can become effective.

8           **Section 3.**    The proposed amendment to the Customs, Agriculture, and Quarantine  
9 Inspection Service Charge rules and regulations is attached as Appendix A.

**Title 4, Government Administrative Rules and Regulations, Chapter 2, Article 5, §2505(a)(2) is hereby replaced to read as follows:**

**§2505. Service Charges.**

**(a) Air Carrier Services**

(2) Charges. In order to calculate the service charges reasonably attributable to each air carrier for the service associated with that carrier, the Director shall determine the service charge to the several air carriers by the following methodology. The Director shall first estimate the current annualized costs of providing, maintaining, and operating the service charge facilities as they relate to air carrier operations, excluding air cargo operations, and then that annualized amount shall be divided by 12. The GIAA shall apportion such monthly amount among the several carriers in proportion to each carrier's revenue passenger volume subject to the services, times the cost per passenger determined below. Such monthly percentage of passenger volume shall be determined by reference to the monthly activity reports of passenger arrivals to be submitted to the GIAA by the air carriers. This apportionment methodology corresponds to the methodology used by the Agency, pursuant to a long-standing agreement with the air carriers, to apportion among the air carriers the Charges for Services of Customs and Quarantine Officers for the cost of using Agency personnel on an overtime basis.

~~Pending review and adjustment by the Director, the cost per passenger as previously established pursuant to these regulations and provided for under the current GIAA Airport Tariff Schedule, shall remain in effect for the purposes of the apportionment methodology and air carrier ticketing and advertising until otherwise adjusted pursuant to these rules and regulations. Each air carrier shall be responsible for remitting its assessed pro rata to the GIAA. Pursuant to a periodic review and this methodology, the Director has determined such total anticipated annualized costs of providing, maintaining, and operating the service charge facilities as they relate to air carrier operations, excluding air cargo operations, is approximately \$9,082,394. In accordance with periodic adjustments under §2506(a)(5), the monthly charge will be adjusted to recover both the remaining annualized monthly charges, as well as those charges under-collected during the period of October 1, 2012 through April 30, 2013. Thus, the monthly charge attributable to all carriers is \$875,609 for which each air carrier shall be responsible for remitting to the GIAA its assessed pro rata service charge as determined by the GIAA under these rules and regulations. The effective date of this adjustment will begin August 1, 2013 and whereby the monthly charge shall be converted to a cost per passenger for purposes of the apportionment methodology and air carrier ticketing and advertising by dividing the monthly charge by the average number of monthly revenue passengers during the preceding three years. In subsequent annual service charge reviews, the monthly charge shall be divided by the average number of revenue passengers during the July 1 through June 30 period preceding the fiscal year. In accordance with §2506(a)(4) of these rules and regulations, the GIAA Airport Tariff Schedule will be amended to reflect these charges accordingly.~~

# ITEM

## 2a.

to test a pilot program in the coming school year. The recommendation at the meeting is to implement the tool at three schools. But Fernandez thinks the department needs to expand the pilot program to up to 15 schools across the island and at different grade levels in the ment status. It is really going to be a tool to say which teachers would be able to use additional support and additional help with teaching strategies as well as classroom management in order to improve their performance and improve the performance of their students," Fernandez said.

**NOTICE OF PUBLIC HEARING**

A public hearing will be conducted at 10:00 a.m., Friday, April 5, 2013 in the Customs Training Room on the 2<sup>nd</sup> floor of the Guam Integrated Air Cargo Facility, Tiyan, Guam. The purpose of this hearing is to discuss proposed amendments to the Customs, Agriculture, and Quarantine Inspection Services Charge rules and regulations as it pertains to air passenger service fees for air carrier operations at the Antonio B. Won Pat International Airport Service Charge Facility. Any person who wants to may attend and give oral testimony, or present written or documentary evidence. Five (5) copies of the proposed amendments are available for examination by any member of the public at the Customs Administrative Office located in Suite 240 on the 2<sup>nd</sup> Floor, Guam Integrated Air Cargo Facility, Tiyan, Guam.

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Telephone Number Home \_\_\_\_\_ Work \_\_\_\_\_

Employer \_\_\_\_\_ Length of Employment \_\_\_\_\_

Previous Employment \_\_\_\_\_ Gross Monthly Income \$ \_\_\_\_\_

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# ITEM

## 2b.



# ITEM

## 2c.



# GUAM CUSTOMS & QUARANTINE AGENCY

PROTECTING OUR ISLAND... OUR PEOPLE... AND OUR RESOURCES

LOCALLY AND GLOBALLY

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## GUAM CUSTOMS AND QUARANTINE (CQA) AGENCY MISSIONS

Guahan Customs & Quarantine is the "First line of Defense" for the island of Guahan. We enforce hundreds of laws and regulations both local and federal, and are responsible for protecting borders, securing ports of entry and facilitating trade, commerce and travel.

## GUAM-centric Links

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## Proposed Ammendment to The Customs Agriculture & Quarantine Inspection Service Charge(Airport Passenger Fee)

[Proposed CAQISC](#)

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# ITEM

## 2d.





# ITEM

2e.

# ITEM

2f.

**GUAM CUSTOMS AND QUARANTINE AGENCY**

Public Hearing April 5<sup>th</sup>, 2013, 10:05 A.M. Audio Transcript

*Proposed Amendment to the Customs, Agriculture, and Quarantine Inspection Service Charge*

**DIRECTOR PEDRO LEON GUERRERO (Director CQA):**

Welcome my name is Pedro Leon Guerrero, Jr. Director of Guam Customs and Quarantine... with me I have Chief of Custom Raffaele Sgambelluri...this morning's hearing is to receive oral and written testimony on the proposed amendment to the Guam Customs, Agriculture and Quarantine Inspection Service Charge as it relates to air passenger fees...this amendment proposes to change the current air passenger fee from \$6.36 to \$8.29...

If you will be providing oral or written testimony I kindly ask that you sign-in and leave the written documents with the customs officers' right here to my right at the support desk...

Without further ado, I would like to start this hearing. Today's date is April 5<sup>th</sup>, and the time is 10:05 in the morning and can I please have the listing for any persons who wants to talk.

**CHIEF RAFFAELE SGAMBELLURI:**

I have three (3) names that signed up on our sheet here...is anyone gonna proceed up and do an oral testimony... Angela, Mr. Kim and Mr. Marquez...Mr. Marquez?

**MR. MARQUEZ:**

Yes...

**CHIEF RAFFAELE SGAMBELLURI:**

You will be doing an oral testimony?

**MR. MARQUEZ:**

That's fine.

**CHIEF RAFFAELE SGAMBELLURI:**

Okay, please, anybody else will be coming up for an oral testimony... Angela?

**ANGELA NG:**

I have questions...

**MAJOR PAUL TOVES:**

Well you know what...just one at a time sir... the first name on the list will be a good start...

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*Proposed Amendment to the Customs, Agriculture, and Quarantine Inspection Service Charge*

**CHIEF RAFFAELE SGAMBELLURI:**

Angela could you please and if you could speak clearly to the mic...cause we are dictating this...  
pleases state your name and the company you are representing...

**ANGELA NG:**

Good morning Director... Chief CQA... may name is Angela Ng, from Eva Air... and I was just addressing a question to Officer Toves concerning... the date because I had already submitted in advance to increase starting May 1<sup>st</sup>... so Mr. Kim brought up to my attention also which I did not think of was... currently because right now is March or April... its April already...so passengers usually pre-plan their vacation... so the tax portion is I haven't check it but the last time I checked it I already had changed it to \$8.29... per my head office based on that letter. So my main point right now is, if we're reverting it back to \$6.36 and customers now are purchasing tickets for arrival into Guam end of July per say August it will still show \$6.36...so given the allotment 30 days may not be enough because ticket are usually purchase in advance and I don't know if the other airlines feel the same way...

**DIRECTOR CQA:**

I'll have... Major Paul Toves answer that, thank you for that information...

**MAJOR PAUL TOVES:**

Thank you Angela for that, my name is Major Paul Toves with Customs...we did speak briefly on this and as far as I can understand... we had already put out the announcement of changing the rate from \$6.36 to \$8.29 effective May 1<sup>st</sup>...and that notice was put out back in December...of 2012...in order to give airlines and carriers enough time to make those adjustments and put it into place in their operations...unfortunately due... to some unforeseen delays in the review process we're anticipating the possibility of that being, that implementation... date being pushed forward or ahead about maybe into sometime around maybe mid-June to early July... now insofar as weather or not the airlines...right now at this point we are pretty much giving you heads-up too... in advance... that's when we will actually see the rates change... if you decide to go head and go forward with the implementation of the rate on the initial you know on the initial notice, you know that... that certainly would be up to you I would think and I think that... but all that the Airport will be billing you until the actual change date will be at the \$6.36... so even if you are receiving \$8.29 that would be something perhaps you might want to address internally between your customers and yourself... in order to resolve that, that difference. We will be putting out a 30 day notice... already you do know that it is going to change... but the actual implementation date may not be until the time frame I just mentioned... when that does kick-in we will be assessing the change at that point in time... as it pertains to the passengers who arrived during that period... anyone prior to that will be still charge at \$6.36... of course the

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30 day notice of the actual... implementation date will occur as part the... airport tariff schedule amendment... and... of course all of these will be subject to the approval of the legislature before its actual implementation. And that's all I can actually say on that, but we do, I know you did mention that if you were to be at \$6.36 by the time the \$8.29 kicks in, again once that rate is changed, the airport and the government of Guam will be assessing at that rate in order to recover the cost of those operations... so it would really be a matter of a discretionary call on your part as the airlines as to whether or not you want to implement it continue to implement it earlier or you want to try and coincide... for that time period... as soon as we get a better hold on when the actual implementation date will be even if it is greater than 30 days were certainly going try and get that information to you as soon as possible...

**ANGELA NG:**

Because based on... the... you know the ticketing and the passenger the selling of the airfare thirty days is not enough... you know because we do our fare six months out at a time...

**MAJOR PAUL TOVES:**

Right...

**ANGELA NG:**

So that's one of ours my concerns...

**MAJOR PAUL TOVES:**

Right...

**ANGELA NG:**

As oppose to giving... you know for a big company or airline to process refunds the job becomes very tedious... to have to... either collect the dollar, you know the difference from \$6.36 to \$8.29. So I think my... that's why I was under the assumption that May 1<sup>st</sup> was... so we went ahead an increased it. So we are going to try to revert back to. But we have a better idea... than at least I can present and say okay we are going to start June 1<sup>st</sup>. Will push it back one month because, ticket sales are continuously going on...whether online... at the office or you know via phone call... that's just our concern...

**MAJOR PAUL TOVES:**

Oh... okay... well just for the sake of... trying to have a fair guesstimate at this thing... right... the closet time frame that we would probably see this... the actual rate change take effect would probably be and this is just a guesstimate now okay... it would probably be around, I would say probably July 15<sup>th</sup> ...yeah... around July 15<sup>th</sup> ...

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**ANGELA NG:**

So... if our airline just chooses to initiate starting July 15<sup>th</sup> ...you know... and whether you... whether it is appropriately approved by July 15<sup>th</sup> to July 15<sup>th</sup> August 1<sup>st</sup> per se... then I think it would be ideally better for airline handling all the ticket sales to add that assessment...

**MAJOR PAUL TOVES:**

Yeah, I would think that you could uh...

**ANGELA NG:**

Because it gives us more than just 30 days...

**MAJ, PAUL TOVES:**

Right... right... and that...that's a guestimate... right now cause you know we're subject to external... external reviews as well so it makes it difficult for us to to know that... we do anticipate that after today's hearing we'll be able to submit it to the next level of review within maybe five to six working days from that point and then from there... maybe another five days before submitting it to the legislature... and so that's why I'm saying maybe around April 15<sup>th</sup> it would be down at the legislature and then we count the ninety days from there before when it would actually take effect...

**ANGELA NG:**

Sorry... better, better... ok... so when... wait... what was my question... will you be able to update us like on a bi-monthly basis... like an e-mail saying that this is what we've done so far... so that the airline has a better idea of how we can guestimate by... if... you... you tentatively gave me July 15<sup>th</sup> right... lets say by end of June you say oh we only just submitted now... and then in our minds we can basically try to calculate it... you know... to pull the best date to assess the amount as accurately as we can...

**MAJOR PAUL TOVES:**

That's fair and reasonable... I believe we can do that...

**ANGELA NG:**

I think that would only be fair that the airline would be updated as opposed to yeah...

**MAJ, PAUL TOVES:**

Yes... I think that's fair... I think that's fair

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**ANGELA NG:**

I think that's all I have to say... thank you...

**DIRECTOR CQA:**

Thank you very much and thank you for your testimony... and we will of course take your testimony into consideration... further to what Major said, we will definitely increase our our you know communication with everybody... you know we've worked so hard to, to get where we're at and we want to be sure that the transition to the date becomes as smooth as it can... so it is in our best interest to work with you and to keep those communications going so we will endeavor to do the same thing just like you said... I appreciate it... thank you... and for the sake of the folks that just came in after we started... if you care to provide any written or oral testimony... if you can step to the right here... and you can sign in to... on the list... for presenting... the next, the next person that signed up was Mr. Kim from Jeju Air. Mr. Kim... if you care to step up and introduce yourself and the agency that you are representing... if you want to do an oral testimony...

**JACE KIM:**

Hafa Adai... uh... CQA Director... Chief... Paul... good Morning... uh my name is Jace Kim Jeju Air Station Manager... So... uh... I... almost I agree with Angela... Eva Air... suggestion... so... uh... you know what... so airline... so many passenger would like to purchase their ticket for Holiday Season... so in case of Korea... between July and August... that is Holiday Season for Summer... so some passenger already purchase July and August Season Ticket... so I was wondering, so if Customs Fee increase before July... so how to handle or how to refund to passenger from airline... you know what I mean.

**MAJOR PAUL TOVES:**

Okay... just so that I'll understand whether or not that I understand the question correctly, it's very similar to what Angela was saying right... the main concern being that whether... you know... how...you wanna try and coincide the changes and to be able to recoup those costs... right at the time that the new rates kick in so that whoever buys it before, they're paying the right rate, and whoever buys it after is paying the right rate as well... aAgain, just like as we mentioned to Angela, during Angela's testimony... whatever... when the rate actually kicks in... is when that rate will start to apply to the... passengers that come in on that date and thereafter, anyone prior to that will remain at the \$6.36... at this point, because of the review process, and sometimes we can't really know what to expect we will do our best and try to keep it look at a target date of July 15... and work very closely with the other persons that are in the review process as well... so that we can give you that... that... level of comfort to know when you need to coincide your rate change and not incur any losses or not incur the additional headache of trying to do reimbursements as well... I cannot say that we can guarantee the timeliness of other

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people review and how long it will take... but we will definitely work hard to meet the July 15 time frame... and that should anything change we'll keep you informed as to where we're at in the process in the event that there might be even more delay... I don't anticipate sooner implementations... but I would think probably at the 15th or later... so that might be helpful to for you to know.

**JACE KIM:**

Okay I see, so, If possible so... we would like to ask you, if you fix 15th July... 30 day if possible please let, let us info pre-notice date possible, more longer... so 30 days, is as far as I concerned, 30 days is not enough for airlines... so..., more than 30 days, it would been good it would be better...

**MAJOR PAUL TOVES:**

Just for clarification for the record, right now we're using the 15th as... a general time frame that we're looking at now... we certainly are going to go back and look closer at the timelines and the processes involved... and talk with the people who are going to be part of this process... and then from there we can give you a more definite time... and within probably a week or so... with that... then you would have at least 2-3 months ahead of notice of when that will be...

**JACE KIM:**

Okay... thank you...

**DIRECTOR CQA:**

Thank you Mr. Kim for your testimony we take your testimony into consideration... just like the Major said... again... what we're going to do because it's very critical on the timing of passengers paying for tickets prior to their trip to Guam... and you need as much heads up as possible... we are going to be reaching out to our... Senators... the Legislative portion of the process and making sure they understand what's the situation so that we can try to get... maybe a consensus with the Senators... where do we see the date will be... so to be very clear to everybody, there's going to be giving you enough time to do your job and to give the proper notice to the passengers coming to Guam... the last thing we want to do is confuse anybody...so we're going to have that discussion with the next level when we go to the legislative process... and then we hopefully, like the Major says, we'll get a date that will clearly be a date that's clear to everybody, a target that's going to be way above the 30 day notice... so that you're going to know ahead of time as we work toward the ratification of this fee...so we are going to work together and we are going to make sure the Senators understand that we have to put a date out there. And we have to try to get, try to meet that, this ratification on time on schedule... so that everybody's going to be happy... so we're going to that.. and I think the Senators will agree and

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we will definitely work together and we'll get to you early so... you know that there's not going to be any last minute changes to it... where you're going to have a lot of stress to how you do your job... okay, so we are very much appreciative of that comments... and it really solidifies our need to work with the legislature to get this thing squared away and get the dates pretty much set ahead of time... so thank you Mr. Kim... the next person....

**MAJOR PAUL TOVES:**

Sir I'd just like to ask one more question to Angela and also Mr. Kim... you know with everything that you've already brought forward and your concerns... I gather that... correct me if I'm wrong... I gather that you are in favor of modifying the rates to improve the services at the airport in recovering our costs... is that correct? ...are you able to say whether or not you're in favor of it?...

**ANGELA NG:**

If the increase is a must for everything you presented back in December 17<sup>th</sup>... during the last meeting. So I presented that to the front office and this is like its own office... so I would do what is required to make better the services or improve whatever is to leave a better impression to our first impression for Guam when passengers are arriving... so they haven't (non-audio able)... they just said... just comply...

**DIRECTOR CQA:**

Well thank you for that and I appreciate your understanding... either this process is a real much collaboration between us customs and the airlines and everyone else, all of our stakeholders... so I appreciate the... appreciate the collaboration and appreciate you bring to your head office this information... thank you...

**ANGELA NG:**

Passenger service and ticket sales portion we need to plan pretty much a year in advance for our ticket fare so that's why... I was on the urgency to mention when Officer Mendiola... right... came by, I was uh, I already increased it... so I went yeah... so....

**DIRECTOR CQA:**

Well thank you again for... for... for those comments I appreciate the support ...so going down the line...our next our next speaker signed up is Mr. Marquez from Korean Air... and sir if you don't mind and of course if you have any written testimony you can present that to the table... thank you for your testimony...

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**GENARO MARQUEZ:**

Thank you and good morning everybody, Chief and Director, can you hear me hello.

**DIRECTOR CQA:**

Yes...and please please...identify yourself and the agency that you represent...your company

**GENARO MARQUEZ:**

My name is Genaro Marquez from Korean Air...um...basically Angela almost covered everything...and just a simple recap for some summary...regarding this implementation...actually if it's must then we have to comply with it...that's our response...if you are asking our suggestion...and as you mentioned a while ago...July 15 is the basic target I mean tentative target...

**GENARO MARQUEZ:**

If implemented...and might be pushed back again...um...is that correct?

**MAJOR PAUL:**

Yes...um...yes...we're looking at...um...like we mentioned in the other two...we're looking at possibly a July 15th time frame...

**GENARO MARQUEZ:**

Okay...we'll...um... in that case then...it's now the airlines discretion how we could comply on the real situation right now...then...that's how...the way I understand. Is that correct?

**MAJOR PAUL TOVES:**

Yes...and normally...um...I didn't mention this earlier...but but the fees will not...the reason why we mentioned 30 days prior was because in order for the fees to officially kick in, it would need to be...go through the airport tariff schedule process as well...and and, of course, in the airport tariff schedule they they do a 30 day notice before the effective date kicks in...and that's where the 30 days notice came in...um...but but I'm sure that that as soon as...that as soon as we get a better feel for what's going on in the review process...we'll let you know sooner whether or not...whether or not July 15th is still realistic or not...

**GENARO MARQUEZ:**

Okay...fair enough...thank you

**GUAM CUSTOMS AND QUARANTINE AGENCY**

Public Hearing April 5<sup>th</sup>, 2013, 10:05 A.M. Audio Transcript

*Proposed Amendment to the Customs, Agriculture, and Quarantine Inspection Service Charge*

**CHIEF SGAMBELLURI:**

Mr. Marquez, are you in support of our increase?

**GENARO MARQUEZ:**

Well...like I said...if it's must...then...we have to comply.

**CHIEF SGAMBELLURI:**

Thank you very much.

**GENARO MARQUEZ:**

You're welcome.

**DIRECTOR CQA:**

Mr. Marquez, thank you for your testimony...we will take your testimony into consideration. Again,...like I...I want to reiterate that it's really in all our best interest to increase the communication and understanding of this process...the transition between a \$6.36 and an \$8.29 is a very critical transition so that we in fact take all the controversy out of the equation...and I think the more we talk to you and keep you under the standing of where the dates are then we'll all be working as a team...so I appreciate that...and we would definitely do our best to reach out and continue the communication and you are always welcome to call us at any time...you know...there's a...maybe you haven't heard from us in a day or two...and you want to hear about us...you are certainly welcome to contact Major Paul or anybody in our agency so we can get it to Major Paul...and Johnric...so that we can properly get the answers back to you so...again, it's really a communication exercise now...and we're going to work and communicate the same issues to the Legislature...so we're going to try to make sure the dates...so they're not going to be controversial...and...you know... Okay, is there anybody or anymore testimonies of anyone here who would like to either have a written testimony or oral testimony you're certainly welcome to come up and sign-up and then uh free to say your piece. I would just for the sake of the our new arriving visitors here for our testimony, anyone who is, wants to provide a written or oral testimony, please step up to the table. And you can just sign you name and your agency, and you can step up to the table and present your testimony. So, if anybody is, wanna do that you are certainly welcome and appreciative to make your testimony heard. Can I assume that, that the testimony portion of this, this is over does... does anybody care to come up again, last, last call, if I may say...or you know to give everybody a chance to say anything...or if anybody...the speakers earlier have another idea they wanna...put, present this is still your time to do that if you care to come up...yes Angela...go ahead if you wanna step up so we can make sure we capture every question in the recording and again identify yourself if you don't mind...

**GUAM CUSTOMS AND QUARANTINE AGENCY**

Public Hearing April 5<sup>th</sup>, 2013, 10:05 A.M. Audio Transcript

*Proposed Amendment to the Customs, Agriculture, and Quarantine Inspection Service Charge*

**ANGELA NG:**

Again my name is Angela from Eva Air...my last question I promise is...is there anyway...that the tentative date can be sent out in a written format...base on after the public here today this is what was...so at least it gives us a correspondence...yeah to head office saying that it's progress up to this date so far....so they know that, okay we're still waiting on when to increase it...

**MAJOR PAUL:**

Yes, I believe that once we speak to the other players in the moving process and we can all come to an agreement as to when we're gonna hold this thing, change it and we'll put it in writing to you...

**ANGELA NG:**

Okay, thank you.

**MAJOR PAUL:**

You're welcome.

**DIRECTOR CQA:**

And that again Angela, is one of the key obviously the feedback is that date, that specific date, will be very clear to everybody and we will share that... reach out to again to the Senators that we're gonna deal with so that we can come up with a date that everyone feels comfortable that we could meet and then you could be able to do your thing... your process to notify the passengers that are coming to Guam... so we want to welcome all our passengers that are coming to Guam and we don't want any confusion to the pricing strategy...One more time, if I may, yes please, please again Sir, if you don't mind state your name again, thank you.

**GENARO MARQUEZ :**

My name is Genaro Marquez from Koran Air... just last one question...if you don't mind, what is the unexpected delays... concern issues?

**DIRECTOR CQA:**

The question is, what's the unexpected delays..., well just for me and Major Paul if you don't mind I'll just say a few things that could be possible... and then if you want to add on to it... you know you have a lot more experience with this than I do.... basically for me what could happen is the discussions with the legislative process ....having you know that could be part of it also and if maybe anything else Major Paul that you would like to add that could have a delay into this

**GUAM CUSTOMS AND QUARANTINE AGENCY**

Public Hearing April 5<sup>th</sup>, 2013, 10:05 A.M. Audio Transcript

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**MAJOR PAUL TOVES:**

Yeah, basically we have several layers that we need to go through and everybody you know has their workloads that they faced with together with this... and a lot of times they need to prioritize, they prioritize what they address first what they address later and for whatever the reason might be they don't often... they may not get back to us as soon as we would like, so that's basically the unforeseen delays that we expect but... but ... but we do understand though in all our discussions with the various... especially the people that review these things their doing their very best to try and address it as quickly as possible and get back to us but... even given that there's sometimes things just come up and they can't get back to us, as soon as they like

**DIRECTOR CQA:**

Thank you again Mr. Marquez.... Okay... again just to be on the safe side... if there's anybody else that would like to present either written or oral testimony... you are certainly welcomed to step up to the plate...I see no takers right now so I would like to just to for the time... I got I have it is 10:32 as the time and would like to go ahead and conclude... this portion... I appreciate you being here for our public hearing, thank you for your support and understanding.

**MAJOR PAUL TOVES:**

One last thing... if for the people who did sign up if you could give us your email address and that way can also communicate with you that way... we can send you... you know information updates as they arrive through... that means, thank you. **END**

# ITEM

# 2g.

## **ECONOMIC IMPACT STATEMENT**

Guam Customs and Quarantine Agency

Customs, Agriculture, and Quarantine Inspection Service Charge (CAQISC) Program

### **1.0 Purpose**

The following Economic Impact Statement (EIS) outlines the Guam Customs and Quarantine Agency's (CQA) proposal to amend fees in relation to air passenger clearance services at the A.B. Won Pat Guam International Airport from the current rate of \$6.36 to \$8.29. The proposed rate is projected to take effect May 1, 2013. This change to the Customs, Agriculture, and Quarantine Inspection Service Charge (CAQISC) Program will necessitate amendments to the CAQISC Program Rules and Regulations promulgated pursuant to 5 GCA, Ch. 73 and all applicable subsections.

Guam is a major travel point in the Pacific and serves as a gateway for Micronesia where, based upon the last three year average, more than 1.2 million passengers are processed through the Guam International Airport annually. Guam's own organic growth, combined with its expanding tourism market and ongoing military build-up propelled in large part by the proposed relocation of 5,000 marines and their dependents to the island, is projected to usher in an era of unprecedented economic prosperity. In anticipation of this population explosion, the projected increase in passenger movements into the island is expected to put considerable demands on CQA's operational requirements.

To meet the current and projected passenger demands, CQA is proposing to amend its current fees for air passenger clearance services as the current fee has not been revised since 1998. Furthermore, the current fee level does not allow the agency to fully recover the cost of operations for the services provided. The fee changes proposed in this EIS will ensure the government's cost recovery objectives are achieved for CQA's air passenger clearance services and remain consistent with the legislative intent of P.L. 23-45 while providing operational flexibility for the agency.

In accordance with 5 GCA Chapter 9 §9301, it is required that any changes related to rules, regulations or fee increases must be accompanied by an economic impact statement subject to review and approval by the Governor and the Legislature. The economic impact statement shall address:

1. The purpose and the need for the rule or regulation;

2. The financial impact of the proposed rule or regulation;
3. Any potential increase or decrease in the cost of living on Guam;
4. Any increase or decrease in the cost of doing business as an enterprise or industry on Guam;
5. Any direct or indirect impact upon employment on Guam;
6. Any adverse or beneficial economic impact that is attributable to the proposed rule or regulation.

This report presents the information requested by the Legislature.

## **1.1 Background**

In 1994, as promulgated under P.L. 22-112, the Guam Customs and Quarantine Agency (CQA) became a line agency of the Government of Guam. Charged with the mission of protecting Guam's borders and enforcing laws in relation to the inspection and clearance of passengers, cargo, aircraft and vessels at Guam's ports of entry, the mission of the agency is to:

Enhance and protect the quality of life for the people of Guam by:

- Preventing the importation of illicit narcotics.
- Protecting Guam's flora and fauna from the introduction of injurious pests and diseases.
- Preventing the introduction and spread of quarantined and communicable diseases.
- Reducing motor vehicular accidents through the enforcement of Federal Motor Vehicle Safety Standards and Federal Air Pollution Control Regulations on all imported vehicles.
- Enforcing substantive requirements relative to foreign and interstate commerce of firearms, ammunition and explosives.
- Generating government revenue through the assessment of the Use Tax Law on imported items and commodities.
- Protecting legitimate business by enforcing copyright, patent, trademark, and Guam Product Seal regulations at all ports of entry.
- Deterring fraudulent and illicit activities in interstate commerce through the apprehension of violators for judicial prosecution.

- Providing assistance to other government law enforcement and regulatory agencies in the enforcement of local and federal rules, regulations, and laws.
- Controlling exports of commodities or technical data for the purpose of protecting national security, short supply and foreign policy.

## **1.2 Current Fee Structure**

In 1995, P.L. 23-45, that effectually established the Customs, Agriculture, and Quarantine Inspection Service Charge (CAQISC) Program, provided a source of funding for CQA's activities and allowed the agency to generate revenue to recover the costs incurred to provide, maintain and conduct its operations at the A.B. Won Pat Guam International Airport, among others. Furthermore, this program strived to remove any reliance of funding upon the Government of Guam's General Fund. The breakdowns of fees are as follows:

- For Air Carrier Services, an interim fee of \$10.00 was assessed at the inception of this program for each airline passenger arriving at the A. B. Won Pat Guam International Airport. In FY 1998, the fee was revised to \$6.36. These fees are reflective of the anticipated costs associated with providing, maintaining, and operating the service charge facilities which relate to air carriers' operations, and has remained unchanged for almost fifteen (15) years.
- For Sea Passenger Inspection Services an interim fee of ten U.S dollars (\$10.00) for the processing of passengers arriving via ocean vessel at the Jose D. Leon Guerrero. This fee has been unchanged and has remained in effect since 1995.
- For Cargo Clearance Services at the A.B. Won Pat Guam International Airport or the Jose D. Leon Guerrero Commercial Port of Guam an interim fee of five U.S. dollars (\$5.00) per airway bill or bill of lading for the processing of documentation required for the entry of air or sea cargo, and up to twenty five U.S. dollars (\$25.00) per airway bill or bill of lading for consolidated consignments (up to five or more) is assessed. This fee was revised in 2011 to a weight based system where at the GIAT, the fee is five (5) U.S. dollars for the first 100 pounds (shipping weight) or less of non-exempt cargo, whether consolidated or not, that is entered per carrier bill of lading, and .0012 U.S. dollars for every pound (shipping weight) of non-exempt cargo thereafter. For Containerized Shipments of sea cargo arriving at the Commercial Port of Guam or other location authorized by the Director, it is five (5) U.S. dollars for the first 4000 pounds (shipping weight) or less of non-exempt cargo, whether consolidated

or not, entered per carrier bill of lading and .0012 U.S. dollars for every pound (shipping weight) of non-exempt cargo respectively thereafter. And lastly, for Non-containerized Shipments of sea cargo arriving at the Commercial Port of Guam or other location authorized by the Director, the fee is five (5) U.S. dollars for the first 4000 pounds (shipping weight) or less of non-exempt cargo, whether consolidated or not, that is entered per carrier bill of lading, and .0012 U.S. dollars for every pound (shipping weight) of non-exempt cargo thereafter not to exceed a total charge of \$500 U.S. Dollars per carrier bill of lading.

The Agency submitted its proposed FY2013 budget to the Legislature for their review and approval. Based upon this budget request, the anticipated direct costs for CQA's airport operations amounts to approximately \$3.5 million. The indirect costs (for areas like the Director's Office, administration, training, and narcotics response units (support the airport operations) amounts to approximately \$3.2 million. Lastly, although not included under this budget request, the cost for rent and other fees associated with airport operations is in the amount of approximately \$2.4 million dollars this year. Altogether, CQA's total costs for air passenger inspection operations is anticipated to be approximately \$9.1 million for FY2013.

Over the last three years, the CAQISC air passenger inspection fee has generated approximately \$24.3 million in revenue or an average of \$8.1 million per year. These fees are intended to provide for CQA's overall cost of air passenger operations year-over-year. When comparing this against CQA's anticipated costs for FY2013, however, it equates to a difference of about \$1 million this year.

In light of the above, CQA submits this report in accordance with 5 GCA Chapter 9 § 9301 to exercise its authority to amend its rates and charges related to the CAQISC program for air passenger services at the A.B. Won Pat Guam International Airport. Fees and charges for these services have remained unchanged since the 1998.

### **1.3. Methodology and Study Approach**

For purposes of expediting this economic impact study, secondary information contained in the following reports were considered since much of CQA's workload along with consumer pricing has remained relatively stable since the publication of these documents:

- Jose D. Leon Guerrero Commercial Port of Guam Master Plan Update 2007
  - prepared by PB International, PB International, Inc. in association with BST Associates,

- Guam Customs and Quarantine Agency Cost of Service Study, Fee Assessment and Development and Consultation Services, August 2008
  - presented by KPMG Consulting/Guam Systems, Consulting, November 2001
- A.B. Won Pat International Airport Authority, Guam Airline Activity FY 2001-2009
  - Prepared by GIAA Expansion Office, updated March 15, 2010

The information contained within the above reports provided for a review of CQA's organizational structure and internal processes and the tools of Process Modeling, Workload Analysis, Activity Based Costing, Benchmarking and Customer Value Analysis that were used to simulate the impact of the proposed fee changes to the CAQISC program. The CQA's law enforcement programs and fee schedule as it applies to airline passenger services are separate and apart from port operations.

## **2.0 Financial Impact on CQA**

The proposed changes to the CAQISC program is expected to result in positive financial outcomes and provides CQA a vehicle to effectively recover the costs of its operations in providing air passenger clearance services. In addition, CQA will have greater flexibility to allocate its resources and personnel based on their operational objectives. Moreover, as they become more self-reliant and independent, the agency will have the ability to effectively plan for undertaking capital improvement programs or projects that are currently constrained due to budget limitations or can only be executed with federal funding or other available grant programs.

Based on the assumptions contained in the proposed amendments to the CAQISC program, operating costs, revenues and cash flows are expected to reflect positive results.

### **2.1 Increased Revenue/Positive Cash Flow**

The CAQISC program provides services on a fee-for-service basis. In the case of the air carriers, this fee is adjusted periodically depending on the operational requirements anticipated by the agency, with the last adjustment being made in 1998. In terms of cargo clearance services this fee was recently adjusted in 2011.

According to passenger arrival data provided by the Guam International Airport Authority, passenger volumes have averaged approximately 1,268,019 annually, and are projected to increase over the next few years. Aircraft arrivals are likewise projected to increase as well.

By changing the rate, CQA would be able to assess its fees in relation to the amount of resources utilized in conducting air passenger clearance services. This would ensure the agency effectively recovers its costs as the revenues generated would be in direct proportion to the amount of resources expended in the clearance process.

## **2.2 Effective Cost Allocation**

Because the agency's core finance and budgeting systems are not structured around the above mentioned activities, the CAQISC program employs a human resource utilization model—the National Resource Model (NRM) to account for staff activities in relation to each of the activity classifications. The NRM data allows direct resource costs such as wages to be determined and it forms the basis of drivers for the allocation of indirect costs.

## **3.0 Potential Increase or Decrease in the Cost of Living on Guam**

The Legislative intent of the CAQISC program was to provide the agency a method of recovering the cost of its operations. By enactment of this legislation, CQA became less dependent on the General Fund and more self-reliant in generating revenues to cover its operational expenses. It is a financially viable program and allows the agency to provide the public with the level of service that they deserve and expect without further burdening the government's local tax base.

The proposed changes to the CAQISC program will allow the agency the flexibility to adjust its rates and charges in order to cover its operating costs while generating cash flow to undertake capital improvement programs or projects to improve the effectiveness and efficiencies of CQA. In addition, stakeholders understand that the agency must be able to recover the cost of their operations and acknowledge that the current fee structure is not adequate to cover the costs of performing the air passenger clearance services.

The CAQISC program's rates for air passenger clearance services have remained unchanged since 1998.

### **3.1 Impact on Cost of Living**

This section summarizes the impacts of CQA's proposed amendments to this program.

The legislative intent of the CQA's enabling statute was to provide the agency a method of being self-reliant by adjusting fees charged to air carriers arriving on Guam via the Antonio B. Won Pat International Airport at a level needed to effectively execute its

federal and local enforcement programs. The passenger fee has not been adjusted since 1998 to reflect the overall increase in resources needed to meet program demands, let alone to keep at a level commensurate with the fees assessed by our U.S. counterparts. Passengers expect the delivery of identical CQA processing as is performed in the mainland yet do not pay the U.S. rate of \$10.50. Adjusting our passenger fees from \$6.36 to \$8.29 is a small step in that direction to achieve these objectives. Without a fee increase the government of Guam's General Fund (our local tax base) will continue to subsidize and potentially jeopardize future funding for CQA operations.

There is no measurable effect on the cost of living on Guam. The fee is administrative in nature, non-competitive, is not reflective of market expectations and is inadequate to fund CQA's air carrier passenger inspection services and operations. The fee is "pay as you go" in nature and is directly paid by airline passengers at the point of sale as a government surcharge. There are no spillover effects into consumer prices as this fee does not materially impact commodity prices.

Table 3.1

Flight Origin To Guam	One-Way Air Fare	Current Fee	Proposed Fee	Total Fare	Percent Change
CNMI	\$106	\$6.36	\$8.29	\$114.29	1.8%
Palau	\$347	\$6.36	\$8.29	\$355.29	0.6%
South Korea	\$517	\$6.36	\$8.29	\$525.29	0.4%
Australia	\$1,306	\$6.36	\$8.29	\$1,314.29	0.15%
Honolulu	\$1,321	\$6.36	\$8.29	\$1,329.29	0.15%
Japan	\$1,949	\$6.36	\$8.29	\$1,957.29	0.1%

The major determinants affecting the costs for air passenger travel include the market price for fuel, labor costs, regulatory compliance and depreciation expense. The bulk of fees generated locally come from passengers departing from foreign countries. And, from that they can expect to pay less than 1 percent more in total airfare costs. This is insignificant and will not adversely affect demand.

Passengers arriving on Guam via ship are currently assessed a \$10.00 fee, in sharp contrast to the \$6.36 to air passengers. Yet, identical enforcement programs apply to both air and ship passengers. As noted above, the air passenger fee was \$10.00 at one time.

Table 3.2

Passenger Fee/Rates Comparison within region	\$ Equivalent
Philippines	\$17
Japan	\$23
Palau	\$20
USA	\$10.50
Guam	\$6.36 (\$8.29 proposed)

Passengers arriving on Guam pay non-market rates for similar services. The proposed fees bring fees closer to market rates. Moreover, the CQA’s law enforcement programs mirror that of the U.S. and justifiably should be adjusted accordingly.

**4.0 Increase or Decrease in the Cost of doing Business as an Enterprise or Industry on Guam**

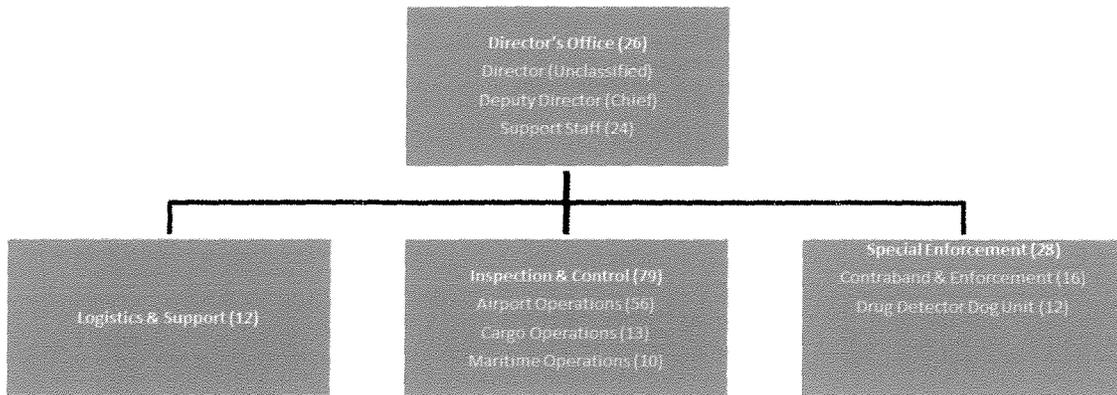
There are no anticipated cost increases or manpower requirements to the airline industry associated with assessing or collecting the proposed fee increase since it is administrative in nature and processed electronically. The airlines servicing Guam assess and collect the passenger fees on behalf of GIAA through the airfare and ticketing process as a government surcharge. There is a one-time expense to implement the adjusted fee but no new continuing cost burdens to the airlines as a result of this.

**5.0 Direct or Indirect Impact upon Employment on Guam**

This section summarizes the economic impacts of the proposed fees for the CAQISC program with respect to direct and indirect impacts on employment on Guam.

CQA currently has 143 personnel assigned to its agency. The Director and private secretary of CQA are unclassified employees and serve at the pleasure of the Governor of Guam. The remaining 141 personnel are tasked throughout the agency in support of various functions. The following is the organizational chart for CQA:

## CQA ORGANIZATIONAL CHART (FY 2013)



In 2012, air passenger clearance services were handled by a team of 56 officers. These officers were responsible for the inspection and clearance of over 1.3 million passengers and over 10,000 aircraft.

Air passenger and aircraft arrivals into Guam are anticipated to increase as key components of the expanding tourism base and proposed military build-up gets underway, and as the island experiences its own organic growth. Given the foregoing, it appears that more manpower will be required to meet the projected air passenger and aircraft demands resulting from these drivers. The proposed changes to the CAQISC program will allow CQA to project manpower requirements or allocate resources effectively to achieve the agency's operational objectives. This will allow the agency greater operational flexibility and carry out its mission efficiently and effectively without growing beyond the forecasted air passenger clearance demands. Aside from increasing CQA personnel, the proposed changes should not have an economic impact, direct, indirect or induced on employment levels on Guam.

### **6.0 Adverse or Beneficial Economic Impact that is Attributable to the Proposed Rule or Regulation.**

The implementation of the proposed changes to the CAQISC program will result in favorable economic outcomes and may cause positive law enforcement results described above. The proposed fee adjustment for passenger clearance services will allow the agency to effectively cover all operational expenses, both direct and indirect costs. Moreover, the process will become more simplified and streamlined, creating efficiencies and allowing the agency to achieve cost-cutting goals while increasing productivity. In addition, it will allow the agency to forecast its operational

requirements and adjust the fees to ensure that the fee structure is commensurate with revenue requirements to recover its operational costs.

## **7.0 Proposed Changes to the CAQISC program**

Passengers arriving via the Guam International Airport place a significant risk potential for the importation of illegal contraband via this port of entry. The risk potential is largely attributed to the immense volume (size) of arriving passengers making the concealment of contraband by the less than honest passengers difficult to detect among the many legitimate travelers entering Guam.

In 1998 a workforce of approximately 232 personnel were protecting our borders. Today, there are only 141 personnel doing their very best to serve and protect us... a 40% decline in border protection personnel over the last 15 years. This reduction was largely due to rises in the cost of doing business, less available funding to support passenger inspection operations, and the shrinking buying power of the dollar by up to 42%. Rather than revise rates to coincide with the cost of maintaining the same levels of personnel, equipment and supply resources, CQA adapted to these changes by reducing its workforce, foregoing the purchase or repair of equipment, reducing supplies and services available to its operations, and streamlining its border enforcement coverage. Altogether, these reductions have had an impact upon the level and quality of protection available at our borders.

Over the last fifteen years, CQA's ability to effectively fulfill its task has gradually decreased where oftentimes aircraft are waiting for clearance, long lines and delays are occurring in the customs area, and several important customs functions cannot be performed. When comparing enforcement statistics from 1998 to that of today, they indicate that drug seizures have declined by almost 84%, contraband seizures are down by 50%, and agricultural seizures (2003) have decreased by 40% as well. With the cost of drugs going down from \$800 a gram to as low as \$500 a gram... it is an alarming possibility that these declines are filtering into our community, and that there are more drugs available on our streets.

Proposed changes to the CAQISC program offers several benefits in general. Among these benefits have already been outlined within this report, and include: it establishes a mechanism for the Agency to better recover the costs of providing, maintaining, and operating the passenger service facility on Guam, second, it establishes a fee mechanism which offers greater flexibility to meet fluctuations in the relative demand for customs services and to recover those costs accordingly; and third, it provides the

agency with a more objective means at determining revenue projections under the program, and to better plan for any capital, facilities, personnel resource, or other budgetary matter which has a bearing on the Agency's operations and ability to provide, maintain, and operate customs passenger service facility.

A critical benefit of modernizing the air passenger inspection fee is that it will enable the agency to gradually replenish its manpower, equipment, and supply resources long needed in its operations to meet the relative demand for customs services at this port of entry.

As outlined earlier, CQA is in dire need of additional personnel at the airport not just to provide timely service to our customers, but just as important, to effectively protect our community. Based upon factors such as CQA's aircraft clearance operations, flight line and concourse operations, passenger processing operations, and central control operations, as well as other factors like the amount of time it takes to screen a passenger, how long it takes to perform a baggage inspection, and what number of inspections are needed depending upon the place of origin, and comparing it against the overall workload at the airport, the time frames in which they occur, within what time window should passengers complete the inspection process, how many employees are regularly off, and how many may be on personal leave or deployment... CQA estimates that approximately 88 officers, at a minimum, are needed to meet the total number of arriving passengers last year.

As of today, CQA has 54 personnel designated to our airport operations, 34 less than what is deemed necessary. By implementing this adjustment, CQA will be able to correct these resource and enforcement deficiencies by acquiring the appropriate level of manpower resources needed to meet the relative passenger arrival workload, to replace its dilapidated and broken equipment, to obtain the right level of supplies needed in its operations, and to provide the appropriate inspection facility conducive to customs inspections at the airport.

With proper resources, equipment and supplies being reinstated, air carriers and passengers will be better able to receive on-time aircraft clearances, better accountability and control against potential flight line and concourse smuggling, quick and efficient inspections within the customs area, and a better level of protection for our community overall.

## **7.1 Fee Determination**

The Director is responsible for assuring, to the extent reasonably possible, that the service charges to be assessed to the air carriers by the Antonio B. Won Pat Guam International Airport Authority reflect as much as possible the actual costs associated with providing, maintaining, and operating the service charge facilities which relate to the air carriers' operations.

In the event that there is a significant increase or decrease in the anticipated costs of providing, maintaining, and operating the service charge facilities for air carrier services after a budget has been submitted to the Legislature and before conducting the annual review, the Director may adjust the monthly facility service charge to air carriers so that the amount of the charge levied on air carriers by the GIAA will reasonably reflect anticipated actual costs of providing, maintaining and operating the service charge facilities.

For FY2013, CQA estimates that the anticipated costs for providing, maintaining, and operating the service charge facilities as they relate to air carrier operations is approximately \$9.1 million. Over the last three years, the passenger inspection fees recovered an average of approximately \$8.1 million annually. This equates to a potential under-collection of the fee by approximately \$1 million for the period of October 1, 2012 through September 30, 2013. Given that the periodic fee adjustment is anticipated for May 1, 2013, the full amount of the under-collected fee will be applied during the five (5) month period commencing May 1, 2013 through September 30, 2013.

### **7.1.1 Proposed Fee**

Upon review and pursuant to the proposed fee determination methodology outlined under subsection 7.1.1 above, the Director has determined that such total annualized costs of providing, maintaining, and operating the service charge facilities as they relate to air carrier operations is approximately \$9,082,394. Thus, the monthly charge attributable to all air carriers commencing May 1, 2013 is \$875,609 for which each air carrier will be responsible for remitting to the Agency its service charge as determined under the program rules and regulations. The proposed monthly charge will be converted to a cost per passenger for the purposes of the apportionment methodology by dividing the monthly charge by the average monthly arriving passenger volume during the preceding three years.

### **7.1.2 Revenue Forecast**

For the purposes of establishing a baseline of passenger volume for FY2013, CQA utilized the average number of arriving passengers over the past three years based upon the annual passenger arrival information provided by the Guam International Airport Authority. Based upon this information, the average number of arriving passengers anticipated for this fiscal year is approximately 1,268,019 passengers. In applying this averaged passenger volume against the proposed rate established under subsection 7.1.1 above, the revenue forecast of recovery during the course of FY2013 is approximately \$9,084,299.

### **7.2 Proposed Rate Setting Methodology**

The Director will review service charges at least annually and make such periodic adjustments as may be necessary in accordance with established program rules and regulations. In the event that there is a significant increase or decrease in the anticipated costs of providing, maintaining, and operating the service charge facilities for air carrier services after a budget has been submitted to the Legislature and before conducting the annual review, the Director may make a periodic adjustment to the monthly facility service charge to air carriers so that the amount of the charge levied on air carriers by the GIAA will reasonably reflect anticipated actual costs of providing, maintaining and operating the service charge facilities. Written notice to the GIAA and air carriers of a proposed periodic adjustment shall coincide with the consultation process whereby the Agency will hold at least one meeting called and scheduled by the Director with the GIAA and the air carriers to discuss a proposed periodic adjustment for air carrier services and to provide GIAA and the air carriers with an opportunity to comment on the proposed adjustments for providing, maintaining, and operating the service charge facilities. The Agency will give due consideration to the input and comments received from GIAA and the air carriers during the consultation process. The adjusted service charge shall not be levied or assessed until GIAA has amended the Airport Tariff Schedule and given notice thereof in accordance with its Terminal Rules and Regulations.

# ITEM

# 2h.



**JAPAN AIRLINES**

January 8, 2013

Mr. Pedro A. Leon Guerrero Jr.  
Director  
Customs & Quarantine Agency  
Guam International Airport

Subject: Notice of Periodic Service Charge Adjustment  
Customs, Agriculture, and Quarantine Inspections Service Charges.

Dear Mr. Leon Guerrero,

Thank you for giving us the opportunity to respond to the notice regarding periodic service charge adjustment for Guam Customs user fee with an increase from \$6.36 to \$8.29 effective May 1, 2013.

We would like to review your proposal budget submitted for FY13 in order to gauge the operational cost and expense related to the airport. It is our understanding that the user fee collected by the Airport Authority from the airlines is based on the number of arrival passengers. According to recent announced GVB statistic, Jan-Dec 2012 indicated approximately 1.3 million Guam visitors arrival (including sea and AAFB arrivals). Total of approximately 7.6 to 8 million (USD) dollars generated based on conservative count at 1.2 million visitors. We would like to examine if any short fall of the funding to justify the proposed 30% increased from \$6.36 to \$8.29.

We would also like for all participating carrier to review your budget proposal and justification to reflect the necessary increase of 30% for the Guam Customs User Fee for operational cost and expenses related to airport operations ex. officers salary, equipment, rental/lease and etc.

We recommend that any justified increased be set at 10% i.e. \$7.00 initially and all subsequent increase be periodically review for adjustment every 3 years. GVB statistic indicated a 13% increase of Guam visitor arrival for the year 2012 in comparison to 2011. We anticipate a steady growth with tourism arrival and furthermore all Guam Customs User Fee (GU) are incorporated in the air ticket and collected from the passengers by the airlines. It is our understanding that any

revised user fee charges must be notified to IATA in order to be incorporated into the ticket for the airlines to collect the necessary fee. We fully understand the necessity for periodic adjustment to increase the Guam Customs User fee to operate the Guam Customs Airport operation however the initial increase of 30 percent should be outlined in details to support your proposed plan to increase the current fee \$6.36 to \$8.29 for operating the airport service facility. Airport cargo/freight operation should be excluded since cargo customer pay (CIF @\$5.00 plus 5% total invoice value fee and applicable overtime based on officers hourly rate). We strongly recommend that the overtime rate for cargo inspection on weekends and holidays be standardized and not by individual Customs officers hourly rate.

Furthermore, kindly indicate any off set revenues, funding/grant received from US Federal Government including any seizure monies in the process of passenger inspection that will be included in the budget proposal.

**Training/Education:**

We would like for a small portion of the funding be secured to train the Customs Officers engaged in the daily baggage inspection at the airport especially with customer service and cultural awareness since diversity of our passengers originate from the "Asian" countries i.e. Japan, Korea, and Taiwan. Multi language greeting skills should be essential tool in welcoming our visitors.

**Customs Form:**

Kindly review the current Guam Customs Form and consider simplifying the form with only required information from the passengers. Majority of the questionnaires in the back are unnecessary.

Your utmost consideration and support on this matter will be greatly appreciated. Again thank you for your understanding and cooperation.

Sincerely Yours,



Jun Abe

Vice President & Regional Manager

Japan Airlines, Guam

Cc: Robert Navarro, JAL Director of Airport Operations

# ITEM

2i.



# CUSTOMS & QUARANTINE AGENCY, GUAM

Guam's First Line of Defense • Protecting Our Island, Our People, Our Resources

*Director's Office*

*Director of Customs – Pedro A. Leon Guerrero, Jr.  
Chief of Customs – Col. Raffaele M.J. Sgambelluri*

**VIA E-MAIL**

January 14, 2013

CQA-DIR-016-013

Mr. Jun Abe  
Vice President & Regional Manager  
Japan Airlines Co., Ltd.  
355 Chalan Pasaheru Road, Suite B225  
Tamuning, Guam 96913  
[jun1.abe@jal.com](mailto:jun1.abe@jal.com)

***RE: Periodic Service Charge Adjustment***

Dear Mr. Abe,

Buenas yan Hafa Adai. Thank you for your letter dated January 8, 2013 regarding the Notice of Periodic Service Charge Adjustment for passenger operations under the Customs, Agriculture, and Quarantine Inspection Service Charge Program. Your suggestions are very insightful and will be considered in the overall review of this adjustment.

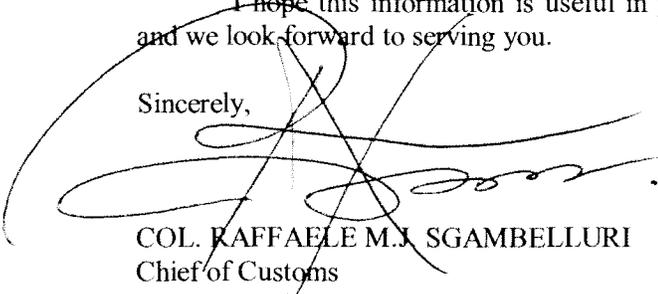
As per your request, please find forwarded a pdf copy of our FY2013 Budget submission to the Legislature which outlines the anticipated costs for providing, maintaining, and operating the service charge facility as it relates to air carrier operations. It is important to note that this budget submission does not include the rental costs for our airport facilities and offices that support these operations. Given that these costs must also be recovered, they were included in determining the service charge adjustment.

As provided in our meeting, the service charge adjustment for our airport operations incorporates the direct costs for our airport operations (i.e. personnel, equipment, supplies rent, etc.) at \$5.5 million, and a percentage of the indirect support costs for our airport operations (i.e. management, administration, training, investigations, evidence handling, rent, etc.) at \$3.6 million. Together, the total anticipated costs to be recovered for our airport operations is approximately \$9.1 million for FY2013.

In determining the service charge adjustment for air passenger and ticketing purposes, this amount was apportioned among the average number of passengers arriving over the last three years and adjusted to accommodate the late implementation date of May 2013. Based on this, the Agency will be able to recover the anticipated costs for its airport operations by the end of the fiscal year. Should there be any surplus collections, however, those amounts will be refunded to the air carriers in accordance with program guidelines.

I hope this information is useful in your review. Thank you again for your suggestions, and we look forward to serving you.

Sincerely,

  
COL. RAFFAELE M.J. SGAMBELLURI  
Chief of Customs

# ITEM

# 3

PROPOSED AMENDMENT TO TITLE 4, GAR, CHAPTER 2, ARTICLE 5, RULES AND REGULATIONS CUSTOMS  
AGRICULTURE QUARANTINE INSPECTION SERVICE CHARGE, GIAA PASSENGER FEE



**Eddie Baza Calvo**  
Governor  
**Ray Tenorio**  
Lieutenant Governor

GOVERNMENT OF GUÅHAN  
(GUBETNAMENTON GUÅHAN)

DEPARTMENT OF ADMINISTRATION  
(DIPATTAMENTON ATMENESTRASION)

**DIRECTOR'S OFFICE**  
(Ufisinan Direktot)  
Post Office Box 884 \* Hagåtña, Guam 96932  
TEL: (671) 475-1101/1250 \* FAX: (671) 477-6788



**Benita A. Manglona**  
Director  
**Anthony C. Blaz**  
Deputy Director

**HRD NO.: OG-13-432**

**APR 10 2013**

**MEMORANDUM**

To: Director, Customs and Quarantine Agency  
From: Director, Department of Administration  
Subject: Request to Review Proposed Rules and Regulations as Amended  
RE: Customs, Agriculture, and Quarantine Inspection Service Charge

*Buenas yan Håfa Adai!* This is written in response to your April 8, 2013 request to review your proposed Inspection Service Charge Rules and Regulations as mandated by §9301(d) of Title 5 Guam Code Annotated (GCA).

Based on our review, we have determined that your proposed rules and regulations do not impact the personnel rules and regulations maintained and administered by the Department of Administration for all non-autonomous government of Guam employees. Therefore, approval from our Department is not necessary. Please refer to the Administrative Adjudication Law for further guidance. *Dångkolo na Agradesimiento!*

  
BENITA A. MANGLONA

# ITEM

# 4

PROPOSED AMENDMENT TO TITLE 4, GAR, CHAPTER 2, ARTICLE 5, RULES AND REGULATIONS CUSTOMS  
AGRICULTURE QUARANTINE INSPECTION SERVICE CHARGE, GIAA PASSENGER FEE



# CUSTOMS & QUARANTINE AGENCY, GUAM

Guam's First Line of Defense • Protecting Our Island, Our People, Our Resources

*Director's Office*

*Director of Customs – Pedro A. Leon Guerrero, Jr.  
Chief of Customs – Col. Raffaele M.J. Sgambelluri*

CQA-DIR-097-13

## MEMORANDUM

Date: April 9, 2013

To: Ms. Geraldine A. Cepeda  
Compiler of Laws, Supreme Court of Guam

From: Mr. Pedro A. Leon Guerrero, Jr.  
Director, Customs and Quarantine Agency

Subject: Request for Review and Approval as to Form  
RE: Proposed Amendment to the Customs, Agriculture, and Quarantine  
Inspection Service Charge Rules and Regulations

Buenas yan Hafa Adai. Please find attached a proposed amendment to 4GAR2, Article 5, §2505(a)(2) of the Customs Agriculture and Quarantine Inspection Services Charge Rules and Regulations. Pursuant to 5GCA9, §9303, your review of proposed regulations as to form is required as part of the rule making process. In this regard, we kindly ask that you review these proposed regulations as to form, and in the event that you find these regulations compliant, to affix your signature and date accordingly below.

Due to pressing circumstances, we kindly ask for your most expeditious review. If you should have any questions or would like to discuss this further, please contact Major Paul Toves or myself at 475-6202 where I can be of assistance. Thank you for your kind attention.

  
PEDRO A. LEON GUERRERO, JR.  
Director of Customs

APPROVED AS TO FORM:

  
Ms. Geraldine A. Cepeda  
Compiler of Laws, Supreme Court of Guam

4/10/13  
Date

attachment

# ITEM

# 5

PROPOSED AMENDMENT TO TITLE 4, GAR, CHAPTER 2, ARTICLE 5, RULES AND REGULATIONS CUSTOMS  
AGRICULTURE QUARANTINE INSPECTION SERVICE CHARGE, GIAA PASSENGER FEE



# CUSTOMS & QUARANTINE AGENCY, GUAM

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Director's Office

Director of Customs – Pedro A. Leon Guerrero, Jr.  
Chief of Customs – Col. Raffaele M.J. Sgambelluri

# COPY

CQA-DIR-098-13

## MEMORANDUM

Date: April 9, 2013

To: The Honorable Leonardo M. Rapadas,  
Attorney General of Guam, Office of the Attorney General

From: Mr. Pedro A. Leon Guerrero, Jr.  
Director, Customs and Quarantine Agency

Subject: Request for Review and Approval as to Form  
RE: Proposed Amendment to the Customs, Agriculture, and Quarantine  
Inspection Service Charge Rules and Regulations

Buenas yan Hafa Adai. Please find attached a proposed amendment to 4GAR2, Article 5, §2505(a)(2) of the Customs Agriculture and Quarantine Inspection Services Charge Rules and Regulations. Pursuant to 5GCA9, §9303, your review of proposed regulations as to form is required as part of the rule making process. In this regard, we kindly ask that you review these proposed regulations as to form, and in the event that you find these regulations compliant, to affix your signature and date accordingly below.

Due to pressing circumstances, we kindly ask for your most expeditious review. If you should have any questions or would like to discuss this further, please contact Major Paul Toves or myself at 475-6202 where I can be of assistance. Thank you for your kind attention.

  
PEDRO A. LEON GUERRERO, JR.  
Director of Customs

APPROVED AS TO FORM:

\_\_\_\_\_  
The Honorable Leonardo Rapadas,  
Attorney General of Guam

\_\_\_\_\_  
Date

\*\*As Per the AG Approved as to form.  
attachment



I MINA 'TRENTAI DOS NA LIHESLATURAN GUÁHAN  
2013 REGULAR SESSION

COPY

Introduced by:

THE CUSTOMS AND QUARANTINE AGENCY ENACTS THE  
FOLLOWING RULES AND REGULATIONS TO AMEND TITLE 4,  
GOVERNMENT ADMINISTRATIVE RULES AND REGULATIONS,  
CHAPTER 2, ARTICLE 5, §2505(a)(2) OF THE CUSTOMS,  
AGRICULTURE, AND QUARANTINE INSPECTION SERVICE  
CHARGE PURSUANT TO 5GCA73, §73151.

1           **Section 1.**    The Customs and Quarantine Agency held a public hearing on proposed  
2 amendments to Title 4, Government of Guam Rules and Regulations, Chapter 2, Article 5, §2505  
3 (a)(2) of the Custom, Agriculture, and Quarantine Inspection Service Charge on Friday, April 5<sup>th</sup>,  
4 2013.

5           **Section 2.**    Pursuant to the provisions of 5GCA Chapter 9, the Administrative  
6 Adjudication Law, this proposed amendment to the regulations must undergo legislative review  
7 and approval before they can become effective.

8           **Section 3.**    The proposed amendment to the Customs, Agriculture, and Quarantine  
9 Inspection Service Charge rules and regulations is attached as Appendix A.

Title 4, Government Administrative Rules and Regulations, Chapter 2, Article 5, §2505(a)(2) is hereby replaced to read as follows:

**§2505. Service Charges.**

**(a) Air Carrier Services**

(2) Charges. In order to calculate the service charges reasonably attributable to each air carrier for the service associated with that carrier, the Director shall determine the service charge to the several air carriers by the following methodology. The Director shall first estimate the current annualized costs of providing, maintaining, and operating the service charge facilities as they relate to air carrier operations, excluding air cargo operations, and then that annualized amount shall be divided by 12. The GIAA shall apportion such monthly amount among the several carriers in proportion to each carrier's revenue passenger volume subject to the services, times the cost per passenger determined below. Such monthly percentage of passenger volume shall be determined by reference to the monthly activity reports of passenger arrivals to be submitted to the GIAA by the air carriers. This apportionment methodology corresponds to the methodology used by the Agency, pursuant to a long-standing agreement with the air carriers, to apportion among the air carriers the Charges for Services of Customs and Quarantine Officers for the cost of using Agency personnel on an overtime basis.

~~Pending review and adjustment by the Director, the cost per passenger as previously established pursuant to these regulations and provided for under the current GIAA Airport Tariff Schedule, shall remain in effect for the purposes of the apportionment methodology and air carrier ticketing and advertising until otherwise adjusted pursuant to these rules and regulations. Each air carrier shall be responsible for remitting its assessed pro rata to the GIAA. Pursuant to a periodic review and this methodology, the Director has determined such total anticipated annualized costs of providing, maintaining, and operating the service charge facilities as they relate to air carrier operations, excluding air cargo operations, is approximately \$9,082,394. In accordance with periodic adjustments under §2506(a)(5), the monthly charge will be adjusted to recover both the remaining annualized monthly charges, as well as those charges under-collected during the period of October 1, 2012 through April 30, 2013. Thus, the monthly charge attributable to all carriers is \$875,609 for which each air carrier shall be responsible for remitting to the GIAA its assessed pro rata service charge as determined by the GIAA under these rules and regulations. The effective date of this adjustment will begin August 1, 2013 and whereby the monthly charge shall be converted to a cost per passenger for purposes of the apportionment methodology and air carrier ticketing and advertising by dividing the monthly charge by the average number of monthly revenue passengers during the preceding three years. In subsequent annual service charge reviews, the monthly charge shall be divided by the average number of revenue passengers during the July 1 through June 30 period preceding the fiscal year. In accordance with §2506(a)(4) of these rules and regulations, the GIAA Airport Tariff Schedule will be amended to reflect these charges accordingly.~~