AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

HEARING TO REVIEW REAUTHORIZATION OF THE U.S. GRAIN STANDARDS ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON
GENERAL FARM COMMODITIES
AND RISK MANAGEMENT

OF THE

COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

APRIL 22, 2015

Serial No. 114–11

Printed for the use of the Committee on Agriculture
agriculture.house.gov

U.S. GOVERNMENT PUBLISHING OFFICE

94–371 PDF WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON AGRICULTURE

K. MICHAEL CONAWAY, Texas, *Chairman*

RANDY NEUGEBAUER, Texas, *Vice Chairman*
BOB GOODLATTE, Virginia
FRANK D. LUCAS, Oklahoma
STEVE KING, Iowa
MIKE ROGERS, Alabama
GLENN THOMPSON, Pennsylvania
BOB GIBBS, Ohio
AUSTIN SCOTT, Georgia
ERIC A. "RICK" CRAWFORD, Arkansas
SCOTT DESJARLAIS, Tennessee
CHRISTOPHER P. GIBSON, New York
VICKY HARTZLER, Missouri
DAN BENISHEK, Michigan
JEFF DENHAM, California
DOUG LAMALFA, California
RODNEY DAVIS, Illinois
TED S. YOHO, Florida
JACKIE WALORSKI, Indiana
RICK W. ALLEN, Georgia
MIKE BOST, Illinois
DAVID ROUZER, North Carolina
RALPH LEE ABRAHAM, Louisiana
TOM EMMER, Minnesota
JOHN R. MOOLENAAR, Michigan
DAN NEWHOUSE, Washington

COLLIN C. PETERSON, Minnesota, *Ranking Minority Member*
DAVID SCOTT, Georgia
JIM COSTA, California
TIMOTHY J. WALZ, Minnesota
MARCIA L. FUDGE, Ohio
JAMES P. MCGOVERN, Massachusetts
SUZAN K. DELBENE, Washington
FILEMON VELA, Texas
MICHELLE LUJAN GRISHAM, New Mexico
ANN M. KUSTER, New Hampshire
RICHARD M. NOLAN, Minnesota
CHERI BUSTOS, Illinois
SEAN PATRICK MALONEY, New York
ANN KIRKPATRICK, Arizona
PETE AGUILAR, California
STACEY E. PLASKETT, Virgin Islands
ALMA S. ADAMS, North Carolina
GWEN GRAHAM, Florida
BRAD ASHFORD, Nebraska

SCOTT C. GRAVES, *Staff Director*
ROBERT L. LAREW, *Minority Staff Director*

SUBCOMMITTEE ON GENERAL FARM COMMODITIES AND RISK MANAGEMENT

ERIC A. "RICK" CRAWFORD, Arkansas, *Chairman*

FRANK D. LUCAS, Oklahoma
RANDY NEUGEBAUER, Texas
MIKE ROGERS, Alabama
BOB GIBBS, Ohio
AUSTIN SCOTT, Georgia
JEFF DENHAM, California
DOUG LAMALFA, California
JACKIE WALORSKI, Indiana
RICK W. ALLEN, Georgia
MIKE BOST, Illinois
RALPH LEE ABRAHAM, Louisiana

TIMOTHY J. WALZ, Minnesota, *Ranking Minority Member*
CHERI BUSTOS, Illinois
GWEN GRAHAM, Florida
BRAD ASHFORD, Nebraska
DAVID SCOTT, Georgia
JIM COSTA, California
SEAN PATRICK MALONEY, New York
ANN KIRKPATRICK, Arizona

CONTENTS

	Page
Conaway, Hon. K. Michael, a Representative in Congress from Texas, opening statement	51
Crawford, Hon. Eric A. "Rick", a Representative in Congress from Arkansas, opening statement	1
Prepared statement	2
H.R. 2088, United States Grain Standards Act Reauthorization Act of 2015	55
Peterson, Hon. Collin C., a Representative in Congress from Minnesota, opening statement	4
Walz, Hon. Timothy J., a Representative in Congress from Minnesota, opening statement	3
Submitted letter	71

WITNESSES

Winkles, Jr., David M., President, South Carolina Farm Bureau Federation, Columbia, SC	4
Prepared statement	6
Cox, Sr., J. David, National President, American Federation of Government Employees, American Federation of Labor and Congress of Industrial Organizations, (AFGE, AFL–CIO), Washington, D.C.	8
Prepared statement	9
Friant, Nick, Chairman, Grain Grades and Weights Committee, National Grain and Feed Association; Co-Chair, Grain Grades and Inspections Committee, North American Export Grain Association, Wayzata, MN	10
Prepared statement	12
Supplementary material	72

SUBMITTED MATERIAL

Ayers, David, President, American Association of Grain Inspection and Weighing Agencies, submitted statement	73
Blankenship, Brett, President, National Association of Wheat Growers, submitted letter	75

HEARING TO REVIEW REAUTHORIZATION OF THE U.S. GRAIN STANDARDS ACT

WEDNESDAY, APRIL 22, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GENERAL FARM COMMODITIES AND RISK MANAGEMENT,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:00 a.m., in Room 1300 of the Longworth House Office Building, Hon. Eric A. "Rick" Crawford [Chairman of the Subcommittee] presiding.

Members present: Representatives Crawford, Austin Scott of Georgia, Allen, Conaway (*ex officio*), Walz, Ashford, David Scott of Georgia, and Peterson (*ex officio*).

Staff present: Haley Graves, Jessica Carter, John Goldberg, Mollie Wilken, Ted Monoson, John Konya, Anne Simmons, Liz Friedlander, Matthew MacKenzie, and Nicole Scott.

OPENING STATEMENT OF HON. ERIC A. "RICK" CRAWFORD, A REPRESENTATIVE IN CONGRESS FROM ARKANSAS

The CHAIRMAN. This hearing of the Subcommittee on General Farm Commodities and Risk Management, to review the reauthorization of the U.S. Grain Standards Act, will come to order.

This hearing comes nearly a century after the Grain Standards Act of 1916 was signed into law by then-President Woodrow Wilson. For nearly 100 years, this law has been the cornerstone of the vibrant grain trade, both domestically and internationally. This law is relied upon not only by exporters and domestic shippers, but by the whole U.S. ag sector. It establishes official marketing standards and procedures for the inspection and weighing of grains and oilseeds, providing a critical service to the grain marketplace.

The witnesses who join us today represent industries that have thrived over the last century, and transformed the grain trade into the economic juggernaut it represents today. The GSA has supported the evolution of this industry by providing a backbone of stability relied upon by exporters, shippers, farmers and even consumers. With the farm economy and so many of our constituents relying on the ability of grain and oilseeds to get to market, reauthorization of GSA should have this one goal in mind: stability. And I mean this in a couple of ways.

Many of the provisions in current law are set to expire on September 30th of this year. A lapse in authorization would disrupt the current grain and inspections process, therefore, Congress should not delay in passing its reauthorization. To do this, we need

to get our work done well in advance and achieve bipartisan consensus. That is why we are hosting this hearing more than 5 months ahead of the deadline.

Second, the GSA needs to provide stability by ensuring we can avoid disruptions like that which took place last year in Washington State. Last summer, the Washington State Department of Agriculture was providing export inspections under a delegation of Federal authority at an export terminal at the Port of Vancouver. The Department discontinued its export inspection amid an ongoing labor dispute.

Since labor disputes do occur from time to time, this kind of situation was anticipated by our predecessors, which is why the current GSA provides a mechanism for USDA to step in and provide inspection services in the event of a disruption. However, the dispute devolved into a political situation in which the Secretary of Agriculture declined to use his discretionary authority to maintain inspections. While inspection services were eventually restored, it is incumbent on the Committee to take appropriate action to provide safeguards against a repeat of that unfortunate decision.

We have reviewed proposals from grain industry organizations and have engaged in considerable discussion with other stakeholder organizations represented on today's panel. Likewise, Majority and Minority offices have worked very closely in an effort to develop bipartisan consensus in advance of the markup in the near future.

It is my understanding that discussions regarding legislative drafts are nearly concluded, and we expect to circulate those drafts for public review shortly. I hope the discussion today will confirm areas of consensus as well as provide necessary insight regarding areas where additional work may be necessary. With that, I thank the witnesses for being here today to aid in this process.

[The prepared statement of Mr. Crawford follows:]

PREPARED STATEMENT OF HON. ERIC A. "RICK" CRAWFORD, A REPRESENTATIVE IN CONGRESS FROM ARKANSAS

This hearing on reauthorizing the United States Grain Standards Act, will come to order.

This hearing comes nearly a century after the Grain Standards Act of 1916 was signed into law by then-President Woodrow Wilson. For nearly 100 years, this law has been the cornerstone of the vibrant grain trade both domestically and internationally. This law is relied upon not only by exporters and domestic shippers, but by the whole U.S. agricultural sector. It establishes official marketing standards and procedures for the inspection and weighing of grains and oilseeds, providing a critical service to the grain marketplace.

The witnesses who join us today represent industries that have thrived over the last century, and transformed the grain trade into the economic juggernaut it represents today. The GSA has supported the evolution of this industry by providing a backbone of stability relied upon by exporters, shippers, farmers and even consumers. With the farm economy and so many of our constituents relying on the ability of grain and oilseeds to get to market, reauthorization of the GSA should have this one goal in mind: stability. And I mean this in a couple of ways.

Many of the provisions in current law are set to expire on September 30th of this year. A lapse in authorization would disrupt the current grain and inspections process, therefore Congress should not delay in passing its reauthorization. To do this, we need to get our work done well in advance and achieve bipartisan consensus. That is why we're hosting this hearing more than 5 months ahead of the deadline.

Second, the GSA needs to provide stability by ensuring we can avoid disruptions like that which took place last year in Washington State. Last summer, the Washington State Department of Agriculture was providing export inspections under a

delegation of Federal authority at an export terminal at the Port of Vancouver. The Department discontinued its export inspection amid an ongoing labor dispute.

Since labor disputes happen from time to time, this kind of situation was anticipated by our predecessors, which is why the current GSA provides a mechanism for the U.S. Department of Agriculture to step in and provide inspection services, in the event of a disruption. However, the dispute devolved into a political situation in which the Secretary of Agriculture declined to use his discretionary authority to maintain inspections. While inspection services were eventually restored, it is incumbent on the Committee to take appropriate action to provide safeguards against a repeat of that unfortunate decision.

We have reviewed proposals from grain industry organizations and have engaged in considerable discussion with other stakeholder organizations represented on today's panel. Likewise, Majority and Minority offices have worked very closely in an effort to develop bipartisan consensus in advance of a markup in the near future.

It is my understanding that discussions regarding legislative drafts are nearly concluded, and we expect to circulate those drafts for public review shortly.

I hope the discussion today will confirm areas of consensus as well as provide necessary insight regarding areas where additional work may be necessary.

With that, I thank the witnesses for being here today to aid us in this process, and I yield to the Ranking Member, Mr. Walz, for his opening comments.

The CHAIRMAN. I recognize the Ranking Member, Mr. Walz, for his opening comments.

OPENING STATEMENT OF HON. TIMOTHY J. WALZ, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA

Mr. WALZ. Well, good morning, and I want to thank the Chairman for holding today's hearing, and I associate myself with his comments on the need to get this done on time. That should be the standard, and that is what should be expected to give that certainty to our shippers, and to our global market partners. And I certainly look forward to working with everyone on the Subcommittee to get this done.

I want to thank our witnesses for being here. We have a wide variety of expertise amongst us, from Farm Bureau to NGFA to our friends in labor at AFGE, the folks who do the work out there.

I fully expect this cross-section of views will promote a vigorous debate, and that is what we are here to do. I think the reason, and everyone knows, the one overriding theme that we are here for is we must maintain the integrity of the system. It must be the gold standard as it has always been. It must be done that way, and we all absolutely agree upon that. There may be some divergence of opinion on how we get there. That is our job to get done. So I look forward to hearing those opinions, working with Chairman Crawford, a Chairman who I know is committed, as he always has been, to get this done on time, to get it done in a manner that satisfies all parties involved, and that we can move forward doing what we do best: feed the world. And that is what you do, and that is what we want to see happen.

And so I thank you, Chairman, for holding this hearing, and again, I look forward to working with you to get this done on time.

The CHAIRMAN. I thank the gentleman, and would recognize the Chairman of the full Committee, who is not here just yet, he will be here later on, we will recognize him when he arrives. And I would also like to recognize the Ranking Member of the full Committee for any opening statement he would like to make. Mr. Peterson.

OPENING STATEMENT OF HON. COLLIN C. PETERSON, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA

Mr. PETERSON. Thank you, Mr. Chairman, and Mr. Walz, for holding today's hearing, and for working in a bipartisan way. It looks like we are going to get this bill worked out in a way that everybody can live with.

The inspections provided by the Federal Grain Inspection Service define and classify grains as well as assign grades to specify weight and quality requirements, and these inspections provide a gold standard assurance backed by the Federal Government to both grain buyers and sellers. American grain farmers participate in a very competitive world, and foreign grain buyers should be confident in the process that we have in place to ensure our exports are adequately inspected.

So as we move ahead with reauthorization, I hope that we can take stock in how well the current system of export inspections by the Federal and state agencies is working, and continue to work in a bipartisan basis and get this reauthorization moved through the both Houses and to the President's desk.

And I yield back.

The CHAIRMAN. I thank the gentleman.

I would like to recognize our witnesses. We have one panel and three witnesses. Starting with Mr. David Winkles, who is the President of South Carolina Farm Bureau Federation, Columbia, South Carolina; Mr. J. David Cox, Sr., National President, American Federation of Government Employees, here in Washington, D.C.; and Mr. Nick Friant, Chairman, NGFA Grain Grades and Weights Committee.

Thank you, gentlemen, for being here. And with that, I want to remind you that you have 5 minutes to make your oral testimony. Anything further will be submitted for the record in your written testimony. I would encourage you to watch the lights. Green means go, yellow is just like when you are driving; hurry it up, and when you see red, that means stop.

And with that, I am pleased to recognize Mr. David Winkles for 5 minutes.

STATEMENT OF DAVID M. WINKLES, JR., PRESIDENT, SOUTH CAROLINA FARM BUREAU FEDERATION, COLUMBIA, SC

Mr. WINKLES. Thank you, Mr. Chairman. For the record, Mr. Chairman, I received word from the American Soybean Association, the National Corn Growers Association, and the National Council of Farmer Cooperatives, informing me that they had received my written testimony, and have asked that I inform the Subcommittee that they support the points made in my testimony.

As a grain farmer, I understand the role and the work of the Federal Grain Inspection Service in the grain sector, but I believe I can add a unique perspective this morning, since I have had direct interactive experience with the FGIS through my responsibilities as President of the South Carolina Farm Bureau.

For several years, our organization operated a grain export elevator in Charleston, South Carolina. We were also in partnership with Carolina Soya in Hampton, South Carolina, a grain-handling and soybean processing operation, that provided a huge positive fi-

nancial impact on the farmers in the Southeast. In the past, the South Carolina Farm Bureau Marketing Association operated a large number of local grain elevators, and we still own and operate one. In each of these facilities, FGIS was and is a major asset in our ability to market grains domestically and internationally. The grades established by the agency served to set the standard for every contract, and when coupled with the official inspection services, particularly with regards to export, FGIS provided the necessary and credible third party verification of grain standards that provide efficiencies in the marketing and movement of grain. Without these standards and verification of grades, every transaction would have been significantly more difficult and much more expensive.

As I am sure you know, in order to encourage the marketing of high quality grain for an agricultural sector, it is highly dependent upon export demand. The Act requires that exported grains and oilseeds be officially inspected if sold by grade and weight. Export inspections are carried out either by Federal inspectors or federally supervised state agencies called delegated official inspection agencies. We believe that any change in these fundamental requirements needs to be thoroughly and carefully considered in the context of how our international customers and their respective governments would view such changes. This is important today when some countries have shown very little reluctance to use some very interesting excuses to stop or inhibit exports of U.S. agricultural commodities and products.

We applaud your actions to move this legislation earlier this year because, as you know and as you have said, several provisions of the Act will expire in September, including the authority for FGIS to collect user fees that fund their operations, and the authority for the USDA Grain Advisory Committee. It is critically important to the grain sector that we maintain the ability for FGIS to continue to perform its duties and functions and not be allowed to lapse. We urge the Committee to reauthorize the Act in a timely manner.

Also, Farm Bureau believes that it is important to ensure that the extremely troubling precedent set in the State of Washington last summer, and similar situations that have occurred at other West Coast ports, are not repeated. We believe that the Washington State Department of Agriculture's actions created a precedent that was amplified by the FGIS decision to not intervene. The incident created uncertainty in our reputation as a reliable supplier of grains and oilseeds to foreign customers. We believe it is imperative for you to consider adoption of a contingency plan that would ensure an immediate and effective program to continue official services at a port. The lack or disruption of an accepted grain standards and accepted accredited inspection procedure will cause chaotic marketing conditions, and will financially negatively impact farmers, local business, and consumers.

Disruption of official grading and inspection services can have an impact on the timing of purchases and the delivery of sales, and jeopardize marketing agreements and arrangements that have often taken years to put in place. We must have contingency procedures ready so that disruptions of any kind will not negatively impact the viability of hard-won contracts.

Again, thank you for the opportunity to testify today. Farm Bureau supports reauthorization of the Act, in addition to the Federal organizations I mentioned earlier, with the addition of a contingency plan. We also support the continuation of the Grain Inspection Advisory Committee. For all of our grain farmers and our industry sector partners, we appreciate the important work you do as Representatives of our country. Thank you.

[The prepared statement of Mr. Winkles follows:]

PREPARED STATEMENT OF DAVID M. WINKLES, JR., PRESIDENT, SOUTH CAROLINA FARM BUREAU FEDERATION, COLUMBIA, SC

Mr. Chairman, Members of the Subcommittee, good morning and thank you for the opportunity to be here today to discuss the reauthorization of the United States Grain Standards Act (the Act). I am David Winkles, President of the South Carolina Farm Bureau (SCFB) and a member of the board of directors of the American Farm Bureau Federation. I also crop share a 1,000 acre farm that produces corn, wheat, soybeans and timber.

As a grain farmer, I certainly understand the role and work of the Federal Grain Inspection Service (FGIS) in the grain sector. But I believe I can add a unique perspective this morning as I have direct interactive experience with the FGIS through my responsibilities as President of South Carolina Farm Bureau. For several years, our organization operated a grain export elevator in Charleston, South Carolina. We were also in partnership with Carolina Soya of Hampton, South Carolina, a major grain handling and soybean processing operation that provided a huge positive financial impact on farmers in the Southeast. In addition, the South Carolina Farm Bureau operated a large number of local grain elevators in the past and we still own and operate one under the management of the South Carolina Farm Bureau Marketing Association.

In each of these grain handling facilities, FGIS was and is a major asset in our ability to market grain domestically and internationally. The grain grades established by the agency serve to set the standards for every contract. And when coupled with the official inspection services, particularly with regard to exports, FGIS provide the necessary and credible, third party verification of grain standards that provide efficiencies in the marketing and movement of grain. Stated another way, without these standards and verification of grades, every transaction would be significantly more difficult and much more expensive.

One in 3 U.S. farm acres is planted for export and 31 percent of farm income comes directly from exports. Farmers and ranchers know that exports are critical to their industry and livelihoods. This is why the reauthorization of the Act in a timely manner is so important. We have built these markets based on product availability and quality.

Since the passage of the Grain Standards Act in 1916, the U.S. has been the pioneer in providing quality assurance to overseas buyers. In fact, other countries have duplicated our services as standard guidelines for their exports. Overseas buyers continue to seek products from the U.S. because they know the official system, with its precise testing procedures, equipment criteria and conduct standards, ensures accurate, consistent results. The integrity of this system, which U.S. sellers and overseas buyers rely on, should never be compromised.

The Federal law, enacted nearly a century ago, prohibits the export of U.S. grains and oilseeds unless inspected and weighed by official personnel in accordance with U.S. grain standards. The law has been amended occasionally over the ensuing decades, but the basic tenets still apply. Exports are required to be accompanied by official certificates showing the grade designation and certified weight, unless the requirement is waived by the Secretary of Agriculture and the grain is not sold or exported by grade. Under the Act, Congress vested in USDA the responsibility and obligation to provide official inspection services to facilitate efficient and cost-effective marketing of U.S. grains and oilseeds.

The Act authorizes the FGIS to establish official marketing standards for certain grains and oilseeds. In turn, the standards facilitate the marketing of grain by serving as contract language, enabling buyers and sellers to more easily determine quality and therefore value of these commodities. FGIS promotes the uniform application of U.S. grain standards through official inspection personnel. In order to encourage the marketing of high-quality grain for an agricultural sector that is highly dependent upon export demand, the Act requires that exported grains and oilseeds be officially inspected if sold by grade, and weighed. Export inspections are carried

out by either Federal inspectors or federally supervised state inspection agencies, called delegated official inspection agencies.

We believe that any changes to this fundamental requirement need to be thoughtfully and carefully considered in the context of how our international customers and their respective governments would view such changes. This is especially important in an era in which some countries have shown little reluctance to use some interesting excuses to stop or inhibit imports of U.S. agricultural commodities and products.

On the domestic front, marketed grain and oilseeds may be, but are not required to be, officially inspected. Official inspections of domestically traded grain are done by federally supervised state agencies and private companies, called designated official inspection agencies. Services under the Act are performed on a user fee basis for both export and domestic grain shipments.

Our current grain inspection system has earned worldwide recognition as being reliable and impartial. World markets look for, if not require, the FGIS imprimatur on the official export certificate to ensure buyers' confidence that they can expect to receive the quality and quantity of grain for which they paid. The integrity of the system is vital. As I noted earlier, maintaining the confidence of our international buyers is important to U.S. farmers and other segments of the grain trade.

We applaud your actions to move this legislation early this year because, as you know, several provisions of the Act will expire in September, including the authority for FGIS to collect user fees that fund their operations and the authority for a USDA Grain Advisory Committee. It is crucial to the grain sector that the ability for FGIS to continue to perform its duties and functions is not allowed to lapse. We urge the Committee to reauthorize the Act in a timely manner.

In addition to the basic reauthorization of the Act and other adjustments that you may consider, Farm Bureau believes it is important to ensure that the troubling precedent set in the State of Washington last summer and similar situations that have occurred at other West Coast ports are not repeated.

The Washington State Department of Agriculture (WSDA) is the state agency designated by the Grain Inspection, Packers and Stockyards Administration to provide export inspections at the United Grain Corporation terminal at the Port of Vancouver, Washington. Last summer, WSDA notified USDA that it no longer would fulfill its obligation to provide official grain inspection and weighing services at the port. The WSDA notice stated that it was suspending official inspection services indefinitely because the "*continued provision of inspection services appears to have been unhelpful in leading to any foreseeable resolution*" of the labor dispute between United Grain and the International Longshore and Warehouse Union. The inspection agency said it was concerned with employee safety at the entrance of the site where demonstrations were being held. The United Grain terminal is a major grain export facility on the West Coast.

Farm Bureau and 21 other agricultural groups urged USDA to take immediate action to restore the inspection services by using either Federal inspectors or qualified inspectors from other delegated agencies. The USDA Grain Advisory Committee also called on USDA to restore grain inspection service.

The Act currently provides USDA discretion to grant a waiver of inspection in an emergency and authority to determine what constitutes an emergency. In July 2014, United Grain reportedly shipped grain in one case by obtaining a waiver from the inspection requirement. The company also relocated grain to other facilities for inspection, which increased shipping costs. In early August, USDA reportedly declined using Federal inspectors at the United Grain Corporation terminal at the Port of Vancouver because "*the situation does not ensure that FGIS inspectors will have safe access to the facility*." While the grain companies and union reached an agreement to end the dispute later in the month and inspections resumed at the United Grain terminal, the inability of grain shippers to obtain the necessary inspection certificates had a significant impact on all segments of the grain trade chain.

We believe that the WSDA actions created a troubling precedent that was amplified by the FGIS decision to not intervene. We cannot afford for this to be repeated as it could irreparably damage the integrity and reliability of the nation's official grain inspection system. Just as critical, the incident created uncertainty within the U.S. grain export industry regarding potential future disruptions of official services at facilities operating at other U.S. export ports and has put at risk the United States' reputation as a reliable supplier of grains and oilseeds to foreign customers.

Because of this incident and related export shutdown and slowdown situations, and the potential for future such incidents, we believe it is imperative for you to consider adoption of a contingency plan that would ensure an immediate and effective program to continue official services at the port when service interruptions occur.

The lack or disruption of an accepted grain standards and accredited inspection procedure will cause chaotic marketing conditions and the resulting inefficiencies in grain marketing will negatively impact farmers, local business, and consumers. We need to have a reliable third party inspection and grading program for emergency situations to assure both seller and buyer that the terms of sales and credibility of every contract can be relied upon to be fulfilled in a timely manner.

Viewed from another perspective, the disruption of official grading and inspection services can have significant impacts on the timing of purchases and delivery of sales, and jeopardize marketing agreements and arrangements that often take years to get in place. We must have contingency procedures at the ready to ensure that required certification of grades and inspection services do not negatively impact the viability of hard-won contracts.

Again, thank you for the opportunity to testify today. Farm Bureau supports reauthorization of the Act with the addition of a contingency plan. We also support the continuation of the Grain Inspection Advisory Committee. For all of our grain farmers and our industry sector partners, we appreciate the important work you do as representatives of our industry in Congress.

The CHAIRMAN. Mr. Winkles, that was very impressive, particularly given the fact that our yellow light did not work, and you wrapped it up with 2 seconds to spare. I appreciate that. That makes it tough on the other two witnesses.

Mr. David Cox, Sr., National President, American Federation of Government Employees, right here in Washington. Mr. Cox, you are recognized for 5 minutes.

STATEMENT OF J. DAVID COX, SR., NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, (AFGE, AFL–CIO), WASHINGTON, D.C.

Mr. COX. Thank you, Mr. Chairman. And on behalf of AFGE, I am proud to represent the dedicated Federal employees and the Federal Grain Inspection Service in Louisiana, Texas, Washington, and Oregon, as well as other locations throughout the country. And I appreciate the sincere efforts of this Subcommittee to take into account our views as lawmakers draft the reauthorization measure.

FGIS, with its successful record of over 4 decades of inspecting and weighing nearly 90 percent of the grain shipped to customers around the world, guarantees impartial and open trading which greatly facilitates U.S. grain exports. We understand that a small minority of voices demand that the reauthorization bill be used to privatize the weighing and inspection of grain. Of course, many of these same voices called for the privatization of grain inspection and weighing back in 2005, the last time the law was reauthorized. That ill-advised effort ultimately failed thanks to a broad coalition of farmers, consumers, and workers. There is no question that this important function must continue to be performed by reliable and experienced FGIS employees, and I strongly urge the Subcommittee to oppose efforts to use the reauthorization of the U.S. Grain Standards Act, or any other measure for that matter, to promote the privatization of this work. Privatization of FGIS would undermine America's guarantee of impartial and honest government-backed trading, which is relied upon by world buyers. The substitution of rubber-stamped inspections actually completed by industry paid inspectors would undermine international confidence in the integrity of U.S. agricultural exports.

We strongly urge you to ensure that the grain which America exports continues to meet the highest of standards expected by our trading customers, so that U.S. farmers who raise the best products in the world receive the prices they truly deserve. Thanks to the bipartisan Congressional effort that established FGIS, we have come a long way since the 1970s when a wholly privatized inspection process yielded a series of scandals that undermined confidence in the quantity and quality of U.S. grain exports; scandals which many believe contributed to a crash in grain prices in the middle of the decade, farm foreclosures, and the loss of significant numbers of family farms. AFGE and I believe America's farmers look to this Subcommittee to continue the record of bipartisan support for grain inspection and weighing performed by reliable and experienced Federal employees.

Thank you very much for your consideration of my testimony, I look forward to taking questions, and I yield back my time, Mr. Chairman.

[The prepared statement of Mr. Cox follows:]

PREPARED STATEMENT OF J. DAVID COX, SR., NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, (AFGE, AFL–CIO), WASHINGTON, D.C.

Chairman Crawford, Ranking Member Walz, and Members of the Subcommittee: I am J. David Cox, Sr., and I am the National President of the American Federation of Government Employees (AFGE), AFL–CIO, which represents more than 650,000 Federal and District of Columbia workers who serve the American people across the nation and around the world, including in the Department of Agriculture. I thank you for the opportunity to testify this morning on the reauthorization of the U.S. Grain Standards Act.

I do not claim to be an expert on this important law, but I am proud to represent the dedicated Federal employees in the Federal Grain Inspection Service (FGIS), in Louisiana, Texas, Washington, and Oregon, as well as in other locations. And I appreciate the sincere efforts of this Subcommittee to take into account their views as lawmakers draft the reauthorization measure.

FGIS, with its successful record over 4 decades of inspecting and weighing nearly 90% of the grain shipped to customers around the world, guarantees impartial and open trading, which greatly facilitates U.S. grain exports. Continued viability and profitability for American agricultural producers, over the long-term, is essential to the economic health of our nation. However, the pursuit of profits must be carefully balanced with the protection of America's standing as an honest and trusted trading partner.

The grain inspectors represented by AFGE are focused on their important work, rather than the details of the U.S. legislative process. However, it is understood that a small minority of voices demand that the reauthorization bill be used to privatize the weighing and inspection of grain. Of course, many of these same voices called for the privatization of grain inspection and weighing back in 2005, the last time the U.S. Grain Standards Act was reauthorized. That ill-advised effort ultimately failed, thanks to a broad coalition of farmers, consumers, and workers.

I realize that grain inspection is performed in different ways, both in this country and abroad. In the United States, Federal employees, state employees, and even contractor employees all play significant roles. However, today, my remarks are focused on the responsibilities of FGIS employees with respect to the mandatory official weighing and inspection of exported grain. There is no question that this important work must continue to be performed by reliable and experienced FGIS employees, and I strongly urge the Subcommittee to oppose efforts to use the reauthorization of the U.S. Grain Standards Act—or any other measure, for that matter—to promote the privatization of this work.

Privatization of FGIS would undermine America's guarantee of impartial and honest, government-backed trading which is relied upon by world buyers. The substitution of rubber-stamped inspections actually completed by industry-paid inspectors would undermine international confidence in the integrity of U.S. agricultural exports.

Whether one supported or opposed its effort to outsource many of the functions performed by Federal employees, it must be stipulated that no Administration in the history of the Republic was more aggressively pro-privatization than the Bush Administration. And consistent with its ideology, the Department of Agriculture during the Bush Administration aggressively explored the privatization of grain inspection through a pilot project.

However, the Department ultimately abandoned that effort, concluding "that the use of contractors did not provide additional savings or efficiencies that would enhance the competitiveness of U.S. grain exports in the global market."[i]

And while there were no benefits from privatization, there were significant risks.

Pilot project contractors failed "to hire and maintain an adequately-skilled workforce . . . (because) (c)ertification and weighing of grain at export facilities require skills not normally found in the labor force. The agency invests a minimum of 2 years of training before employees are allowed to grade and weigh grain . . ."[ii]

Moreover, shifting to contractors would remove the agency's "service provision safety net . . . (leaving) the agency challenged to fulfill its legal mandate to provide services if a contractor could not . . . thereby allowing for potential service disruptions."[iii]

It has been reliably estimated that the cost of inspection and weighing by Federal employees is a penny per bushel. Even putting aside the finding by the pilot project that nothing would be saved by privatization—indeed, that much could be lost—the cost of Federal performance is *de minimis.* In fact, it would be more correct to say that the pennies spent on Federal inspectors are an investment which yields significant dividends for our nation's farmers because of the confidence foreign buyers can therefore have in the integrity of American agricultural exports.

The mandatory inspection of U.S. grain exports benefits the entire grain marketing chain, from farm gate to export. It is imperative that lawmakers not allow empty ideology, short-sighted financial interests, or anti-labor *animus* to trump the nation's interest in ensuring impartial and honest inspection and weighing of its grain exports.

AFGE strongly urges the Subcommittee to ensure that the grain America exports continues to meet the highest of standards expected by our trading customers, so that U.S. farmers, who raise the best products in the world, receive the prices they deserve.

Thanks to the bipartisan Congressional effort that established the Federal Grain Inspection Service, we have come a long way since the 1970s when a wholly privatized inspection process yielded a series of scandals that undermined confidence in the quality and quantity of U.S. grain exports—scandals which many believe contributed to a crash in grain prices in the middle of the decade, farm foreclosures, and the loss of significant numbers of family farms. AFGE and, I believe, America's farmers look to this Subcommittee to continue the record of bipartisan support for grain inspection and weighing performed by reliable and experienced Federal employees.

Thank you for your consideration. I look forward to your questions.

The CHAIRMAN. Excellent. That is great. You guys are doing fantastic.

Now, Mr. Friant, that doesn't mean you get to use up all of his extra time. Mr. Nick Friant, Chairman, NGFA Grain Grades and Weights Committee, and Co-Chair of the NAEGA Grain Grades and Inspections Committee, you are recognized for 5 minutes.

STATEMENT OF NICK FRIANT, CHAIRMAN, GRAIN GRADES AND WEIGHTS COMMITTEE, NATIONAL GRAIN AND FEED ASSOCIATION; CO-CHAIR, GRAIN GRADES AND INSPECTIONS COMMITTEE, NORTH AMERICAN EXPORT GRAIN ASSOCIATION, WAYZATA, MN

Mr. FRIANT. Chairman Crawford, Ranking Member Walz, Members of the Subcommittee, I am Nick Friant, Business Unit Food Safety Leader for Cargill, Inc., in Wayzata, Minnesota. I provide

[i] "Evaluation of the Use of Contractors to Enhance the Delivery of Official Inspection and Weighing Services at Export Port Locations", Federal Grain Inspection Service, March 2009.
[ii] *Ibid.*
[iii] *Ibid.*

technical and regulatory compliance assistance on a wide range of issues related to grain quality, handling, and inventory for Cargill's operations and merchandising personnel in the U.S. and abroad. I appreciate the opportunity to testify today on behalf of the National Grain and Feed Association, and North American Export Grain Association. I chair NGFA's Grain Grades and Weights Committee, and co-chair NAEGA's Grain Grades and Inspections Committees, both of which address issues concerning the official grain inspection and weighing system and the U.S. Grain Standards Act.

Our organizations strongly support reauthorization of the U.S. Grain Standards Act, and offer recommendations to improve and maintain the U.S. official grain inspection system. The inspections and other services provided by FGIS contribute significantly to the marketing and trading of U.S. grains and oilseeds by establishing and maintaining U.S. grain standards, and providing official inspection and weighing services. That is why NGFA and NAEGA urge Congress, when developing legislation to reauthorize the U.S. Grain Standards Act, to address each of the following concerns.

First, in response to apparent system shortcomings, including the disruptions in official services at the Port of Vancouver, Washington, during 2013 and 2014, we urge that existing language in the Act be strengthened to reinforce the obligation of the Secretary of Agriculture to restore official service in a prompt manner. Make no mistake, foreign buyers, in particular, the Korea Flour Mills Industrial Association, took note of the very visible and extreme disruptions in such official inspections which damaged the reputation of FGIS, and undermined confidence of international buyers in the reliability of the U.S. official grain inspection system at export locations. I respectfully request that the letter from KOFMIA be made part of the hearing record. Also, a diverse array of U.S. farm, commodity, and agribusiness organizations, including NGFA and NAEGA, strongly encouraged action by the Secretary to meet his legal obligations to restore official inspection services in a pair of joint letters, but unfortunately, to no avail. I respectfully request that these letters also be made a part of the hearing record. Therefore, we urge that additional language be inserted into the U.S. Grain Standards Act to remove any uncertainty that the Secretary of Agriculture is to immediately, with the exceptions of disruptions caused by natural disasters, restore official grain inspection services if there are future interruptions or disruptions.

Second, we urge that the process used by FGIS to delegate or designate its authority to perform official service at export elevators be made more transparent and open to public comment, just as the agency already does through *Federal Register* notice and comment rulemaking when designating official inspection authority to state or private entities to serve the domestic market where the use of official inspection services is voluntary.

Further, NGFA and NAEGA strongly believe consideration should be given to directing FGIS to license and utilize, subject to FGIS oversight, the use of qualified personnel employed by independent third party entities to perform official services at export elevators through the existing licensing provisions embodied in the U.S. Grain Standards Act, particularly in cases where disruptions in official service occur. Some attempt to denigrate, undermine, or

obfuscate this concept by labeling it as privatization. That emphatically is not what NGFA and NAEGA are proposing. In this regard, two recent studies conducted for NAEGA are enlightening, and show the degree to which personnel from these independent third parties already are working at export elevators to provide services that are above and beyond those mandated under the U.S. Grain Standards Act. I respectfully request that both of these studies be made part of the hearing record.

Third, NGFA and NAEGA support the U.S. Grain Standards Act provisions pertaining to FGIS's current authority to designate qualified accredited state or private entities to perform official inspection services in territories within the domestic market, and support the request to extend the duration of such designation to 5 years from the current 3 years.

Fourth, we urge that FGIS be required to base the tonnage portion of export inspection user fees on shifts in actual shipment volumes that are officially inspected by basing it on a 5 year rolling average.

Finally, we recommend that reauthorization of the U.S. Grain Standards Act be reduced from a period of 10 years to 5 years, particularly given the dynamic, changing, and highly competitive nature of the global grain export marketplace.

NGFA and NAEGA believe that our recommendations pursuant to the U.S. Grain Standards Act will help strengthen the official inspection and weighing system, enhance the competitive position of the U.S. grains and oilseeds in the world markets, and retain integrity of the U.S. inspection results.

Thank you for the opportunity to testify. I am pleased to respond to any questions you may have.

[The prepared statement of Mr. Friant follows:]

PREPARED STATEMENT OF NICK FRIANT, CHAIRMAN, GRAIN GRADES AND WEIGHTS COMMITTEE, NATIONAL GRAIN AND FEED ASSOCIATION; CO-CHAIR, GRAIN GRADES AND INSPECTIONS COMMITTEE, NORTH AMERICAN EXPORT GRAIN ASSOCIATION, WAYZATA, MN

Chairman Crawford, Ranking Member Walz, and Members of the Subcommittee, I am Nick Friant, Business Unit Food Safety Leader for Cargill, Inc. in Wayzata, Minn. In this capacity, I provide technical and regulatory compliance assistance on a wide range of issues related to grain quality, handling and inventory for Cargill's operations and merchandizing personnel in the U.S. and abroad.

I appreciate the opportunity to testify today on behalf of the National Grain and Feed Association (NGFA) and the North American Export Grain Association (NAEGA). I serve as Chairman of NGFA's Grain Grades and Weights Committee and Co-Chair of NAEGA's Grades and Inspections Committee, both of which address issues concerning the official grain inspection and weighing system and the U.S. Grain Standards Act that are the subject of this hearing.

NGFA, established in 1896, consists of more than 1,050 grain, feed, processing, exporting and other grain-related companies that operate more than 7,000 facilities and handle more than 70 percent of all U.S. grains and oilseeds. Its membership includes grain elevators; feed and feed ingredient manufacturers; biofuels companies; grain and oilseed processors and millers; exporters; livestock and poultry integrators; and associated firms that provide goods and services to the nation's grain, feed and processing industry. NGFA also has 26 State and Regional Affiliated Grain, Feed and Agribusiness Associations.

NAEGA, established in 1912, consists of private and publicly owned companies and farmer-owned cooperatives that are involved in and provide services to the bulk grain and oilseed exporting industry. NAEGA-member companies ship and support the vast majority of the highly competitive and fungible U.S. grain export supply. NAEGA is dedicated to providing for efficient, predictable, reliable and expanded

trade via responsible commercial and official practices. Through a reliance on member action and support, NAEGA acts to accomplish its mission from its office in Washington, D.C., and in markets throughout the world.

NGFA and NAEGA strongly support reauthorization of the U.S. Grain Standards Act to improve and maintain the U.S. official grain inspection system. Both of our organizations have a long history of supporting a Federal official grain inspection and weighing system. We have worked continuously for nearly 40 years to encourage continued improvements to this system, as well as the broader regulatory and commercial environment to improve the value, safety, competitiveness and sustainability of U.S. agriculture.

The U.S. Department of Agriculture's Federal Grain Inspection Service (FGIS) performs the essential role of maintaining the official U.S. grain standards, which are critical to establishing value and price-discovery in the U.S. grain and oilseed marketplace. The inspection and other services provided by FGIS contribute significantly to the marketing and trading of U.S. grains and oilseeds by farmers and other commercial parties. The U.S. grain handling and export system is admired around the world for providing a fungible, abundant, safe and sustainable commodity supply that is responsive to customer needs.

U.S. competitiveness in global markets, as well as stakeholders ranging from farmers to end-users, benefit when FGIS and its delegated state agencies provide state-of-the-art, market-responsive official inspection and weighing of bulk grains and oilseeds at export, and do so in a reliable, uninterrupted, consistent and cost-effective manner.

That is why NGFA and NAEGA urge that Congress, when developing legislation to reauthorize the U.S. Grain Standards Act, address each of the following concerns:

- First, in response to apparent system shortcomings, including the frequent, intermittent disruptions in official inspection and weighing service at the Port of Vancouver, Washington, during 2013–14, we urge that existing language in the Act be strengthened further to reinforce the obligation of the Secretary of Agriculture to restore official inspection and weighing service in a prompt manner, except in instances where the disruption is caused by cataclysmic natural disasters.

  The USGSA mandates that most U.S. export grain be officially inspected and weighed whenever official standards and procedures are utilized, with such activities required to be performed and supervised by FGIS. Except in certain cases in which FGIS chooses to delegate its authority to a state agency to perform the service, or to waive the official inspection requirement in response to a contractual agreement between the buyer and seller, the Act requires that FGIS personnel provide official inspection service and official weighing or supervision of weighing service at export locations.

  We believe the Secretary of Agriculture already is obligated under the existing USGSA language to step in to provide official inspection and weighing services immediately if FGIS employees, or personnel of a delegated state agency or designated domestic entity are unwilling or unable to perform such services. Regrettably, that did not occur at the Port of Vancouver, Washington, during sporadic interruptions in official inspection services that spanned the fall, winter and spring of 2013–14.

  Make no mistake, U.S. foreign buyers took note of this very visible and extreme disruption, which damaged the reputation of FGIS and undermined confidence of international buyers in the reliability of the U.S. official grain inspection system at export locations. One significant buyer—the Korea Flour Mills Industrial Association (KOFMIA), in a letter dated July 10, 2014 to the agricultural counselor at the U.S. Embassy in Korea—expressed its concern about the impact these disruptions were having on its ability to obtain U.S. wheat. The letter stated, in relevant part, as follows: "Last year, the Republic of Korea purchased over 1.3 million metric tons of wheat from the United States. We have long viewed U.S. wheat as a reliable, readily available commodity . . . We fear that actions taken by your government set a dangerous precedent which could compromise shipments from any export terminal in the U.S. A stoppage of this nature undermines the reputation of U.S. wheat in the marketplace. KFMIA has long been a major buyer of wheat from the United States. We insist that you do everything in your power to restore inspection services at the Port of Vancouver and ensure timely loading of grain bound for the Republic of Korea." I respectfully request that this letter be made part of the hearing record.

  A diverse array of U.S. farm, commodity and agribusiness organizations, including NGFA and NAEGA, strongly encouraged similar action by the Secretary to meet his legal obligation to restore official inspection services in a pair of

joint letters submitted on October 18, 2013 and July 14, 2014, but unfortunately, to no avail. I respectfully request that these letters also be made part of the hearing record.

As expounded upon later in this testimony, U.S. farmers, grain handlers and exporters, as well as our foreign customers, today already are less reliant upon the official inspection and weighing results provided by FGIS and its delegated state agencies. Indeed, many complementary and competitive testing services are being provided by impartial independent third parties at U.S. export elevators in response to value-chain demand from foreign customers, and because of the reliability, integrity, competence and efficiency of such services. Some of these services actually are redundant with or used to verify official testing results determined by FGIS and its delegated and designated agencies under the official inspection system. Such services also are being used increasingly by our major grain export competitors in other countries.

NGFA and NAEGA believe accurate, timely and cost-effective delivery of mandated, impartial and federally managed official inspection services administered by FGIS can and should remain the cornerstone of a viable and market-responsive U.S. grain inspection and weighing system. Official export inspections provide transparency and market information to the entire value chain that contribute to an efficient marketplace, while supporting price-discovery, food security and sustainable supplies. But to remain respected and relevant, the U.S. official grain inspection system needs to function in a continuous, predictable and consistent manner to facilitate the ability of U.S. farmers and agribusinesses to reliably serve foreign customers and remain competitive in world markets, which is responsible for as much as 50 percent of total utilization of U.S. wheat and soybeans, as well as up to ⅓ of U.S. feed grains.

For these reasons, to reinforce the existing obligation of the Secretary of Agriculture to provide for the uninterrupted provision of official inspection service, we urge that additional language be inserted into Section 79(e) of the USGSA to remove any lingering uncertainty that the Secretary of Agriculture is to immediately, *with the exception of disruptions caused by hurricanes, floods or other cataclysmic natural disasters,* restore official grain inspection services if there are future interruptions or disruptions in the performance of such service, either by utilizing the Secretary's own inspection work force or delegating such authority to another official entity or an FGIS-licensed inspector from an independent third-party.

- Second, we urge that the process used by FGIS to delegate or designate its authority to perform official inspection and weighing service at export elevators at export port locations be made more transparent and open to public comment—just as the agency already does through ***Federal Register*** notice-and-comment rulemaking when designating official inspection authority to state or private entities to serve the domestic market, where the use of official inspection services is voluntary.

Simply put, the current process for delegating state agencies to perform official inspection at export facilities is neither open nor transparent. The opaqueness of the current delegation process provides no opportunity for stakeholders to offer public comment to the Agency on a delegated state agency's performance. Nor does it provide any opportunity to periodically review such delegations—they can continue in perpetuity. Therefore, we urge that the delegation of official inspection and weighing service to state agencies be subject to notice-and-comment rulemaking through the ***Federal Register,*** and that the duration of such delegation or designation be limited to 5 years—consistent with our recommendation for designated state and private agencies providing official inspection service to the domestic market.

Further, NGFA and NAEGA strongly believe consideration should be given to directing FGIS to license and utilize, subject to FGIS oversight, the use of qualified personnel employed by independent third-party entities to perform official inspection and weighing services at export elevators through the existing licensing provisions embodied in the USGSA, *particularly in cases where disruptions in official service occur.* Some attempt to denigrate, undermine or obfuscate this concept by labeling it as "privatization." That emphatically is not what NGFA and NAEGA are proposing. Instead, what we propose is a process to further strengthen the Federal system we seek to improve and preserve by enabling qualified individuals working under Federal oversight and employed by independent, private third parties to be licensed under Section 84 of the USGSA utilizing the same process USDA already does to license personnel from designated official state and private entities in the domestic market.

In this regard, two recent studies conducted for NAEGA are enlightening. The first, entitled "***U.S. Grain and Oilseed Inspection Services and Competitiveness Study—Export Competitor and Importer Information,***" examines the work that independent third parties already are performing at export elevators to provide non-grade-determining testing services that are above-and-beyond those mandated under the USGSA, and which are provided in response to specific quality or customer requirements. This study found that between 20 and 25 percent of U.S. exports of bulk grains, oilseeds and major byproducts currently are being re-inspected in some manner by private entities in response to requests from foreign buyers. These services are voluntarily engaged in by the importer or by mutual agreement of the exporter and importer as part of the terms of the contract to either confirm some inspection results, measure attributes not determined under U.S. mandatory inspection requirements or meet some other commercial requirement of the trade transaction. This certainly is strong affirmation of the level of acceptance that foreign customers of U.S. grains and oilseeds already have in the integrity of test results provided to them by private third parties for whose services they pay. This study also notes the inspection reforms being considered by Canada and the European Union, and contains a country-by-country analysis of the extent to which foreign U.S. competitor countries already are utilizing such independent third parties to perform inspection services, with the only government involvement being accreditation to ensure accuracy, competence and equipment calibration. In fact, the United States and Canada currently maintain the only major grain and oilseed exporter national government-run inspection agencies, and as a result have significantly higher costs per ton for basic commodity inspections.

A second study, entitled "***U.S. Grain and Oilseed Inspection Services Competitiveness Study—Customer Specifications and Preferences,***" examines the motivations of foreign buyers that request independent third-party testing services. I respectfully request that both of these studies be made part of the hearing record.

Clearly, these studies reinforce the acceptance that already exists in the marketplace regarding the integrity of inspections being performed by independent third parties. We believe our proposal to provide a mechanism for including such inspection assets within the licensing and oversight rubric of FGIS would further strengthen the U.S. official system.

- Third, NGFA and NAEGA support the USGSA provisions pertaining to FGIS's current authority to designate qualified, accredited state or private entities to perform official inspection and weighing services in geographic territories within the domestic market, and support the request to extend the duration of such designation to 5 years from the current 3 years.
- Fourth, we urge that FGIS be required to base the tonnage component of export inspection user fees on a fluctuating and more market-responsive basis that takes into account shifts in actual shipment volumes that are officially inspected, rather than the current static formula that is based on what were erroneously low projections in export volumes. We estimate FGIS' current formula will result in more than $12 million in overcharges during fiscal years 2014 and 2015, as documented in the chart attached to our written testimony.

Currently, FGIS sets the tonnage user fees based primarily on export tonnage projections based over a 5 year period. But to help retain U.S. export competitiveness, we believe the Agency's fee structure needs to: (1) be more predictable for system users and responsive to market conditions; (2) be more flexible and timely in making adjustments; and (3) reduce the impact of subjective forecasting of export volumes. Rather than continuing to rely only upon the subjective and time- and resource-consuming rulemaking process to modify fees, the NGFA and NAEGA propose that the FGIS be required to establish fees through an ongoing and market-responsive process.

Specifically, we recommend that FGIS use a rolling 5 year average as the basis for the tonnage user fee calculation. The use of such a methodology to establish base tonnage for determining the fee level will lead to a greater correlation between both high- and low-volume market fluctuations, as well as better enable U.S. exporters to project future costs. This correlation of fees to both a 5 year moving average and continuing pursuit of cost-controls and revenue management should create an environment in which official fees can be adjusted continually and more accurately.

While, NGFA and NAEGA recognize that fee increases may be necessary from time to time, we encourage FGIS to continue its ongoing efforts to provide effi-

cient service at a reasonable price to its customers. The rolling average approach we are proposing will assist in achieving that outcome.

- Finally, we recommend that reauthorization of the USGSA be reduced from a period of 10 years to 5 years, particularly given the dynamic, changing and highly competitive nature of the global grain export marketplace. Thus, we recommend that the USGSA be reauthorized through September 30, 2020.

Conclusion

As noted previously, it is the responsibility and obligation of FGIS and delegated state agencies to provide vibrant and reliable official inspection and weighing services to facilitate efficient and cost-effective marketing of U.S. grains and oilseeds to foreign markets, upon which U.S. agriculture and the American economy depend for economic growth and jobs.

NGFA and NAEGA believe that our recommendations pursuant to the USGSA will help strengthen the official inspection and weighing system, enhance the competitive position of U.S. grains and oilseeds in world markets, and retain the integrity of U.S. inspection results. Our industry pledges to work with Congress to craft policies that achieve these positive outcomes.

Thank you for the opportunity to testify. I will be pleased to respond to any questions you may have.

ATTACHMENT 1

July 10, 2014

KEVIN SMITH,
Minister Counsellor for Agricultural,
Embassy of the United States.

Dear Mr. Kevin Smith

Recently, the Federal Grain Inspection Service has refused to provide grain inspection services at the United Grain Corporation export terminal in Vancouver, Washington. As a result, grain exports from this terminal have been effectively stopped. We are very concerned about the impact this disruption will have on our ability to source grain from the United States.

Last year, the Republic of Korea purchased over 1.3 million metric tons of wheat from the United States. We have long viewed U.S. wheat as a reliable, readily available commodity. Furthermore, UGC has been an important supplier of ours for many years. We fear that the actions taken by your government set a dangerous precedent which could compromise shipments from any export terminal in the U.S. A stoppage of this nature undermines the reputation of U.S. wheat in the marketplace.

KOFMIA has long been a major buyer of wheat from the United States. We insist that you do everything in your power to restore inspection services at the Port of Vancouver and ensure timely loading of grain bound for the Republic of Korea.

Your prompt attention to this matter is appreciated.

Best Regards,
Sincerely,

CHO, WON RYANG,
Executive Senior Managing Director,
Korea Flour Mills Industrial Association (KOFMIA).

ATTACHMENT 2

July 14, 2014

Hon. THOMAS J. VILSACK,
Secretary,
U.S. Department of Agriculture,
Washington, D.C.

Dear Secretary Vilsack:

Many of the undersigned organizations representing agricultural producers, grain handlers and exporters wrote to you on October 18, 2013 (copy of letter attached) expressing, in the strongest possible terms, our concerns over the periodic disruptions in Official grain inspection and weighing services provided by the Federal Grain Inspection Service's (FGIS) designated agencies in the Pacific Northwest.

During a subsequent meeting last October with Grain Inspection, Packers and Stockyards Administrator Larry Mitchell and his colleagues, attended by represent-

atives of many of our organizations, we strongly urged that contingency plans be developed to ensure that FGIS respond immediately and effectively if there were any future disruptions in Official inspection service from WSDA.

Our expanded stakeholder interest group now understands that on July 1, 2014, the designated agency—the Washington State Department of Agriculture—provided written notification that it was withdrawing Official grain inspection services at the Port of Vancouver, WA, effective July 7, 2014. Based upon this unprecedented development, we urge you to direct that FGIS take immediate action to provide such Official inspection services utilizing either its own personnel or the personnel of another FGIS-designated agency authorized to perform such Official services at grain export facilities.

As noted in the previous correspondence, the U.S. Grain Standards Act (P.L. 113–36) vests in FGIS the sole responsibility to provide Official inspection and weighing services. Further, the Statute prohibits the export of U.S. grains and oilseeds unless Officially inspected and weighed by Official personnel in accordance with the Grain Standards. In addition, such exports are required to be accompanied by Official certificates showing the Official grade designation and certified weight—unless such a requirement is waived by the Secretary of Agriculture and the grain is not sold or exported by grade. Thus, Congress has vested in FGIS the responsibility and obligation to provide vibrant and reliable Official inspection and weighing services to facilitate efficient and cost-effective marketing of U.S. grains and oilseeds to foreign markets, upon which U.S. agriculture and the American economy depend for economic growth and jobs.

To our knowledge, this latest announcement by a designated state agency declining to provide Official services is unprecedented. We believe WSDA's actions create an extremely troubling precedent that will cause irreparable damage to the integrity and reliability of the nation's Official grain inspection system. This development already has created uncertainty within the U.S. grain export industry regarding potential future disruptions of Official services at facilities operating at other U.S. export ports. The disruptions that already have occurred have put at risk the United States' reputation as a reliable supplier of grains and oilseeds to foreign customers. In the absence of WSDA's reliable performance of its duties, FGIS must intervene and make the necessary arrangements to provide the mandatory Official services.

American farmers, grain handlers and exporters, as well as our foreign customers, depend upon accurate, timely and cost-effective delivery of mandated impartial third-party Official inspection services administered by FGIS and its designated and delegated agencies. The U.S. Official grain inspection and weighing system is widely recognized around the world for its impartial, consistent, reliable and timely measurement and certification of quality attributes and weights. The availability of accurate FGIS inspection results also is essential to determining grain value and market price discovery. Further, Official export inspections provide transparency and market information to the entire value chain that contribute to an efficient marketplace, while supporting food security and sustainable supplies. As much as 50 percent of total utilization of U.S. wheat and soybeans (either as raw commodities or value-added products like meat, milk and eggs), as well as up to ⅓ of U.S. feed grains are directly supported by the industry user-fee funded service USDA is mandated to maintain and administer.

To this point, confidence that the U.S. Official grain inspection system will function in a continuous and consistent manner—and not be subject to unwarranted disruptions—has been instrumental in facilitating the ability of U.S. farmers and agribusinesses to reliably serve foreign customers and remain competitive in world markets. It has been a model of integrity. But the recent decision by WSDA, and the subsequent inaction to this point of FGIS to fulfill its mandate to provide Official inspection services, risks sullying that hard-earned reputation, to the long-lasting detriment of U.S. agriculture. It also sends a dangerous signal to any third-party that might wish to disrupt U.S. grain export trade.

Given the gravity of this situation, we urge USDA to immediately take all actions necessary to fulfill FGIS's statutory obligation to restore Official inspection and weighing services at grain export elevator facilities in the event of a disruption in such service, either by immediately replacing absent inspectors with FGIS Official personnel or those from available qualified providers, including other designated or delegated Official agencies.

We appreciate your prompt consideration of this request, and look forward to your timely response.

Sincerely,

Agricultural Retailers Association;
American Farm Bureau Federation;

American Soybean Association;
Idaho Grain Producers;
Minnesota Grain and Feed Association;
Montana Grain Growers Association;
National Association of Wheat Growers;
National Corn Growers Association;
National Grain and Feed Association;
National Oilseed Processors Association;
North American Export Grain Association;
North Dakota Grain Dealers Association;
North Dakota Grain Growers Association;
Oregon Wheat Growers League;
South Dakota Grain and Feed Association;
South Dakota Wheat Inc.;
Transportation, Elevator and Grain Merchants Association;
Pacific Northwest Grain and Feed Association;
U.S. Grains Council;
U.S. Soybean Export Council;
U.S. Wheat Associates;
Washington Association of Wheat Growers.

CC:

Hon. KRYSTA HARDEN, *Deputy Secretary of Agriculture;*
Hon. EDWARD AVALOS, *Under Secretary, Marketing and Regulatory Programs;*
Hon. MICHAEL SCUSE, *Under Secretary, Farm and Foreign Agricultural Services;*
Hon. PHIL KARSTING, *Administrator, Foreign Agricultural Service;*
Hon. LARRY MITCHELL, *GIPSA Administrator;*
Hon. RANDALL D. JONES, *Deputy Administrator, FGIS.*

ATTACHMENT

October 18, 2013

Hon. THOMAS J. VILSACK,
Secretary,
U.S. Department of Agriculture,
Washington, D.C.

Dear Secretary Vilsack:

The undersigned organizations representing agricultural producers, grain handlers and grain exporters respectfully urge the U.S. Department of Agriculture (USDA), in the strongest terms, to take all actions necessary to provide Official inspection and weighing services at grain export elevator facilities.

The U.S. Grain Standards Act (P.L. 113–36) vests in USDA's Federal Grain Inspection Service (FGIS) the sole responsibility to provide Official inspection and weighing services. Further, the Statute prohibits the export of U.S. grains and oilseeds unless Officially inspected and weighed by Official personnel in accordance with the Grain Standards. Further, such exports are required to be accompanied by Official certificates showing the Official grade designation and certified weight—unless such a requirement is waived by the Secretary of Agriculture and the grain is not sold or exported by grade. Thus, Congress has vested in FGIS the responsibility and obligation to provide vibrant and reliable Official inspection and weighing services to facilitate efficient and cost-effective marketing of U.S. grains and oilseeds to foreign markets, upon which U.S. agriculture and the American economy depend for economic growth and jobs.

We have been made aware that the Washington Department of Agriculture (WSDA)—designated by FGIS most recently on Feb. 9, 2012 to perform such Official services through Dec. 31, 2014—periodically has not done so at the Port of Vancouver in the Pacific Northwest. In addition, it is our understanding that WSDA's willingness to fulfill its designated Official service remains highly uncertain. Moreover, FGIS seemingly has deferred to WSDA in making determinations regarding the circumstances under which it will or will not provide the mandatory Official services.

To our knowledge, this interruption by a designated state agency in uniformly and consistently providing Official services is unprecedented. We believe WSDA's actions create an extremely troubling precedent that could cause irreparable damage to the integrity and reliability of the nation's Official grain inspection system. This development already has created uncertainty within the U.S. grain export industry regarding potential future disruptions of Official services at facilities operating at

other U.S. export ports. The disruptions that already have occurred have put at risk the United States' reputation as a reliable supplier of grains and oilseeds to foreign customers. In the absence of WSDA's reliable performance of its duties, FGIS must intervene and make the necessary arrangements to provide the mandatory Official services.

American farmers, grain handlers and exporters, as well as our foreign customers, depend upon accurate, timely and cost-effective delivery of mandated impartial third-party Official inspection services administered by FGIS and its designated and delegated agencies. The U.S. Official grain inspection and weighing system is widely recognized around the world for its consistent, reliable and timely measurement and certification of quality attributes and weights. As much as 50 percent of total utilization of U.S. wheat and soybeans (either as raw commodities or value-added products like meat, milk and eggs), as well as up to ⅓ of U.S. feed grains are directly supported by the user-fee funded service USDA is charged with maintaining and administering.

Having confidence that the U.S. Official system will be continually and consistently available—and not be subject to unwarranted disruptions—makes these user-fee funded FGIS export services a linchpin in the ability of U.S. farmers and agribusinesses to reliably serve foreign customers and remain competitive in world markets. It has been a model of integrity. The availability of accurate FGIS inspection results also is essential to determining grain value and market price discovery. Further, Official export inspections provide transparency and market information to the entire value chain that contribute to an efficient marketplace, while supporting food security and sustainable supplies.

Given the gravity of this situation, we urge USDA to take all actions necessary to fulfill its statutory obligation to provide Official inspection and weighing services at grain export elevator facilities, including prompt replacement with Official personnel from other designated or delegated Official agencies, or with FGIS Official personnel, if a designated or delegated Official agency does not provide such service.

We appreciate your prompt consideration of this request.

Sincerely,

Agricultural Retailers Association;
American Farm Bureau Federation;
American Soybean Association;
National Association of Wheat Growers;
National Corn Growers Association;
National Council of Farmer Cooperatives;
National Grain and Feed Association;
National Oilseed Processors Association;
North American Export Grain Association;
Transportation, Elevator and Grain Merchants Association;
U.S. Grains Council;
U.S. Wheat Associates.

CC:

Hon. EDWARD AVALOS, *Under Secretary for Marketing and Regulatory Programs;*
Hon. LARRY MITCHELL, *GIPSA Administrator;*
Hon. RANDALL D. JONES, *Deputy Administrator, FGIS.*

ATTACHMENT 3

U.S. Grain and Oilseed Inspection Services Competitiveness Study

Export Competitor and Importer Information

January 30, 2015

W. Kirk Miller and Paul B. Green
WKMGlobal Consulting
3901 Chain Bridge Road, Fairfax, VA 22030
wkmglobal@aol.com

Contents

Part One
Introduction and Purpose
Background
Part Two
Findings
Competitor Bulk Commodity Export Inspection Practices

Bulk Commodity Importer Inspect ion Requirements
Approximate Cost for Export Inspection Services in Select Markets (USD)

Part Three

Summary and Conclusion

Resources

Contacts and Resource List

Appendices

Representative Importing Country Survey Results
Regarding Inspection Requirements
Pending Reform Plans in Competitor Export Countries
Canada
European Union

U.S. Grain and Oilseed Inspection Services Competitiveness Study Report

Introduction and Purpose

U.S. bulk agricultural commodities face stiff competition from export origins that utilize private sector pre-export inspection programs. The private sector surveyors that provide the pre-export services are able to offer a wide array of testing and inspection testing services for intrinsic characteristics, sustainability schemes, and food safety analysis not routinely performed as part of the current official U.S. export inspection model. The purpose of this study is to look at what export competitor governments' inspection delivery models entail, what is driving the use of alternative factors, and at what cost.

This project has been undertaken to further accomplish the objectives and deploy strategies in NAEGA's Unified Export Strategy (UES) by providing for needed analysis, organization, and reporting of the U.S. grain and oilseed inspection services. This will be accomplished by primarily studying export inspection delivery models and collecting export competitor and importer information. The objective is to advance NAEGA's UES by determining if U.S. export market-share is being placed at a competitive disadvantage or is threatened due to costs for mandatory official services that may be insufficient or available on a more cost-competitive basis.

Background

In order to understand what the competition is offering, it will be useful to first describe how the U.S. export grain inspection and weighing system is structured and functions. The U.S. Department of Agriculture's (USDA) Grain Inspection, Packers and Stockyards Administration's Federal Grain Inspection Service (FGIS) establishes quality standards for grains, oilseeds, pulses, and legumes; provides impartial inspection and weighing services through a network of Federal, state, and private entities; and monitors marketing practices to enforce compliance with the U.S. Grain Standards Act, as amended, (hereinafter, USGSA) and Agricultural Marketing Act of 1946, as amended (hereinafter, AMA).

Under provisions of the United States Grain Standards Act, most grain exported from U.S. export port locations must be officially weighed. A similar requirement exists for inspection, except for grain which is not sold or described by grade. Intercompany barge grain received at export port locations also must be officially weighed. The Act also requires that all corn exported from the U.S. be tested for aflatoxin prior to shipment, unless the contract stipulates that testing is not required.

Mandatory inspection and weighing services are provided by FGIS on a fee basis at 45 export elevators and floating transshipment rigs. Five delegated states provide official services at an additional 13 export elevators under FGIS oversight.

Under the AMA, FGIS administers and enforces certain inspection and standardization activities related to rice, pulses, lentils, and processed grain products such as flour and corn meal, as well as other agricultural commodities. Services under the AMA are performed upon request on a fee basis for both domestic and export shipments by either FGIS employees or individual contractors, or through cooperative agreements with states.

FGIS administers uniform, national grain inspection and weighing programs established by the Act. Services under the Act are performed on a fee basis for both export and domestic grain shipments. USGSA requires that export grain be inspected and weighed, prohibits deceptive practices with respect to the inspection and weighing of grain, and provides penalties for violations.

In administering and enforcing the Act, FGIS:

- Establishes and maintains official U.S. grain standards for barley, canola, corn, flaxseed, oats, rye, sorghum, soybeans, sunflower seed, triticale, wheat, and mixed grain;
- Promotes the uniform application of official U.S. grain standards by official inspection personnel;
- Establishes methods and procedures and approves equipment for the official inspection and weighing of grain;
- Provides official inspection and weighing services at certain U.S. export port locations, and official inspection of U.S. grain at certain export port locations in eastern Canada along the St. Lawrence Seaway;
- Delegates qualified state agencies to inspect and weigh grain at certain U.S. export port locations and Designates qualified state and private agencies to inspect and weigh grain at interior locations;
- Licenses qualified state and private agency personnel to perform inspection and weighing services;
- Provides Federal oversight of the official inspection and weighing of grain by delegated states and designated agencies;
- Investigates, in cooperation with the USDA Office of Inspector General, alleged violations of the Act and initiates appropriate corrective action;
- Monitors the quality and weight of U.S. grain as received at destination ports, and investigates complaints or discrepancies reported by importers; and
- Helps U.S. trading partners develop and improve their grain inspection and weighing programs.

The Administrator of GIPSA is authorized by the USGSA to charge and collect reasonable fees for the inspection and weighing of grain and related services performed by employees of FGIS. The FGIS fee schedule as reflected in 7 CFR, Section 800.71–73 provides for hourly rates for contract and non-contract inspection and weighing service. The contract service agreement is designed to help FGIS better manage its work force at individual service points which is expected to reduce the cost of providing official services. These cost of service reductions are reflected in the fee schedule as lower rates than the standard non-contract rates ($39.40 per hour for contracts to $70.00 per hour for non-contract rates). In addition to the hourly fees for direct inspection and weighing costs and fees for certain specific additional test services (for instance $2.60 per online test for oil and protein to $20.30 per online aflatoxin test via a kit), FGIS assesses administrative fees on a per metric ton basis for all outbound carriers in addition to all other applicable fees. These per metric ton administrative fees vary among the four service areas ($0.092–$0.300 per mt) and to those assessed for services in one of the delegated states ($0.059 per mt).

During the period from 2005 to the present, FGIS has increased weighing and inspection fees. The size and frequency of fee increases have been a point of contention for the U.S. export industry which feels that export originating from competitor origins receive an advantage by not having to pay for mandatory government testing on top of testing needed to fulfill the terms of the sales contract.

At export FGIS inspectors test for a wide range of grade determining factors including test weight, dockage or impurities, damage, class in the case of wheat, odor and the presence of insects or other deleterious substances and provide weighing oversight and certification. FGIS does not routinely test for many intrinsic quality and food safety factors which are available from FGIS or private surveyors upon request. This represents a fairly significant difference between how FGIS performs inspection and weighing *versus* other export origins around the world. Whereas, FGIS determines what factors are important and inspects against those criteria, other systems allow the buyers and sellers to determine what is important and to reflect that in their testing requirements.

The U.S. system creates a fairly large number of circumstances where foreign customers are required to pay for mandatory FGIS tests and then voluntarily request inspection testing for characteristics that are of more concern to their needs and intended end use. Addressing this source of duplicative or additional testing may provide opportunities for the U.S. to improve its export competitiveness and still deliver a high quality export product at a lower cost to the end-user customer.

Findings

Competitor Bulk Commodity Export Inspection Practices

Country	Requirement
Argentina	• The Government of Argentina requires grains and oilseeds and soymeal to be inspected pre-export by private sector surveyors under the auspices of the Government Agency Servicio Nacional de Sanidad y Calidad Agroalimentaria (SENASA). • SENASA charges a stiff fee for overseeing the private surveyors, but assumes no liability for quality complaints. • The Government of Argentina issues phytosanitary certificates. • The pre-export inspection cost is $0.58 USD per mt, including $0.22 USD per mt government service fee for corn, wheat and soybeans and $0.16 USD for soymeal.
Australia	• There is no quality inspection by the government. • Quality is determined by private organizations or the terminal operator which issue certificates which they guarantee. • There is a full cost recovery for phytosanitary inspection service administered by the Department of Agriculture Biosecurity using "Authorized Officers" who are employed by the exporters. • All bulk and container loads are tested on a full cost recovery basis by the National Residue Survey (NRS) an agency of the Department of Agriculture.
Brazil	• The Brazilian Government is not responsible for quality specifications or testing which is done for both bulk and containerized shipments by private sector surveyors. • In order to perform the quality and food safety testing the private surveying firms must be registered with MAPA and have an ISO 17025 compliant laboratory and acknowledged as such by the Brazilian Metrology Institute, which has the authority to conduct random scale checks on behalf of the Brazilian Federal Treasury. • Any test results for weed seeds, insects, fungus and other pests that are part of the International Plant Protection Organization phytosanitary requirements are reported to the Brazilian Ministry of Agriculture, Livestock and Feed Supply (MAPA) for their use in issuing the phytosanitary certificate. • The inspection costs for Brazil reportedly range between $0.13 USD per mt to $0.20 USD per mt.
Canada	• According to the Canadian Grain Act, all grain exports from Canada, excluding shipments to the U.S., are mandated to be officially inspected by the Canadian Grain Commission. • The Canadian Grain Commission is responsible for collecting an official sample during loading, conducts the official inspection on the sample and issues a Final Certificate attesting to the quality of the shipment. • According to the published fee schedule, the cost for the export inspection in 2014/2015 is $1.31 USD per mt. • The Canadian Grain Commission sets standards and specifications for grain grades basis recommendations of the Eastern and Western Canada Standards Committees. • The Canadian Grain Commission has developed the Canadian Grain Grading Guide which is a complete reference guide for grading grains, oilseeds and pulses and is protected by the Canadian Grain Commission's International Standards Organization (ISO) provisions. • Private sector surveyors are permitted to perform inbound inspections at export locations.
EU	• The European Parliament has established official control measures to ensure the compliance with feed and food law UN Regulation (EC) No. 882/2004 which includes certain rules for delegation by competent government authorities to independent third parties. • The guarantees given by the official control activities are the baseline on top of which specific certification schemes may operate on a voluntary basis. • Within the European Union, grains and oilseeds and products are inspected under voluntary certification schemes such as "The GAFTA Approved Superintendents Scheme" or "COCERAL GTP—Community Guide to Good Trading Practice" which comply with EU Member State prerequisites for assurances that inspected products or their production methods conform to the particular scheme specification. • Scheme specifications may include such things as environmental protection, animal welfare considerations, organoleptic qualities, "Fair Trade" and other socioeconomic provisions. • Schemes may attest to compliance with government requirements for best farming or management practices. • Fees for inspection in major export hubs are around $0.30 USD per mt. • The EU will be considering major revisions to its food and feed law regulations at a meeting in February which may eventually introduce more consistency in European food and feed control law. A copy of the CELCAA (European food and agriculture traders association to which COCERAL belongs) supporting comments are attached in the appendix to this report.

Competitor Bulk Commodity Export Inspection Practices—Continued

Country	Requirement
Russia	• The Russian Grain Union which is comprised of private and public sector grain industry bodies in Russia is responsible for establishing certification requirements and accredit organizations to provide services. • According to information on their website, the Russian Grain Union certifies quality management system in compliance with ISO requirements. • Export inspections are conducted by privates surveying companies and if the sales are made under GAFTA contracts the inspections must conform to The GAFTA Superintendents Scheme.
Thailand	• Bulk and containerized Thai rice exports are inspected by private surveyors per the requirements set forth by the Ministry of Commerce's Office of Commodity Standard. • The Office of Commodity Standard is authorized to inspect 100% to 25% of fragrant and white rice respectively and other grades are inspected by private companies under the auspices of the Office of Rice Inspection, Board of Trade providing they meet certain conditions. • The Government of Thailand sets a ceiling on inspection fees of approximately $0.50 USD per mt; laboratory fees are capped at no more than $45 per test and the fee for issuance of a certificate is capped at $7 USD. • The Government of Thailand assumes no liability for quality claims.
Ukraine	• Export inspections for grains and oilseeds are provided by independent surveyors per contract specifications laid out in GAFTA and FOSFA contract language and operating rules such as the GAFTA Approved Superintendents Scheme. • Inspection fees for the Ukraine are reportedly around $0.27 per mt.
Vietnam	• *Information not yet available.*

Bulk Commodity Importer Inspection Requirements

Country	Requirement
China	On March 20, 2014, the China National Health and Family Planning Commission released the revised National Food Safety Standard—Maximum Residue Limits for Pesticides in Foods. (GB 2763–2014) Exported food and feed products need to be compliant with the following Chinese restrictions to avoid introduction of unapproved biotechnology events: ***National Standards*** GMO Product Testing—General Requirements and Definitions (GB/T 19495.1–2004) GMO Product Testing—Technical Requirements on Laboratories (GB/T 19495.2–2004) GMO Product Testing—DNA Extraction and Purification (GB/T 19495.3–2004) GMO Product Testing—Qualitative Nucleic Acid Based Methods (GB/T 19495.4–2004) GMO Product Testing—Quantitative Nucleic Acid Based Methods (GB/T 19495.5–2004) GMO Product Testing—Testing Method for Gene Chips (GB/T 19495.6–2004) GMO Product Testing—Sampling and Sample Preparation Methods (GB/T 19495.7–2004) GMO Product Testing—Testing Method for Protein (GB/T 19495.8–2004) ***AQSIQ Developed Standards*** Testing of GMO Plant and Its Products—General Requirements (NY/T 672–2003) Testing of GMO Plant and Its Products—Sampling (NY/T 673–2003) Testing of GMO Plant and Its Products—DNA Extraction and Purification (NY/T 674–2003) Testing of GMO Plant and Its Products—Qualitative PCR Method for Soybean (Testing) (NY/T 675–2003) ***MOA Standards for GMO Testing of Specific Events*** MOA Public Notice No. 869 (14 standards); MOA Public Notice No. 953 (27 standards); MOA Public Notice No. 1193 (three standards); MOA Public Notice No. 1485 (19 standards); MOA Public Notice 1782 (13 standards); and MOA Public Notice 1861 (six standards). ***MEP Developed Standards*** Guideline for Eco-Environmental Biosafety Assessment of Insect-resistant Transgenic Plants (HJ 625–2011) On December 22, 2014, The Chinese National People's Congress published the Second Draft of its Food Safety Law for public comments. The draft can be found at: *http://www.npc.gov.cn/npc/lfzt/spaqfxd/node_25114.htm*. This new law establishes new registration requirements and reinforces the AQSIQ authority to inspect foodstuff imports.

Bulk Commodity Importer Inspection Requirements—Continued

Country	Requirement
Egypt	The Egyptian Government requires imported corn, soybean, wheat, rice, soymeal and DDGs to be pre-inspected, but special measures are in place for wheat by the General Authority for Supply Commodities (GASC) which requires imports of wheat to be pre-inspected by an Egyptian Government agency prior to export.
EU	Basically all EU food safety and socioeconomic schemes that are in effect and apply to exports apply to imports as well as exports.
Japan	The Japanese Government does not require pre-inspection of imports by a government authority prior to export.
Korea	The Government of Korea requires imports of basic food and feedstuffs to be pre-export inspected by a government authority.
Mexico	Mexico does not require a government inspection prior to import for basic agricultural commodities.
Philippines	The Philippines Government requires pre-export inspection by an accredited third party inspection company. Shipments will not be released without a pre-export inspection certificate. Currently this does not apply to containerized shipments, but the Government of the Philippines is considering draft legislation to close this window.
Taiwan	No government pre-export inspection is required as the Taiwan Council of Agriculture's Animal Industry Department and Taiwan Ministry of Health and Welfare's Food and Drug Administration conduct their own import inspections at the port of entry. Starting January 9, 2015, imports of grains and flour of corn and soybeans are required to have a GMO certificate which is issued by either the exporting country's competent authority or suppliers.
Thailand	The Government of Thailand requires pre-export inspection for basic agricultural commodities.
Turkey	*Information not yet available.*
Vietnam	Vietnam is implementing a new biotech regulatory system which has made a number of U.S. bulk commodities to be non-compliant at least in the short term until approved by the new regulatory system.

Approximate Cost for Export Inspection Services in Select Markets (USD)

Country	Source: Govt (G) or Private (P)	Baseline Testing Cost/per mt
United States USGSA (Bulk Grains and Oilseeds) (Source: Calculated from Information Contained in USDA FGIS Annual Reports)	G	FY07 $0.399287 FY08 $0.442203 FY09 $0.436873 FY10 $0.474746 FY11 $0.463697 FY12 $0.440692 FY13 $0.516284
United States AMA (Rice) (Source: Calculated from Information Contained in USDA Annual Reports)	G	FY09 $1.265647 FY10 $1.621067 FY11 $1.547178 FY12 $1.768691 FY13 $1.968364
Argentina	P	$0.58 USD/mt
Australia	P	$0.30 USD/mt
Brazil	P	$0.15–$0.21 USD/mt
Canada (as of 1.21.15) (Excludes applicable taxes)	G	$35.98/hr $1.34/mt
European Union	P	$0.30 USD/mt
Russia	P	$0.27 USD/mt
Thailand	G/P	$0.40–$0.50 USD/mt
Ukraine	P	$0.27 USD/mt

Approximate Cost for Export Inspection Services in Select Markets (USD)—Continued

Country	Source: Govt (G) or Private (P)	Baseline Testing Cost/per mt
Vietnam (rice)	P	$0.26 USD/mt

Summary and Conclusion

Absolute cost comparisons, as the tables indicate, between country inspections for cross-border commodity trade is very difficult due to differences in fee structures (*i.e.,* hourly *vs.* tonnage *vs.* per sample) for specific tests. Therefore, it is difficult to measure empirically the cost and competitiveness gains that might be obtained from new delivery models for U.S. grain inspection.

However, it is evident that:

- There is a global trend toward countries permitting private surveying firms to perform such services for the buyer and seller, with the only government involvement (if any) being accreditation to assure accuracy, competence and equipment calibration, if any. In fact, many sovereign nations find that private standards organizations such as ISO, provide rigorous certification of accuracy at lower cost than establishing individual government standards would entail.
- The U.S. and Canada maintain the only major grain and oilseed exporter national government-run inspection agencies and have significantly higher costs per ton for basic commodity characteristics.

The U.S. exports about ⅓ of all grains and oilseeds traded globally and between 20% and 25% of U.S. exports of bulk grains, oilseeds and major byproducts are currently re-inspected in some manner by private surveyors. These services are voluntarily engaged by the importer or by mutual agreement of the exporter and importer as part of the terms of the contract to either confirm some inspection results, measure attributes not measured under U.S. mandatory inspection requirements or meet some other commercial requirement of the trade transaction. This further reinforces the global trend cited above and indicates a strong confidence level from foreign buyers in the test results provided to them by private surveyors that they pay for.

The USDA FGIS grain and oilseed export inspection and weighing system is based on labor-intensive, subjective procedures and historical precedent based heavily on reaction to events forty years ago and fails to take full advantage of opportunities created by professional third-party contractors using modern objective technology to establish marketing parameters that have the most utility in the marketplace.

Since major U.S. competitors and customers already recognize the efficiencies and cost savings accruing to the use of private surveyors to perform independent third party surveying services, it may be prudent for U.S. stakeholders in U.S. competitiveness to consider support for a competitive model of inspection service delivery.

Based on our examination of how other competitor and customer countries address their grain export and import inspection services, the U.S. should consider adopting a new paradigm utilizing accredited private surveyors to compete to perform official inspection and weighing services under a strict process-verified system overseen by a branch of USDA such as the Agricultural Marketing Service utilizing standards and procedures established by the USDA FGIS. This would restore the U.S. Government's role to that of a regulatory agency and allow commercial trade to take better advantage of the efficiencies of the professional independent third party surveyors who provide services to U.S. customer governments and commercial parties already.

Contacts and Resource List for Competitiveness Study

WKMGlobal Consulting believes that all the information used in this study was derived from sources believed to be accurate and reliable and is not responsible for any unintentional errors or omissions therein.

USDA FAS Posts

Tokyo, Japan
Taipei, Taiwan
Bangkok, Thailand
Manila, Philippines
Hanoi, Vietnam
Cairo, Egypt
Moscow, Russia

Mexico City, Mexico
EU Brussels, Belgium
Istanbul, Turkey
Beijing, China

Grain Trade and Industry Associations

Grain Trade Australia
ANEC, Brazil
Cargill Brazil
COCERAL
GAFTA

Government Websites

USDA GAIN and FAIRS Reports
USDA FGIS Annual Reports 2007–2013
Canada Grain Commission
European Union

Appendices

Representative Importing Country Survey Results Regarding Inspection Requirements

Korea
Japan
Egypt
Thailand
Philippines
Taiwan

Pending Reform Plans in Competitor Export Countries

Canada
European Union

Representative Importing Country Survey Results Regarding Inspection Requirements

Korea

The Government of Korea requires imports of corn, soybeans, wheat, rice, soybean meal, and DDGs to be pre-inspected by a government authority prior to shipment. Private surveying companies are permitted to perform Maximum Residue Level testing in lieu of a government inspection. Both bulk shipments and container shipments are required to have phytosanitary inspections per requirements of the Ministry of Agriculture. Import inspections are performed by the government and testing is performed for biotech presence, mycotoxins, maximum residue levels, heavy metals, radiation and plant pests and diseases. Any private sector firm performing inspections under the auspices of the Korean Government must first be accredited by the government and pay a fee for compliance to the Ministry of Food and Drug Safety. According to USDA sources there is no way for any commodity to circumvent or avoid the government inspection requirements.

Japan

The Government of Japan (GOJ) does not require pre-inspection for bulk or container shipments. However, for state traded commodities (*i.e.,* rice and wheat) whether bulk or containerized, the Grain Trade and Operation Division of the Crop Production Department in the Agricultural Production Bureau of the Ministry of Agriculture, Forestry and Fisheries (MAFF) does require some testing as part of its purchase contract. MAFF also requires that samples be taken of wheat and barley during the harvest season in export countries and tested for chemical residues, heavy metals, unapproved GE events and mycotoxins. The items for inspection vary depending on the risk of the substances/chemicals in each exporting country. For state traded commodities, testing is either performed in a registered laboratory in the exporting country or shipped to Japan to be tested at a MAFF laboratory. For the harvest season survey—in the case of the United State—MAFF coordinates with USDA/GIPSA to have samples sent to registered laboratories in the United States. State trade wheat is tested for GMO presence, mycotoxins, maximum residue levels, and heavy metals. Rice is tested for all of those attributes plus moisture, damaged kernels and impurities. Private sector surveyors can become registered by complying with a procedure established by the GOJ.

Egypt

The Government of Egypt requires imports of corn, soybeans, wheat, rice, soymeal and DDGs to be pre-inspected by a government authority prior to shipment. There is no way to bypass the government inspections and the cost on average is $8 per mt for corn; $6 per mt for wheat; $16 per mt for soybeans; $7 per mt for rice; $20 per mt for soymeal; and $15 per mt for DDGs in addition to the approximately $.50 per mt cost for GIPSA inspection at origin in the U.S. The Government of Egypt Ministry of Supply General Authority for Supply Commodities (GASC) requires imports of wheat to be pre-export inspected by a government authority prior to export to Egypt. For GASC purchases, Egypt requires that a six-member inter-agency committee inspect wheat at origin. The joint committee is composed of two members each from the Ministry of Agriculture's Central Administration of Plant Quarantine (CAPQ), the Ministry of Trade's General Organization for Export and Import Control (GOEIC), and the Ministry of Health (MOH). For wheat imports by the private sector, it is optional to send only two people from CAPQ. For corn it is also optional to send two people from the Ministry of Agriculture and Land Reclamation's Regional Laboratory for Food and Feed (RLFF). Egyptian Government testing is performed by the Ministry of Agriculture and Land Reclamation which has responsibility for the Central Administration of Plant Quarantine and the Regional Lab for Food and Feed. In addition, the Ministry of Health and the Ministry of Trade and Industry are also involved in import inspections. In Egypt, inspections are performed by government agencies listed above and there is no accreditation of private surveyors. Egypt does not have any pre-export or arrival testing licensing program to allow private surveyors to perform the functions on behalf of the government. International surveying companies that are ISO 17020 and 17025 accredited are sometimes hired by private importers to do testing and analysis as a back-up in case a shipment is rejected, and the importer can use inspection results from such firms in appeals made of government inspection results. These firms are not licensed by the Government of Egypt.

In case of rejection of shipment, according to Article 117, Chapter 4 of Ministerial Decree No. 770/2005, the exporter or importer may appeal the final inspection results no later than 1 week from the date of rejection. The concerned party can file and appeal with the Appeal Committee Secretariat which has broad authority to accept the results of the final inspection, or to amend the results or annul them. They can also authorize a re-inspection of the consignment or allow for treatment with certain conditions. The committee's results are deemed to be final.

Summary Table of Egyptian Inspection Requirements

Factors [1]	Corn	Wheat	Soybeans	Rice	Soymeal	DDGs
Moisture	Max 12.5%	Max 13% [2]	Max 12%	Max 14%	Max 12%	Max 11.9%
Density	Not required	Not required	Not required	Not required	Not required	Not required
Damaged Kernels	Max 5%	Max 5%	Max 5%	Max 5%	Not required	Not required
Impurities	Max 2%	Max 2%	Max 2%	Max 0.5%	Max Ash 7%	Max Ash 7%
Oil and Protein Content	9%	Minimum 11.5 % Max	Oil not less than 18 percent Protein not less than 37 percent	Based on customer needs	Low protein not less than 45% High protein not less than 46–48%	Protein + fat 36% Digested protein 85.5%
GMO Testing	No testing	No testing	No testing	No testing	No testing	No testing
Falling Numbers	N/A	Minimum 250 per sec for 12.5%	N/A	N/A	N/A	N/A
Mycotoxins	Total Aflatoxins maximum 20 PPB Aflatoxin B1 Maximum 10 PPB	Total Aflatoxins maximum 2 PPB	Total Aflatoxins maximum 20 PPB Aflatoxin B1 Maximum 10 PPB	Not required	Total Aflatoxins maximum 20 PPB Aflatoxin B1 Maximum 10 PPB	Total Aflatoxins maximum 20 PPB Aflatoxin B1 Maximum 10 PPB
MRLs	Codex, EU and EPA Standards Apply	Codex, EU and EPA Standards Apply	Codex, EU and EPA Standards Apply	Codex, EU and EPA Standards Apply	Codex, EU and EPA Standards Apply	Codex, EU and EPA Standards Apply
Heavy Metals	EU Standards	EU Standards	EU Standards	EU Standards	EU Standards	EU Standards
Radiation	EU Standards	EU Standards	EU Standards	EU Standards	EU Standards	EU Standards

Thailand

The Government of Thailand requires mandatory pre-inspection by a government or private surveyor for imports of corn, soybeans, wheat, rice, soybean meal and DDGs prior to shipment for both bulk and containerized cargoes. The Government Agency responsible for the import testing for feed ingredients (soymeal and DDGs) is the Department of Livestock Development.

Tests are conducted for moisture, oil and protein content, mycotoxins and heavy metals. The reported cost for testing for DDGs is $12–$24 per mt.

Philippines

The Philippines Bureau of Customs (BOC) requires pre-inspection (via a third party or accredited private inspection company) of bulk and break-bulk shipments from all origins. Shipments will not be released to importers without load-port survey/inspection reports. At the current time, there is no pre-export government inspection requirement for containerized shipments, but the Philippine BOC is drafting legislation that would require pre-inspection of containers. The BOC has already advised the accredited load-port inspection companies (for bulk and break-bulk) to prepare for the expansion of work to cover containerized shipments. The BOC accredits SGS, Bureau Veritas, Cotecna and Intertek to perform bulk and break-bulk load-port inspections, which are audited by the BOC/Bureau of Internal Revenue. The cost for testing wheat for one vendor was reportedly $0.075 USD per metric ton. The Philippines Bureau of Plant and Industry which is part of the Philippines Department of Agriculture is responsible for any government testing upon arrival. Importers are not able to receive any relief from weight discrepancies but may file insurance claims for quality disputes. The current system is valuable for the government and all concerned in that it addresses under declaration in weight, misclassification, and under-evaluation. It is onerous and costly for U.S. origin exports which are already inspected by FGIS for quality and quantity. USDA FAS Manila reports that expansion of the mandatory pre-shipment inspection requirement to containerized shipments will likely become a trade irritant.

Summary of Philippine Pre-Export Inspection Requirements

Factors [1]	Corn	Wheat	Soybeans	Rice	Soymeal	DDGs
Moisture	X	X	X		X	
Density	X	X	X		X	
Damaged Kernels						
Impurities						
Oil and Protein Content	X	X	X		X	
GMO Testing	X	X	X		X	
Falling Numbers	X	X	X		X	
Mycotoxins	X	X	X		X	
Quantity	X	X	X		X	
Price Comparison	X	X	X		X	

[Section Notes]

[1] Please note that GOE import law presently disallows/stipulates zero tolerance for ambrosia, so U.S. grain and soybean shipments are, from time to time, subject to screening and associated costs at ports of discharge.

[2] GASC has issued exemption (for French wheat) allowing up to 13.5% until the end of February 2015.

Taiwan

The Taiwanese Government does not require pre-export Government or private sector inspections for bulk or containerized corn, soybean, wheat, rice, soymeal or DDGs shipments from any of its import sources. Taiwan is reportedly adding a new requirement for pre-export inspection for radiation for products from Japan destined for food use. Import inspections are carried out at the Taiwanese port of entry into the Taiwan market by the Council of Agriculture's Animal Industry Department for feedstuffs and by the Ministry of Health and Welfare's Food and Drug Administration for foodstuffs. Starting on January 9, 2015, shipments of corn and soybeans and processed byproducts of these two commodities are required to have certification for GE presence which is to be issued by either the export country's competent authority or the supplier. Private laboratories can be accredited to provide import compli-

ant service on behalf of the Taiwan FDA by making a voluntary application to TFDA. Non-accredited laboratories are also eligible to compete for the TFDA business contracts which is supposedly awarded based on a review of qualitative criteria. Inspection results are audited by the government agencies responsible for feed and food. The Government of Taiwan does not intervene in weight discrepancies or disputes which are negotiated between the importers and exporters per the terms of the contract. The fee for inspections is determined on an *ad valorem* basis of 0.05% for corn, soybeans and wheat and 0.15% for other products on the CIF price. Importers pay the fee on non-compliant products and additional testing requirements can add to the inspection cost.

Pending Reform Plans in Competitor Export Countries

Canada and the European Union are considering reforms for grain, feed or foodstuff inspection requirements, which may or may not enhance their grain and oilseed competitiveness *versus* U.S. origin exports.

Amendments to the ***Canada Grain Regulations*** *(Security)—Forward Regulatory Plan: 2014–16*

Key changes proposed for the *Canada Grain Act*

Enhance producer protection

1. Extend producer access to Canadian Grain Commission binding determination of grade and dockage (this right is known as "Subject to inspector's grade and dockage") on deliveries to licensed process elevators, grain dealers, and container loading facilities.
   - Producers have the right to ask the Canadian Grain Commission for binding determination on grade and dockage when the producer or the person delivering the grain disagrees with the grade or dockage assigned to a grain delivery.
   - The producer is paid according to the Canadian Grain Commission's determination.
   - Currently, this right is limited to deliveries at licensed primary elevators.
   - Extending this right would resolve inconsistencies in producer treatment across the licensed grain handling system.
2. Allow the Canadian Grain Commission to establish and administer a producer compensation fund to compensate producers when a licensee fails to pay for a grain delivery.
   - The amendment would give the Canadian Grain Commission additional flexibility to implement an alternative producer payment protection model.
   - The fund would be funded by licensee contributions, which would be based on their expected risk of failure and volume of grain purchases. Payments would be distributed to eligible producers when a licensee fails to pay.
   - The fund would pool the risk of payment failure. It is anticipated that it would reduce industry costs and administrative requirements.
   - Until a fund is developed, the existing security-based program and its requirements would continue, that is, producers would be covered by the security program, and licensees would be required to post sufficient security.

Enhance grain quality and safety assurance

1. Create a new class of licence for container loading facilities. A new class of licence would allow the Canadian Grain Commission to:
   - Effectively respond to quality complaints on the increasing volume of grain shipped in containers.
   - Improve statistical reporting.
   - License the grain industry more consistently.
2. Permit the Canadian Grain Commission to monitor, test and enforce grain safety issues in grain elevators in Eastern Canada as required where provincial authorities do not exist.
   - The Canadian Grain Commission would have the ability to request samples of grain from Eastern elevators.
   - The change would improve the Canadian Grain Commission's capacity to identify and mitigate safety issues and help resolve market access disputes.
   - It would also provide a consistent, national approach to grain safety issues.

- The change would not expand the Canadian Grain Commission's licensing authority in Eastern Canada. Primary and process elevators east of Thunder Bay would continue to follow provincial regulations.
- The change would not be implemented until stakeholders and provincial governments in Eastern Canada have been consulted.

Modernize the *Canada Grain Act*

1. Clarify that the Canadian Grain Commission acts in the interest of all Canadians, including the entire grain sector and grain producers.
   - This clarification would address stakeholder concerns that the current mandate, which speaks specifically of grain producers, is not in keeping with the Canadian Grain Commission's role as an unbiased regulator.
   - All aspects of producer protection would be maintained, and the Canadian Grain Commission would continue to perform specific functions in the interests of producers, such as binding determination of grade and dockage (Subject to inspector's grade and dockage) and allocating producer cars.
2. Establish a non-binding process for reviewing certain Canadian Grain Commission decisions, such as exemptions, licence suspensions, and refusals to grant permissions.
   - The review process would consist of a panel of three members:
     - one chosen by the party requesting the review.
     - one chosen by the Canadian Grain Commission.
     - one chosen by both parties.
   - Currently, a stakeholders only recourse is to seek review by a court.
   - The review process would be a less costly and more responsive way for stakeholders to appeal decisions that affect their businesses.
3. Provide authority for the Minister of Agriculture and Agri-Food to appoint and reappoint members to the grain standards committees, upon recommendation of the Commission.
   - The Minister would also establish the terms of office for the non-government members and establish a maximum term of office.
4. Permit the Canadian Grain Commission to enact regulations that require producers and shippers to make declarations on grain deliveries.
   - The Canadian grain industry implemented an industry-wide declaration system for western Canadian wheat in 2008.
   - Currently, grain companies use declarations for most type of grain deliveries.
   - Declarations are part of a larger quality management system for western Canadian grain, which includes testing and monitoring protocols for industry.
   - Regulations would define the declaration process.
5. Make certain offences under the *Canada Grain Act* subject to administrative monetary penalties under the *Agriculture and Agri-Food Administrative Monetary Penalties Act.*
   - The amendment would allow the Canadian Grain Commission to respond more appropriately to common violations of the *Canada Grain Act* and would improve compliance.
6. Permit licensees to refuse varieties of grain that are not registered under the *Seeds Act* for sale or import into Canada.
   - The amendment would not exclude producers from declaring and delivering unregistered varieties.
   - It would allow elevator managers some discretion regarding the orderly delivery of grain.

Date modified: 2014–12–09

European Union

Brussels, November 2014

CELCAA Key Messages on Official Food and Feed Controls

CELCAA is the voice of the European traders in agricultural and food commodities to the European Institutions, media and stakeholders. Cereals, oilseeds, animal feed, oils and fats, olive oil, agro-supply, meat and meat products, dairy products, wine,

eggs, egg products, poultry and game, raw tobacco, essential oils and spices are covered by our umbrella.

CELCAA supports the Commission proposal towards a European consolidation of harmonized, fair, efficient and transparent system for official controls on food and feed.

Official controls contribute to the high level of food and feed safety in the EU, to consumer trust and to the good functioning of the internal market, and shall guarantee a level playing field for all operators across the EU. The Commission proposal aims at strengthening these principles, and goes in the right direction in terms of consolidating the current legislation.

CELCAA would like to draw the attention of European decision-makers to the following points, which are crucial for the trade operators in the food and feed chain:

Risk-based approach for import controls (Art. 8; Art. 47)

✔ CELCAA strongly supports the Commission's principle supporting a risk-based approach and welcomes the proposal to strengthen it. CELCAA calls for its full implementation by competent authorities when programming and performing official controls.

✔ The frequency of the physical and identity checks should take due consideration of the risk-based principle, and hence should depend on the past experience with the given product and country of origin, as proposed by the Commission proposal.

Controls by independent private bodies (Art. 25) and own controls

✔ CELCAA supports the importance of independent controls; as the mandate for controls given to a public body can be too restrictive in some cases, as in some Member States official controls need to be performed by a third independent party which can be both public and private.

✔ CELCAA welcomes the EU Parliament vote considering operators' private quality schemes. Trade operators have invested heavily in quality assurance systems and regular own controls, and competent authorities should give due consideration to these schemes when elaborating controls programs.

Principle of equivalence of SPS requirements between the EU and third countries

✔ In line with the international principles of equivalence of sanitary and phytosanitary requirements under the WTO, the Commission proposal provides a series of requirements designed to ensure that imported products meet standards at least equivalent to those required for production in, and trade between, Member States. This is welcomed by CELCAA.

✔ It is, therefore, of utmost importance that the EU system of official controls remains fully embedded in this principle. Without this principle, imports of much needed agri-food products to the EU will risk breaching the legislation and thus security of supply for EU consumers.

Trade in bulk (Art. 75)

✔ CELCAA supports the Commission proposal recognising the specific nature of bulk trading.

✔ Specific rules should apply to the collection, storage, trading and transporting of bulk agricultural commodities.

✔ The delegated act envisaged by the EU Commission in this respect should be maintained in the proposal and drafted in close collaboration with representatives of traders in bulk commodities.

Common Health Entry Document (Art. 54)

✔ Traders should be thoroughly consulted on the draft design of the Common Health Entry Document, so as to avoid duplication with other requirements.

Official certificates for exports

✔ The use of model official certificates should be optional; Current practices need to be taken into account in instances where an existing certificate has already been agreed bilaterally between a Member State and a third country or where a specific format is required by the third country and it may be more appropriate to use this particular certificate.

Right to second opinion (Art. 34)

✔ The right of the operator to apply for a second expert opinion is of utmost importance for the agricultural sector. CELCAA requests provisions to include a set timeframe to obtain analytical results of a second sample which is imperative to business and to avoid trade stoppages at ports.

Transparency and Information Management System (Chapter II. Art. 10; Art. 14)

✔ CELCAA strongly opposes the publication of individual control results and the use of rating schemes (*naming and shaming*). Information identifying individual operators should only be published when there is an overriding public interest, *i.e.,* a serious risk to human health and according to criteria set at EU level. In any case, operators should be given the opportunity to defend themselves and their comments should be published together with the control results.

✔ Similarly, CELCAA does not support the provision to grant a legal basis to allow Member States to publish ratings of individual operators. On the contrary, CELCAA supports the strengthening of data protection in the current compromised text (ref. Art. 133a and Art. 133b).

✔ Publication of multi-annual national control plans should be drafted in consultation with traders.

✔ CELCAA is concerned about the provision of access to information. Access to the business operators' computerised information management system would need to take account of the data privacy and protection and should be done only to the extent that a food safety risk is justified. The access by competent authorities to operators' documents and information management systems needs to be restricted to those ones required to verify compliance with food and feed law requirements.

Financing of official controls & principle of costs sharing (Chapter VI)

✔ Food safety is a common public good. CELCAA, therefore, believes that official controls from public authorities should be financed through public budget.

✔ As part of the shared responsibility in ensuring food and feed safety, business operators have already invested in certified quality management systems in their daily operations.

✔ Competent authorities, therefore, need to remain in charge of the funding of the official control system as part of their shared responsibility.

✔ Food and feed business operators have primary responsibility for food safety. Official controls are under the responsibility of competent authorities. Therefore, where mandatory fees apply, a cost sharing system must be put in place to ensure there is an incentive on both sides to carry out official controls in an efficient manner.

✔ There is a need for further harmonisation of controls across the EU which should be proportionate to the risk as currently there is a huge variance between Member States.

✔ If in the event that a charge for the funding of official controls is implemented, it must be a fundamental principle that it is harmonised at EU level. The harmonisation of the costs of controls at EU level is of utmost importance to the trade and should be calculated and allocated in a way to ensure fairness for all operators along the supply chain and to ensure consistent as well as effective systems. This cost-sharing system should follow the principle below:

- Where fees are collected, they must be collected from all operators in a fair manner and should be proportionate to the official controls performed, micro-enterprises included.
- The Competent Authority must demonstrate a risk based approach which is transparent to the Food Business Operators.
- Fees should only be recovered and related to direct costs linked to official controls on site (*e.g.,* short positive list: salaries, equipment and consumables) while Competent Authorities should remain in charge of the indirect costs.
- Competent Authorities should provide full transparency to operators on the methods related to the costs linked to charging.

✔ On the application of fees, CELCAA does not support the provision that Competent Authorities do not release goods until fees are paid which could amount to significant additional costs for importers should vessels be delayed at the point of import.

Efficient controls according to the principle of thriftiness

- ✔ CELCAA strongly calls for competent authorities to carry out performance and efficient controls; they should have appropriate means to carry out their tasks.
- ✔ The time-efficiency in performing official controls, in terms of staffs, procedures and equipment as well as in delivering results by control authorities is essential for traders. Potential inefficiencies by control authorities should be avoided as they will create additional burdens to traders in terms of costs and delay in discharging/delivering the goods.
- ✔ The principle of thriftiness should be clearly mentioned as a principle to be duly followed by the competent authorities in the core text of proposed legislation.

CELCAA is the EU umbrella association representing EU organisations covering the trade in cereals, grains, oil, animal feed, agro-supply, wine, meat and meat products, dairy and dairy products, eggs, egg products, poultry and game, tobacco, spices and general produces. Members include COCERAL, UECBV, EUCOLAIT, CEEV, EUWEP, GAFTA, FETRATAB, CIBC. CELCAA's main objectives are to facilitate understanding of European decision-makers and stakeholders on the role played by the European traders in agri-food products; to act as a platform of dialogue and communication with the European Institutions and to encourage public and general interests in agri-trade issues.

ATTACHMENT 4

U.S. Grain and Oilseed Inspection Services Competitiveness Study

Customer Specifications and Preferences

March 15, 2015

W. Kirk Miller and Paul B. Green
WKMGlobal Consulting
3901 Chain Bridge Road, Fairfax, VA 22030
wkmglobal@aol.com

Table of Contents

Introduction
Executive Summary
Background and Purpose
Official Grain Inspection
Additional Characteristic Certification
Findings
Choices for Inspection Services
Selected Importing Country/Company Data Results
Conclusions and Recommendations
Appendices
FGIS Services
Excerpted from the National Oilseed Processors Association
"Trading Rules for the Purchase and Sale of Soybean Meal"
Adopted October 18, 1933

Customer Specifications and Preferences

Introduction

U.S. exporters are in a unique position to originate and provide a wide array of products that conform to the requirements of foreign customers. Better understanding foreign customer needs and capabilities of the U.S. export sector to adapt and deliver products that meet those needs will help the U.S. to maintain and grow its grain and oilseed market-share globally. An effective, efficient and reliable official export inspection and weighing system can enhance the competitiveness of U.S. grain exports and a system that is seen as inefficient or unreliable can damage competitiveness dramatically.

Different inspection service and superintendence models are employed at major export locations around the world driven by government requirements, importer needs and exporter convenience balanced against reasonable costs for assuring the product quality and functionality. U.S. exports of most bulk grains and oilseeds, with few exceptions, are inspected and weighed by the USDA Federal Grain Inspection Service (FGIS) per a load order based on contract specifications. Load orders usually include requests for additional superintendent services to assure or provide

test results covering intrinsic quality characteristics or socioeconomic considerations. The additional services may be provided by FGIS, if they offer the service, or by private superintendent companies per the contract.

Executive Summary

Foreign buyers require additional third party tests to satisfy one or more of many possible motives, *e.g.:*

- To comply with importing government food safety requirements such as for mycotoxins, MRL's and heavy metals.
- To satisfy customer, commercial processing information needs for amino acid profiles, farinograph or amyleograph, falling numbers, oil and protein content *etc.*
- To assure delivery of premium commodities or byproducts which reduce freight costs on an end-use value basis.
- To provide testing and related services for non-standardized grains.
- To satisfy socioeconomic considerations such as sustainability and labor standards requiring certificates of origin or custody documentation.
- To meet end-user GMO approved event compliance requirements.
- To verify FGIS results.
- To meet commercial documentation requirements such as banking or customs requirements.

Interestingly, some of the additional non-grade determining tests, which may be the most important factors in the marketplace, are not available from FGIS. This leads to the question of why the specific factors that are part of the official U.S. grade standards are the exclusive purview of the official U.S. Government inspection service, but other attribute tests that seem to matter as much or more to importers are optional and allowed to be performed by professional private superintendent firms.

With private independent superintendent companies providing so many services both internationally and at U.S. export locations for foreign customers, especially customers demanding more rigorous international quality control regimens than those used by FGIS, it is apparent that these independent third party firms could be contracted to perform official services without a negative impact on market perceptions or customer confidence in U.S. origin products. They could be utilized to provide many of the mandatory inspection and weighing tasks that are now performed by Federal employees leading to overall efficiency gains and cost savings. FGIS could take advantage of the professional expertise that is available in the private sector and prioritize its activities toward meeting traditional governmental roles of standard setting, training, oversight and compliance.

Background and Purpose

On behalf of the U.S. grain and oilseed export industry, the North American Export Grain Association has contracted with WKMGlobal Consulting to conduct a review of the global marketplace and determine what motivates foreign customer importers to request additional independent third party testing services above and beyond what is mandated under the U.S. Grain Standards Act. A competitive U.S. grain and oilseed export system will always be aware of trends that cause importer's contractual requirements for inspection and analysis to change and will be responsive to importer needs for additional information about export shipments. This report is to provide insight into those trends, identify the motivating factors behind them and explain the implications they might have for the U.S. grain handling system's ability to meet future needs in the most cost-effective manner.

According to the project terms of reference, this work was to be based to a large extent on a comprehensive customer and exporter survey:

- To elicit the rationale and business case for specifying certain additional private sector services or the rationale for additional non-grade determining factors for U.S. grain and oilseed export cargoes.
- To use U.S. cooperators to help distribute and collect the survey information including the costs that are incurred for the additional services.

Official Grain Inspection

GIPSA's Federal Grain Inspection Service provides inspection services on grains, pulses, oilseeds, and processed and graded commodities. These services facilitate the efficient and effective marketing of U.S. grain and other commodities from farmers to domestic and international end-users.

Official inspection services are divided into two basic types: "inspection for grade" or "factor analysis" without grade. Inspection for grade involves analyzing the sample according to the quality factors listed in the Official U.S. Standards for Grain and certifying the applicable numeric grade designation, the quality factors responsible for the grade assignment, and any other quality factors the customer requests.

Under the United States Grain Standards Act, the following activities are defined as mandatory export grain inspection and weighing services:

- Official weighing of most grain exported from the United States and of intercompany barge grain received at export port locations.
- Official inspection of most grain exported from the United States.
- Testing of all corn exported from the United States for aflatoxin prior to shipment, unless the contract stipulates testing is not required.

Mandatory inspection requirements do not apply to grain that is not sold or described by grade. Mandatory inspection and weighing requirements are waived for grain exporters shipping less than 15,000 metric tons of grain abroad annually; for grain exported by rail or truck to Canada or Mexico; for grain sold as "seed"; for grain transshipped through the United States in a bonded identity preserved fashion; and for high-quality specialty grain shipped in containers.

Additional Characteristic Certification

Some commodities like rice and processed bulk grain byproducts like soymeal and dried distillers grains are not listed under the USGSA and are usually inspected by private third party inspectors under industry standards or in the case of rice under the auspices of the Agricultural Marketing Act by either USDA FGIS or independent third party surveyors. For standardized grains and oilseeds, FGIS tests for grade determining factors such as test weight, damage, foreign material, class and in some cases moisture established by FGIS. Non-grade determining factors or attributes may be tested by FGIS or independent third party surveyors depending on the agreement reached between the buyer and seller of the commodity.

Additional non-grade determining factors or attributes that can be tested cover a wide range of analytical procedures from determination of intrinsic quality attributes to the presence of heavy metals, certain biotech events or pesticide residues. Sometimes independent third party contractors are needed to provide certificates for documentation requirements related to buyer chain of custody concerns or for socioeconomic or labeling purposes. USDA's FGIS performs some of these tests and services, but not all of them (Examples of tests not provided include biotech testing and weed seed identification) and many are conducted offsite from the export elevator location where the cargo is being sampled prior to export loading. A list of tests and fees that FGIS conducts is attached to this report as an addendum.

It is noteworthy that independent third party laboratories often use International Standards Organization (ISO) or industry trade association standards that are often more rigorous than those established and used by FGIS. The formal ISO requirements for internal audits and feedback dictate that the private subscribers adhere to protocols that are of a global nature rather than standards developed and used only in the U.S. Also, many of the independent third party superintendent companies are the same firms that are conducting inbound inspections and surveys on behalf of U.S. export customers. It is in these firms own best self-interest to insure that the test analysis at U.S. origin are in line with the results that are determined at customer import locations.

This report attempts to identify why foreign customers request independent third parties to perform these tests rather than simply have USDA FGIS perform the additional tests, which would seem to be the natural default condition since they are already on location and involved in the mandatory official testing.

Findings

In accordance with our original study objectives, WKMGlobal developed an extensive and detailed customer preference survey. After further detailed discussion with representatives of U.S. Wheat Associates, U.S. Soybean Export Council, U.S. Grains Council, USA Rice and NAEGA, it was agreed that such an extensive, survey of importers might be an imposition on them and might yield redundant or incomplete data. This instead led to a multi-step alternative approach:

- Pursue input from a more select and targeted group of companies from major market countries regarding the contractual expectations from importers for inspection, quality characteristic measurements and documentation.
- Review with U.S. exporter documentation experts their knowledge of the drivers behind these contractual provisions and the rigor behind the provisions.

- Interview some selected knowledgeable importer representatives to determine their perspectives on what needs are being met in the case of individual contractual inspection document.

The basis of this approach was to test the WKMGlobal original hypothesis that the drivers for trends in the characteristics being measured in international trade by the global food business could be grouped into categories:

1. Basic visual and physical characteristics of soundness, cleanliness and accuracy of description and purity as proscribed in the U.S. Grade Standards for standardized grains.
2. Health and food safety characteristics as perceived and required by Health Ministries.
3. Characteristics related to the processing performance of products in the supply chain as they move toward their intended uses.
4. Consumer or activist demands for information about their food and its production methods.
5. Compliance with regulatory requirements that production methods or processes have been completed and approved by the importer.

The interviews and document review undertaken in conjunction with this project clearly confirmed that as expected the first category of inspection requirements—the physical characteristics—was a necessary description and measurement needed for every cargo of U.S. export grain and oilseeds. However, it is also clear that analysis of physical characteristics is insufficient to meet the information needs of an increasingly sophisticated food supply chain with just mandatory USDA FGIS inspections. There was no indication from any stakeholder that the official FGIS certificates are no longer needed and should be abandoned.

A second hypothesis that needed verification came from a different, but related study regarding customer acceptance of quality inspection from non-U.S. origins by private inspection companies. WKMGlobal surmised that the importers would also find that the current additional characteristic inspections that were being done by private inspection agencies to be sufficient and cost-effective. As with the categories assumption, the project sought to verify or reject that hypothesis.

The study approach described above allowed WKMGlobal to compare contracts and tender language from various buyers and put characteristics requirements into the categories above. We then were able to take those buckets of inspection criteria as the basis for targeted questions to expert exporter and importer representatives.

The end result was a confirmation of both hypotheses—

- Buyers are satisfied with the descriptive measurement of the U.S. grain grades which provides for a definition of the basic physical factors of the traded commodities and indicate knowledge of the fact that the grade certificate is issued by the U.S. Government.
- However, the demands of government regulators, food processing customers and consumers (as indicated by the market or activist demands) is leading to more specific, testing-related characteristic measurement

Choices for Inspection Services

U.S. grain exporter sources confirmed to WKMGlobal that there are three models for requests from foreign buyers for additional characteristic inspection/documentation.

1. Requirement for documentation of additional characteristics with no designation of which entity (private or FGIS) will perform the sampling and testing.
2. Requirement for documentation of additional characteristics with a selection of prospective companies to provide the sampling and testing.
3. Requirement for documentation of additional characteristics with a specific company to provide the sampling and testing.

In the first two scenarios, the exporter is entitled to choose the company to provide the service. In telephone interviews, we were informed that the price for services was relatively competitive between private firms, so the more important factors for choice between firms were;

a. Experience and predictability of results (most export companies have experience with major testing companies and the predictability of testing results from those firms based on both experience and 'round robin' lab calibration participation).

b. Speed of turnaround for documents (Filing of documents with banking officials has financial impact, so time is of the essence in obtaining the results).

c. Relationship and physical proximity (if firm is already performing inbound testing and are located in the export facility, they have a built-in advantage to be designated for the export testing).

When asked by the authors whether the exporters would consider using FGIS for the optional inspections, we were told that it would be very rare, since FGIS is not perceived to be as competent in performing non-grade determination additional testing services's outside of the required grade factors. (Laboratory operator competence is often a function of the volume of tests being done and FGIS is not being used for nearly the number of tests that many private superintendent companies are.)

According to the January 30, 2015 companion Export Competitor and Import Country Information study conducted by the authors, absolute cost comparisons between country inspections for cross-border commodity trade is very difficult due to differences in fee structures (*i.e.,* hourly *vs.* tonnage *vs.* per sample) for specific tests. However, in that study the authors found that there is a global trend toward countries permitting private surveying firms to perform such services for the buyer and seller, with the only government involvement (if any) being accreditation to assure accuracy, competence and equipment calibration. In fact, many sovereign nations find that private standards organizations, such as the International Standards Organization (ISO), provide more rigorous certification of accuracy at lower cost than establishing individual government standards would entail.

The USDA FGIS grain and oilseed export inspection and weighing system is based to a large degree on labor-intensive, subjective procedures and historical precedent that was a reaction to events forty years ago and fails to take full advantage of opportunities created by professional third party contractors using modern objective technology to establish marketing parameters that have greater utility in the marketplace.

Since major U.S. competitors and foreign customers already recognize the efficiencies and cost savings accruing to the use of private surveyors to perform independent third party surveying services, it may be prudent for U.S. stakeholders to advocate for a more competitive model for official inspection and weighing services involving accredited independent third party surveyors here in the U.S. rather than such a heavy reliance on the U.S. Government monopoly services.

According to a study conducted by the authors earlier this year, absolute cost comparisons between different origin country inspection costs for cross-border commodity trade is very difficult due to differences in fee structures (*i.e.,* hourly *vs.* tonnage *vs.* per sample) for specific tests. However in that study, the authors found that there is a global trend toward countries permitting private surveying firms to perform such services for the buyer and seller, with the government involvement, if any, being such functions as accreditation to assure accuracy, competence and equipment calibrations.

As part of this study, we learned that over 75% of U.S. exports are being inspected for some type of additional factors by private superintendent companies that are fully accepted by importers. That clearly demonstrates a high degree of confidence in the private sector surveyors by the parties to the export transactions. This would seem to further indicate that there would be significant value to U.S. competitiveness if the official inspection system would utilize private surveyors to perform the inspections under the strict supervision and oversight of FGIS. The conversion of FGIS to a regulator and use of accredited private contractors would be virtually the same as the domestic system used in the U.S. and not a "privatization" of the inspection system. It is better seen as inserting competition into the current monopoly and optimizing the government's role as the regulator and standard setting body, rather than service provider.

Selected Importing Country/Company Data Results

Exporters, superintendent companies, and trade associations have provided contract information that indicates some of the additional tests that key buyers are requesting. We have tried to reach out to as many of those buyers to determine why they use third party surveyors to perform the tests.

Importing Country	Company	Additional Attributes	Rationale for Request
Corn			
China	COFCO	Condition, phyto and chemical residues per qualified independent laboratory or surveyor certificates.	Contract specification in recognition of Chinese CIQ and Ministry of Health requirements.
China		Mycotoxins, heavy metals, residues and GMO's.	
Cuba		GMO's, pesticide residues, heavy metals.	
Wheat			
Algeria		Wet gluten, dry gluten, toxins, heavy metals, pesticides, microbiology.	
China	Xiamen Mingsui Grains and Oils Trading Co.	Sound condition, phyto, chemical residue analysis, crop year certificate, and wood packing material by private surveyor.	Contract specification in recognition of Ministry of Agriculture and CIQ.
Egypt	GASC	Wet gluten, dry gluten, toxins, heavy metals, pesticides and microbiology.	
El Salvador	Multi-Flour	Falling number, vomitoxin, and free of odor per first class independent laboratory.	Customer contract specification.
Japan	Food Agency	Comprehensive testing.	Japanese Food Agency requirements.
Jordan		Wet gluten, dry gluten, toxins, heavy metals, and microbiology.	
Malaysia	FFM Berhad	Mycotoxin, radioactivity, heavy metals, pesticide residues, microbiology, scab and vomitoxin and certificate of origin from nonstipulated vendor.	Customer contract language.
Nigeria		Wet gluten, dry gluten, toxins, pesticides, GMO's and flour test.	
Taiwan	Taiwan Flour Mills Association	Protein, moisture, dockage, Extraction rate, bran, shorts, flour ash, farinograph, absorption rate, development time, and stability time per specific private laboratories.	Customer contract language.
Saudi Arabia		Wet gluten, dry gluten, toxins, pesticides, microbiology.	
Soybeans			
China	COFCO	Sound condition, oil and protein content, additional specific phyto requirements, chemical residues and wood packing material certificates from private surveyors. Certificate of origin.	Customer specification in recognition of Chinese CIQ, Ministry of Health, and Chamber of Commerce from load port.
China	Wilmar	Mycotoxins, heavy metals, residues and GMO's.	
Indonesia	FKS MultiAgro	Color, size and fragrance by private laboratory.	Customer preference.
Philippines		Toxins, metals, residues, GMO's.	

This summary is not intended to be an exhaustive list of additional attribute testing requirements, but rather an indication of what some firms and origin markets are requesting. Not surprisingly since they are considered to be foodstuffs, rather than feedstuffs, wheat and rice have more intrinsic quality testing requirements than the other commodity grains and oilseeds. However when it comes to grain and oilseed byproducts, especially soymeal, they are traded on detailed criteria spelled out, not by FGIS, but by the association representing the manufacturers of the product and utilization of accredited independent third party laboratories and inspection agencies to perform most of the quality determination in commerce. (See attached excerpts of National Oilseed Processors Association Trade Rules.)

Conclusions and Recommendations

According to information gathered from a wide array of sources including a review of foreign customer contracts and interviews with foreign contacts as well as U.S. experts, the U.S. grain supply chain and export trade is well-served by the existence of the USDA FGIS regulatory and standard setting body and official U.S. inspection certificates, but the actual delivery of export inspection and weighing services could be improved. It is our conclusion that foreign customers recognize the value of the independent third party superintendent companies and respect the testing results that they provide as part of export trade execution. This is demonstrated by the large extent to which they are currently utilized in export transactions, not only in the U.S., but elsewhere around the world. The flexibility, reliability and cost-effectiveness of the independent third party service providers generate measurable utility and value for the U.S. grain and oilseed export supply chain and foreign customers.

It is our conclusion that foreign customers would benefit if a significant portion of the actual inspection and weighing work that is performed by Federal inspectors would be contracted out to accredited independent third party laboratories under the strict regulatory oversight of USDA FGIS. USDA FGIS would retain the responsibility for training and compliance and insure that service providers perform their assigned duties or be immediately replaced by another entity that will. This might not preclude FGIS from stepping in on a temporary basis to ensure that interruptions in service to foreign customers never occur at export locations.

Appendices

FGIS—Tests for Grading and Quality Factors

Tests for Grading and Quality Factors (*http://www.gipsa.usda.gov/fgis/inspectionservices_testgrading.aspx*)

Inspection Services

- Original Inspection (white certificate)
- Submitted sample (pink certificate)
- Warehouseman inspection (yellow certificate)
- Re-inspections
- Appeal inspections

Other Grain Tests

- Aflatoxin
- Vomitoxin (qualitative)
- Vomitoxin (quantitative)
- Waxy corn (per test)
- Corn Oil, Protein and Starch
- Falling Number (Wheat)
- Mycotoxin Analyses (Aflatoxin)
- Mycotoxin Analyses (DON)
- Mycotoxin Analyses (Zearalenone)
- Mycotoxin Analyses (Fumonisin)
- Pesticide Residue Analysis
- Soybean Protein and Oil
- Sunflower Oil
- Wet Gluten (*http://www.gipsa.usda.gov/fgis/inspwgh/wet_gluten.pdf*)
- Wheat Hardness
- Wheat Protein

- Cracked Corn Inspection

Other Commodity Tests

- Sampling (*http://www.gipsa.usda.gov/fgis/inpectionservices_sampling.aspx*)
- Lots sampled online during loading
- Truck/trailer/container
- Railcar (per carrier)
- Barge (per carrier)
- Sacked grain

Weighing Services

- Class X weighting
- Class Y Weighing
- Scale Testing services
- Scale testing and certification
- Evaluation of weighing and material handling systems
- Mass standards calibration and re-verification

Stowage Examination Services

- Stowage examination (service on request) (*http://www.gipsa.usda.gov/fgis/inspectionweighing.aspx#stow*)
- Ships
- Subsequent ship examinations
- Barge
- All other carriers

Other Services

- Interpretive line samples
- Rapid Test Kit Development Verification Service (*http://www.gipsa.usda.gov/fgis/rapidtestkit.aspx*)
- NTEP prototype evaluation (other than Railroad Track Scales) (*http://www.gipsa.usda.gov/fgis/inspectionweighing.aspx#ntep*)
- NTEP prototype evaluation (Railroad Track Scales) (*http://www.gipsa.usda.gov/fgis/weighingservices.aspx#railroad*)
- Grain grading seminars
- Certification of diverter-type mechanical samplers
- International services
- Online customized data EGIS service
- Samples provided to interested parties
- Extra copies of certificates

Laboratory tests

- Aflatoxin test (Quantitative—HPLC)
- Aflatoxin (Quantitative—Test Kit)
- Aflatoxin (Qualitative—Test Kit)
- Appearance and odor
- Ash
- Brix
- Calcium
- Carotenoid color
- Cold test (oil)
- Color test (syrups)
- Cooking test (pasta)
- Crude fat
- Crude fiber
- Falling number
- Free fatty acid
- Insoluble impurities (oils and shortenings)

- Iron enrichment
- Lovibond color
- Moisture
- Moisture and volatile matter
- Oxidative stability index (OSI)
- Peroxide value
- Popping ratio
- Protein
- Sanitation (filth light)
- Sieve test
- Smoke point
- Solid fat index
- Visual exam
- Vomitoxin (Qualitative—Test Kit)
- Vomitoxin (Quantitative—Test Kit)

Laboratory Working Instructions

- Cooked Bostwick Method—Corn Soy Blend (*http://www.gipsa.usda.gov/fgis/inspwgh/cooked_bostwick.pdf*)
- Determination of Vitamin A as Retinyl Palmitate in Processed-Grain Commodities (*http://www.gipsa.usda.gov/fgis/inspwgh/vita3r01.pdf*)
- Determination of Iron in Cereal Grains and Seed Oils by Flame AA (*http://www.gipsa.usda.gov/fgis/inspwgh/WI_Iron_Flame_AA.pdf*)
- Sieve Method—Corn Soy Blend (*http://www.gipsa.usda.gov/fgis/inspwgh/sieve_method_csb.pdf*)
- Uncooked Bostwick Method—Corn Soy Blend (*http://www.gipsa.usda.gov/fgis/inspwgh/uncooked_bostwick.pdf*)

Miscellaneous Processed Commodities

- Falling Number
- Aflatoxin—Non Field Run

Graded Commodities (Beans, Peas, Lentils, Hops, and Pulses)

- Field Run (per lot or sample)
- Other Than Field Run
- Factor Analysis

Last updated: 06/26/2013

Excerpted from the National Oilseed Processors Association ***Trading Rules for the Purchase and Sale of Soybean Meal***

Adopted October 18, 1933

RULE 2—QUALITY

Section 1. Standard Of Quality

a. The standard of quality shall be the soybean meal of fair merchantable quality conforming to standard definitions and standard specifications of the Association, as set forth in these Trading Rules.

b. Analysis shall be made in accordance with methods approved by the American Oil Chemists' Society (AOCS) in effect as of the date of the contract.

Section 2. Standard Definitions

a. Soybean Cake or Soybean Chips is the product after the extraction of part of the oil by pressure or solvents from soybeans. A name descriptive of the process of manufacture, such as "expeller," "hydraulic," or "solvent extracted" shall be used in the brand name. It shall be designated and sold according to its protein content.

b. Soybean Meal is ground soybean cake, ground soybean chips, or ground soybean flakes. A name descriptive of the process of manufacture, such as "expeller," "hydraulic," or "solvent extracted" shall be used in the brand name. It shall be designated and sold according to its protein content.

c. Soybean Mill Feed is the byproduct resulting from the manufacture of soybean flour or grits and is composed of soybean hulls and the offal from the tail of the

mill. A typical analysis is 13% crude protein and 32% crude fiber, and 13% moisture.

d. Soybean Mill Run is the product resulting from the manufacture of dehulled soybean meal and is composed of soybean hulls and such bean meats that adhere to the hull in normal milling operations. A typical analysis is 11% crude protein and 35% crude fiber, and 13% moisture.

e. Soybean Hulls is the product consisting primarily of the outer covering of the soybean. A typical analysis is 13% moisture.

f. Solvent Extracted Soybean Flakes is the product obtained after extracting part of the oil from soybeans by the use of hexane or homologous hydrocarbon solvents. It shall be designated and sold according to its protein content.

Section 3. Standard Specifications

a. Soybean Flakes and 44% Protein Soybean Meal are produced by cracking, heating, and flaking soybeans and reducing the oil content of the conditioned product by the use of hexane or homologous hydrocarbon solvents. The extracted flakes are cooled and marketed as such or ground into meal. Standard specifications are as follows:

Protein	Minimum 44.0%.
Fat	Minimum 0.5%.
Fiber	Maximum 7.0%.
Moisture	Maximum 12.0%.

b. Soybean Flakes and High Protein or Solvent Extracted Soybean Meal are produced by cracking, heating, and flaking dehulled soybeans and reducing the oil content of the conditioned flakes by the use of hexane or homologous hydrocarbon solvents. The extracted flakes are cooled and marketed as such or ground into meal. Standard specifications are as follows:

Protein	Minimum 47.5–49.0%*.
Fat	Minimum 0.5%.
Fiber	Maximum 3.3–3.5%*.
Moisture	Maximum 12.0%.

*As determined by Buyer and Seller at time of sale.

c. Any of the above meal products (listed in Section 3 above) may contain a non-nutritive inert, non-toxic conditioning agent to reduce caking and improve flowability, in an amount not to exceed that necessary to accomplish its intended effect and in no case to exceed 0.5% or 10 lbs. per ton by weight of the total meal product. The name of the conditioning agent must be shown as an added ingredient.

* * * * *

Appendices to Trading Rules for the Purchase and Sale of Soybean Meal

Appendix A. Official Methods of Analysis

Testing methods as adopted by the American Oil Chemists' Society (AOCS) shall be used as the official methods of analysis, except as otherwise specified.

The method numbers listed below indicate the latest issue at the time of this publication. It behooves the user of these methods to make certain that the user has available and is following the latest version of each specific method.

Moisture—AOCS Method Ba 2a-38
Protein—AOCS Method Ba 4e-93
Crude Fiber—AOCS Method Ba 6–84
Oil—AOCS Method Ba 3–38

The analysis for moisture content shall be performed in duplicate on the unground, as received, soybean meal sample.

A second analysis for moisture content and all other constituent analyses shall be performed in duplicate on the sample after grinding.

The average ground moisture content shall be used to convert the average constituent values to the average moisture content of the unground sample as received, and to a 12% moisture basis. A signed and numbered AOCS Certificate of Analysis shall be used to report the average moisture and constituent values on an unground moisture basis and on a 12% moisture basis.

* * * * *

Appendix L. Official Referee Laboratories for Soybean Meal (2014–15 AOCS/NOPA Certified Laboratories)

The Association has designated as Official Referee Laboratories for Soybean Meal those laboratories certified to it by AOCS, as follows:

Admiral Testing Services, Inc.
12111 River Rd.
Luling, LA 70070
+1–504–734–5201

ATC Scientific
312 North Hemlock
North Little Rock, AR 72114
+1–501–771–4255

Barrow-Agee Laboratories, Inc.
1555 Three Place
Memphis, TN 38116
+1–901–332–1590

Carolina Analytical Services LLC
17570 NC Hwy 902
Bear Creek, NC 27207
+1–919–837–2021

Cumberland Valley Analytical
14515 Industry Drive
Hagerstown, MD 21742
+1–301–790–1980

Eurofins Scientific
2200 Rittenhouse St.
Suite 150
Des Moines, IA 50321
+1–515–265–1461

Hahn Laboratories, Inc.
1111 Flora St.
Columbia, SC 29201
+1–803–799–1614

Intertek Agri Services
160 East James Dr. Suite 200
St. Rose, LA 70087
+1–504–602–2100

K-Testing Laboratory, Inc.
1555 Three Place Suite A
Memphis, TN 38116
+1–901–525–0519

SGS North America
151 James Dr. W.
Saint Rose, LA 70087
+1–504–463–3320

Thionville Laboratories, Inc.
5440 Pepsi St.
Harahan, LA 70123
+1–504–733–9603

Whitbeck Laboratories, Inc.
1000 Backus Ave.
Springdale, AR 72764 USA
+1–479–756–1270

The CHAIRMAN. Thank you. Again, I thank the witnesses for your quick and concise testimony.

We will now begin questioning. I will start with myself. I recognize myself for 5 minutes.

As I said in my opening statement, the events that caused disruptions last year at the Port of Vancouver were unfortunate and, I believe, entirely avoidable. Mr. Friant, can you describe for us some of the economic consequences that resulted for the grain trade?

Mr. FRIANT. I don't know the answer to that at this time. I was not specifically involved in those facilities, but I would be happy to visit with my NGFA colleagues and——

The CHAIRMAN. Okay.

Mr. FRIANT.—follow up at a later time.

[The information referred to is located on p. 72.]

The CHAIRMAN. Okay. Mr. Winkles, when Washington State withdrew its inspectors and USDA failed to fill in, my understanding is that South Carolina Department of Agriculture offered to help but they were met with some resistance. Do you have a sense of what prevented South Carolina from stepping in to help maintain inspections?

Mr. WINKLES. Unfortunately, Mr. Chairman, I do not. I am very well aware of the services provided by the South Carolina Department of Agriculture because they were the designated officials in South Carolina when we had our export facility in Charleston. We had a very close working relationship with them, but I am not aware of the exact circumstances of why they were not allowed to fill in.

The CHAIRMAN. Would you support a change in the law that would authorize state agencies, either delegated or designated under the Act, to step in in the event USDA was unable to fulfill their inspection obligations?

Mr. WINKLES. Yes.

The CHAIRMAN. You would, all right.

Let me go back to Mr. Friant. In your testimony, you mentioned that farm, commodity, and agribusiness organizations urged the Secretary of Agriculture to take action on the inspection service disruptions. We all know how the Secretary responded, but was the issue ever addressed by the GIPSA Advisory Committee, whose mission it is to provide advice to the GIPSA Administrator with respect to GSA implementation?

Mr. FRIANT. Yes, as a matter of fact, on two accounts at two separate GIPSA Advisory Committee meetings, there were resolutions from the committee. If you would like, I could read you those resolutions.

The CHAIRMAN. If you would submit them for the record, that would be great.

Mr. FRIANT. Yes, we can do that.

[The information referred to is located on p. 71.]

The CHAIRMAN. Thanks. And then finally, in your testimony, Mr. Friant, you mentioned the competitiveness of the United States as an exporter of bulk grain and oilseed in the global market. In general, how competitive is the bulk grain and oilseed market?

Mr. FRIANT. In general, the market is a very competitive market on a global basis.

The CHAIRMAN. And how does our current official inspection system compare to ones that are used by foreign competitors in, say, Europe, Asia or Latin America?

Mr. FRIANT. As referenced in my testimony, NAEGA commissioned two studies to compare the U.S. systems to other systems, which have been submitted as part of the record. In those reports, what you will find is that the U.S. is one of two countries that still require government-mandated inspections by government employ-

ees. More broadly on a global basis, third parties are utilized by the individual countries to provide those official inspection services.

The CHAIRMAN. Thank you.

I yield the balance of my time. I now recognize the Ranking Member, Mr. Walz, for 5 minutes.

Mr. WALZ. Thank you, Mr. Chairman. And thank you all for your testimony.

Mr. Winkles, I thank you, and you do have a unique perspective on this of actually being in the grain business, working the elevator. How would you describe, your opinion, the working relationship with the grain inspectors?

Mr. WINKLES. We have a very, very good relationship. As I mentioned earlier, we work very closely with South Carolina Department of Agriculture, the grain inspectors that were sanctioned by FGIS. Frankly, we would not have been able to operate the facility without that assistance provided by those grain inspectors.

Mr. WALZ. Does the system work? When it is working, does it work?

Mr. WINKLES. Absolutely. It is working fine. Granted, we all know that technologies have changed, but the world standards are number 2 yellow corn, number 2 soybeans. So the system is working, and we have to have a standard.

As I have noted, my personal experience, I have been able to participate in some foreign ag service trips to Asia. Our Asia friends tend to have a unique negotiating perspective, and it really is important to be able to have that standard to say this is what you purchased, and this is what it is guaranteed to be.

Mr. WALZ. Have any of you witnessed a situation that happened in Washington, or do you have another example of that happening, a disruption of that magnitude? Would it be safe to say then, at this point in time it is an isolated case?

Mr. FRIANT. I am not aware of any other issues, but again, we could work with our colleagues at NAEGA to see if there are other disruptions——

Mr. WALZ. Yes.

Mr. FRIANT.—in service similar——

Mr. WALZ. Because we looked at this one too, and if I could, Mr. Chairman, submit to the record, the Washington State Delegation, in a bipartisan manner, unanimously sent a letter and said the system works, don't mess up the system, just address it so that we have a safeguard in there in case this situation arises. So I am interpreting that that they are pretty happy with the way the system is functioning, when it is, make sure we put something in place to make sure this doesn't happen.

[The information referred to is located on p. 71.]

Mr. WALZ. And so I want to come back, Mr. Friant. You are asking for some changes on this. Could you tell me the cost of official grain inspection here as opposed to the other countries you talk about? It is far more expensive, about a penny a bushel, is that correct?

Mr. FRIANT. I don't know exactly what that number is, but working with NGFA and NAEGA, we could certainly follow up at a later date with that information.

Mr. WALZ. If you would, that would be great.

Mr. Cox, on this, how many inspectors are employed?

Mr. COX. There are approximately 200 inspectors that are employed. There are about 400 employees, some of them do various things, but about 200 inspectors nationwide.

Mr. WALZ. Would you happen to know the length of time that they have been doing that? The average length of time.

Mr. COX. Many of them have been doing it a lifetime because it takes about 2 years to train a person for them to be able to function to do the work of a good quality nature. It is not something that someone goes to school and automatically gets a degree and is prepared to do it.

Mr. WALZ. So to train up a reserve force to step in in a situation like Washington State, are there people out there that can do that right now?

Mr. COX. I do not believe there is.

Mr. WALZ. Okay. This one is interesting, and, Mr. Friant, the value-added that the inspectors add is an important topic you brought up, and you mentioned on this the non-grade determination testing that private third parties are doing. Has the industry asked FGIS to do that also in addition to their normal duties of weight?

Mr. FRIANT. Well, normally those are requests from the buyer to have completed, and we work with the buyer on who they would generally like to have perform the service. It is not generally a request that is made directly to the Federal Grain Inspection Service.

Mr. WALZ. Okay, so it is not as if they asked and they said no that we are not going to do this, am I right in my interpreting this that there is a value-added that you said these other groups can provide that FGIS is not right now?

Mr. FRIANT. There could be other tests that are requested for commercial purposes, potentially around functional properties that FGIS is not able to perform.

Mr. WALZ. Not able or not willing?

Mr. FRIANT. My understanding is not able.

Mr. WALZ. Okay. Mr. Cox, do you know, at this point, how that would be if there were these requests from buyers to add to what is there, can that be done?

Mr. COX. I couldn't say for sure, sir, that I am not an expert on the total grain inspection process, but I am told by our membership that they are quite capable of doing the work that is requested of them on a regular basis.

Mr. WALZ. I would end with Mr. Winkles', it was in your testimony, you served this right, it is how our customers view this process is paramount in this, and if those are things that can enhance what we are doing, that is an area that we should explore, but I would also make the case that I do think we need to learn from what happened in Washington, but I would caution us not to upset a very good and functional system over that incident.

I yield back.

The CHAIRMAN. I thank the gentleman.

I now recognize the gentleman from Georgia, Mr. Scott, for 5 minutes.

Mr. AUSTIN SCOTT of Georgia. Thank you, Mr. Chairman.

Mr. Friant, I want to follow up a little bit on what Congressman Walz was talking about with the testing. And can you give us some examples of the kinds of tests that are being performed by the independent third parties, who is requesting these tests, and are they being done primarily at the request of a particular end-user, or is that coming from an importer or a broker?

Mr. FRIANT. When it comes to additional testing, it really depends on what the buyer, and that could be the end-user themselves or the importer in the country, what they are requesting. Some tests are requested for grade determining factors to cross-check or verify the FGIS results. And then they also may be doing additional non-grade determining factors such as protein and oil. They could be doing additional testing for mycotoxins or, as I mentioned, other functional properties of the grain or products that they are buying. And we also see more requests or more information shared around more crop analysis, what does the overall crop look like, because we aren't necessarily just selling one shipment at a time. Buyers are looking at what does the U.S. crop look like more broadly.

Mr. AUSTIN SCOTT of Georgia. And what percentage of the grain that is shipped out has some type of third party testing?

Mr. FRIANT. In the studies that were performed on behalf of NAEGA, more than 75 percent of grains and oilseed exports are inspected for some additional commercial requirements by the buyer.

Mr. AUSTIN SCOTT of Georgia. By a private inspector?

Mr. FRIANT. By a private inspector, yes.

Mr. AUSTIN SCOTT of Georgia. Seventy-five percent of what is exported.

Mr. FRIANT. Yes.

Mr. AUSTIN SCOTT of Georgia. Is most of that just a double-check of the grade and weight, or is most of that getting into more detailed analysis of the actual individual grain shipment?

Mr. FRIANT. I don't know the exact breakdown of which types of tests are being performed.

Mr. AUSTIN SCOTT of Georgia. Mr. Chairman, most of the questions that I have, or that I had, have been asked by you or Mr. Walz.

Gentlemen, thank you for coming and testifying. And with that, I yield back the remainder of my time.

The CHAIRMAN. I thank the gentleman. And I now recognize the Ranking Member of the full Committee, Mr. Peterson, for 5 minutes.

Mr. PETERSON. Thank you, Mr. Chairman.

Most of the questions have been answered, or asked that I was going to ask, but, Mr. Friant, is that how you say your name? Friant?

Mr. FRIANT. Friant.

Mr. PETERSON. Friant, I am sorry. In your testimony, you were talking about the delegation to state agencies, and that it is not transparent. Do you guys have a problem with what the states are doing out there in terms of inspection? I have not heard that in our area, what are you getting at there?

Mr. FRIANT. Well, the point that we are trying to address is that the current process for designating agencies is open to the *Federal*

Register rule and comment-making process, whereas the delegation of states is not subject to that same transparent process on how the state is being delegated. The length of the delegation, it is not limited, it is an unlimited delegation. And so we are simply proposing to bring some transparency to that process.

Mr. PETERSON. I mean what is the problem you are trying to get at? What problem exists that you think we are not finding because it is not transparent?

Mr. FRIANT. Really, we would like it to be harmonized with what happens on the designation process on the domestic side, so we are—the system is a more harmonized systems process.

Mr. PETERSON. So you mean some states are doing different things that are causing you problems, is that——

Mr. FRIANT. Not doing different things, but we would just like to see the process itself between delegation and designation be a harmonized or standardized process, whereas today, it is two separate processes, to delegate a state *versus* designate a domestic facility—a domestic inspection agency.

Mr. PETERSON. I am still not totally understanding what the problem is that you are trying to resolve here.

Mr. FRIANT. So maybe it would be——

Mr. PETERSON. How does that impact you in the marketplace?

Mr. FRIANT. Yes. So maybe it would be best if NGFA and NAEGA could follow up with you at a later date to go through some more detail?

Mr. PETERSON. The question that Mr. Walz asked about the price, as I understand it, Mr. Cox's testimony, it is about a penny a bushel.

Mr. COX. Yes.

Mr. PETERSON. Something like that. So you think that is too expensive, Mr. Friant?

Mr. FRIANT. No, but we have opportunities around an even more reliable cost-effective system.

Mr. PETERSON. But you don't have the information in terms of how we stack up against other countries or other——

Mr. FRIANT. I don't have that information in front of me at this time, but I believe the two are——

Mr. PETERSON. Do you have that information?

Mr. FRIANT. I think the reports from NAEGA would help clarify that comparison.

Mr. PETERSON. Well, if you could make that available to the Committee we would appreciate that.

Thank you. I will yield back, Mr. Chairman.

The CHAIRMAN. Thank you. The gentleman yields back.

I recognize the gentleman from Georgia, Mr. Allen, for 5 minutes.

Mr. ALLEN. Thank you, Mr. Chairman. And we do appreciate you coming and sharing with us today.

In your testimony, Mr. Cox, you were talking about the privatization factor as far as inspection goes and, of course, reading your testimony, obviously, privatization seems to be a big issue. What is the general attitude of the farm community out there about your service *versus* privatization?

Mr. COX. We believe that the farm community wants Federal inspectors, and has had a good relationship with Federal inspectors. And I believe if you look back at the history of 40 years ago, things were not going very well in this country, and that is the reason that the government created Federal inspectors, to make sure that grain was meeting a proper standard, and that the weights were proper, and those type things. So I believe in general, farmers are happy with the service that the Federal inspectors provide, and the oversight, because some are states, some various things, but the government does provide the oversight of the general inspection process.

Mr. ALLEN. And then a decision by the Washington State Department of Agriculture to withdraw its inspectors last year was unfortunate. Can you identify the immediate economic consequences that were felt by the grain trade there——

Mr. COX. Yes——

Mr. ALLEN.—when this occurred?

Mr. COX. Yes, sir, I am sure there was economic consequences that are felt any time that there is a labor dispute, sir, and I am very much aware of those.

Mr. ALLEN. Okay. How much of this goes on as far as the—obviously, we had this situation here, where we only have so much time—and we export a lot of this. What provisions in this new authorization can we use to guard against that sort of thing as far as these unfortunate circumstances?

Mr. COX. It would appear that the Committee is certainly trying to work through various processes, and I believe from the knowledge that I have during the labor dispute that went on in the State of Washington that there were other companies in this country who were prepared to inspect grain and to move grain out of the country as such, and maybe people did not use them and move them around. I am not a total expert——

Mr. ALLEN. Yes.

Mr. COX.—on the process of how grain is exported from this country, but I do know that there were other companies that had bargained contracts with their unions, and were open for business, and were willing to take that business and to move forward with it.

Mr. ALLEN. Mr. Winkles, your take on this and as I said, in reauthorization we can deal with these unfortunate delays that, obviously, are penalizing our farmers and those in this industry.

Mr. WINKLES. Well, thank you, Mr. Allen. One thing it does is it creates uncertainty, and that always has a negative impact on business——

Mr. ALLEN. Right.

Mr. WINKLES.—the business climate. I understand, I believe there was some grain actually had to be moved from——

Mr. ALLEN. Right.

Mr. WINKLES.—one place to another. Transportation of grain is very expensive, and a truck is one of the most expensive ways to move it, and it has the greatest environmental impact, if you would.

Mr. ALLEN. Yes.

Mr. WINKLES. We need to be very careful so that we make sure that we have contingencies in place so that we don't disrupt the flow of grain.

The grain trade is very interesting, very interesting business model. When you have grain exporters who, very often, the destination may change once it leaves its port, headed to its destination, the destination may very well change relative to their overall movement. So again, that is why it is so important that we have standards in place, and that the grain trade has the flexibility to be able to continue to operate that way.

Mr. ALLEN. Right. Thank you, Mr. Winkles.

I yield back the remainder of my time, Mr. Chairman.

The CHAIRMAN. I thank the gentleman from Georgia.

And we will recognize the gentleman from Georgia, Mr. Scott. I will just say that Georgia is very well represented on this Committee.

Mr. DAVID SCOTT of Georgia. Absolutely. We take care of business in Georgia.

VOICE. How did I get ahead of Mr. Scott?

Mr. DAVID SCOTT of Georgia. It is wonderful to be here.

Mr. David Cox, you represent the American Federation of Government Employees as the President of that union, and you represent the grain inspectors, so I want to direct this question at you. The last reauthorization of the U.S. Grain Standards Act was in 2005, and there was a study commissioned to assess the impact of using private contractors to conduct export grain inspections. Now, I reviewed that report in great detail and I noticed something. I noticed that the study concluded that, "that the use of private contractors did not demonstrate additional savings or efficiencies that would enhance the competitiveness of U.S. grain exports in the global market." I found the report to be pretty thorough and well put together, but I would like to give you a moment, as the President of the union that represents the grain inspectors, a moment to add any additional thoughts you might have to that conclusion in that study.

Mr. COX. Clearly, the report speaks for itself, but also the fact that, again, you are dealing with a job, a profession, a trade, that is learned by doing it. You have to have an ongoing process where you have people actually do the work, learn how to do the work, are mentored in the process, and it is all on-the-job learning in the process. And to have a supply of people, yes, I believe that the government is going to have to have an element of oversight to make sure that people are on those jobs, trained in the jobs. And the cost-effectiveness, the report speaks for itself, and the inspection of a 1¢ a bushel, even from North Carolina, I know the size of a bushel——

Mr. DAVID SCOTT of Georgia. Yes.

Mr. COX.—that 1¢ is a very reasonable price to be paid. And we believe——

Mr. DAVID SCOTT of Georgia. Okay.

Mr. COX.—that the grain inspectors have done a very, very good job. Again, the comment has been made, there was one incident from the last 80 years, and it appears that bipartisan support, you are trying very hard to deal——

Mr. DAVID SCOTT of Georgia. Okay.

Mr. COX.—with those type of incidents.

Mr. DAVID SCOTT of Georgia. And to the panel, I want to ask this question. I am aware that the bulk of the U.S. Grain Standards Act of 1916 is permanently authorized, but there are a few provisions that are not: first, the authority to pay for the FGIS's operation, and improvements to the inspection procedures would expire; second, the collection of fees for certain supervisory inspections and weighing namely for the state agencies to conduct export inspections would be halted; third, the Grain Inspection Advisory Committee, GIAC, which serves as the stakeholder link between the FGIS and the agriculture industry, would lose authorization; and fourth, a 30 percent cap on administrative and supervisory costs relative to the total cost for inspection, services would be lifted.

What I wanted to get, if you all could expand on these non-permanent provisions, and how you think the industry would be affected if we did not have legislation reauthorized by September 30.

Mr. WINKLES. Let me start, Mr. Scott. As you know, I addressed in my testimony the fact that we really feel it is important to have this advisory committee reauthorized. We also feel it is very important to have the user fees reauthorized.

Mr. DAVID SCOTT of Georgia. Yes.

Mr. WINKLES. We understand in this time of tight government budgets, at the national level as well as the state level, that the users be required to pay for these services. They are very reasonable, as has been mentioned before, so we strongly support that these provisions, that will expire, be reinstated——

Mr. DAVID SCOTT of Georgia. Good.

Mr. WINKLES.—as soon as possible. Thank you.

Mr. DAVID SCOTT of Georgia. I agree. Anyone else?

Mr. COX. I think it is very, very important to get it done and to get it done quickly. I am sure all the Members of Congress, as well as myself, are always familiar what happens when we don't get legislation authorized, and we don't have monies appropriated, it becomes very chaotic for the entire country.

Mr. DAVID SCOTT of Georgia. Yes.

Mr. COX.—and grain exports are very, very important to this country, and we need to have this legislation to move.

Mr. DAVID SCOTT of Georgia. All right. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

And I recognize the full Committee Chairman, Mr. Conaway, for 5 minutes.

OPENING STATEMENT OF HON. K. MICHAEL CONAWAY, A REPRESENTATIVE IN CONGRESS FROM TEXAS

Mr. CONAWAY. Well, thank you, Mr. Chairman.

I just have one line of questioning. Mr. Cox, you guys may have already covered this, and I apologize if you did, in the Washington State incident, there was a labor dispute between the elevator and the longshoremen, and the inspectors finally decided to not cross the line. Is that what happened there, that is why we quit inspecting grain, or was there just no grain being loaded?

Mr. COX. I am not——

Mr. CONAWAY. Okay.

Mr. COX.—familiar with all——

Mr. CONAWAY. Well, what——

Mr. COX.—the actual specific things.

Mr. CONAWAY. The program allows for if and when the state delegated authority pulls their inspectors, then there is a duty for USDA to send in inspectors, and USDA failed that duty under some argument that it was unsafe. Are there reports of violence associated with that strike? Are there police reports we can look at, were there people beaten up, was there intimidation, what all went on that caused the violence that was referred to that prevented the USDA from doing their responsibility in inspecting grain?

Mr. COX. I do not have knowledge of all of that, sir.

Mr. CONAWAY. Okay.

Mr. COX. I was here in Washington, D.C., not Washington State.

Mr. CONAWAY. Yes, I got that. Well, you are here today to represent those folks. Is there some way——

Mr. COX. No, I am here to represent the Federal employees, yes.

Mr. CONAWAY. Right, I understand that. And is there a way that you could get for the Committee the police reports and the other information about the violence that occurred, because somehow we are unable to get from USDA the study they did to say that there was, in fact, violence out there and it was unsafe for other inspectors to cross the picket line. Is there a way that we can get information from your organization that would help the Committee understand the level, the extent of the violence that did occur, if any violence actually did occur?

Mr. COX. I will be more than happy to make that request from the Secretary, but also I have the same——

Mr. CONAWAY. No, no, I can ask the Secretary, and I have, but is there a way that your union can get that information separately from going through the USDA? Can you——

Mr. COX. I will certainly——

Mr. CONAWAY. Yes. You have to——

Mr. COX. We will go to our rank and file members——

Mr. CONAWAY. There you go.

Mr. COX.—and ask them, sir.

Mr. CONAWAY. There you go. They were there for a part of that, so if you can get that information for the Committee it might be very helpful, because if there was violence—longshoremen have a rough and tumble reputation. I grew up in west Texas with roughnecks. I understand the drill. But if there really was no violence, then it would be very disappointing that USDA didn't fulfill their responsibility to send in the folks. And South Carolina volunteered to go do it. So anyway, if you wouldn't mind running whatever traps you have. If you can't find anything, I got it, but if you would make a good faith effort to provide the Committee with whatever information you have, newspaper reports, whatever it might be, from the time of the strike of the violence, I sure would appreciate it.

All right. With that, I yield back.

The CHAIRMAN. I thank the gentleman.

And I recognize the gentleman from Nebraska, Mr. Ashford, for 5 minutes.

Mr. ASHFORD. Thank you, and most of my questions also have been asked and answered, though I just would stress that we export 50 percent of our wheat outside our borders. From Nebraska, we export 50 percent of our soybeans outside the state. It is a massively important part of our economy in our state, and it is growing.

Mr. Winkles, I would ask you—this is a good discussion. I am beginning to understand a little more about the need, certainly, of course, for reauthorization, but I am also sensing a need for some flexibility as we move forward if we are going to reauthorize for a relatively long period of time, which is a good thing. As we expand our trade, however, hopefully, as we expand our trade for agricultural exports from Nebraska and throughout the entire country, is there anything else, Mr. Winkles, if I might ask you, and I know there have been some discussions about other ideas, but with the system the way it is now, with the people we use now, do you see the advisory committee which has been mentioned, do you see anything else that we should be looking at in the reauthorization to ensure that, as trade does expand, which I fully expect and hope it does do, that we can meet our obligations and make sure that that grain is accepted in the countries we trade with?

Mr. WINKLES. Thank you, and that is an interesting question. Today, we do things in a variety of ways, and I will point to the container shipment. Right now, we are exporting about 50 percent of the South Carolina soybean crop in containers. That is a big change in the system. Frankly, I never believed that would happen, but it has. The buyers are much more in touch. Consumers want to be more in touch with people who grew the grain. That is going to create challenges for the entire system. It certainly creates challenges here at home. But we see buyers—I have visited with feed compounders in Europe before. Cost is on everyone's mind. So as we move along, we will have to be cognizant of new technologies as they develop, new methods of shipment, buyer expectations, all these things will have to be considered, but from a specific thing or specific items, I don't think I could add any, but it just very interesting how the market has changed over time.

Mr. ASHFORD. Yes. And just one quick follow-on to that—and there will be more changes as we expand our base of consumer-driven exports, the demands are going to be greater, obviously, as people become more educated on the products that they are receiving in other countries. But generally within the system we do have, you do believe, I assume from your testimony, that what we have is the base operation is appropriate and should be continued.

Mr. WINKLES. Absolutely. The base operation needs to be continued. Many of these items that I was talking about to expand export trade are very much specialty items, and they require special treatment, special handling, identity preservation, if you will, but the standard is still the most important thing. I hate to guess, but I would say that is probably 90, 95 percent of the trade. So that is key. We can add and increase value, but the base is still there, and we have to maintain those standards and inspection for that huge, major percentage.

Mr. ASHFORD. Thanks. I yield back. Thank you, Mr.——

The CHAIRMAN. I thank the gentleman.

And I would just ask if there are any further requests for recognition? No. I will recognize Ranking Member Walz for any final thoughts.

Mr. WALZ. Well, again, I thank the Chairman and our witnesses. Thank you for helping provide this. You are experts in this field, you deal with it daily, and as we said, giving you the certainty and protecting the integrity of the system. And it is prudent to have a fallback, if you will, a safety valve if a situation like Washington State arises, but making sure we keep the integrity of a working system in place. So I thank you for the time, and I appreciate the Chairman's commitment, and you have the commitment of the folks up here. Let's get this reauthorized, let's get it done on time and give you the certainty.

I yield back.

The CHAIRMAN. And I thank the gentleman, and would echo those sentiments.

I appreciate the panelists for being here. And certainly it is our goal to get this reauthorized in a timely fashion, and be prepared, as the Ranking Member alluded to, that we do have a safety valve in position that we can utilize if the need arises.

Under the rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material, and supplementary written responses from the witnesses to any questions posed by a Member.

This Subcommittee on General Farm Commodities and Risk Management is now adjourned.

[Whereupon, at 10:53 a.m., the Subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

H.R. 2088, UNITED STATES GRAIN STANDARDS ACT REAUTHORIZATION ACT OF 2015, SUBMITTED BY HON. ERIC A. "RICK" CRAWFORD, A REPRESENTATIVE IN CONGRESS FROM ARKANSAS

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

I

114TH CONGRESS
1ST SESSION

H. R. 2088

To amend the United States Grain Standards Act to improve inspection services performed at export elevators at export port locations, to reauthorize certain authorities of the Secretary of Agriculture under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2015

Mr. CONAWAY (for himself, Mr. PETERSON, Mr. CRAWFORD, and Mr. WALZ) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To amend the United States Grain Standards Act to improve inspection services performed at export elevators at export port locations, to reauthorize certain authorities of the Secretary of Agriculture under such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Grain Standards Act Reauthorization Act of 2015".

SEC. 2. REAUTHORIZATION OF UNITED STATES GRAIN STANDARDS ACT.

(a) POLICY AND PURPOSE OF ACT.—Section 2(b) of the United States Grain Standards Act (7 U.S.C. 74(b)) is amended—

(1) in paragraph (1), by striking ''to both domestic and foreign buyers'' and inserting ''responsive to the purchase specifications of domestic and foreign buyers'';

(2) by striking ''and'' at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(4) by adding at the end the following new paragraph:

''(4) to provide an accurate, reliable, consistently available, and cost-effective official grain inspection and weighing system.''.

(b) DEFINITIONS.—

(1) MAJOR DISASTER DEFINED.—Section 3 of the United States Grain Standards Act (7 U.S.C. 75) is amended by adding at the end the following new paragraph:

''(aa) The term 'major disaster' has the meaning given that term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assist-

ance Act (42 U.S.C. 5122(2)), except that the term includes a severe weather incident causing a region-wide interruption of government services.''.

(2) CONFORMING AMENDMENTS.—Section 3 of the United States Grain Standards Act (7 U.S.C. 75) is further amended—

(A) in the matter preceding paragraph (a), by striking ''otherwise–'' and inserting ''otherwise:'';

(B) by striking ''the term'' at the beginning of each paragraph (other than paragraphs (n) and (t)) and inserting ''The term'';

(C) in paragraphs (n) and (t), by striking ''the terms'' and inserting ''The terms'';

(D) in paragraph (s), by striking ''the verb'' and inserting ''The verb'';

(E) in paragraph (x)—

(i) by striking ''conveyance (the terms'' and inserting ''conveyance. The terms''; and

(ii) by striking ''accordingly);'' and inserting ''accordingly.'';

(F) by striking the semicolon at the end of each paragraph (other than paragraphs (x) and (y)) and inserting a period; and

(G) in paragraph (y), by striking ''; and'' and inserting a period.

(c) OFFICIAL INSPECTION AND WEIGHING REQUIREMENTS.—

(1) DISCRETIONARY WAIVER AUTHORITY.—Section 5(a)(1) of the United States Grain Standards Act (7 U.S.C. 77(a)(1)) is amended by striking ''may waive'' and inserting ''shall promptly waive''.

(2) WEIGHING REQUIREMENTS AT EXPORT ELEVATORS.—Section 5(a)(2) of the United States Grain Standards Act (7 U.S.C. 77(a)(2)) is amended by striking ''intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge,'' and inserting ''shipments of grain into an export elevator by any mode of transportation''.

(d) DELEGATION OF OFFICIAL INSPECTION AUTHORITY.—

(1) AUTHORIZED INSPECTION PERSONNEL AT EXPORT ELEVATORS AT EXPORT PORT LOCATIONS.—Paragraph (1) of section 7(e) of the United States Grain Standards Act (7 U.S.C. 79(e)) is amended to read as follows:

"(1) Except as otherwise provided in paragraphs (3) and (4) of this subsection, the Secretary shall cause official inspection at export elevators at export port locations, for all grain required or authorized to be inspected by this Act, to be performed—

"(A) by official inspection personnel employed by the Secretary; or

"(B) by other persons under contract with the Secretary as provided in section 8 of this Act.".

(2) DELEGATION TO STATE AGENCIES.—Section 7(e) of the United States Grain Standards Act (7 U.S.C. 79(e)) is amended—

(A) in paragraph (2)—

(i) by striking ", meets the criteria" and all that follows through "the Secretary may delegate" and inserting "and meets the criteria specified in subsection (f)(1)(A) of this section, the Secretary may delegate";

(ii) by striking "at export port locations within the State, including export port locations" and inserting "at export elevators at export port locations within the State, including at export elevators at export port locations"; and

(iii) in the last sentence, by striking "Any such delegation" and inserting "The delegation under this paragraph of authority to conduct official inspection services shall be for a term not to exceed five years, and may be renewed thereafter in accordance with this subsection, except that any such delegation";

(B) by transferring paragraph (4) to the end of subsection (f), redesignating such paragraph as paragraph (5), and, in such paragraph, by striking "or subsection (f)" and inserting "or subsection (e)"; and

(C) by striking paragraph (3) and inserting the following new paragraphs:

"(3) Prior to delegating authority to a State agency for the performance of official inspection services at export elevators at export port locations pursuant to paragraph (2) of this subsection, the Secretary shall comply with the following:

"(A) Upon receipt of an application from a State agency requesting the delegation of authority to perform official inspection services on behalf of the Secretary, publish notice of the application in

the Federal Register and provide a minimum 30-day comment period on the application.

"(B) Evaluate the comments received under subparagraph (A) with respect to an application and conduct an investigation to determine whether the State agency that submitted the application and its personnel are qualified to perform official inspection services on behalf of the Secretary. In conducting the investigation, the Secretary shall consult with, and review the available files of the Department of Justice, the Office of Inspector General of the Department of Agriculture, and the Government Accountability Office.

"(C) Make findings based on the results of the investigation and consideration of public comments received.

"(D) Publish a notice in the Federal Register announcing whether the State agency has been delegated the authority to perform official inspection services at export elevators at export port locations on behalf of the Secretary, and the basis upon which the Secretary has made the decision.

"(4)(A) Except in the case of a major disaster, if a State agency that has been delegated the authority to perform official inspection services at export elevators at ex-

port port locations on behalf of the Secretary fails to perform such official services, the Secretary shall submit to Congress, within 90 days after the first day on which inspection services were not performed by the delegated State agency, a report containing—

"(i) the reasons for the State agency's failure; and

"(ii) the rationale as to whether or not the Secretary will permit the State agency to retain its delegated authority.

"(B) A State agency may request that the delegation of inspection authority to the agency be canceled by providing written notice to the Secretary at least 90 days in advance of the requested cancellation date.

"(C) If a State agency that has been delegated the authority under paragraph (2) of this subsection to perform official inspection services at an export elevator at an export port location on behalf of the Secretary intends to temporarily discontinue such official inspection services or weighing services for any reason, except in the case of a major disaster, the State agency shall notify the Secretary in writing of its intention to do so at least 72 hours in advance of the discontinuation date. The receipt of such prior notice shall be considered by the Secretary as a miti-

gating factor in determining whether to maintain or revoke the delegation of authority to the State agency.''.

(3) CONFORMING AMENDMENTS.—(A) Section 7(f)(1) of the United States Grain Standards Act (7 U.S.C. 79(f)(1)) is amended by striking ''other than at export port locations'' and inserting ''(other than at an export elevator at an export port location)''.

(B) Section 16(d) of the United States Grain Standards Act (7 U.S.C. 87e(d)) is amended by striking ''The Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture)'' and inserting ''The Office of Inspector General of the Department of Agriculture''.

(4) EVALUATION OF CURRENT DELEGATIONS.—Not later than two years after the date of the enactment of this Act, the Secretary of Agriculture shall complete a review of each State agency that, as of the date of the enactment of this Act, has been delegated inspection authority under section 7(e) of the United States Grain Standards Act (7 U.S.C. 79(e)) and determine if the State agency is qualified to continue to perform official inspection services at ex-

port elevators at export port locations on behalf of the Secretary under such section, as amended by this subsection. The Secretary shall conduct the review subject to the requirements of section 7(e) of the United States Grain Standards Act (7 U.S.C. 79(e)), as amended by this subsection, and a State agency determined to be qualified to continue to perform such official inspection services shall be subject thereafter to such requirements.

(e) CONTINUITY OF OPERATIONS.—Section 7(e) of the United States Grain Standards Act (7 U.S.C. 79(e)) is further amended by inserting after paragraph (4), as added by subsection (d), the following new paragraphs:

"(5) Except in the case of a major disaster, the Secretary shall cause official inspections at an export elevator at an export port location—

"(A) to be performed without interruption by official inspection personnel employed by the Secretary or by a State agency delegated such authority under paragraph (2) of this subsection; or

"(B) if interrupted, to be resumed at the export elevator by utilizing official inspection personnel employed by the Secretary or by another delegated State agency as provided under paragraph (2) of this subsection as follows:

"(i) Within six hours after the interruption, if the interruption is caused by a State agency delegated such authority under this subsection and the Secretary received advance notice of the interruption pursuant to paragraph (4)(C) of this subsection.

"(ii) Within 12 hours after the interruption, if the State agency failed to provide the required advance notice of the interruption.

"(6)(A) If the Secretary is unable to restore official inspection services within the applicable time period required by paragraph (5)(B) of this subsection, the interested person requesting such services at the export elevator at an export port location shall be authorized to utilize official inspection personnel, as provided under section 8 of the Act, employed by another State agency delegated authority under paragraph (2) of this subsection or designated under subsection (f)(1) of this section.

"(B) A delegated or designated State agency providing inspection services under subparagraph (A) may, at its discretion, provide such services for a period of up to 90 days from the date on which the services are initiated, after which time the Secretary may restore official inspection services using official inspection personnel employed by the Secretary or a State agency delegated such

1 authority under this subsection, if available. The State
2 agency shall notify the Secretary in writing of its intention
3 to discontinue inspection services under subparagraph (A)
4 at least 72 hours in advance of the discontinuation date.
5 "(7) Not later than 60 days after the date of the en-
6 actment of this paragraph, the Secretary shall make avail-
7 able to the public, including pursuant to a website main-
8 tained by the Secretary, a list of all delegated States and
9 all official agencies authorized to perform official inspec-
10 tions on behalf of the Secretary. This list shall include
11 the name, contact information, and category of authority
12 granted. The Secretary shall update the list at least semi-
13 annually.".
14 (f) GEOGRAPHIC BOUNDARIES FOR OFFICIAL AGEN-
15 CIES.—
16 (1) OFFICIAL INSPECTION AUTHORITY.—Sec-
17 tion 7(f)(2) of the United States Grain Standards
18 Act (7 U.S.C. 79(f)(2)) is amended by striking "the
19 Secretary may" and all that follows through the end
20 of the paragraph and inserting the following: "the
21 Secretary shall allow a designated official agency to
22 cross boundary lines to carry out inspections in an-
23 other geographic area if—

"(A) the current designated official agency for that geographic area is unable to provide inspection services in a timely manner;

"(B) a person requesting inspection services in that geographic area requests a probe inspection on a barge-lot basis; or

"(C) the current official agency for that geographic area agrees in writing with the adjacent official agency to waive the current geographic area restriction at the request of the applicant for service.".

(2) WEIGHING AUTHORITY.—Section 7A(i)(2) of the United States Grain Standards Act (7 U.S.C. 79a(i)(2)) is amended by striking "the Secretary may" and all that follows through the end of the paragraph and inserting the following: "the Secretary shall allow a designated official agency to cross boundary lines to carry out weighing in another geographic area if—

"(A) the current designated official agency for that geographic area is unable to provide weighing services in a timely manner; or

"(B) the current official agency for that geographic area agrees in writing with the adjacent official agency to waive the current geo-

graphic area restriction at the request of the applicant for service.''.

(g) DURATION OF DESIGNATIONS OF OFFICIAL AGENCIES.—Section 7(g)(1) of the United States Grain Standards Act (7 U.S.C. 79(g)(1)) is amended by striking ''triennially'' and inserting ''every five years''.

(h) INSPECTION FEES.—

(1) COLLECTION AND AMOUNTS.—Section 7(j)(1) of the United States Grain Standards Act (7 U.S.C. 79(j)(1)) is amended—

(A) by inserting ''(A)'' after ''(1)'';

(B) by adding at the end the following new subparagraph:

''(B) For official inspections and weighing at an export elevator at an export port location performed by the Secretary, performed by a State agency delegated the authority to perform official inspection services at the export elevator on behalf of the Secretary, or performed by a State agency utilized as authorized by subsection (e)(6)(A), the portion of the fees based upon export tonnage shall be based upon a rolling five-year average of export tonnage volumes. In order to maintain an operating reserve of between three to six months, the Secretary shall adjust such fees at least annually.''.

(2) DURATION OF AUTHORITY.—Section 7(j)(4) of the United States Grain Standards Act (7 U.S.C. 79(j)(4)) is amended by striking ''September 30, 2015'' and inserting ''September 30, 2020''.

(i) OFFICIAL WEIGHING OR SUPERVISION AT LOCATIONS WHERE OFFICIAL INSPECTION IS PROVIDED OTHER THAN BY THE SECRETARY.—Section 7A(c)(2) of the United States Grain Standards Act (7 U.S.C. 79a(c)(2)) is amended—

(1) in the first sentence, by striking ''with respect to export port locations'' and inserting ''with respect to an export elevator at an export port location''; and

(2) in the last sentence by striking ''subsection (g) of section 7'' and inserting ''subsection (e) and (g) of section 7''.

(j) COLLECTION OF FEES FOR WEIGHING SERVICES.—Section 7A(l)(3) of the United States Grain Standards Act (7 U.S.C. 79a(l)(2)) is amended by striking ''September 30, 2015'' and inserting ''September 30, 2020''.

(k) LIMITATION AND ADMINISTRATIVE AND SUPERVISORY COSTS.—Section 7D of the United States Grain Standards Act (7 U.S.C. 79d) is amended by striking ''2015'' and inserting ''2020''.

(l) ISSUANCE OF AUTHORIZATIONS.—

(1) DURATION.—Section 8(b) of the United States Grain Standards Act (7 U.S.C. 84(b)) is amended by striking ''triennially'' and inserting ''every five years''.

(2) PERSONS WHO MAY BE HIRED AS OFFICIAL INSPECTION PERSONNEL.—Section 8(e) of the United States Grain Standards Act (7 U.S.C. 84(e)) is amended—

(A) by striking ''(on the date of enactment of the United States Grain Standards Act of 1976)'';

(B) by striking ''the United States Grain Standards Act'' and inserting ''this Act''; and

(C) by striking '', on the date of enactment of the United States Grain Standards Act of 1976, was performing'' and inserting ''performs''.

(m) AUTHORIZATION OF APPROPRIATIONS.—Section 19 of the United States Grain Standards Act (7 U.S.C. 87h) is amended by striking ''2015'' and inserting ''2020''.

(n) EXPIRATION OF ADVISORY COMMITTEE.—Section 21(e) of the United States Grain Standards Act (7

1 U.S.C. 87j(e)) is amended by striking ''September 30,
2 2015'' and inserting ''September 30, 2020''.

○

•HR 2088 IH

SUBMITTED LETTER BY HON. TIMOTHY J. WALZ, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA

April 14, 2015

Hon. K. MICHAEL CONAWAY,
Chairman,
House Committee on Agriculture,
Washington, D.C.;

Hon. COLLIN C. PETERSON,
Ranking Minority Member,
House Committee on Agriculture,
Washington, D.C.

Dear Chairman Conaway and Ranking Member Peterson:

As the House Committee on Agriculture considers reauthorization of expiring provisions of the *United States Grain Standards Act* (GSA) in the coming weeks, we respectfully request that any legislation considered by the Committee maintains the Secretary of Agriculture's ability to delegate to a State Department of Agriculture, or other applicable state agency, the authority to conduct grain export inspection services. Additionally, it is essential that any changes to the export inspections regime do not upset the existing process, which is both efficient and meets the needs of growers, producers, and distributors, as well as customers.

Prior to 1976, there were numerous examples of misgrading grains, bribery, short-weighting, and other instances of corruption in the grain inspection industry that led Congress in an amendment to the GSA to establish the Federal Grain Inspection Service (FGIS) under the authority of the Grain Inspection, Packers and Stockyards Administration (GIPSA). Today, FGIS inspects about ⅔ of the nation's grain exports and, pursuant to the 1976 GSA amendments, five states have been delegated by the Secretary of Agriculture to carry out official inspections for the other ⅓. It is worth noting that since the 1976 GSA amendments were adopted, allegations of corruption in grain export inspection services have all but disappeared; a testament to the quality of work and impartiality from FGIS and delegated state authorities.

State-delegated inspection services, like those that exist in Washington State, are important for several reasons. Like FGIS, state inspectors operate as unbiased evaluators with established grading standards. If a producer would like to challenge a FGIS or state-delegated inspector's ruling, there is an established appeals process that grants recourse to producers. Also, a FGIS/state-delegated inspection regime offers foreign customers certainty through well-established standards—a perception and market share that could be jeopardized if the current system is modified.

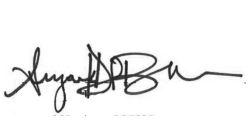
We understand there have been concerns raised with the timely inspection of grain by Washington State Department of Agriculture (WSDA) inspectors during an unrelated labor dispute at the Port of Vancouver in 2014. It is important to note that when FGIS was requested to step in to offer inspection services *in lieu of* WSDA, they also refused to do so. We do not believe that any modification to the inspection regime would remedy the root issues highlighted by the Port of Vancouver incident.

Again, we view the existing relationship between state-delegated export inspection services and GIPSA as mutually-beneficial. These inspectors provide objectivity and a means of recourse for producers, as well as predictability for customers. We appreciate your efforts to reauthorize these important provisions, and request that you

protect the balance that the GSA currently sustains. We look forward to working with you to reauthorize the GSA.

Sincerely,

Hon. DAN NEWHOUSE,
Member of Congress;

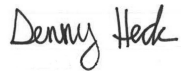


Hon. SUZAN K. DELBENE,
Member of Congress;

Hon. CATHY MCMORRIS RODGERS,
Member of Congress;

Hon. RICK LARSEN,
Member of Congress;

Hon. DAVID G. REICHERT,
Member of Congress;



Hon. DENNY HECK,
Member of Congress;

Hon. DEREK KILMER,
Member of Congress;

Hon. JIM MCDERMOTT,
Member of Congress;

SUPPLEMENTARY MATERIAL SUBMITTED BY NICK FRIANT, CHAIRMAN, GRAIN GRADES AND WEIGHTS COMMITTEE, NATIONAL GRAIN AND FEED ASSOCIATION; CO-CHAIR, GRAIN GRADES AND INSPECTIONS COMMITTEE, NORTH AMERICAN EXPORT GRAIN ASSOCIATION

Insert 1

The CHAIRMAN. Thank you. Again, I thank the witnesses for your quick and concise testimony. . . .

As I said in my opening statement, the events that caused disruptions last year at the Port of Vancouver were unfortunate and, I believe, entirely avoidable. Mr. Friant, can you describe for us some of the economic consequences that resulted for the grain trade?

Mr. FRIANT. I don't know the answer to that at this time. I was not specifically involved in those facilities, but I would be happy to visit with my NGFA colleagues and——

The CHAIRMAN. Okay.

Mr. FRIANT.—follow up at a later time.

The economic impact of a disruption, like the failure of FGIS to provide mandatory services in Vancouver, Washington, extends throughout the grain trade and negatively impacts producers and consumers as well as buyers and sellers. Unwarranted costs resulting from the FGIS's failure to provide services are imposed on the export elevator, in turn those costs reduce prices paid to farmers or increase cost of supplies for consumers. While delays in vessel loading, or shifting of load ports, often results in demurrage or diversion costs amounting to tens of thousands of dollars per day, the cost of not providing the timely availability of the specific con-

tracted volume and quality of the grain that is delayed or prevented from being delivered is more difficult to quantify. We also are aware that the disruption in inspections further exacerbated rail logistical delays in the Upper Plains states, as railcars backed up waiting unloading. But certainly the failure to provide for reliable contract performance is of much greater consequence to all stakeholders in the grain trade. Most economic damage to the value chain occurs from a resulting shift in the perception of value that is based on the reliability, integrity, competence and reputation of grain inspections. A failure of FGIS to provide mandatory services, as was experienced in Vancouver, reverberates globally. One of the more astute observers of economic impact is Warren Buffet who has been quoted as saying: "It takes 20 years to build a reputation and five minutes to ruin it. If you think about that, you'll do things differently."

Insert 2

The CHAIRMAN. You would, all right.

Let me go back to Mr. Friant. In your testimony, you mentioned that farm, commodity, and agribusiness organizations urged the Secretary of Agriculture to take action on the inspection service disruptions. We all know how the Secretary responded, but was the issue ever addressed by the GIPSA Advisory Committee, whose mission it is to provide advice to the GIPSA Administrator with respect to GSA implementation?

Mr. FRIANT. Yes, as a matter of fact, on two accounts at two separate GIPSA Advisory Committee meetings, there were resolutions from the committee. If you would like, I could read you those resolutions.

The CHAIRMAN. If you would submit them for the record, that would be great.

Mr. FRIANT. Yes, we can do that.

The following resolution was introduced and passed at the November 4-5, 2014 GIPSA Grain Inspection Advisory Committee Meeting (*http://www.gipsa.usda.gov/fgis/advcommittee/Nov2014/November-2014.pdf*):

"Whereas the U.S. Department of Agriculture has authorized FGIS under the U.S. Grain Standards Act, as amended, to provide official inspection and weighing services for exports of U.S. grains and oilseeds, and as FGIS has been authorized to delegate certain of their responsibilities to appropriate entities including the State of Washington, and, as the State of Washington, at least for 30 days in 2014, has failed to fulfil their responsibilities and obligations under the agreement dated November 2013, in particular clauses IV Terms and Conditions B 1(a), B 1(b), 2, 3, 14, and, under the authority granted FGIS to revoke the agreement under VI, (C), the Advisory Committee recommends that FGIS remove the Delegation/Designation of all States/Agencies that do not fulfill their obligations for providing services as required under the Grain Standards Act and that FGIS immediately provide the required services."

In addition, the following resolution was introduced and passed at the July 15-16, 2014 GIPSA Grain Inspection Advisory Committee Meeting (*http://www.gipsa.usda.gov/fgis/advcommittee/July2014/July 2014 Minutes and Presentions.pdf*):

"Whereas the U.S. Department of Agriculture is mandated under the U.S. Grain Standards Act to provide Official inspection and weighing services for exports of U.S. grains and oilseeds,

Therefore be it resolved that the Advisory Committee urges in the strongest terms that FGIS take whatever actions are necessary to immediately restore Official grain inspection and weighing service wherever and whenever it is disrupted, either by immediately replacing absent inspectors with FGIS Official personnel or with inspectors from available qualified providers, including other designated or delegated Official Agencies."

SUBMITTED STATEMENT BY DAVID AYERS, PRESIDENT, AMERICAN ASSOCIATION OF GRAIN INSPECTION AND WEIGHING AGENCIES

Issues Related to Re-Authorization of the U.S. Grain Standards Act, As Amended

Mr. Chairman and Members of the Subcommittee:

I am David Ayers, President of the American Association of Grain Inspection and Weighing Agencies (AAGIWA), on whose behalf I am presenting testimony today. I am the elected leader of the Association. I own and operate a designated official agency, the Champaign-Danville Grain Inspection Agency, with its headquarters in Urbana, IL. I have been in the grain inspection business for nearly 40 years.

AAGIWA is the national professional association representing the public and private agencies that are designated and delegated by USDA's Grain Inspection, Packers & Stockyards Administration (GIPSA) to weigh, inspect, and grade the nation's grain. AAGIWA's member agencies are located throughout the United States and perform well over 80 percent of all of the inspections under the United States Grain Standards Act (USGSA). The official agencies employ over 2,000 dedicated individuals.

AAGIWA member agencies bring a professional unbiased third party aspect to the grading and weighing of America's grain. During the association's 67 years of service to the grain industry, it has assisted its members in performing these services through a national forum that promotes and assists professionalism, integrity, technology, and performance, while providing a constant dialog with government and industry. AAGIWA wishes to comment on the pending reauthorization of the USGSA provisions expiring on September 30, 2015. In doing so, the association wishes to support the reauthorization of the expiring provisions, and provide the following observations to the Congress:

There is an important role for a Federal regulatory and supervisory agency in the operation of an official grain inspection system. GIPSA serves to provide an objective, third party regulatory role, which assures credibility and integrity for both domestic and export grain handlers and buyers of U.S. grain. Its strict Federal standards help maintain the accuracy and consistency that the grain industry has come to expect from the nation's official grain inspection system.

Much has changed in America's grain marketing system since the Federal Grain Inspection Service was formed by Congress in 1976. Industry consolidations, transportation efficiencies, testing services, and result accuracy have all improved beyond what anyone could have envisioned 39 years ago to make the U.S. grain marketing system the world leader. Shuttle trains and export containers have replaced boxcars for moving grain. We can now test for substances in parts per billion, and electronically provide inspection and weighing results around the world in seconds. These advancements are a result of the vision, hard work, and commitment of the grain industry and GIPSA.

What has not changed is the need for a third party inspection service that is both responsive and unbiased to provide accurate and timely results so that grain can be traded throughout the U.S. and around the world. GIPSA certificates issued by official agencies are regarded as the final word in quality by the industry trading rules and serve to resolve disputes and allow for the collection of funds when grain is traded domestically and overseas. Producers, marketers, handlers, and grain processors in the U.S. and around the world all benefit from knowing the true quality of the grain they are selling or buying.

GIPSA's ability to supervise official agencies has also evolved and improved past what was possible since 1976. Each agency now has a quality management program with internal audits that are reviewed annually by GIPSA auditors. Inspection results are now sent electronically on a daily basis to GIPSA for review so that file samples can be selected on a daily basis to monitor all aspects of inspection accuracy. These and many other enhancements implemented by GIPSA over the last 39 have greatly enhanced FGIS' ability to monitor official agency performance, and initiate corrective action in real time anytime during an agency's designation.

Official agencies have also evolved with the changing pace of the grain industry by providing on-site inspection laboratories for shuttle loaders and at container yards shipping grain. Certificates are issued electronically so customers and interested parties can see inspection results anywhere around the world in seconds. GIPSA has approved and standardized rapid testing methodologies that allow official agencies to quickly provide accurate and reliable mycotoxin, protein, and moisture results at remote locations, so shippers can make real time decisions. AAGIWA is proud of what the official agencies have accomplished and owes much of these advancements to GIPSA's willingness to change and provide more rapid and accurate testing capabilities.

Where agencies have struggled is in surviving the changing rural business economy. The number of official agencies has significantly decreased since 1976. Although still a diverse group of state and private organizations exist, much consolidation has occurred. The need for greater capital as official agencies have consolidated has increased. While GIPSA has been responsive in approving fee increases this only places a larger inspection cost burden on the grain industry.

AAGIWA is requesting that the U.S. Grain Standards Act be amended to provide GIPSA the ability to increase the maximum designation length for official agencies from 3 to 5 years.

Providing a 5 year designation would not compromise GIPSA's authority to suspend or revoke a designation already in place. GIPSA would retain the authority

under the Act to suspend and revoke designations when an agency has failed to meet one or more criteria in the Act, the regulations, and instructions issued by GIPSA, or is involved in any violation of Federal law involving the handling or inspection of grain. GIPSA has used this authority in the past to protect the integrity of the official grain inspection system and the facilitation of grain trade in export and domestic markets and AAGIWA supports the suspension and revocation of a designation when it is warranted.

Increasing the maximum designation period to 5 years would not require GIPSA to provide agencies with 5 year long designations. GIPSA can choose to establish designation termination dates for shorter duration, as they currently do when warranted under the present legislation.

AAGIWA believes this change will strengthen the official inspection system, and its direct and indirect beneficiaries. This change would allow agencies to secure more favorable financing for the purchase of new equipment and expansion of their operations to keep pace with the U.S. grain industry. Allowing GIPSA to increase designation times to 5 years would bring more stability to the over 2,000 citizens employed in mostly rural communities across the nation. These hard working citizens would know that their employer would be in business for a longer period of time and can feel more secure in their financial situation. A 5 year designation provides the official agency the opportunity to control expenses which also translates to the inspection costs incurred by the grain industry in these rural communities. Inspection costs have been reported to be a grain company's third largest cost. Keeping these costs under control contributes to the local elevator's viability, which in some cases, is the only major business in many communities.

This change would not create any additional budgetary burden on the U.S. taxpayers and it would not decrease any tax revenue to the U.S. Treasury. What it would do, is help ensure that the official inspection system remains robust so that it is able to meet the needs of the grain industry, producers, and all those supported and dependent on receiving timely, accurate, and unbiased grain inspection and weighing results.

In conclusion, AAGIWA commends GIPSA for making changes for the betterment of the official grain inspection system, for its integrity, and for its beneficial partnership with 49 state and private agencies that perform official duties at the local level. As Congress moves to reauthorize the key provisions of the U.S. Grain Standards Act it is important that new technologies and efficiencies continue to be brought to the official inspection system, and that the maximum designation period be increased to 5 years so that official agencies can have the financial stability to implement them.

SUBMITTED LETTER BY BRETT BLANKENSHIP, PRESIDENT, NATIONAL ASSOCIATION OF WHEAT GROWERS

April 20, 2015

Hon. K. MICHAEL CONAWAY,
Chairman,
House Committee on Agriculture,
Washington, D.C.;

Hon. COLLIN C. PETERSON,
Ranking Minority Member,
House Committee on Agriculture,
Washington, D.C.

Dear Chairman Conaway and Ranking Member Peterson:

As you prepare to reauthorize the Grain Standards Act, it is imperative that we avoid the sort of disruption to our export system that occurred last year at a United Grain Facility in the Pacific Northwest. Wheat farmers, in particular, are reliant upon our export markets, as wheat exports ½ of our production nationwide in a given year. As the United States is seen as the world's reliable supplier of grain, interruptions in the flow of trade can have adverse impacts on commodity prices, and thus, our members' bottom lines. The suspension of Federal Grain Inspection Service (FGIS) authorized grain inspections that occurred last summer at the Port of Vancouver in Washington State directly impacted our members throughout the country. Vessels were not loaded, barges could not deliver, the rail transportation system slowed down, and our foreign customers began to question our ability to deliver on contracts.

While labor disputes may arise at our ports, NAWG believes that there must be a mechanism in place to ensure that the flow of trade is not disrupted. In states where the state has delegated authority from the U.S. Department of Agriculture (USDA) to conduct inspection, USDA's FGIS must step in to ensure inspections con-

tinue if the delegated entity does not fulfill their obligation within 48 hours from the requested time of service. We further believe that if a delegated entity fails to perform its duties, that authority should be revoked and FGIS must permanently retain the role of inspections. NAWG urges you to include language in your reauthorization bill that would further emphasize this responsibility.

Additionally, we believe this restored service must be conducted either by FGIS or by another delegated state authority, and not by a private entity. Our trading partners have developed a trust in the current system of inspections, a trust which would be diminished if inspections were no longer conducted by the Federal Government or a delegated state agency. Moving forward, we urge Congress to reject attempts that would undermine the current system of inspections.

Further, NAWG supports legislation requiring FGIS to take whatever actions are necessary to immediately restore official grain inspection and weighting service wherever and whenever it is disrupted. The situation in Vancouver, WA, where inspections were disrupted, could have been avoided if FGIS had exercised its authority.

The National Association of Wheat Growers (NAWG) is a federation of 22 state wheat grower associations that works to represent the needs and interests of wheat producers before Congress and Federal agencies. Based in Washington, D.C., NAWG is grower-governed and grower-funded, and works in areas as diverse as Federal farm policy, trade, environmental regulation, agricultural research and sustainability. As your Committee works to reauthorize the Grain Standards Act, I urge you to consider the perspective of our nation's wheat farmers and to appreciate the importance of the current system of inspections to facilitate the flow of trade. We also urge you to maintain a close oversight role over FGIS to ensure that the agency is following appropriate statutory obligations when disruptions occur at our ports.

Thank you for your consideration, and I hope that you will use NAWG as a resource as the reauthorization process moves forward.

Sincerely,

BRETT BLANKENSHIP,
President,
National Association of Wheat Growers.

CC: Members of the House Agriculture Committee.

○