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REVIEW OF THE U.S. GRAIN STANDARDS ACT

HEARING BEFORE THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

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REVIEW OF THE U.S. GRAIN STANDARDS ACT

Tuesday, May 5, 2015

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC

The Committee met, pursuant to notice, at 2:33 p.m., in room 328A, Russell Senate Office Building, Hon. Pat Roberts, Chairman of the Committee, presiding.

Present: Senators Roberts, Hoeven, Perdue, Ernst, Tillis, Sasse, Grassley, Thune, Stabenow, Brown, Klobuchar, Gillibrand, and Donnelly.

STATEMENT OF HON. PAT ROBERTS, U.S. SENATOR FROM THE STATE OF KANSAS, CHAIRMAN, U.S. COMMITTEE ON AGRI- CULTURE, NUTRITION, AND FORESTRY

Chairman ROBERTS. Good afternoon. I call this meeting of the Senate Committee on Agriculture to order.

I have said many times that one of my main goals—and I know you all share that—for our Committee is to conduct our legislative work in a transparent and inclusive manner that gives members opportunities to pass good legislation for their constituents. Today's hearing is an important step in completing the Committee's work in considering provisions of the U.S. Grain Standards Act that expires later this year, so we must move.

For nearly 100 years, the U.S. Grain Standards Act has authorized the Department to establish marketing standards for grains and oilseeds. Regulations set official standards to define each grain, class of grain, numerical grades of specific physical characteristics.

In the 1970s, irregularities in grain inspection and weighing led to a grand jury investigation and indictments which threatened the U.S. marketing system. As a result, there were major reforms to the Grain Standards Act back in 1976 to ensure there was no questioning of the reliability and quality of U.S. grains and oilseeds.

That global reputation is more important now than ever before in the history of U.S. agriculture. Our farmers and others in the value chain export over half of the wheat and soybeans produced in the United States. Additionally, about 15 percent of corn and other feed grains are sold to customers around the globe. Predictability and transparency are key to maintaining this success story for farmers and ranchers in Kansas and all across the country.

Needless to say, the valuable role that our trading partners play in the agriculture economy cannot be overstated. A handful of the provisions in the Grain Standards Act are set to expire on Sep-

tember 30. This hearing gives us a chance to hear from stakeholders on what is working well and where we might want to make some improvements.

I am particularly interested in ensuring that the Department of Agriculture fulfills its statutory obligation to inspect exports. This responsibility lapsed for 36 days at a facility at the Port of Vancouver last summer. During that period there was substantial uncertainty about if and when inspection would be restored, and questions were raised about safety. That unprecedented event warrants our careful oversight and increased transparency. It is important that we find solutions to ensure the reliability and the quality of U.S. exports continue to be beyond question for years to come.

The witnesses we will hear from today represent different perspectives in the grain and oilseed value chain: a farmer, an inspector, a grain handler, and a global customer. I thank each witness for traveling to Washington, taking time out of your very valuable time and providing testimony before the Committee on such an important issue. I appreciate your joining us as we seek to make this a Government in action—that is two words. Everybody understand that? All right.

Senator GILLIBRAND. “In action” as opposed to “inaction.”

Chairman ROBERTS. Thank you. I do not know what I would do without you.

[Laughter.]

Chairman ROBERTS. I appreciate your joining us as we seek to make this a Government in action, responsive to the concerns and working together to find common-sense solutions. The Committee will work to ensure that our U.S. grain inspection system continues to be one that ensures the reliability and high quality of U.S. exports. I look forward to hearing from our witnesses.

With that, I recognize our Chairwoman Emeritus, Senator Stabenow, from the great State of Michigan, for any remarks.

**STATEMENT OF HON. DEBBIE STABENOW, U.S. SENATOR
FROM THE STATE OF MICHIGAN**

Senator STABENOW. Well, thank you, Mr. Chairman, for holding this important hearing on the Grain Standards Act. I am looking forward to working with you to reauthorize this. I also thank those who traveled today to give us very important input on this issue. You bring perspectives from all sides of the grain inspection system, and we look forward to hearing your testimony.

Our Nation’s farmers and producers grow the very best products in the world. Whether it is Michigan soybeans or Kansas wheat, buyers around the world know that when American products carry the seal of the U.S. Department of Agriculture, its quality is second to none. That is one reason why the U.S. is the premier supplier of high-quality grains and oilseeds worldwide and why the United States is the number one farm goods exporter worldwide, supporting more than a million jobs here at home.

To paint that in a different light, in 2014 the U.S. had agricultural exports totaling more than \$150 billion, the highest dollar value we have ever had. But let me share a bit of historical perspective as we meet today on why it is so critical the U.S. maintain the Federal Grain Inspection Service and how it was designed to

defend the interests of American farmers and protect the integrity of the United States as a trading partner.

In 1974, as the Chairman said, our private inspection system was rocked by a scandal that threatened the credibility of U.S. agricultural exports. While American farmers were producing high-quality grain, private individuals and companies charged with inspections were shortchanging foreign customers by inaccurately weighing grain, shipping in dirty vessels, and accepting bribes.

In New Orleans, private inspectors took bribes to certify that an oil tanker could be used to transport grain so that companies would not have to take extra time and pay for an extra cleaning process.

A number of those individuals and companies were indicted by Federal grand juries, but, unfortunately, these revelations significantly diminished our reputation as a reliable business partner, and our competitive advantage in international markets was questioned.

As a result, in November of 1976, Congress acted by federalizing the grain inspection system, now called the Federal Grain Inspection Service, to help rebuild the integrity and image of American agricultural exports.

The good news is our country's agricultural exports have grown 6 times since then, and the trust associated with the official USDA Certificate of Inspection is a big part of that success story. That certificate also gives our American farmers the reassurance they need that they will receive a fair price for the grain that they have worked so hard to produce.

So I look forward, again, Mr. Chairman, to working with you in a bipartisan way to maintain the integrity of the existing inspection system as we bring the process of reauthorizing this important piece of legislation forward.

Thank you.

Chairman ROBERTS. As usual, well spoken, and thank you very much, Senator.

Senator Klobuchar, the distinguished Senator from Minnesota, will be introducing two of our witnesses: Mr. Bill Gordon of the American Soybean Association and a grower from Minnesota, and also Mr. Tim Paurus, who is the representative of the National Grain and Feed Association from Minnesota. Senator Klobuchar.

Senator KLOBUCHAR. Well, thank you very much, and thank you for your wisdom in having two witnesses that are associated with my State.

First of all, Mr. Bill Gordon farms with his wife, Dawn, their four children, and his parents on a fourth-generation farm in Worthington, Minnesota, which is right near the South Dakota border, not too far from Iowa, Senators Grassley and Ernst.

They farm soybeans and corn on 2,000 acres and have 250 acres of CRP and water quality areas. Bill also practices as a tax accountant in Worthington. He is here today representing the American Soybean Association. You should know, Mr. Chairman and Ranking Member Stabenow, that he told me he has his planter out there, which is—who? Brother?

Mr. GORDON. My little brother, yes.

Senator KLOBUCHAR. His little brother, who does not quite know what he is doing, and so if he has to leave at any time during the

hearing, he is literally giving him instructions as the day goes by. So I just want to make sure he has permission to leave.

Our second Minnesota witness is Mr. Tim Paurus. Tim is the vice president of terminal operations at CHS, a Fortune 100 farmer-owned energy, grain, and food co-op based in Inver Grove Heights, Minnesota, and he is here representing the National Grain and Feed Association.

Tim began his career in grain marketing at CHS in 1978, and his experience has led to a number of leadership positions in the field, including serving as past president and chairman of the Grain Elevator and Processing Society and two-time former chairman of the USDA's Grain Inspection, Packers and Stockyards Administration's Grain Inspection Advisory Committee. That is the longest association I think I have ever heard. But thank you for being here as well.

Thank you, Mr. Chairman.

Chairman ROBERTS. We thank you very much, Senator.

Bill, you are at bat, and, David, I will be introducing you. Let us see here. We have got to keep going. Steve—pardon me for calling you “Steve”—Vice Chairman Campbell, I will be introducing you, and then you can make your comments. So you are not in the hole. We just have a batter up right now.

Bill, why don't you proceed with your testimony, please? You have 5 minutes. Feel free to summarize any part of your statement that you would like.

STATEMENT OF BILL GORDON, MEMBER, BOARD OF DIRECTORS, AMERICAN SOYBEAN ASSOCIATION, WORTHINGTON, MINNESOTA

Mr. GORDON. Thank you, Mr. Chairman and members of the Committee. I am Bill Gordon, a farmer from Worthington, Minnesota, and a member of the Board of Directors of the American Soybean Association. My family farm is in southwest Minnesota.

We farm soybeans and corn on 2,000 acres on a fourth-generation farm. Our statement today is supported by the American Farm Bureau Federation, the National Corn Growers Association, the National Association of Wheat Growers, and the National Barley Growers Association. We thank you for the opportunity to testify on the reauthorization of the U.S. Grain Standards Act.

Soybeans and soy products, as you heard earlier, are the most valuable U.S. agricultural export. In 2014, the U.S. exported \$28 billion in soybeans, soy meal, and soy oil, representing 56 percent of our total U.S. production. Our industry and our foreign customers are highly dependent on having a reliable and transparent export inspection and marketing system.

Key to the growth in exports has been the reliability of the official U.S. inspection and weighing system. Under the Grain Standards Act of 1976, the service provided by the Federal Grain Inspection Service has been the gold standard for assuring foreign buyers that they are receiving the quality and volume of products for which they have contracted.

Most of the authorities in the Grain Standards Act due to expire at the end of this fiscal year are not controversial. There is broad support for reauthorizing congressional appropriations to fund

FGIS operations and for FGIS to charge fees for supervising delegated State agencies. In addition, the grain trade has recommended that the cap to cover FGIS administrative and supervisory costs in user fees be replaced by a rolling average based on export volumes and inspections. Finally, the charter for the Federal Grain Advisory Committee should be renewed.

In addition to these reauthorizations, the act needs to be strengthened to require FGIS to intervene in the event of a disruption in inspection services. The issue of when and how FGIS intervenes has been a serious concern for producers, the grain trade, and foreign buyers since the Washington State Department of Agriculture refused to have its employees cross the picket lines during a labor-management dispute at the Port of Vancouver last summer. This refusal resulted in a 36-day delay before FGIS was willing to have its own employees take over the inspections.

Under the Grain Standards Act, official inspections are required for all export shipments, either directly by FGIS or by delegated state agencies. In the event the state agency services are disrupted, the act requires FGIS to step in. However, there is no fixed timeline for FGIS action, and the Secretary is given discretion to decide whether an interruption represents an emergency requiring FGIS to intervene.

In October 2013, ASA and the other farm and industry organizations urged the Department of Agriculture to develop a contingency plan to respond to any disruption at the Port of Vancouver. After the Washington State Department of Agriculture withdrew services last July, 22 farm and industry organizations asked the Department to take immediate action to meet its statutory obligations. USDA replied that it was withholding services over concerns that its employees would not have safe access to the port facility. Subsequent to resolution of the dispute, we are not aware that the Department has taken any action to prevent the reoccurrence of a similar situation.

We encourage the Committee to engage the Department on when and how it will act to resolve any future disruption of export inspection services. If this discussion is inconclusive, we recommend the Committee strengthen the Act to require FGIS to take action according to a fixed timetable based on hours rather than days or weeks.

We further recommend that any state agency that withdraws services be suspended until the Department completes a review that confirms the agency is capable of resuming services without further interruption.

As I stated earlier, our grain inspection and weighing system is a fundamental guarantee to our foreign customers that supplies of U.S. grains and oilseeds will be officially inspected and not be disrupted. Reauthorization of the Grain Standards Act presents an opportunity to correct uncertainties in the system that have come to light in the last 2 years. The changes needed to address these concerns need to be resolved well in advance of expiration of the authorities under the act.

Thank you again for letting me testify.

[The prepared statement of Mr. Gordon can be found on page 34 in the appendix.]

Chairman ROBERTS. Mr. Gordon, thank you so much for being on time. Most Senators can read. All staff can read. So that is why we ask—and the Chairperson Emeritus—well, she did not do this, but she would ask people to be timely. Thank you so much for finishing in time, and if I had not said that, Bill could be in better shape.

Our next witness is David Ayers, president of the American Association of Grain Inspection and Weighing Agencies from Illinois. Mr. Ayers joins us today on behalf of the American Association of Grain Inspection and Weighing Agencies. He has been in the grain inspection business for nearly 40 years. He currently owns and operates a designated official agency, the Champaign-Danville Grain Inspection Agency, headquartered in Urbana, Illinois.

Welcome. I look forward to your testimony and learning from your experience, sir.

STATEMENT OF DAVID AYERS, PRESIDENT, AMERICAN ASSOCIATION OF GRAIN INSPECTION AND WEIGHING AGENCIES, URBANA, ILLINOIS

Mr. AYERS. Mr. Chairman and members of the Committee, I appreciate the opportunity to be here today to discuss the reauthorization of the U.S. Grain Standards Act. I would like to make a few opening comments this afternoon and respectfully request that my full statement be included in the record.

Chairman ROBERTS. Without objection.

Mr. AYERS. Our association, the American Association of Grain Inspection and Weighing Agencies, represents the public and private agencies designated and delegated by the United States Department of Agriculture, the Grain Inspection, Packers, and Stockyards Administration, and we inspect the Nation's grain. AAGIWA's members are located throughout the United States and perform 90 percent of all of the official inspections under the United States Grain Standards Act. Our official agencies employ over 2,000 dedicated employees.

AAGIWA supports reauthorization of the expiring USGSA provisions and wishes to provide the following observations to Congress:

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.

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. 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 vastly improved. Each agency now has a quality management program with internal audits that are reviewed annually by GIPSA's auditors. In-

spection results are sent electronically on a daily basis to GIPSA to monitor inspection accuracy.

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. We now have testing methodologies that allow official agencies to quickly provide results at remote locations so shippers can make real-time decisions.

Where agencies have struggled is in surviving the changing rural business economy. The number of official agencies has significantly decreased since 1976. The need for greater capital as official agencies have consolidated has increased.

AAGIWA is requesting that the U.S. Grain Standards Act be amended 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. AAAGIWA supports the suspension and revocation of a designation when it is warranted to protect the integrity of the official inspection system.

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 to keep pace with the U.S. grain industry. Increased designation times to 5 years would also bring more financial stability to the over 2,000 citizens employed by official agencies, mostly in rural communities across the Nation.

A 5-year designation also provides agencies the opportunity to control expenses which translates to the inspection costs incurred by the grain industry. 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 rural 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 results.

Thank you.

[The prepared statement of Mr. Ayers can be found on page 26 in the appendix.]

Chairman ROBERTS. We thank you, sir.

Our next witness is Tim Paurus, who has already been introduced by the distinguished Senator from Minnesota.

Mr. Paurus.

STATEMENT OF TIM PAURUS, REPRESENTATIVE, NATIONAL GRAIN AND FEED ASSOCIATION, INVER GROVE HEIGHTS, MINNESOTA

Mr. PAURUS. Chairman Roberts, Ranking Member Stabenow, and members of the Committee, thank you for the opportunity to testify today. I am Tim Paurus, assistant vice president of terminal operations for CHS Inc., headquartered in Inver Grove Heights, Minnesota. CHS is a leading global agribusiness owned by farmers,

ranchers, and cooperatives across the United States. In my capacity at CHS, I am responsible for the operations of our company's grain-handling facilities.

I am testifying today on behalf of the National Grain and Feed Association. I am a member of NGFA's Grain Grades and Weights Committee and previously served as chairman of the committee for 8 years.

NGFA 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.

NGFA strongly supports reauthorization of the U.S. Grain Standards Act to improve and maintain the U.S. official grain inspection system. We have worked continuously for nearly 40 years to encourage continued improvements to this system and have several recommendations to offer here today to further enhance the system.

First, in response to apparent system shortcomings, including the 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 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.

Unfortunately, the Secretary did not do this when the interruption in services occurred at the Port of Vancouver, Washington.

Make no mistake, foreign buyers took note. In the process, the reputation of FGIS was damaged, as was the confidence of international buyers in the reliability of the U.S. system. I respectfully request that a letter from the Korea Flour Mills Industrial Association in this regard be made part of the hearing record.

Chairman ROBERTS. Without objection.

[The following information can be found on page 99 in the appendix.]

Mr. PAURUS. Second, we recommend the process used by FGIS to delegate its authority to perform official inspection and weighing service at export elevators be made more transparent, more accountable, and open to the public. We urge that the delegation of official inspection service to State agencies be subject to notice-and-comment rulemaking and that the duration of such delegation be limited to no more than 5 years.

Further, consideration should be given to directing FGIS to license and utilize, subject to FGIS oversight, qualified personnel employed by independent third-party entities to perform official inspection and weighing services at export elevators, particularly in cases where disruptions in official service occur. This can be done through existing licensing provisions in the act. Some attempt to label this concept as "privatization." That is not what NGFA is proposing.

Some people have pointed out to a pilot study GIPSA conducted as a reason not to allow qualified third-party inspectors. This study had several significant flaws, the most glaring of which is that GIPSA chose to study sites that historically account for less than 5 percent of the export volume. To properly assess the viability of

using qualified independent third-party inspectors, GIPSA would need to base its assessment upon a port region that handles a more significant export volume.

Third, NGFA supports the current provisions that authorize FGIS to designate qualified, accredited State or private entities to perform official inspection and weighing services in geographic territories within the domestic market and support extending the designation from 3 to 5 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 act be reduced from 10 years to 5 years, particularly given the dynamic, changing, and highly competitive nature of the global grain export marketplace. The recommendations we have proposed will help strengthen the official inspection system, enhance U.S. competitiveness, 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.

[The prepared statement of Mr. Paurus can be found on page 37 in the appendix.]

Chairman ROBERTS. Well, thank you, sir. So far everybody is on time. We may set a record here today. I hate to put pressure on you, Mr. Campbell.

Steve Campbell, vice chairman, board of Directors, North American Export Grain Association, from Kansas City, Missouri. Mr. Campbell is the executive vice president and head of Grains Platform, North American, Louis Dreyfus Commodities in Kansas City. He has spent his career working with customers all around the globe who purchase U.S. grains and oilseeds.

Welcome, sir, and we look forward to your testimony.

STATEMENT OF STEVE CAMPBELL, VICE CHAIRMAN, BOARD OF DIRECTORS, NORTH AMERICAN EXPORT GRAIN ASSOCIATION, KANSAS CITY, MISSOURI

Mr. CAMPBELL. Thank you. Chairman Roberts, Ranking Member Stabenow, and members of the Committee, I am Steve Campbell, executive vice president and head of Grains Platform, North America for Louis Dreyfus Commodities. I manage our grain businesses in North America and work with customers around the world to meet their grain procurement needs.

I appreciate this opportunity to appear on behalf of the North American Export Grain Association, which was established in 1912 and whose members consist of private and publicly owned companies and farmer-owned cooperatives that shift the vast majority of U.S. grain exports.

Let me begin by saying NAEGA supports each of the recommendations for improvements to the U.S. Grain Standards Act made by the National Grain and Feed Association. Virtually my entire 28-year industry career has focused on meeting the needs and understanding the perspectives of customers around the world.

In my grain trade experience, I have found that international markets in which we do business and the demands and needs of foreign customers are complex, dynamic, and ever changing, and their purchase decisions are based on value.

When I started supplying international markets in U.S. wheat, buyers specified simply U.S. No. 2 and nothing more. Increasingly over the past two decades, buyers now specify that export wheat meet several safety, label, and quality attributes. Many of the attributes are end-use properties: protein, falling number, and other processing specifications require specific sample analysis, in addition to inspection for factors used to determine a U.S. grade, even though the grade still provides a baseline for which value can be built.

When it comes to the value equation, also paramount in buyers' minds is the importance of a reliable, predictable, and competitively priced source of supply. That also encompasses the reliability, integrity, competence, and reputation of the originating country's grain inspection.

The world-class productivity of American farmers, the fungibility of our supply, and our grain-handling and transportation infrastructure are among the many U.S. advantages. So, too, is our leadership in assembling and conveying market information. FGIS plays a key role. The U.S. Grain Standards Act provides an efficient and transparent system for price discovery that benefits all market segments, including consumers. FGIS' work in resolving problems that periodically arise in international trade has proven value.

But the fungibility of the world's grain supply also means customers have a wide choice of options when it comes to suppliers. Those involved in the international grain trade source and act globally, with competition driving us to continually improve.

As shown in my written testimony, our buyers and our foreign competitors are not standing still when it comes to improving their export and inspection systems. Let me share a few examples.

One of our major competitors, Canada, has eliminated its monopoly state grain trading enterprise and revised its very expensive grain inspection. It now is largely using independent third-party firms working at the direction of the government.

Australia, Brazil, and other South American competitors also have changed their approaches to marketing grain by opening up to private competition and deploying competitive third-party inspectors.

Reliably meeting demands of buyers around the world, as well as price, are the keys to winning the challenge to bring the most value to market.

Two recent U.S. Grain and Oilseed Inspection Services Competitiveness studies conducted for NAECA and attached to my written testimony provide important insights. One found that 20 to 25 percent of U.S. exports now are being reinspected by third parties to verify inspection results. Further, we currently estimate that third parties already are performing tests for various grain quality attributes of more than 70 percent of all U.S. exports.

The global trend clearly is toward increased utilization of these highly qualified third-party inspectors to provide the risk manage-

ment and intrinsic product value information needed by international customers. We believe adding the capabilities of third-party inspection personnel to our U.S. official grain inspection system is justified, particularly as a tool to improve reliability and responsiveness. We would not be making this recommendation unless these entities already had earned a solid reputation for professionalism and integrity and whose work not only is accepted but actually requested by foreign customers.

Reauthorization of the U.S. Grain Standards Act provides Congress with the chance to work to further improve and strengthen U.S. agricultural competitiveness. We can burnish the existing grain inspection system that Government and industry have worked hard to establish as the gold standard and which is integral to the unique U.S. brand value. It is imperative to ensure that the Federal Inspection System comes with the proper controls, best practice, and best science.

The paramount issue for inspection is reliability. The best inspection system in the world will not generate sufficient value if it is not predictable and reliable.

In closing, let me reiterate NAECA believes strongly that official inspection plays an integral role in meeting the value chain needs and can be strengthened by ensuring availability and adding accountability and market responsiveness to build U.S. competitive advantage in the international marketplace.

That can be done while maintaining a system that has unquestioned reliability, responsiveness, and integrity by providing for prudent FGIS oversight and licensing of qualified personnel of third-party firms that already are in the U.S. grain export elevator performing a wide variety of non-grade-determining inspections.

We look forward to working together to make trade work, and we thank you for this opportunity.

[The prepared statement of Mr. Campbell can be found on page 29 in the appendix.]

Chairman ROBERTS. Thank you very much.

Here is a question for the entire panel. All of you mentioned, either directly or indirectly, the situation in Washington State and the shutdown at the Port of Vancouver last summer. I find the whole thing incredulous and egregious, and I am curious—and I think all the members of the Committee share our concern. I am curious. Did any of you imagine a scenario like this occurring? Bill, did you imagine something like this happening?

Mr. GORDON. Mr. Chairman, no, because when you put faith in USDA or the Government, you expect, when a state agency steps out, that the U.S. Government will step in in a timely fashion. That is why we proposed having a timetable set in the statute. That way if this happens again, at least the U.S. Government can step in and make something happen and continue our shipments. As these gentlemen said, our foreign buyers depend on that reliability.

Chairman ROBERTS. Mr. Ayers.

Mr. AYERS. Senator, I personally have never dreamed that anything like this would have ever happened. I call it “a perfect storm,” all the different scenarios that came into place at one time.

In my nearly 40 years, I have never seen a disruption like this before, even through natural disasters, hurricanes.

Chairman ROBERTS. Mr. Paurus.

Mr. PAURUS. I would not have foreseen that happening. I would have expected FGIS to provide the inspection and weighing services, unless there was a bodily harm that may have come to somebody, and in that case, I would think that you would have Federal marshals or something, somebody would have been doing something illegal that would have caused people to be fearful of being hurt.

Chairman ROBERTS. Mr. Campbell.

Mr. CAMPBELL. Senator, no, I would not. I have been loading vessels and been in the export trade my entire career, and I have never seen anything of this magnitude from the U.S. Have I seen it from other countries, other parts of the world? Absolutely, but not from the U.S. As Tim said, our people were going to work. There was plenty of opportunity to have security, plenty of protection. No reason to get into all that. But could I have foreseen that they would shut the markets down, shut the PNW down for 36 days? Absolutely not.

Chairman ROBERTS. You have already touched on the answers to my next questions, but what do you see—take into account what you see as the role of the Department of Agriculture and the FGIS in mitigating the risks to the industry. Where did most of the breakdown occur? Let us go in reverse order.

Mr. CAMPBELL. Where did the breakdown occur is essentially your question. I think honestly, when the State inspection decided to not go to work and when at that point the Federal Grain Inspection Service did not step in and say, "We will bring our own people in. We will make other arrangements. We will get marshals in there to make sure that you are protected so that you can come to work." That is when the breakdown occurred, and then when the breakdown moved to Washington, it just stopped.

Chairman ROBERTS. Mr. Paurus.

Mr. PAURUS. I would agree with Steve on that, that it happened at that point. I am sure there were things that went on previous to the Washington Department of Agriculture making their decision about not providing that service. Even though FGIS could have—should have been prepared, I know there were letters that were sent to the Secretary of Agriculture asking them to take steps to make sure it did not happen. I believe that it probably—that is where it started, but previous to that, there were people talking about what would happen if they did not show up for work.

Chairman ROBERTS. David.

Mr. AYERS. Senator, I believe that all the parties involved had some play in what happened, and the lack of preparedness through all the different parties involved led to what happened in the Vancouver situation.

Chairman ROBERTS. Steve.

Mr. GORDON. I agree with the gentlemen here, the same thing. As a producer on the beginning end of this, we look toward the Government. We follow our rules. We do what we are supposed to do. We produce this wonderful crop. We ship it out there. Because of bureaucracy and Washington or however you want to look at it,

all of a sudden our buyers cannot receive their products, and our sellers are in the middle. They are trying to work on it. So you have a fundamental breakdown. When you have a state agency that is using the U.S. Government as their backbone and they just step out of the way, there is no consequence for that. They just say, "Well, we do not want to do it today," and then the U.S. Government does not step in and either punish that or at least evaluate what happened. That is the key step to trying to fix this problem.

Chairman ROBERTS. I might have another question, but I will now recognize the Senator from Michigan.

Senator STABENOW. Thank you very much, Mr. Chairman.

Let me first follow up, Mr. Gordon, on what you were saying, and I appreciate all the testimony. We obviously need to know that you have predictability and reliability. No question about it. But since we have every other row of soybeans being exported now, and we are proud of our Michigan soybean growers, but you mentioned—all of you have mentioned how this system is vital to you, and that it is the gold standard for us, and so understanding the disruption at the Port of Vancouver and how serious that was for all of you.

If we would build confidence that our Federal inspectors will be able to promptly respond to situations, which is what you need, do you think that we need to make other major changes in the current inspection system?

Mr. GORDON. Thank you, Senator, for the question. No, I really think the breakdown here is the major one. I was in Japan at the end of January when they had a longshoreman's strike out of L.A. I had a gentleman ask me "Are you guys doing anything about it?" Our association had sent a letter to the administration asking what we are doing about it. I said, "We are trying. We are doing our best. We are bringing up the issue." He says, "Good, because tomorrow I was going to change my order of soybeans to Canada." But he said, "Because you told me that you are trying with the U.S. Government, I have faith in the U.S. Government. I will keep purchasing my beans from the U.S."

That is a big deal when our foreign buyers are asking, and the gold standard is the key to the credibility that we have, but we need to keep that credibility.

Senator STABENOW. I agree with you. In fact, Mr. Chairman, I am sure you have as well, but I have received communications from a number of countries actually that support our system. They want it to work. They support the current system, including South Korea. So it is important to make sure that the current system works, and that is what we are all about.

But to go a little farther, Mr. Paurus, and, Mr. Campbell, you mentioned this as well, the idea of using licensed private contractors in some way. My concern is that the current system right now, American exports have been at record levels. The cost of grain inspection is about a penny per bushel. It seems like that is a good deal for the American farmer. Since we had a system before that had serious issues with scandal and so on, had to be fixed, and now we have a system that, in general, is supported—we had a problem, a serious problem, but is in general supported, everyone has said that our system is respected around the world. So I am wondering, if that is the case, why would we risk our reputation and

possibly our competitiveness by directing the USDA to again go back in some way to private contractors? Mr. Paurus.

Mr. PAURUS. Thank you. The proposal would still have FGIS oversight. We would still want to maintain the integrity of the official grade certificate and weight certificates. The idea is you would have people in the wings, so to speak, to be able to address the situation in Vancouver if it happened again for that reason or some other reasons. The people available today, FGIS licenses designated agencies today.

Those individuals are—they grade the same grain. They do it the same way that the Federal Inspection Services do. So there is a possible group of people that you could use to hire on a short-term basis, and I believe FGIS has the authority to do that already. So that would be a backup plan at least at this point.

Senator STABENOW. You are saying they have the authority to do that already? If that is the case, I just do not see that as a solution. It seems to me we need to be addressing making sure that there is a prompt response and so on by the Federal inspectors. But I do not understand why if they already have the authority anyway, why that would have made a difference then. If, in fact, we had another layer or another step away from the inspectors who, in fact, have done an excellent job, the system has done an excellent job, I am not—I just do not see that as the solution. I guess I am not quite understanding of how that is the solution.

Mr. PAURUS. Well, maybe you would look at it that FGIS needs to manage and be held accountable for making sure that process is in place so that when something happens, they are able to react to it.

Senator STABENOW. Thank you very much, Mr. Chairman.

Chairman ROBERTS. Senator Perdue.

Senator PERDUE. Thank you, Mr. Chairman, Ranking Member. Thank you for being here.

Tell your brother to turn the GPS on. He will be just fine on that tractor.

[Laughter.]

Senator PERDUE. You know, this is at the heart of our financial crisis in America. I personally believe we have a very serious financial problem in the United States, our debt. One of the ways to get out of that is to grow the economy. Both sides up here agree on that. One of the best ways to grow our economy is to export more. You guys are in that business. I have been in that business most of my career, and I can tell you, what you are saying today, credibility, consistency, and reliability are the three things that I always depended on. When you break that, you lose customers, to your point.

I can tell that you had a good record with that individual customer, or he would have switched to soybeans out of Canada. We have plenty of alternatives around the world today, which makes this very critical.

I just have a quick question. Mr. Paurus, would you expand just a little bit more on why it is so important to maintain an uninterrupted and consistent flow of products out of the United States in our export efforts?

Mr. PAURUS. To keep the system moving and keep our customers over there, that they can rely on us being able to satisfy their needs in a competitive manner, price competitive, and so they do not do what Mr. Gordon's Japanese stakeholder said, "I was going somewhere else, but I am going to come back to you or stay with you to buy soybeans."

Senator PERDUE. Did we have any evidence in the 36 days of that disruption, did we have any evidence coming through the industry of lost sales? Do we have any quantification of that? Mr. Chairman, do you have any information on that?

Mr. CAMPBELL. Yes, we absolutely lost sales. We lost sales, and we also switched vessels from the United States to other parts of—to Canada.

Senator PERDUE. As I understand it, though, right now—and correct me if I am wrong. Any of you can jump in on this. It looks to me like we have 58 U.S. inspection facilities, and about 45 of those use Federal inspectors. Only 13 use designated State inspectors, which I presume was the Vancouver situation. I have a couple questions on that.

It looks to me like you already have some potential backup in those designated State facilities, that they could rely on Federal inspectors. I have a specific question, though. In this situation that happened in Vancouver, during those 36 days, did the industry, the grain industry contact the Secretary of Agriculture? If they did, what was the response? Mr. Paurus.

Mr. PAURUS. Yes, they did. The ag stakeholders sent two letters that were submitted as part of this record, and the letters urged the Secretary to immediately provide service. The response received from the Secretary referenced safety concerns, but to date, the USDA has not shared their safety report, if there is one.

The ag stakeholders also met with GIPSA Administrator Mr. Mitchell, but that meeting did not bring about any action from the USDA to restore the service.

Senator PERDUE. What was the security risk? I know they did not supply the report, but what was the security situation that caused them not to respond?

Mr. PAURUS. I do not know.

Senator PERDUE. The record said it had something to do with the longshoremen's strike. Is that right?

Mr. PAURUS. Well, there was the longshoremen's strike going on, and the Vancouver facility was still operating. The Columbia grain facility in Portland operated, but FGIS was inspecting grain there, and they kept operating at that time.

Senator PERDUE. But there was no attempt to move FGIS inspectors from other facilities into Vancouver during those 36 days?

Mr. PAURUS. No, there was not.

Senator PERDUE. The primary reason given was the security issue, which was never—

Mr. PAURUS. Safety concern.

Senator PERDUE. Which was never—well, safety concern to me is the machinery is not protected, but a security concern is a little more alarming to me. I would like to know more about that for the Committee. I will submit that, Mr. Chairman, in writing to follow up.

Senator PERDUE. I just have one last question. I am about out of time. Mr. Campbell, you had mentioned changing—I think you were the one. If not, anyone can respond. Why do you think it is important to change the reauthorization period? We have gone from 3 to 10 over the last 20 years or so, I guess. What is the reasoning behind reducing back to a 5-year recommendation?

Mr. CAMPBELL. So really, in the end here, we are talking about reliability, we are talking about competitiveness, and we are talking about evolution. As I mentioned in my opening comments, what they did in 1974, not so relevant today in 2014. I understand the problem, but the reality is the buyer today is way more sophisticated than he ever was.

In the last 20 years, the buyer today is very sophisticated. Every one of them has a plaque on their wall as to what milling school they went to. Every one of them can tell you all the milling characteristics of any class of wheat in the United States. The FGIS system has not evolved. It has not maintained. So at the end of the day, we get the grade factor, and the grade factor is very important for setting that baseline.

But if it does not evolve and maintain itself in the world marketplace, it is going to continue to slip. We simply ask that it gets—as we see, the labs that the third-party inspections have and are performing those tests today, we simply ask FGIS that you are going to have to evolve and stay up.

Senator PERDUE. Thank you.

Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman. I appreciate that. Thank you, all four of you, for testifying today and for sharing your knowledge and experience.

Mr. Gordon, my first question is for you. Soybeans are an important crop in Ohio, as you noted, our Nation's largest agricultural export. The Federal Grain Inspection Service was created by Congress some 40 years ago because of significant problems at our ports, as you know.

Private inspectors were taking bribes. Shipments were being misrepresented. Inferior products were being exported. You also noted that the work of the Federal Grain Inspection Service is the gold standard to assure foreign buyers about the high quality of our exported grain.

That being the case, if you would just answer yes or no, does the American Soybean Association support privatizing the inspection of exported grain?

Mr. GORDON. On behalf of the groups that I mentioned, the National Wheat Growers and others, we have no problems with the Government running the program. We do not necessarily see the need to privatize it. The gentleman has spoken in favor of it. We are not necessarily opposing it, but the system is not broken. How the system didn't work in Vancouver is the real problem behind it, the rest of the system.

We do agree, though, that the inspection system needs to evolve. Mr. Campbell said it exactly. Our customers know more about our soybean genetic makeup than we do even as producers. As a pro-

ducer, I know just about everything about that soybean when I put it in the ground so I can raise it the best way I can.

So to answer your question, no, we do not necessarily do we need it to be privatized. We think the Government does a good job.

Senator BROWN. Thank you.

Mr. PAURUS, I understand that NGFA and others on the basis of last year's lockout—lockout, not strike—of long—not a strike by the longshoremen but a lockout of the longshoreman, major distinction—at the Vancouver report are recommending that Congress force the Secretary to take certain actions in light of possible disruptions in ports. In particular, it is my understanding that while foreign-owned conglomerates were locking out workers—foreign-owned conglomerates were locking out workers at the Vancouver, Washington, port—your company, which had negotiated a successful contract with your workers was actually experiencing an increase in business at your Tacoma operations. Is that correct?

Mr. PAURUS. Yes, we would have had some more volume than maybe if the others had not locked out the longshoremen. That is correct.

Senator BROWN. According to USDA, more than 80 percent of exported grain is inspected by Federal inspectors, that the delegated States are each inspecting a relatively small amount of grain. I do not understand why in light of this isolated incident in Vancouver, the trade association is advocating for such a one-size-fits-all approach that could tie USDA's hands.

Mr. PAURUS. We would like—are you talking about the proposal to have the USDA take over—

Senator BROWN. Well, I am talking about your trade association. You were moving forward. The foreign conglomerates were locking workers out. You were moving forward. You were seeing increased business. I guess I do not understand why the trade association is advocating for a one-size-fits-all approach as a result.

Mr. PAURUS. In case we would all be for the same thing, to have FGIS be held accountable to provide service at any kind—where there is a disruption, like there was in Vancouver. Now, I cannot—that may be the next time. It may be our joint venture with Cargill and TEMCO, one in Tacoma, or Kalama, Washington, or Portland, Oregon.

Senator BROWN. Well, I guess I look at it as you negotiated a contract, you did it right. These foreign companies locked out their workers and, unfortunately, what happened is what happened.

Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Thune.

Senator THUNE. Thank you, Mr. Chairman, you and Senator Stabenow, for having this hearing about reauthorizing the U.S. Grain Standards Act. My home State of South Dakota is a big exporter. We are number 10 in the Nation total when it comes to agricultural exports, and our top five exports totaled over \$2 billion last year, soybeans leading the way at about \$1.2 billion, wheat around \$400 million, and corn around \$300 million.

But we have about, I think one out of every three rows of soybeans that is grown in South Dakota hitting the export market. So what those numbers confirm is the urgent need that we have for an effective, reliable, and accurate U.S. grain inspection process.

Global grain trade is growing. I think our producers and exporters are continually facing increasing competition from around the world, and so we cannot afford another disruption of inspection services and trade flows such as what we had last summer and the Port of Vancouver in Washington State.

So in thinking about that, as we consider reauthorization, I want to ask if you could make a recommendation—you have probably been asked this already—to this Committee as we prepare for reauthorization of the U.S. Grain Standards Act to ensure that we have uninterrupted inspections moving forward in the event similar situations such as Vancouver, Washington, occur again.

What would you recommend to this Committee in terms of the reauthorization process with regard to a circumstance along the lines of what we saw? Feel free. Yes, sir, Mr. Gordon.

Mr. GORDON. Senator Thune, thank you for the question. As I said in my testimony we talked about an hourly decision. There are other Federal agencies like the FAA, that in the event of a disruption, lockout or a strike, the Government would not allow them to walk out of the booths and not regulate airplanes.

Now this does not raise a safety concern to that degree, but it is still a federally delegated agency. We have the statute in place for the Secretary of Agriculture to take this action, but the time frame is ambiguous. If we set up a time, at least make them either have a policy or have the Committee set that time frame, then you have teeth where you say, "Okay, Secretary, you have had 10 hours to respond to the walkout."

Washington State decided not to go in there. You need to get your inspectors there." Now we would have that timeline. Right now we do not have that timeline in the Act.

Senator THUNE. Anybody else? Any suggestions or recommendations?

Mr. PAURUS. I think we need to hold the USDA and FGIS accountable to provide service in times when there are interruptions, whether it would be a lockout, a strike, something else would happen. I cannot foresee everything, but I think we need to have FGIS accountable to provide the service.

Senator THUNE. How do you think—or how would you suggest Secretary Vilsack should have handled the Port of Vancouver slowdown with regard to using private agencies?

Mr. PAURUS. He could have maybe got some other State, delegated State to bring some people in and to add more people from the delegated State, or could have maybe in the act itself maybe changed it so that you can use some designated agencies to come in and provide official service at export. I believe today the act says that you cannot do that from a designated agency standpoint.

Senator THUNE. Good. Anybody else?

Mr. Campbell.

Mr. CAMPBELL. Well as Mr. Paurus said, he could have acted much quicker, number one.

Number two, at the end of the day we had buyers asking for waivers, which they eventually granted, but that is not a good sign when a buyer is asking for a waiver and we are talking about reliability of our exports. But he could have simply mandated that Federal inspectors went in there. If the Washington State inspec-

tors did not want to go in, he should have just mandated that we take in and we bring in some Federal inspectors. It could have happened in 24 hours. That is the law. It should have been—should have been enforced.

Senator THUNE. Right. Okay.

All right. I see my time has expired, Mr. Chairman, so thank you. Thank you, panel, for your testimony.

Chairman ROBERTS. Thank you very much. We are expecting Senator Hoeven. Let me go ahead. I just have a couple of follow-up questions for the panel.

The Grain Inspection Advisory Committee, what role did the Advisory Committee play during the situation in the Port of Vancouver? We can go down. Mr. Gordon, why don't you just start off, and then we go to Mr. Ayers, Mr. Paurus, and then Mr. Campbell.

Mr. GORDON. Senator, I am not aware of that information. I am not sure how that Advisory Committee played a part in that.

Chairman ROBERTS. Mr. Ayers.

Mr. AYERS. Mr. Chairman, the Advisory Committee members made recommendations to GIPSA on how to react to the situation, and I have never heard of any follow-up on an actual—

Chairman ROBERTS. No recommendations after this has occurred?

Mr. AYERS. They made recommendations for trying to correct the situation at the Advisory Committee, but it is just that, an Advisory Committee, and whether they take the advice or not is strictly up to them.

Chairman ROBERTS. Well, they are not sitting there somewhere. I mean, they sent them to the Department of Agriculture, I am assuming. Is that correct?

Mr. AYERS. I am not sure where the Advisory Committee recommendations go. They go to the Administrator and Deputy Administrator of GIPSA, and where it goes from there, sir, I am not aware.

Chairman ROBERTS. Mr. Paurus.

Mr. PAURUS. There were two resolutions made for consideration to the Administrator, one in July shortly after the State of Washington Department of Ag stopped service, and that one urged FGIS to take whatever action was necessary immediately to restore official grain inspection and weight service.

Then in November of 2014, there was another resolution that talked about the FGIS revoked the agreement—or the Advisory Committee recommends that FGIS remove the delegation and designation of all State agencies that did not fulfill their obligation of providing service as required under the Grain Standards Act and that FGIS immediately provide the required services.

I am a current member of the Advisory Committee. As far as I am aware of, there was never any follow-up to the Advisory Committee from that.

Chairman ROBERTS. So they never got back to you?

Mr. PAURUS. Pardon?

Chairman ROBERTS. You did not get an answer.

Mr. PAURUS. No.

Chairman ROBERTS. Please, sir.

Mr. GORDON. I cannot add to what Tim put forward. He is on the Committee.

Chairman ROBERTS. Well, this goes into my second part of this. I think everybody on the Committee was troubled by the lack of response that the Department offered the commodity groups when you all wrote the Department about the situation at the port. Has there been any follow-up from USDA on GIPSA since last August?

Mr. PAURUS. I have not gotten any.

Mr. GORDON. The commodity groups have not gotten any either. We had the one letter basically stating that they would not send people in due to the employees' safety. That was the last and only thing we have heard from USDA.

Mr. CAMPBELL. No, we have not as exporters heard anything, and we continue to wait for the safety report.

Chairman ROBERTS. Well, that is not the way things ought to operate. That is probably the understatement of the hearing.

Well, Senator Hoeven is here, and I am going to recognize him.

Senator HOEVEN. Thank you, Mr. Chairman. Thanks to each of you for being here. I guess from your respective perspectives, just tell me how the problem developed and all the components you think it would take to solve it. So not just the inspection piece, but if you were overseeing the situation, both how we got into it and how you would try to address it. We can start on either end.

Mr. Gordon.

Mr. GORDON. We did talk about it a little earlier, but the Grain Inspection Act actually is a very good Act. It has a lot of great attributes, and there are teeth in place. It is just that there isn't a timeline, which allows for this ambiguous decision by the Secretary of when he decides if it is an emergency.

Well, a decision on an emergency differs from one person to another. For a farmer in southwest Minnesota, when my basis goes from a negative 30 cents to a negative dollar because I cannot ship anything, and for my bankers, that is an emergency. You know, we have seen that with different transportation issues. So the timeliness of response from the U.S. Government is probably the key factor.

Now, there are ideas on how to increase that timeliness with private sector—I truly believe and I think the associations really truly believe we have the people in place. We just need to act on that; when something goes wrong, get that timetable set up either in statute or in response from USDA, and act on it, get the inspectors there. If we have got to bring in U.S. marshals to get them through the picket lines, it is our job as the U.S. to provide this service to our foreign customers.

Senator HOEVEN. Were there workers in place to actually do the work then?

Mr. GORDON. I believe so. Again, the problem with being in the middle of the heartland in Minnesota is that I do not get to go to the PNW all that often to get my soybean to my foreign buyers in a timely fashion. I do believe there were ships available. There were workers available. I have no problem with the union issues. I understand they have contract issues. As a farmer, my job is to produce the crop, and the U.S. Government's job is to inspect it and to get it out to my foreign buyers.

Senator HOEVEN. Mr. Ayers, same question. In other words, kind of comprehensive here, not just the inspection but the other things that have to happen here.

Mr. AYERS. Senator, we are in a precarious situation that we not only provide service to the elevators and the customers that export grain, but we also answer to the guidelines of the USDA GIPSA's authority through the Grain Standards Act. It is our opinion that this scenario that came up was a very unique scenario, and I do not foresee and nobody did foresee a situation like this coming up. I think the key is to ensure in the future that no other happenings like this ever comes about again, and that GIPSA prepare a comprehensive procedure to handle the situation.

Senator HOEVEN. So you would agree it is more than just the inspectors. It is also other components that have to go into having a solution here.

Mr. AYERS. Yes.

Senator HOEVEN. That is what I am asking. What other pieces besides the inspection? Any other recommendations?

Mr. AYERS. No, sir.

Senator HOEVEN. Okay. Mr. Paurus.

Mr. PAURUS. First of all, I am going to go with David and say there needs to be a plan that FGIS has, like an emergency action plan that every industrial facility has to have, a manufacturing plant or something like that, that they would put together in case there is one of these disruptions or something similar not a lockout, it could be a strike, it could be any one of a number of things that could happen.

I think that FGIS under the act should be held accountable to do that and should be also held accountable to plan ahead and have a contingency plan set up. If we are looking for people, there is any number of licensed inspectors that work in the domestic and/or possibly in other delegated States or that they could draw on and hire those people to work for an intermittent period of time. I think the main thing is to get FGIS held accountable for coming up with that plan.

Senator HOEVEN. Thank you.

Mr. Campbell.

Mr. CAMPBELL. Senator, it has been said once before—I am not sure if you were in the room or not—that this was the perfect storm. I frankly do not think it was the perfect storm. It was a labor situation. We are probably going to have labor situations in a lot of ports at different places. We cannot afford to shut down the grain system to back up thousands of rail cars into South Dakota and other parts, to have major transportation issues because we are shutting down these railroads.

So I do not really know—I mean, I kind of do know, but what was the problem? I mean, the problem was they refused to go and inspect, as the Washington delegate said. Then the Federal Grain Inspection Service refused to send workers in. Where the workers are is a bit irrelevant to me per se. Should there have been workers? You bet. It is their job. It is their mandate. But could they have gotten workers? Sure, they could have flew workers out of many of the other ports.

Senator HOEVEN. Well, that is my question in that you need inspection, you need workers, you need ships, you need a number of things. That is why I am getting your recommendations as to what all—all the component parts that go into the solution. That is my question.

Mr. CAMPBELL. There were plenty of ships. The ships were there. The sales were on the books. The rail cars were—

Senator HOEVEN. Trucks, rail cars, all the—

Mr. CAMPBELL. Trucks—we do not take trucks in the PNW, but, yes, the rail cars were flowing, the barges were flowing. The rail cars backed up in the interior, caused massive problems. It was all there in place. What was not in place, pure and simple, was the inspection of our grain being loaded on our vessels because they chose for 36 days to not abide by—

Senator HOEVEN. But you feel the other components were there. So there are not other recommendations besides the inspection piece that you have.

Mr. CAMPBELL. Well, this is—yeah, I mean, this—there may be—no, I do not really believe so in this particular case. This one is about reauthorization of FGIS, so in that vein, we are talking about, A, when it comes to grain trade and all the numbers that have been thrown around, 70, 80 percent, this and that and that, reliability is all it is about. I have had many customers say, "When is this going to happen in the gulf? Is this better than Russia? Russia bans exports. Is this better? You tell me. You are the exporter. Is this going to happen to me?" These are the questions they ask me when we are shut down for 36 days.

Senator HOEVEN. All right. Well, we are working on reauthorization of the Federal Grain Inspection Act, and that is why I want to make sure that we are including any and all components that we need to in order to have the kind of solution that works. Yes, you are right. I mean, in this case it was the Pacific Northwest. It could be somewhere else. But, again, we want to make sure we are looking at all the things we need to in order to have a good solution. That is the question I am asking.

Mr. CAMPBELL. Yeah. Well, I think we are looking at all things, but I guess my point is that no other—in this particular supply chain, that was the only bottleneck.

Senator HOEVEN. Okay. I am asking, do you have any other recommendations besides the inspection piece?

Mr. CAMPBELL. Not from a reauthorization—

Senator HOEVEN. Okay, and that was what I was looking for from all of you.

Chairman ROBERTS. Time.

Senator HOEVEN. Thanks.

Chairman ROBERTS. I do not mean it is time.

Senator HOEVEN. Thank you, Mr. Chairman.

Chairman ROBERTS. I do not mean it is time. Time is the other equation. Inspection—

Senator HOEVEN. Oh, I thought you meant time as in my time is up.

Chairman ROBERTS. No.

[Laughter.]

Senator HOEVEN. Thank you, all of you. I appreciate it.

Chairman ROBERTS. My time is your time if you would like to have another 30 seconds.

Senator HOEVEN. No. Thank you, Mr. Chairman. I appreciate it.

Chairman ROBERTS. All right. Thank you.

I promise, the last question for the panel, user fees. You and others in industry are supporting a new mechanism to support the mandatory export inspection. I was going to ask you, can you elaborate on how the Department currently sets the user fee schedule? But the question I have, given our recent history of drought and other very limiting supply and demand factors, the only thing certain in farm country is uncertainty. How much confidence do you have in the USDA's ability to predict export tonnage several years from now with regard to user fees?

Mr. PAURUS. Their history of predicting, which they use the WASDE numbers that the USDA puts out, has not been over a period of time very good. So what we proposed is to do a 5-year average of export tonnage, for their tonnage fee, right? Those would be actual numbers, so take out the highs, take out the low over a period of 5 years, and then use that to develop their tonnage rate.

Chairman ROBERTS. Mr. Paurus, have you ever thought about working for the RMA in crop insurance?

[Laughter.]

Mr. PAURUS. I do not understand that, sir.

Chairman ROBERTS. Same deal. We just offered a different kind of program.

I want to thank the panel. I feel that as Chair of this Committee I owe you an apology from the Department of Agriculture and GIPSA and to a certain extent in terms of our oversight responsibility here. This should not have happened. It has dramatic effects. I think we all know that you have made good suggestions on timing, on inspection, and obviously a backup plan that can be put immediately into place. I would offer that authority is already there, but at least we could buttress that with regards to when we mark up the bill.

I thank you all for coming. I want to thank you for taking the time to come and thank you for what you do.

This hearing is adjourned.

[Whereupon, at 3:47 p.m., the Committee was adjourned.]

A P P E N D I X

MAY 5, 2015

Statement of the
American Association of Grain Inspection and Weighing Agencies (AAGIWA)
Before the
Committee on Agriculture, Nutrition and Forestry
United States Senate
On
U.S. Grain Standards Act Review
May 5, 2015

Mr. Chairman and Members of the Committee:

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 90 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

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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

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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.



**Testimony
on the U.S. Grain Standards Act
Before the
United States Senate Committee on Agriculture, Nutrition, and Forestry
By Steve Campbell, Executive Vice President
Head of Grains Platform, North America
Louis Dreyfus Commodities, Kansas City, MO
on Behalf of the
North American Export Grain Association
May 5, 2015**

Chairman Roberts, Ranking Member Stabenow, and members of the committee, thank you for the opportunity to testify today. I am Steve Campbell, Executive Vice President and Head of Grains Platform, North America for Louis Dreyfus Commodities. In this capacity, I am responsible for Louis Dreyfus Commodities' grain businesses in North America, and work with customers from around the world to meet their grain needs. My entire 28-year career has largely focused on meeting the needs and understanding the perspectives of the grain and oilseed customers around the world. Having worked with and been in leadership positions for more than a decade with the North American Export Grain Association (NAEGA), on whose behalf I testify today, I can assure you that NAEGA works with its members, stakeholders and the U.S. government to promote, sustain and grow the development of commercial exports of grains and oilseeds and their primary products, and its findings and actions are tied very closely to understanding global markets.

Both domestic and international markets for commodities covered under the U.S. Grain Standards Act are complex and ever-changing. The commercial environment is driven by multiple factors. But ultimately, the foreign buyer makes a decision based on value. Reliability, predictability, quality, safety and regulatory compliance are key ingredients of the buyer's determination of value. The ultimate determination of the buyer's value equation is strongly influenced by price, which results from the

interrelationship between global production and demand with transportation and quality. Volatility of production and reliability of supply, in particular, are inherently important factors in buyers' decision-making. The fungibility of grains and oilseeds is a key attribute to reliably source supplies and determine value of products to meet global food security needs. My company, as well as our many competitors, evaluate and take related risks. This inherent fungibility of grains and oilseeds also empowers buyers to source from multiple suppliers. Buyers rely primarily on the commercial grain trader to serve their needs. Competition drives us to utilize best practices and constantly evolve to embrace opportunity.

The functions and services provided for by the Act and implemented by the Federal Grain Inspection Service are of great value to U.S. agriculture – exporters and their customers, in particular. The vital process of providing the market with terms and methods for quality assessments under the U.S. Grain Standards Act is key to an efficient and transparent system of price discovery for those commodities that are covered by the Act. Likewise, FGIS's assistance in problem-solving in international markets has a sound record of success, and like many of the other functions the agency performs is very important to our continued success.

Customers from around the globe are looking for ways to maximize efficiencies, increase profitability, and secure reliable sources for grain. The international market, therefore, is largely served by small, medium and large firms taking some risks, and providing time and space utility, as well as market information. Those involved in the international grain market source and act globally. Often referred to as the "trade," the nexus between supplier, risk-taker, service provider and the international buyer, many of whom are NAEGA members, is constantly seeking trading opportunity founded in the economics of comparative advantage and competing to meet customer demand. Market information, much of which is provided by USDA under the leadership of the Foreign Agricultural Service and its cooperation with commercial enterprises and non-profit organizations like NAEGA, the U.S. Grains Council, the U.S. Soybean Export Council and U.S. Wheat Associates, is essential to the trading function. A revolution in the access to timeliness and transparency of market information made possible by new information technology is a major driver of change impacting buyer decision-making.

The United States has several very significant advantages in this market: our natural resources, climate and world-leading farmer productivity are chief among them. The U.S.'s ability to reliably provide a safe supply to meet demands for various types and qualities of grains and oilseeds demanded by an ever-changing international customer is further supported by a transportation and handling infrastructure that is second to none. The U.S. sets the pace in providing for fungibility of those grains and oilseeds addressed by the Grain Standards Act. Our ability to inform all stakeholders in the supply of grains and oilseeds of quality and functionality of the U.S. supply is another important U.S. advantage. Information on

individual commercial consignments of commingled grain provided by the highly efficient and sustainable U.S. grain logistics system is central to our competitiveness, and must be reliably grounded in integrity. However, these advantages are not static or permanent, and the policies and practices that undergird them require reassessment for improvement and enhancement.

Indeed, our customers and foreign competitors are focused on improving their systems. Let me cite a few examples.

Canada, a major competitor that recently eliminated the federal monopoly grain origination state enterprise, has revised its very unique and successful approach to providing for customer value to include changes to its very expensive system of grain inspection that is largely provided by third-party independent firms working at the direction of the government. Australia has also changed its approach to marketing grain by opening up to private competition and deploying a competitive independent third-party inspection system. Brazil, along with others in South America, takes advantage of new and high integrity third parties to perform its inspections to support a rapid expansion of grain and oilseed exports.

Meanwhile, major customers like Japan have made decisions to waive U.S. official certification requirements and are expanding their requirements for additional inspections of U.S. exports from independent third parties working in U.S. export elevators. China is in the process of defining its approach to grain standards and extensively utilizes private inspection for its timely and reliable provision of services. Mexico receives a significant amount of U.S. grain by truck and rail that is not officially inspected. Korea is among several countries requiring quality examinations prior to export from the U.S. by independent third parties. Container shipments destined for many of the more than 100 countries that benefit from the U.S. supply of Grain Standards Act commodities are often successfully completed without official certification from FGIS.

Like all other aspects of our world-class U.S. grain supply system, we see the reauthorization of the Act as an opportunity to work to improve and enhance U.S. competitiveness in an effort to further burnish the existing official grain inspection and weighing system that government and industry have worked hard to establish as the “gold standard.”

As Congress assesses the sufficiency of the existing FGIS system, we urge consideration of changes that are available and needed to help maintain or improve U.S. competitiveness. We urge a focus on weighing and inspection services. The official inspection and weighing services provided for by the Act play a significant role in meeting value chain needs, and should enable the U.S. to take further strides in building its competitive advantage in the international marketplace. We need to be constantly diligent to provide for inspection and services that fit the unique advantages of the U.S. production and logistics system,

respond to current market reality, are as competitive and cost-effective as possible and are delivered with unquestioned reliability and integrity.

Our current approach to official inspection and weighing is the subject of much concern in international markets. Simply put, while we have a respected system, it is not perfect and we should not shy away from innovation. And we must not forget that when not mandatory, the official system is relatively seldom used in U.S. commerce, although it does provide for appeals of inspection results and a viable alternative for needed information. Certainly there is room for improvement, and we have recently experienced calls to make such improvements. Adapting and learning from our customers as well as competitors, is part of an ongoing process to make and keep the U.S. system state-of-the-art.

As previously mentioned, NAEGA is among many organizations seeking to constantly improve U.S. competitiveness. Recent work conducted for NAEGA that examined inspection services is enlightening. In the Annex to this testimony you will find two recent U.S. Grain and Oilseed Inspection Services Competitiveness studies. One examines customer specifications and preferences, while the other contains a collection and analysis of information about competitor systems.

As FGIS and the official weighing and grading services it provides are evaluated, it is essential that Congress keep in mind that these services ultimately represent a value equation. The question of how our system for determining grades and communicating quality creates the most value for the U.S. agricultural supply chain must remain front and center. Ultimately, while improvements should be made to the system, we should continue to provide for Federal Official Weights and Grades, as they are integral to the unique U.S. brand value. In the absence of the provision of a U.S. grade and weight certificate, our reputation and competitive advantage could sustain serious damage. Therefore, it is imperative to ensure that the federal inspection system comes with the proper controls, best practices, and best science. The paramount issue is reliability. The best inspection system in the world cannot generate sufficient value if it is not predictable and reliable. This can be achieved with any type of labor force, public or private, but it must be achieved if the United States is going to meet the demands of global customers.

The value determination that is central to international buyer decision-making includes the information that is mandatory to be provided by FGIS for most exports of U.S. grains covered by the Act. We should also note that a major attribute of competitor and customer systems is independent third-party firms that perform inspection as well as other services for the grain trade. In this regard, the global trend is toward increased utilization of these highly qualified companies to provide for inspections and related services meeting the risk management and intrinsic product value information needs of international buyers. Many of these small, medium and large third-party firms use individuals to perform inspections that could

qualify for FGIS licensing and are already working in U.S. export elevators to perform non-U.S. official grade-determining testing services. Often requested by foreign customers and needed to meet the needs of U.S. farmers, the value chain and global markets, these additional inspections are sometimes redundant to those provided under the Grain Standards Act and are estimated to occur already on over 70% of U.S. exports. One of the annexed studies found that between 20 and 25 percent of U.S. exports of bulk grains, oilseeds and major coproducts currently are being re-inspected by these independent third-party entities in response to requests from foreign buyers. In fact, some governments have found that allowing for independent third-party firms to work under international standards, such as ISO, provides for rigorous equipment calibration inspection process controls, accuracy and inspector education and competency at a lower cost than establishing government standards. Utilizing these important human resources would further strengthen the U.S. official grain inspection system. Certainly adding the capabilities of independent third-party inspection firms to our U.S. official grain inspection system is warranted as an effective tool to improve reliability and responsiveness. We certainly would not be making this recommendation unless these entities already had earned a solid reputation and respect for professionalism and integrity from foreign customers of U.S. grains and oilseeds.

NAEGA joins many other stakeholders in the Grain Standards Act, including the National Grain and Feed Association, in seeking to create a more reliable, competitive and cost-effective official grain inspection and weighing system to facilitate the marketing of U.S. grains and oilseeds in export and domestic markets. We support a reauthorization of the Act for 5 years to provide ongoing and timely updating of the Act. We also support changes to the Act with reauthorization in 2015 that include measures to: 1) Tighten legislative language to ensure FGIS will immediately provide for mandatory official inspections if and when disruptions in service at export port locations occur; 2) Increase confidence in FGIS inspection and weighing at export by mandating that FGIS utilize its existing authority to engage in a transparent, more accountable public process to provide for official inspection and weighing services at export elevators, subject to FGIS oversight and fee setting, by States and independent qualified third-party entities; and 3) Change the methodology used by FGIS to determine export inspection user fees to be more responsive to market conditions than the current system that relies on estimates produced by FGIS.

NAEGA views the reauthorization of the U.S. Grain Standards Act as a means to improve upon our already respected system and add further value to U.S. exports. NAEGA strongly supports the testimony and recommendations provided by the National Grain and Feed Association. We look forward to working together to make trade work and we are honored you have asked us to share our views and experience.

Thank you for this opportunity, and I would be pleased to respond to any questions.

Statement on Reauthorization of the U.S. Grain Standards Act

Bill Gordon, Board of Directors, American Soybean Association

before the

Senate Committee on Agriculture, Nutrition and Forestry

May 5, 2015

Thank you, Mr. Chairman and Members of the Committee. I am Bill Gordon, a soybean farmer from Worthington, Minnesota, and a member of the Board of Directors of the American Soybean Association. ASA represents and advocates for U.S. soybean producers on domestic and international issues, and is supported through voluntary dues by its 23,500 producer members.

Our statement today is supported by the American Farm Bureau Federation, the National Corn Growers Association, the National Association of Wheat Growers, and the National Barley Growers Association. We commend you for holding this timely hearing on reauthorization of the U.S. Grain Standards Act, and thank you for the opportunity to testify today.

Soybeans and soy products are the most valuable U.S. agricultural export. In 2014, the U.S. exported roughly \$28 billion in soybeans, soybean meal and soybean oil, representing 56 percent of U.S. production.

Moreover, the export share of annual U.S. soy production has grown steadily over the last 15 years. In the early 2000s, the value of U.S. oilseed and product exports averaged over \$9 billion, nearly half the farm-level value of production. By the late 2000s, the value of oilseed and product exports doubled to over \$20 billion. So our industry and our foreign customers are highly dependent on having a reliable and transparent export inspection and marketing system.

Key to the growth in exports of soy, other oilseeds, and grains over the last 40 years has been the reliability of the official U.S. inspection and weighing system. The role and oversight responsibilities vested in the Federal Grain Inspection Service (FGIS) under the Grain Standards Act of 1976 has been the gold standard for assuring foreign buyers that they are receiving the quality and volume of products for which they have contracted. According to the Congressional

Research Service, an average of 56 percent of the grain produced in the U.S. in 2011-2013 received official inspection, either for export or for domestic shipment.

It is critical that the requirement for mandatory official inspection of exported grains and oilseeds under the Grain Standards Act be maintained. In addition, there must be no question that, in the event of a disruption of services, FGIS will continue to be required to step in to ensure the reliability and reputation of the U.S. inspection and weighing system. It is also important for Congress to act on several authorities under the Act that will otherwise expire at the end of the current fiscal year in September.

Most of the authorities in the Grain Standards Act due to expire should not be controversial. There is broad support for reauthorizing Congressional appropriations to fund FGIS operations and for FGIS to charge fees for supervising delegated state agencies. In addition, the grain trade has recommended the cap to cover FGIS administrative and supervisory costs in user fees, currently set at 30 percent, be replaced by a rolling average based on export volumes and inspections. Provided this approach will generate fees sufficient to cover costs, we see no reason not to include it in reauthorization. Finally, we ask the Committee to renew the charter for the Federal Grain Advisory Committee.

One issue has raised serious concerns among producers, the grain trade, and foreign buyers was the interruption in inspection services that occurred last July and August when the Washington State Department of Agriculture, one of five officially-delegated state agencies, refused to have its employees cross the picket lines of longshoremen at the Port of Vancouver. This refusal was followed by a 36-day delay before FGIS was willing to have its own employees take over inspections at affected grain export terminals, an action which was not taken after the dispute was settled in August and state inspections resumed.

Under the Grain Standards Act, official inspections are required for all export shipments, either directly by FGIS or by delegated state agencies. In the event services provided by a state agency are disrupted, the Act requires FGIS to step in. However, there is no fixed timeline established for FGIS action, and the Secretary is given undefined discretion to decide whether an interruption represents an emergency requiring FGIS to intervene.

In the situation at the Port of Vancouver, USDA had ample warning it could be required to act. In October 2013, after several work slowdowns and stoppages at the Port, ASA and other farm and industry organizations sent a letter to the Department of Agriculture urging FGIS to be prepared to step in to ensure the continuation of services. The groups met later in the month with the GIPSA Administrator to underscore the importance of developing a contingency plan to respond to any disruption. We did not receive a response to our letter from the Department or any assurance that a contingency plan would be prepared.

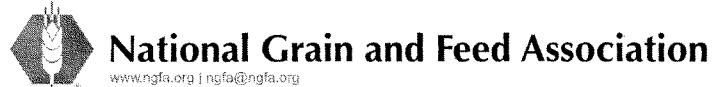
After the Washington State Department of Agriculture advised it was withdrawing services last July, 22 farm and industry organizations sent a second letter to USDA asking the Department to take immediate action to meet its statutory obligations. USDA replied that it was withholding

services due to concerns about whether its employees would have safe access to the port facility. Subsequent to resolution of the dispute in August, we are not aware that the Department has taken any action to ensure such a situation will not reoccur.

Under the circumstances, we encourage the Committee to engage the Department on whether it has discretion under the Grain Standards Act or other statutory authorities to clarify when and how it will act to resolve a disruption of export inspection services by delegated state agencies. If this discussion is in any way inconclusive, we recommend the Committee strengthen the language in the Act requiring FGIS to take action according to a fixed timetable based on a number of hours rather than days or weeks. We further recommend that any state agency that withdraws services be suspended until the Department completes a review that confirms the agency is capable of resuming services without further interruption.

As I stated earlier, our grain inspection and weighing system is a fundamental guarantee to our foreign customers that supplies of U.S. grains and oilseeds will be officially inspected and not be disrupted. Reauthorization of the Grain Standards Act presents an opportunity to correct the uncertainties in the system that have come to light in the last two years, if they cannot be clearly resolved through regulatory changes by the Department. In either event, the changes needed to address these concerns must be agreed to well in advance of expiration of authorities under the Act.

Thank you again for the opportunity to testify today.



Testimony

on Reauthorization of the U.S. Grain Standards Act

Before the

**United States Senate Committee on Agriculture,
Nutrition, and Forestry**

**By Tim Paurus, Assistant Vice President, Terminal
Operations**

CHS Inc., Inver Grove Heights, MN

on Behalf of the

National Grain and Feed Association

May 5, 2015

Chairman Roberts, Ranking Member Stabenow, and members of the committee, thank you for the opportunity to testify today. I am Tim Paurus, Assistant Vice President of Terminal Operations for CHS Inc., headquartered in Inver Grove Heights, Minnesota. In this capacity, I am responsible for the operations of our company's grain-handling facilities.

I am testifying today on behalf of the National Grain and Feed Association (NGFA). I am a member of NGFA's Grain Grades and Weights Committee and previously served as chairman of the committee for eight years.

CHS Inc. is a leading global agribusiness owned by farmers, ranchers and cooperatives across the United States. Diversified in energy, grains and foods, CHS is committed to helping its customers, farmer-owners and other stakeholders grow their businesses through its domestic and global operations. CHS, a Fortune 100 company, supplies energy, crop nutrients, grain marketing services, animal feed, food and food ingredients, along with business solutions including insurance, financial and risk management services. The company operates petroleum refineries/pipelines and manufactures, markets and distributes Cenex® brand refined fuels, lubricants, propane and renewable energy products.

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.

NGFA strongly supports reauthorization of the U.S. Grain Standards Act to improve and maintain the U.S. official grain inspection system. The association has 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 – and have several substantive recommendations to offer here today to further enhance this system. We also work to improve the broader regulatory and commercial environment to enhance 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 respected 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 is urging Congress to address each of the following concerns in the legislation reauthorizing the Grain Standards Act:

- 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 to further 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 immediately to provide official inspection and weighing services 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, undermined confidence of international buyers in the reliability of the U.S. official grain inspection system at export locations, and raised alarm over whether this could be repeated at other U.S. export ports. One significant buyer – the Korea Flour Mills Industrial Association (KFMIA), 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, 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.

NGFA believes 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. To maintain respect and relevance, 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. The economic importance tied to reliable, unfettered official inspections of U.S. grains and oilseeds is undeniable, as exports account for as much as 50 percent of total utilization of U.S. wheat and soybeans, as well as up to one-third of U.S. feed grains.

For these reasons, Congress needs to take this opportunity to reinforce the existing obligation of the Secretary of Agriculture to provide for the uninterrupted provision of official inspection service. We urge language be inserted into Section 79(e) of the USGSA to remove any lingering uncertainty 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, and lacks accountability. 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 no more than five years – consistent with our recommendation for designated State and private agencies providing official inspection service to the domestic market.

Further, consideration should be given to directing FGIS to license and utilize, subject to FGIS oversight, 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 is 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 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.

One final note on the issue of allowing qualified individuals employed by private third parties. As NGFA has been discussing reauthorization with members of Congress, some members have raised the issue of a pilot study GIPSA conducted after the 2005 reauthorization. The pilot study focused on whether GIPSA could use its existing contract authority to use contractors to provide official inspection and weighing services in the export grain market. In its report on the pilot study, GIPSA said its findings did not support the use of contractors for providing official inspection and weighing services at export facilities. However, the study had several significant flaws, the most glaring of which is that GIPSA chose to conduct the study at sites that historically have accounted for a very low volume – in fact, less than 5 percent – of total U.S. export shipments when compared to other U.S. port regions. To properly assess the viability of using qualified independent third-party inspectors, GIPSA would need to base its assessment upon a port region or regions that handle a more significant export volume.

- Third, NGFA supports the current USGSA provisions that authorize FGIS 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 five years from the current three 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 five-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, time- and resource-consuming rulemaking process to modify fees, NGFA proposes that FGIS be required to establish fees through an ongoing and market-responsive process. Specifically, we recommend that FGIS use a rolling five-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 five-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 recognizes that fee increases may be necessary from time to time, we encourage FGIS to continue ongoing efforts to provide efficient 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 five 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.

The recommendations we have proposed 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.

DOCUMENTS SUBMITTED FOR THE RECORD

MAY 5, 2015

3/15/2015

U.S. Grain and Oilseed Inspection Services Competitiveness Study

Customer Specifications and
Preferences

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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 US 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 socio-economic 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 socio-economic 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 US grade standards are the exclusive purview of the official US 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 socio economic 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, USARice and NAECA, 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 US 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 US 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-US 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 US 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 US 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 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	

Importing Country	Company	Additional Attributes	Rationale for Request
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 non-stipulated 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.)

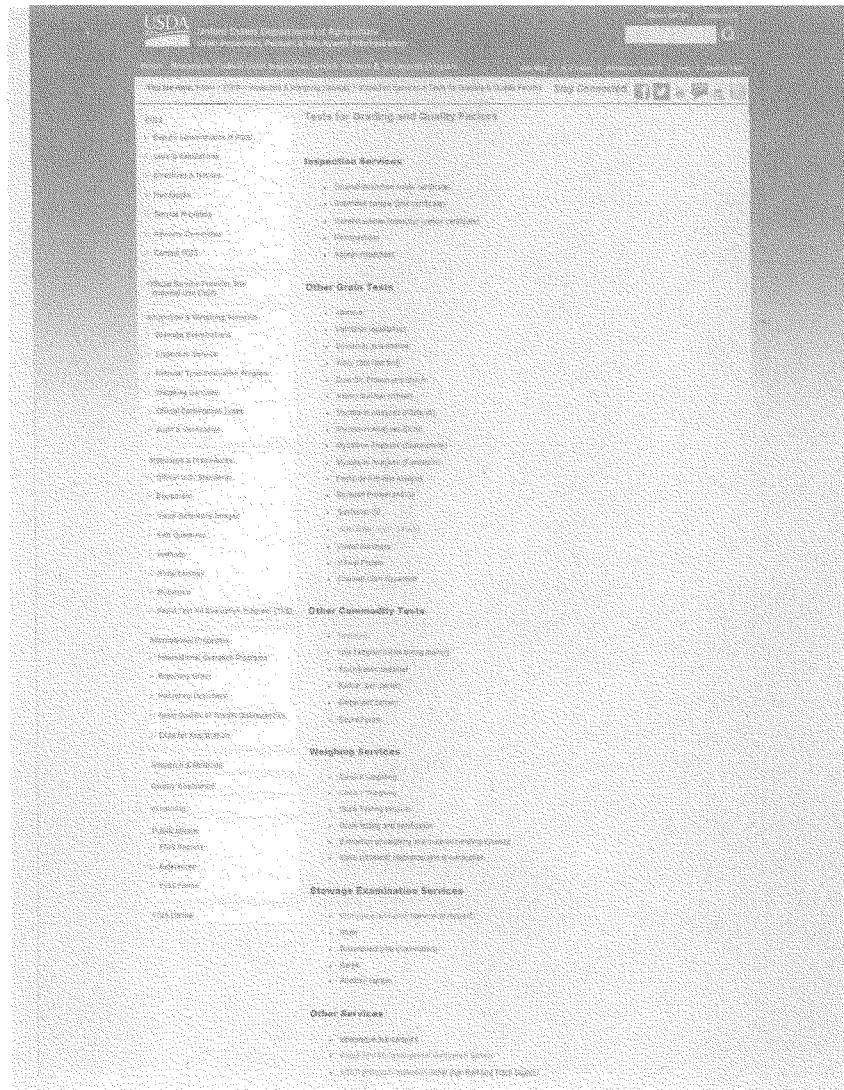
Conclusions and Recommendations

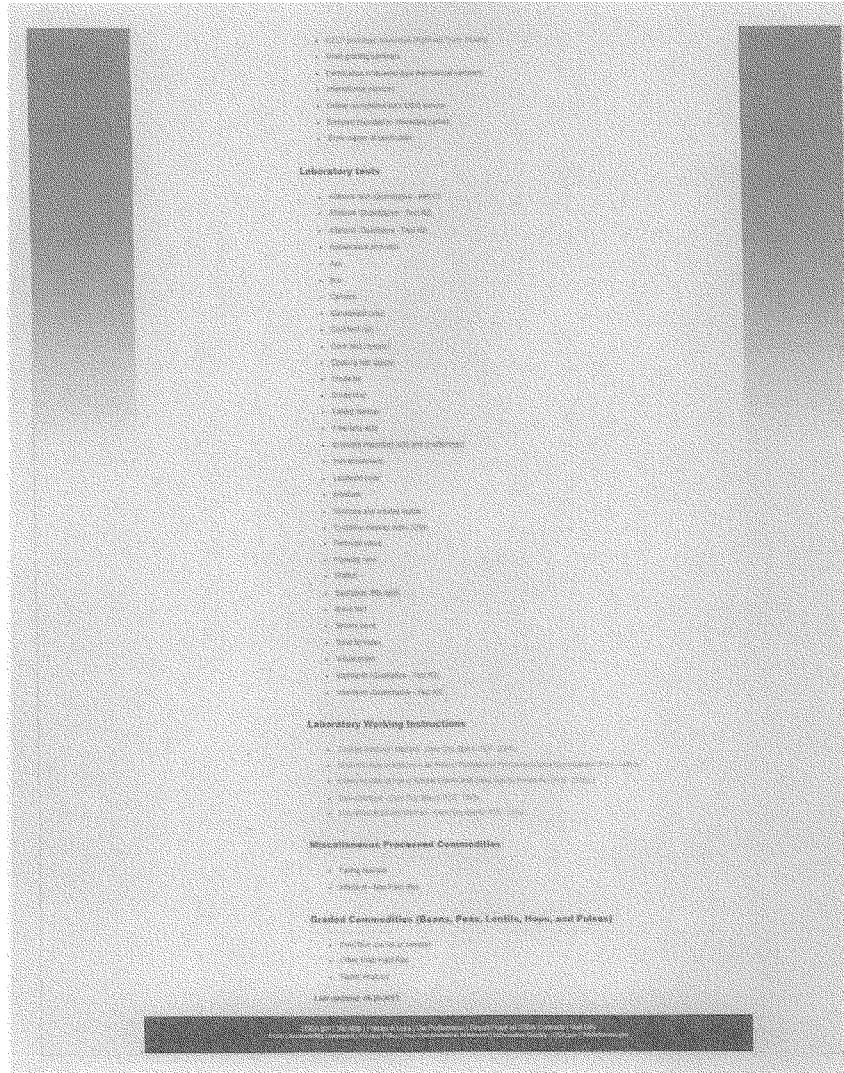
According to information gathered from a wide array of sources including a review of foreign customer contracts and interviews with foreign contacts as well as U.S. experts, the U.S. grain supply chain and export trade is well- served by the existence of the USDA FGIS regulatory and standard setting 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 measureable 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.

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"TRADING RULES for the Purchase and Sale of SOYBEAN MEAL"	
<i>Adopted October 18, 1933</i>	





**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, nontoxic 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
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+1-515-265-1461

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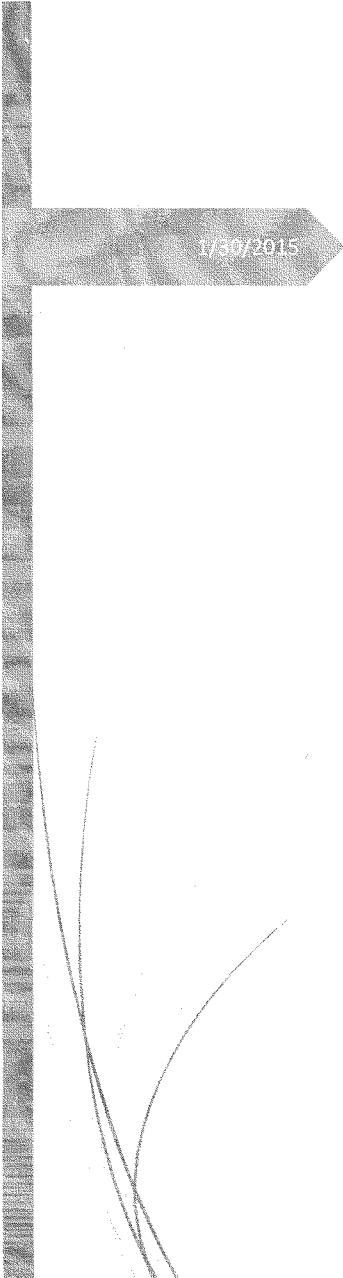
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U. S. Grain and Oilseed Inspection Services Competitiveness Study Report

Export Competitor and Importer
Information

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**U.S. Grain and Oilseed Inspection Services Competitiveness Study
Report – Export Competitor and Importer Information**

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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 trans-shipment 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 for contracts (\$37.80 per hour) versus the standard non-contract rates (\$67.20 per hour). 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	<ul style="list-style-type: none"> 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 El Service 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 peer mt government service fee for corn, wheat and soybeans and \$0.16 USD for soymeal.
Australia	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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

Canada (cont.)	<p>sample and issues a Final Certificate attesting to the quality of the shipment.</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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 pre-requisites 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 socio-economic 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.

Russia	<ul style="list-style-type: none"> 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 private surveying companies and if the sales are made under GAFTA contracts the inspections must conform to The GAFTA Superintendents Scheme.
Thailand	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> No Government pre-export inspection is required for bulk or containerized rice although the government defines the specification/quality for rice. Superintendent companies are appointed by the buyer. Superintendent companies pay a fee to the Government to open a for-profit company or agency in addition to taxes. Surveying fees are based on competition and range from \$.26 to \$1.0 per mt. Discrepancies on weight are settled on commercial terms.

Bulk Commodity Importer Quality Inspection Requirements

Country	Requirement
China	<p>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)</p> <p>Exported food and feed products need to be compliant with the following Chinese restrictions to avoid introduction of unapproved biotechnology events:</p> <p>National Standards</p> <p>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)</p> <p>AQSIQ Developed Standards</p> <p>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)</p> <p>MOA Standards for GMO Testing of Specific Events</p> <p>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).</p> <p>MEP Developed Standards</p> <p>Guideline for Eco-Environmental Biosafety Assessment of Insect-resistant Transgenic Plants (HJ 625-2011)</p>

China (cont.)	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.
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 socio economic 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	The Government of Turkey requires pre-export inspection for basic agricultural commodities.
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	FY 07 \$0.399287 FY 08 \$0.442203 FY 09 \$0.436873 FY 10 \$0.474746 FY 11 \$0.463697 FY 12 \$0.440692 FY 13 \$0.516284
United States AMA (Rice) (Source: Calculated from Information Contained in USDA FGIS Annual Reports)	G	FY 09 \$1.265647 FY 10 \$1.621067 FY 11 \$1.547178 FY 12 \$1.768691 FY 13 \$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
Vietnam	P	\$0.26- \$1.00 USD/mt (rice)

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 US 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 one third 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**

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Representative Importing Country Survey Results Regarding Inspection Requirements

European Union

Within the European Union, voluntary certification schemes for agricultural products and foodstuffs provide assurance that certain aspects of the product or its production method, as laid down in a specification, have been observed. They cover a wide range of different initiatives that function at different stages of the food supply chain. They can operate at the business-to-business (B2B) level or at the business-to-consumer (B2C) level.

Certification schemes for agricultural products and foodstuffs in the EU range from compliance with compulsory production standards to additional requirements relating to environmental protection, animal welfare, organoleptic qualities, "Fair Trade" and other socio-economic considerations. Scheme owners are equally varied, covering the whole range from farmers and producers, through NGOs, interest groups and retailers, to public authorities.

EU schemes operate in the market alongside an increasing number of voluntary certification schemes. In consultation with stakeholders, the Commission developed guidelines showing best practice for the operation of certification schemes. There is great diversity among schemes in terms of their scope, their objectives, their structure and their operational methods. One important distinction between schemes is whether or not they rely on a third-party attestation procedure, thereby grouping them into self-declaration schemes on the one hand and certification schemes on the other. Certification schemes can be further distinguished based on whether they operate at business-to-business (B2B) level or whether they aim to provide information from the business chain to the consumer (B2C).

Another important classification criterion pertains to whether the scheme assesses products and processes (mostly B2C) or management systems (mostly B2B). In terms of specified requirements, schemes may attest compliance with provisions laid down by governmental authorities (baseline) or they can add criteria which go beyond the legal requirements (above baseline). Distinction between the two is not always easy to make: on the one hand, schemes often combine baseline criteria in some areas with higher requirements in others; on the other hand, certain baseline requirements particularly in the environmental and farming area require operators to use good and best practice, and make value-judgment about due care, so that the concrete actions to be taken can differ between actors and between Member States. Indeed, the technical requirements of some certification schemes are used by operators to interpret and make concrete these general obligations.

Rules on the organization and operation of accreditation of bodies performing conformity assessment activities in the regulated area have been laid down in Regulation (EC) No 765/2008. Certification bodies have to be accredited against EN 45011/ISO 65 or ISO 17021.

Certification schemes are voluntary initiatives, to deliver product/process or system certificates under accreditation.

The above is without prejudice to all applicable EU food law requirements, including the general objectives laid down in Article 5(1) of Regulation (EC) No 178/2002:

"Food law shall pursue one or more of the general objectives of a high level of protection of human life and health and the protection of consumers' interests, including fair practices in food trade, taking account of, where appropriate, the protection of animal health and welfare, plant health and the environment."

Within this framework, Regulation (EC) No 882/2004 (¹⁹) of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules includes certain rules for delegation by competent authorities of official control tasks to independent third parties (including accreditation and reporting obligations).

The guarantees given by the official control activities are the baseline, on top of which specific certification schemes may operate on a voluntary basis, bearing in mind that any breach is liable to food law. Assessment of conformity with baseline requirements through certification schemes does not exempt the official control authorities from their responsibility.

Certification of compliance with the scheme requirements should be carried out by an independent body accredited by the national accreditation body appointed by Member States according to Regulation (EC) No 765/2008, in accordance with relevant European or international standards and guides setting out general requirements for bodies operating product certification systems, or by an accreditation body signatory to the multilateral recognition arrangement (MLA) for product certification of the International Accreditation Forum (IAF). Schemes should be open to certification by any qualified and accredited certification body, without the imposition of geographical restrictions.

A study conducted by the consultant Arete for the European Commission in 2010 showed that there were 441 agricultural product certification schemes in place in conjunction with the EU requirements and 177 of those included schemes for cereals. Today most of the large private surveying companies are accredited under ISO 17020 and 17025 to certify cereals and oilseeds per EU requirements. Some of the more commonly used schemes used by the grain trade in Europe include the "COCERAL GTP – Community Guide to Good Trading Practice"; "FEMAS – Feed Materials Assurance Scheme"; "GAFTA Trade Assurance Scheme" and "The GAFTA Approved Superintendents Scheme" effective April 1, 2012; "Global GAP"; "Irish Grain Assurance Scheme", ISO 14001, 22000, 22005, and 9001.

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 States – 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 one 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

1.

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

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.

Egyptian Inspection Requirements (cont.)						
Factors	Corn	Wheat	Soybeans	Rice	Soymeal	DDGs
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	NA	Minimum 250 per sec for 12.5%	NA	NA	NA	NA
Mycotoxins	Total Aflatoxins maximum 20PPB Aflatoxin B1 Maximum 10 PPB	Total Aflatoxins maximum 2PPB	Total Aflatoxins maximum 20PPB Aflatoxin B1 Maximum 10 PPB	Not required	Total Aflatoxins maximum 20PPB Aflatoxin B1 Maximum 10 PPB	Total Aflatoxins maximum 20PPB 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 the Philippine Pre-Export Inspection Requirements

Factors	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	

Philippine Pre-Export Inspection Requirements (cont.d)						
Factors	Corn	Wheat	Soybeans	Rice	Soymeal	DDGs
Falling Numbers	x	x	x		x	
Mycotoxins	x	x	x		x	
Quantity	x	x	x		x	
Price Comparison	x	x	x		x	

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 compliant 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.

Turkey

The Government of Turkey (GOT) Ministry of Food, Agriculture and Livestock – General Directorate of Food and Control requires pre-inspection for imports of bulk and containerized corn, soybeans, wheat, rice, soybean meal, and DDG's prior to shipment for the issuance of a phytosanitary certificates and food and feed safety. Quality certification is per the terms of the contract. According to import control regulations for food and feed of plant origin, there is a pre-notification system in place in Turkey. The importer should register the required information for each product in the electronic system which is called Food Safety Information System ("FSIS") of the General Directorate of Food and Control (GDFC), which is accessible online. Required information includes product name, product category, country of origin, and the name of the importer. This information is evaluated and approved by the Provincial

Directorate (PAD) to verify if it complies with applicable legislation. There are 40 provincial food control laboratories that conduct this work. Later, the importer notifies the PAD about shipment details by completing the shipment notification form through the "FSIS" and uploads the certificate related to the product to be imported within a minimum of 3 days and a maximum of 20 days before the commodity arrives. When the product arrives at customs, the importer makes an application with the original documents to PAD. Inspectors of PAD check the documents and the product. If the result of these checks is positive then inspectors take a sample.

The PAD determines the frequency of testing based on compliance with food safety and biotechnology requirements. Turkey takes food safety samples from products from the European Union at a frequency of 20 percent, and from all other countries at 50 percent. The PAD samples 100 percent of products that contain biotech ingredients (Turkey maintains a list of 9 biotech commodities that includes soy, corn and wheat). However, the PAD will test only 20 percent of shipments if import documentation declares that the products are biotech. Neither MinFAL nor the PAD will disclose beforehand for which biotech traits they will test.

If the results of the analysis comply with the legislation, the PAD sends a conformity letter to customs to release the product in question. The process normally takes up to one week, depending on the type of analysis. Official control laboratories and private laboratories which are authorized by GDFC carry out the analysis. The cost of analysis for both official control laboratories and private laboratories is determined annually by GDFC and it is published in the GDFC's website. Imports may circumvent mandatory inspection at the discretion of PAD if sufficient prior shipments from the same origin have complied with import requirements.

Samples are taken according to product such as feed use or food use. Food product samples are taken for pesticide analysis (208 different active matters), biotechnology, nematode, aflatoxin, mycotoxin and heavy metals.

Feed product samples are taken for pesticide analysis (17 different active matters), nematode, biotechnology, aflatoxin, dioxin, mycotoxin and heavy metals.

Factors	Corn	Wheat	Soybeans	Rice	Soymeal	DDGs
Moisture		x				
Density		x				
Damaged Kernels		x				
Impurities		x				
Oil and Protein Content		x				
Biotechnology Testing	x	x	x	x	x	x

Turkey (cont.d)						
Factors	Corn	Wheat	Soybeans	Rice	Soymeal	DDGs
Falling Numbers		X				
Mycotoxins	X	X	X	X	X	X
MRLs	X	X	X	X	X	X
Heavy Metals		X	X	X	X	X
Radiation		X	X	X	X	X
Other toxins	X	X		X		

Turkey does not recognize private surveyors for the purposes of conducting inspections and controls at import. Private inspection laboratories can be used for the testing and analysis of samples collected by PAD inspectors and the private labs are required to pay a minimum of \$7,500 depending on their annual capacity. The private laboratories are audited annually to check for equipment compliance and whether facility and personnel requirements are met. Testing costs vary greatly, but are reported to average \$8,000 per 10,000 mt.

	Corn	Wheat	Soybeans	Rice	Soymeal	DDGs
Ave. \$Cost/MT for Government Inspections	\$0.80	\$0.60	\$0.60	\$0.70	\$0.60	\$0.60
Ave. \$Cost/MT for Private Inspections	\$0.80	\$0.60	\$0.60	\$0.70	\$0.60	\$0.60

The General Directorate of Food and Control's electronic system known as the Food Safety Information System ("FSIS") allows importers to register the required information for each product where they can monitor the import process online.

Turkey's Biosafety Law on the control of products that are derived from biotechnology is extremely problematic. The GOT has approved a limited number of biotech traits, and only for feed use. The GOT prosecutes the detection of unapproved traits on the domestic market as "biological terrorism" that may carry a minimum of four years in prison and substantial fines. Turkey tests all wheat shipments from only the U.S. for biotech traits. Turkish capacity to test products for biotechnology accurately is limited, frequently resulting in multiple conflicting lab results. The GOT has a zero-tolerance policy for the detection of unapproved traits. The detection of any trait at any level in a commodity that may be intended for food use is a violation of the Biosafety Law.

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 <ul style="list-style-type: none"> 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. <ul style="list-style-type: none"> o 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. o The producer is paid according to the Canadian Grain Commission’s determination. o Currently, this right is limited to deliveries at licensed primary elevators. o 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. <ul style="list-style-type: none"> o The amendment would give the Canadian Grain Commission additional flexibility to implement an alternative producer payment protection model. o 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. o The fund would pool the risk of payment failure. It is anticipated that it would reduce industry costs and administrative requirements. o 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:
 - o Effectively respond to quality complaints on the increasing volume of grain shipped in containers
 - o Improve statistical reporting
 - o 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.
 - o The Canadian Grain Commission would have the ability to request samples of grain from Eastern elevators.
 - o The change would improve the Canadian Grain Commission's capacity to identify and mitigate safety issues and help resolve market access disputes.
 - o It would also provide a consistent, national approach to grain safety issues.
 - o 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.
 - o 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.
 - o 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.
 - o 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.
 - o The review process would consist of a panel of 3 members:
 - 1 chosen by the party requesting the review
 - 1 chosen by the Canadian Grain Commission
 - 1 chosen by both parties
 - o Currently, a stakeholder's only recourse is to seek review by a court.
 - o 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 re-appoint members to the grain standards committees, upon recommendation of the Commission.
 - o 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.
 - o The Canadian grain industry implemented an industry-wide declaration system for western Canadian wheat in 2008.
 - o Currently, grain companies use declarations for most type of grain deliveries.
 - o Declarations are part of a larger quality management system for western Canadian grain, which includes testing and monitoring protocols for industry.
 - o 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*.
 - o 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.
 - o The amendment would not exclude producers from declaring and delivering unregistered varieties.
 - o 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 phyto-sanitary 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 performant 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 controls 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 products. 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.

Information received subsequent to publication date and appended to this report on February 25, 2015, by WKM.

Representative Importing Country Survey Results Regarding Inspection Requirements

Vietnam

The Government of Vietnam does not require bulk or containerized imports of corn, soybeans, wheat, rice, soybean meal, and DDGs to be pre-inspected before import into Vietnam. However, based on Vietnam's still-developing biotech food and feed use and labeling regulations, future testing, possibly as early as March 2015, may be required by the government for genetically modified organisms across the major commodities. Vietnam does have ISO accredited labs that provide inspection/testing services when requested by commercial parties. Various fees and taxes are paid by private labs in order to obtain business licenses and to operate in Vietnam. The Government does not audit for compliance and does not generally address weight discrepancy issues or quality claims. Those concerns are typically addressed by the commercial parties to the contract. The cost for private sector inspections range from \$0.70 to \$1.0 per mt.

FGIS Export Inspection Fees

In 2013, the Federal Grain Inspection Service (FGIS) changed its export grain inspection fees to base a portion on tonnage of exports. When doing so, FGIS projected a flat 65 million metric tons (m.m.t.) per year of export grain for the period FY 2014-19. In response, NGFA/NAEGA recommended that FGIS base its export grain inspection fees on a rolling average of official export grain inspection volume to make the fees more reflective of actual export market volumes, as well as to improve flexibility and reduce the time and costs needed to make changes and reduce the impact of subjective forecasting of export volumes. However, FGIS retained its original proposal when finalizing the tonnage fees.

However, using the 65 m.m.t. per year estimate resulted in FGIS overcharging by \$6 million in FY 2014. Further, based upon official export inspection volumes thus far in FY 2015, NGFA/NAEGA project that FGIS will overcharge by an additional \$6.1 million. If the NGFA/NAEGA recommendation for determining export grain inspection tonnage fees had been adopted, it is estimated that FGIS would have overcharged by lesser amounts in FY 2014 and 2015, \$2.7 million and \$1.5 million, respectively – see Table 1.

FGIS conducts about two-thirds of export inspections, while the remainder is done by states and agencies that are delegated and/or designated by FGIS. Data is unavailable to determine if the states and agencies delegated and/or designated to inspect overcharged for export inspections.

Table 1: Tonnage Proposal for Funding FGIS Export Trust Fund (In Million Metric Tons and Million \$)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015*
FGIS (fees based on flat 65 m.m.t.)											65.0	65.0
Inspection & Weighing Costs											\$37.5	\$37.9
Revenue											\$43.5	\$44.0
Overcharge											\$6.0	\$6.1
Retained Earnings											\$5.9	\$12.0
NGFA/NAEGA Proposal (fees based on 5-Yr. rolling avg. of inspections m.m.t.)											70.4	72.5
Inspection & Weighing Costs											\$37.5	\$37.9
Revenue											\$40.1	\$39.4
Overcharge											\$2.7	\$1.5
Excess FGIS Fees Compared to NGFA/NAEGA Proposal											\$3.2	\$4.6

* FY 2015 inspection and weighing costs and revenue assume 83 million metric tons of grain exports will be officially inspected by FGIS in 2015 and that 2015 FGIS costs and revenue will be commensurate to 2014 FGIS costs and revenues.

Table 2 displays the amount of grain officially inspected for export by FGIS and the associated costs and revenues accrued.

Table 2: FGIS Export Trust Fund (In Million Metric Tons and Million \$)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015*
FGIS Inspected Exports of Standardized Grain (m.m.t.)	76.3	69.8	75.1	76.9	81.4	71.4	77.7	81.2	63.9	57.8	82.0*	83.0
Inspection & Weighing Costs	\$26.3	\$27.9	\$28.6	\$30.5	\$33.4	\$33.3	\$35.5	\$36.6	\$34.3	\$33.3	\$37.5	\$37.9
Revenue	\$27.5	\$28.5	\$30.1	\$31.4	\$36.0	\$31.2	\$36.9	\$37.7	\$28.2	\$29.8	\$43.5	\$44.0
Overcharge	\$1.2	\$0.6	\$1.5	\$0.9	\$2.5	-\$2.1	\$1.4	\$1.1	-\$6.1	-\$3.4	\$6.0	\$6.1
Retained Earnings	-\$0.7	\$0.0	\$2.1	\$3.6	\$6.3	\$4.7	\$6.5	\$8.0	\$1.9	-\$1.2	\$5.9	\$12.0

* Assumes 82 million metric tons of grain exports were officially inspected by FGIS in 2014. The 2015 inspection & weighing costs and revenue will be assume 83 million metric tons of grain exports will be officially inspected by FGIS in 2015 and that 2015 FGIS costs and revenue will be commensurate to 2014 FGIS costs and revenues.

Table 3 displays the amount of grain officially inspected by FGIS, delegated states and designated agencies.

Table 3: Quantity of Standardized Grain Inspected (In Million Metric Tons)

Fiscal Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Domestic	135.8	137.1	174.5	178.2	181.3	168.0	191.5	187.3	175.1	144.4	NA	NA
Export by FGIS	76.3	69.8	75.1	76.9	81.4	71.4	77.7	81.2	63.9	57.8	NA	NA
Export by Delegated States	24.4	26.4	27.1	26.6	32.2	25.1	29.2	29.5	27.6	19.4	NA	NA
Export by Designated Agencies	4.9	6.2	8.8	12.5	14.8	10.1	11.5	12.3	13.4	8.7	NA	NA
Total	241.4	239.5	285.5	294.2	309.7	274.6	309.9	310.3	280.0	230.3	NA	NA

Table 4 displays the delegated and designated states and the number of designated private agencies.

Table 4: FGIS- Delegated States, Designated States and Designated Private Agencies

Fiscal Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Delegated and Designated States	AL, CA, MN, MS, SC, VA, WA, WI	AL, SC, VA, WA, WI	AL, SC, VA, WA									
Delegated States	None	MN, WI	WI									
Designated States	GA, LA, MO, MT, NC, OR, UT	GA, LA, MO, MT, NC, OR, UT	GA, LA, MO, MT, NC, UT	GA, LA, MO, MT, NC, UT	GA, LA, MO, MT, NC, UT	GA, LA, MO, MT, NC, UT	GA, LA, MO, MT, NC, UT	GA, LA, MD, MO, NC, UT	GA, LA, MD, MO, NC, UT	GA, LA, MD, MO, NC, UT	GA, LA, MD, MO, NC, UT	GA, LA, MD, MO, NC, UT
Number of Designated Private Agencies	43	45	45	44	44	44	44	44	43	43	41	39
Total	58	58	57	55	56	56	56	55	55	53	51	NA

July 14, 2014

The Honorable Thomas J. Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
Washington, DC 20250

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 representatives 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 one-third 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: The Honorable Krysta Harden, Deputy Secretary of Agriculture
The Honorable Edward Avalos, Undersecretary, Marketing and Regulatory Programs
The Honorable Michael Scuse, Undersecretary, Farm and Foreign Agricultural Services
The Honorable Phil Karsting, Administrator, Foreign Agricultural Service
The Honorable Larry Mitchell, GIPSA Administrator
The Honorable Randall D. Jones, Deputy Administrator, FGIS

KOREA FLOUR MILLS INDUSTRIAL ASSOCIATION

CHUNG-GU, NAMDAEMUN-RO, 5KA, #118, SEOUL, KOREA : (100-095)
TEL : (82-2) 777-9451~4, FAX : (82-2) 757-7125

July 10, 2014

Mr. 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
KOFMIA

October 18, 2013

The Honorable Thomas J. Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
Washington, DC 20250

Dear Secretary Vilsack:

The undersigned organizations representing agricultural producers, grain handlers and 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 one-third 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: The Honorable Edward Avalos, Undersecretary for Marketing and Regulatory Programs
The Honorable Larry Mitchell, GIPSA Administrator
The Honorable Randall D. Jones, Deputy Administrator, FGIS

QUESTIONS AND ANSWERS

MAY 5, 2015

Senate Committee on Agriculture, Nutrition & Forestry
Review of the U.S. Grain Standards Act
May 5, 2015
Questions for the Record
Mr. David Ayers

Senator Michael Bennet

1. Colorado exports about 80 percent of its wheat harvest, which means that lots of farmers in our state are touched by official grain inspections. How would it help Colorado producers if export inspection user fees were based on current market conditions, as proposed here today?

While this question is best answered by those proposing the change, as we understand the proposal, export tonnage fees assessed by the Grain Inspection, Packers and Stockyards Administration would be based on an average of the actual amounts of grain exported during the previous 5-years rather than projected future export volumes that may or may not occur. It is our understanding that projections are sometimes higher than actual exports thus causing fees to be increased unnecessarily. Alternatively, lower inspection fees make the cost of U.S. sourced grain more competitive in the global marketplace. In turn, demand and market opportunities for Colorado producers are increased.

2. Colorado is a land-locked state without any export ports and no designated inspection services. Some have mentioned that rural communities and farmers will benefit if we authorize designated inspection agencies for up to five years. However, for a state like Colorado that doesn't have designated inspection agencies, what would be the practical effect of this increased authorization time period? How would this help improve service?

Kansas Grain Inspection Service, Inc. (KGIS) is designated to provide official inspection services in the state of Colorado. KGIS acquired Denver Grain Inspection in 1999. An office was maintained in Commerce City with a staff of four.

In 2012, KGIS met with the grain industry to discuss closure of the Commerce City office. From 1999 through 2012, KGIS had realized only one profitable year. The industry understood the need to close the office, and that KGIS could provide services from their Colby, Kansas and Sidney, Nebraska service points. This allowed fees to remain steady. Customers were told if business increased or marketing basis changed, KGIS would entertain opening an office on the eastern slope.

Much of the wheat in Colorado isn't inspected officially until it's delivered to the port for export. As most are aware, domestic inspections are permissive whereas the export inspection is mandatory.

The five year designation would bring stability to the operation of official agencies and make easier negotiations for insurance and other services. This stability provides official agencies the opportunity to control expenses which also translates to the inspection costs incurred by Colorado producers requesting service.

3. Several of you have suggested that we should reauthorize the U.S. Grain Standards Act for 5 years instead of 10 years. Can you describe some of the significant changes in the grain export market over the last 10 years? How would Colorado producers benefit if Congress reexamines this law again in 5 years?

The majority of AAGIWA members provide services outside export port areas, however we can attest that over the last 10 years there has been a significant increase in the exportation of grain in cargo containers from the interior to overseas buyers which require inspection services from designated agencies. Grain exported in containers 10 years ago was primarily small amounts of specialty grains that might be used in snack food which fell under the 15,000 metric ton exemption and did not require inspection and weighing. Today that is not the case. The volumes are such that mandatory inspection and weighing is required and the product has shifted from specialty grain to basic commodity grain. Shippers are continuing to build more facilities designed to export grain in these containers requiring official agencies to place staff and facilities at or near these facilities to provide necessary services.

Also, shuttle train loaders have become the dominant method of exporting grain by rail to Mexico since 2005. The railroads have created incentives for shippers to quickly load trains. These incentives do not allow shippers and official agencies the time to load trains, have them sampled and inspected offsite before the train is picked up by the railroad. In response to these incentives, shippers have redesigned and built new fast pace loading facilities. These fast pace loading facilities have required official agencies to provide onsite laboratories so that shippers can make real-time decisions on loading results. These efficiencies have made U.S. grain more competitive which provides additional outlets for producer's grain.

AAGIWA has seen the pace of change increasing throughout the last 10 years, and therefore believes that revisiting the provisions in the United States Grain Standard Act every 5-years is prudent to ensure it is relevant to current marketing practices.

Colorado produce's and all parties involved in marketing U.S. grain benefit by having an inspection system that is relevant, cost effective, and robust in this changing environment. Reviewing the Act every 5-years to ensure its relevancy, keeps U.S. grain competitive in the international marketplace, and ensures greater market access for Colorado producers, and all others that work hard to produce America's grain.

Senate Committee on Agriculture, Nutrition & Forestry
Review of the U.S. Grain Standards Act
May 5, 2015
Questions for the Record
Mr. Steven Campbell

Senator Michael Bennet

1. Colorado exports about 80 percent of its wheat harvest, which means that lots of farmers in our state are touched by official grain inspections. How would it help Colorado producers if export inspection user fees were based on current market conditions, as proposed here today?

Response: Any undue cost on the grain handling system will impact producers, grain handlers, and customers. Having the inspection fee based on a 5 year rolling average, of actual yearly export tonnages, will provide a better basis for setting the fee so the value chain is not paying too much for the service. It also will allow more predictability in exporters' ability to project what fees will be going forward, given that export data are publicly available. In addition, having the fee based upon the rolling average will also ensure FGIS does not set the fee too low as well; if the fee is too low it could put a strain on the system which again could impact the entire supply chain.

2. Colorado is a land-locked state without any export ports and no designated inspection services. Some have mentioned that rural communities and farmers will benefit if we authorize designated inspection agencies for up to five years. However, for a state like Colorado that doesn't have designated inspection agencies, what would be the practical effect of this increased authorization time period? How would this help improve service?

Response: Colorado falls within the jurisdiction of the Kansas Grain Inspection Service which is an FGIS officially designated agency. Therefore, KGIS performs official inspection and weighing services on behalf of FGIS to Colorado grain handling facilities wishing to avail themselves of such services.

Each agency now has a quality management program with internal audits that are reviewed annually by FGIS officials. Additionally, results of all inspections are now sent electronically on a daily basis to FGIS for its review and samples are selected and provided to monitor official agency performance. These and other requirements implemented by FGIS have greatly enhanced its ability to monitor official agency performance, and to evaluate and take corrective action agency during the designation period.

The change from three years to five years would allow agencies to secure more favorable financing for the purchase of new equipment and expansion of their operations. Further, it would allow FGIS to focus their resources on providing support to those agencies that need their assistance.

The official agencies designated by FGIS employ approximately 2,000 people throughout the United States. We believe a five-year designation would reduce administrative costs for these agencies, thereby helping keep inspection fees reasonable. Further, most of these jobs and companies are located in rural communities, and a longer designation period would bring more job stability to these communities.

3. Several of you have suggested that we should reauthorize the U.S. Grain Standards Act for 5 years instead of 10 years. Can you describe some of the significant changes in the grain export market over the last 10 years? How would Colorado producers benefit if Congress reexamines this law again in 5 years?

Response: Over the past 10 years, there have been dynamic and highly competitive changes in the nature of the global grain export marketplace. Not only is the market constantly changing, the way governments conduct grain inspections around the globe is changing, as well. These changes in inspection services are described in two recent studies. 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 and requests. 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.

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.

Clearly, these studies reinforce the rapid pace of change in the marketplace regarding how different countries handle the inspections of grains and oilseeds. As was stated in my written testimony, the NAEGA supports the federal official inspection system. However, the U.S. must also pay attention to the ever changing demands of customers and how other countries are meeting those demands through innovation in inspection services. Allowing for the law to be reexamined in 5 years will provide the U.S. with the ability to assess this ever-changing situation and consider any necessary changes to help U.S. agriculture remain

competitive and a world leader in supplying grains and oilseeds to global customers. In turn, this will better enable producers in Colorado and other states to maximize income from the global marketplace. Maintaining U.S. agriculture's competitiveness in the global grain and oilseed market will benefit farmers and agribusinesses throughout the U.S., as well as our balance of trade.

Senator Grassley

1. If the United States was to create a Low Level Presence policy (LLP) related biotech traits in grain shipments, what would you and the North American Export Grain Association want to see in such a policy?

Response: NAEGA works to provide for the marketability of grains, oilseeds and their products. In doing so we support the cost effective and responsible use of all safe crop production methods in order to meet customer demands and provide for a sustainable supplies to achieve food security. LLPⁱ is one of several factors tied to crop biotechnology that restrict marketability of U.S. agricultural products and impede the innovation of crop biotechnology.

Practical approaches for the management of LLP that are science-based, predictable and transparent, and that will encourage the use of international science-based guidelines on LLP, such as the Codex Alimentarius Annex 3: Food Safety Assessment in Situations of Low-Level Presence of Recombinant-DNA Plant Material in Food are needed. A practical approach to LLP management must address each crop biotechnology event or trait individually and begin with the planting of seeds that contain that event or trait. It is not practical to manage LLP with a testing based clearance mechanism for shipments of commodities. The use of process controls to appropriately limit exposure starting with the planting of seeds may provide for LLP management when responsibility for the controls is established and maintained.

A U.S. Policy that addresses LLP should be part of suite of policies that provides for the marketability of U.S. crops produced with or from safe technologies that are subject to impediments to trade of U.S. crops resulting from differences in regulation and regulatory regimes across markets. That suite of policies should support least trade distortive commercial and public measures for both imports to and exports from the U.S. Providing for adequate fungibility along the supply chain is a critical component of U.S. competitiveness.

For imports, the U.S. should provide technology owners with a product they plan to commercialize in seeds and that has passed a food safety assessment according to the Codex Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants (CAC/GL 45-2003) in a country other than the U.S. but has not yet achieved approval in the U.S. with the option of providing for a process control that

adequately limits the presence of the product in commodity supplies imported into the U.S. Such a process control, based on limiting the planting of seeds that contain the subject event or trait, must be responsibility of the technology owner but could be administered and warranted by a capable and responsible third party assigned by the technology owner who seeks the temporary LLP accommodation from the U.S. That responsible third party might best be the government or governments that have already provided the necessary authorizations for the planting of the technology owner's product.

For exports, the U.S. should provide technology owners or their assignees planning to commercialize in seeds a product that is deregulated by the U.S. but has not yet achieved approval in an international market requiring the product's approval for import in food, feed and commodities for processing with the option of a U.S. officially certified process control system that adequately limits the presence of the product in commodity supplies from the U.S. Such a process control system, based on limiting the planting of seeds that contain the subject event or trait, must be acceptable to the applicable regulatory authority. In implementing this policy the U.S. should include advocacy and acceptance of the U.S. official certified LLP process in plurilateral and multilateral forums as well as with appropriate individual countries.

Thank you for your interest and any opportunities to respond to your questions or discuss these and other matters related to the provision of grains and oilseeds.

¹ The Global Low Level Presence Initiative defines LLP for food as low levels of recombinant DNA plant materials that have passed a food safety assessment according to the Codex Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants (CAC/GL 45-2003) in one or more countries, but may on occasion be present in food in importing countries in which the food safety of the relevant recombinant-DNA plants has not been determined.

Senate Committee on Agriculture, Nutrition & Forestry
Review of the U.S. Grain Standards Act
May 5, 2015
Questions for the Record
Mr. Bill Gordon

Senator Michael Bennet

1. Colorado exports about 80 percent of its wheat harvest, which means that lots of farmers in our state are touched by official grain inspections. How would it help Colorado producers if export inspection user fees were based on current market conditions, as proposed here today?

As I understand it, FGIS currently collects a fixed amount in user fees, of which up to 30 percent can be used to cover administrative and supervisory costs. Fee collections can exceed actual total costs, resulting in a growing reserve. The proposal by the grain trade to set user fees according to a rolling average of inspections and exports would make sense, if the formula for establishing the average fairly reflects the costs it is meant to cover. As a principle, farmer organizations have no problem with this approach as long as it doesn't impair the ability of FGIS to carry out its responsibilities.

2. Colorado is a land-locked state without any export ports and no designated inspection services. Some have mentioned that rural communities and farmers will benefit if we authorize designated inspection agencies for up to five years. However, for a state like Colorado that doesn't have designated inspection agencies, what would be the practical effect of this increased authorization time period? How would this help improve service?

I think authorizing state inspection agencies for five years wouldn't affect Colorado and states that do not have these services. Whether this change would improve services would depend on the effectiveness of agencies in states which have them.

3. Several of you have suggested that we should reauthorize the U.S. Grain Standards Act for 5 years instead of 10 years. Can you describe some of the significant changes in the grain export market over the last 10 years? How would Colorado producers benefit if Congress reexamines this law again in 5 years?

Several of the changes ASA has proposed would address problems that occurred at the Port of Vancouver in 2013 and 2014, when state export inspection services were interrupted and then withdrawn and FGIS was unwilling to step in due to concern about inspector safety. Depending on how the Committee and Congress address these issues in reauthorization, there may be a need to revisit them during the next reauthorization. Providing an opportunity to do so in 5 years rather than 10 years would allow this reexamination to take place sooner than later. In the event further changes are needed, this would benefit producers in Colorado and other states.

Senate Committee on Agriculture, Nutrition & Forestry
Review of the U.S. Grain Standards Act
May 5, 2015
Questions for the Record
Mr. Tim Paurus

Senator Michael Bennet

1. Colorado exports about 80 percent of its wheat harvest, which means that lots of farmers in our state are touched by official grain inspections. How would it help Colorado producers if export inspection user fees were based on current market conditions, as proposed here today?

Response: Any undue cost on the grain handling system will impact producers, grain handlers, and customers. Having the inspection fee based on a 5 year rolling average, of actual yearly export tonnages, will provide a better basis for setting the fee so the value chain is not paying too much for the service. It also will allow more predictability in exporters' ability to project what fees will be going forward, given that export data are publicly available. In addition, having the fee based upon the rolling average will also ensure FGIS does not set the fee too low as well; if the fee is too low it could put a strain on the system which again could impact the entire supply chain.

2. Colorado is a land-locked state without any export ports and no designated inspection services. Some have mentioned that rural communities and farmers will benefit if we authorize designated inspection agencies for up to five years. However, for a state like Colorado that doesn't have designated inspection agencies, what would be the practical effect of this increased authorization time period? How would this help improve service?

Response: Colorado falls within the jurisdiction of the Kansas Grain Inspection Service which is an FGIS officially designated agency. Therefore, KGIS performs official inspection and weighing services on behalf of FGIS to Colorado grain handling facilities wishing to avail themselves of such services.

Each agency now has a quality management program with internal audits that are reviewed annually by FGIS officials. Additionally, results of all inspections are now sent electronically on a daily basis to FGIS for its review and samples are selected and provided to monitor official agency performance. These and other requirements implemented by FGIS have greatly enhanced its ability to monitor official agency performance, and to evaluate and take corrective action agency during the designation period.

The change from three years to five years would allow agencies to secure more favorable financing for the purchase of new equipment and expansion of their operations. Further, it would allow FGIS to focus their resources on providing support to those agencies that need their assistance.

The official agencies designated by FGIS employ approximately 2,000 people throughout the United States. We believe a five-year designation would reduce administrative costs for these agencies, thereby helping keep inspection fees reasonable. Further, most of these jobs and companies are located in rural communities, and a longer designation period would bring more job stability to these communities.

3. Several of you have suggested that we should reauthorize the U.S. Grain Standards Act for 5 years instead of 10 years. Can you describe some of the significant changes in the grain export market over the last 10 years? How would Colorado producers benefit if Congress reexamines this law again in 5 years?

Response: Over the past 10 years, there have been dynamic and highly competitive changes in the nature of the global grain export marketplace. Not only is the market constantly changing, the way governments conduct grain inspections around the globe is changing, as well. These changes in inspection services are described in two recent studies. 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 and requests. This study found that between 20 and 25 percent of U.S. exports of bulk grains, oilseeds and major byproducts currently are being reinspected 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.

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.

Clearly, these studies reinforce the rapid pace of change in the marketplace regarding how different countries handle the inspections of grains and oilseeds. As was stated in my written testimony, the NGFA supports the federal official inspection system. However, the U.S. must also pay attention to the ever changing demands of customers and how other countries are meeting those demands through innovation in inspection services. Allowing for the law to be reexamined in 5 years will provide the U.S. with the ability to assess this ever-changing situation and consider any necessary changes to help U.S. agriculture remain

competitive and a world leader in supplying grains and oilseeds to global customers. In turn, this will better enable producers in Colorado and other states to maximize income from the global marketplace. Maintaining U.S. agriculture's competitiveness in the global grain and oilseed market will benefit farmers and agribusinesses throughout the U.S., as well as our balance of trade.

