



National Grain and Feed Association

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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

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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.