



**National Grain and Feed  
Association**



**North American Export  
Grain Association**

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**Testimony**

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

**Before the**

**Subcommittee on General Farm Commodities and Risk  
Management**

**Committee on Agriculture**

**U.S. House of Representatives**

**By Nick Friant, Business Unit Food Safety Leader**

**Cargill Inc., Wayzata, Minn.**

**on Behalf of**

**National Grain and Feed Association**

**and North American Export Grain Association**

**April 22, 2015**

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

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

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

NAEGA, established in 1912, consists of private and publicly owned companies and farmer-owned cooperatives that are involved in and provide services to the bulk grain and oilseed exporting industry. NAEGA-member companies ship and support the vast majority of the highly competitive and fungible U.S. grain export supply. NAEGA is dedicated to providing for efficient, predictable, reliable and expanded trade via responsible commercial and official practices. Through a reliance on member action and support, NAEGA acts to accomplish its mission from its office in Washington D.C., and in markets throughout the world.

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

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

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

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

- First, in response to apparent system shortcomings, including the frequent, intermittent disruptions in official inspection and weighing service at the Port of Vancouver, Washington, during 2013-14, we urge that existing language in the Act be strengthened further to reinforce the obligation of the Secretary of Agriculture to restore official inspection and weighing service in a prompt

manner, except in instances where the disruption is caused by cataclysmic natural disasters.

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

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

Make no mistake, U.S. foreign buyers took note of this very visible and extreme disruption, which damaged the reputation of FGIS and undermined confidence of international buyers in the reliability of the U.S. official grain inspection system at export locations. One significant buyer – the Korea Flour Mills Industrial Association (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 and NAEGA, strongly encouraged similar action by the Secretary to meet his legal obligation to restore official inspection services in a pair of joint letters submitted on October 18, 2013 and July 14, 2014, but unfortunately, to no avail. I respectfully request that these letters also be made part of the hearing record.

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

NGFA and NAEGA believe accurate, timely and cost-effective delivery of mandated, impartial and federally managed official inspection services administered by FGIS can and should remain the cornerstone of a viable and

market-responsive U.S. grain inspection and weighing system. Official export inspections provide transparency and market information to the entire value chain that contribute to an efficient marketplace, while supporting price-discovery, food security and sustainable supplies. But to remain respected and relevant, the U.S. official grain inspection system needs to function in a continuous, predictable and consistent manner to facilitate the ability of U.S. farmers and agribusinesses to reliably serve foreign customers and remain competitive in world markets, which is responsible for as much as 50 percent of total utilization of U.S. wheat and soybeans, as well as up to one-third of U.S. feed grains.

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

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

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

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

In this regard, two recent studies conducted for NAEGA are enlightening. The first, entitled “*U.S. Grain and Oilseed Inspection Services and Competitiveness Study – Export Competitor and Importer Information*,” examines the work that independent third parties already are performing at

export elevators to provide non-grade-determining testing services that are above-and-beyond those mandated under the USGSA, and which are provided in response to specific quality or customer requirements. This study found that between 20 and 25 percent of U.S. exports of bulk grains, oilseeds and major byproducts currently are being 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. This certainly is strong affirmation of the level of acceptance that foreign customers of U.S. grains and oilseeds already have in the integrity of test results provided to them by private third parties for whose services they pay. This study also notes the inspection reforms being considered by Canada and the European Union, and contains a country-by-country analysis of the extent to which foreign U.S. competitor countries already are utilizing such independent third parties to perform inspection services, with the only government involvement being accreditation to ensure accuracy, competence and equipment calibration. In fact, the United States and Canada currently maintain the only major grain and oilseed exporter national government-run inspection agencies, and as a result have significantly higher costs per ton for basic commodity inspections.

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

Clearly, these studies reinforce the acceptance that already exists in the marketplace regarding the integrity of inspections being performed by

independent third parties. We believe our proposal to provide a mechanism for including such inspection assets within the licensing and oversight rubric of FGIS would further strengthen the U.S. official system.

- Third, NGFA and NAEGA support the USGSA provisions pertaining to FGIS's current authority to designate qualified, accredited state or private entities to perform official inspection and weighing services in geographic territories within the domestic market, and support the request to extend the duration of such designation to 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 and time- and resource-consuming rulemaking process to modify fees, the NGFA and NAEGA propose that the FGIS be required to establish fees through an ongoing and market-responsive process.

Specifically, we recommend that FGIS use a rolling 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 and NAEGA recognize that fee increases may be necessary from time to time, we encourage FGIS to continue its 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.

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

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

**Nick Friant**  
Food Safety, Quality, Regulatory Leader  
Cargill  
AgHorizons US

Nick grew up on a small, family grain farm in north-central Illinois. The main commodities are corn and soybeans. He attended Michigan State University where he graduated with a Bachelor of Science in 2000 and a Master of Science in 2002, both in Biosystems and Agricultural Engineering. His main area of study was grain quality, handling, storage, and drying. The focus of his Master's Degree was the development of an equation to model ear corn drying.

Nick joined Cargill in 2002 and his first assignment was as a Production Supervisor in Topeka, KS. His second assignment was as a Production Supervisor at the Terre Haute Marine Export Facility in Reserve, LA (New Orleans, LA). In October 2006, Nick assumed the role of Grain Handling Coordinator for Cargill's AgHorizons and Grain and Oilseed Supply Chain – North America business units. In January 2008, Nick's role was expanded to include leading Cargill's World Wide Grain Operations Grain Quality Center of Expertise. In June 2011, Nick's role was changed to support Food Safety, Quality, and Regulatory efforts across the Worldwide Grain Operations Function. In September 2014, the Worldwide Grain Operations Grain Quality COE was absorbed into the Cargill Agricultural Supply Chain Platform Food Safety, Quality, and Regulatory group. Nick is currently the business unit Food Safety Leader for the AgHorizons – US business unit and also supports the Grain and Oilseed Supply Chain North America grain export business.

The key responsibilities of his position are to provide technical and regulatory assistance to Operations and Merchandizing personnel on a wide range of issues related to grain quality, handling, and inventory control. Additionally, he is the chairman for the National Grain & Feed Association (NGFA) Grain Grades and Weights Committee, and the co-chairman for North America Export Grain Association (NAEGA) Grain Grades and Inspections Committee. He also acts as a liaison to the Grain Elevator and Processing Society (GEAPS), and the US Government (USDA FGIS & APHIS, US EPA, FDA) on these issues as well as International Sanitary and Phytosanitary (ISPS) Regulations. Nick served as a member of the Grain Inspection, Packers, and Stockyards Administration Grain Inspection Advisory Committee from April 2007 to March 2010. Other responsibilities include: assisting in developing grain survey programs; collecting information on analytical testing practices/providers; research; answering biotech, grain quality, and ISPS questions; and providing training on grain quality, food safety, biotech, IP procedures, and inventory control.

Response to Question 2 on House Agriculture Committee Disclosure Form

Name: Nick Friant

Organizations you represent (in any):

National Grain and Feed Association (NGFA)

North American Export Grain Elevator Association (NAEGA)

NAEGA is a cooperator with the USDA Foreign Agriculture Service (FAS) and receives funds from the Market Access Program (MAP). MAP funds help to build markets for U.S. farm and food products. NAEGA has received the following amounts in MAP funds for 2013, 2014, and 2015:

Source	Amount
2013 NAEGA USDA FAS Market Access Program	\$249,120
2014 NAEGA USDA FAS Market Access Program	\$345,487
2015 NAEGA USDA FAS Market Access Program	\$330,748