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PERSPECTIVES ON REAUTHORIZATION OF THE U.S. GRAIN STANDARDS ACT

HEARING

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

JULY 31, 2019

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PERSPECTIVES ON REAUTHORIZATION OF THE U.S. GRAIN STANDARDS ACT

WEDNESDAY, JULY 31, 2019

U.S. SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m., in SR–328A, Russell Senate Office Building, Hon. Pat Roberts, Chairman of the Committee, presiding.

Present: Roberts, Boozman, Ernst, Hyde-Smith, Braun, Perdue, Grassley, Thune, Fischer, Stabenow, Brown, Casey, and Smith.

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

Chairman ROBERTS. Good morning. Well, thank you.

Actually, that is pretty pathetic. Good morning.

Thank you. Appreciate it.

I call this meeting of the Senate Committee on Agriculture, Nutrition, and Forestry to order. This hearing on reauthorization of the U.S. Grain Standards Act is a very important step in continuing the Committee's work to reauthorize programs in our jurisdiction.

Already this year, we have held hearings to advance our work on reauthorizing child nutrition programs as well as the Commodity Futures Trading Commission.

Today, we will examine the importance, the most important importance, of the U.S. grain inspection system and hear directly from key stakeholders and discuss provisions in the Grain Standards Act that will expire on September 30, 2020, without congressional action.

The members of this Committee know that the farm economy and global trade face unique challenges. That is probably the understatement of my whole comments. Maintaining the certainty and predictability of the grain inspection and weighing system is the key for the successful flow of grain and oilseeds from their origins at farms all across the country to their eventual destinations, including critical export markets.

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

In the 1970's, after irregularities in grain inspection and weighing led to grand jury investigations and indictments, no less, there were major reforms to the Grain Standards Act to ensure the reliability and quality of U.S. grains and oilseeds.

After disruptions of export inspections in 2014, the Grain Standards Act was further modified to require the Secretary of Agriculture to take immediate action to maintain export inspections and to provide daily updates to Congress.

Transparency is also an important step to continue certainty and predictability in the grain inspection and weighing system. Most of the 2015 reauthorization has been implemented, as anticipated. However, Congress did not intend for the Federal Grain Inspection Service to allow for the unilateral cancellation of many of the existing exceptions to the geographical boundaries for domestic inspections.

A provision in the 2018 Agriculture Improvement Act, shepherded by my good friend from Michigan and myself and the rest of this Committee——

Good morning, John.

Senator THUNE. Chairman.

Chairman ROBERTS. Thank you.

—allowed for a restoration of the previous exceptions.

I did not call you "Coop." That is one of the first times.

This serves as a reminder of the careful consideration we must take during the upcoming reauthorization to avoid unintended consequences.

The witnesses we will hear from represent different perspectives in the grain and oilseed value chain: a farmer, an inspector, a grain handler, and an exporter.

So today's hearing gives us a chance to hear directly from stakeholders on what is working well and where we might consider making improvements to the U.S. Grain Standards Act.

I also look forward to hearing from our witnesses regarding their experiences with the Federal Grain Inspection Service since it has been realigned under the Agricultural Marketing Service.

Thank you to our witnesses for traveling to Washington and providing testimony before the Committee on such an important issue. I look forward to hearing from each of you.

I am confident that the Committee will, once again, work in a bipartisan fashion to ensure our U.S. grain system continues to facilitate reliable U.S. grain exports for years to come. This hearing is the first step in this process.

I now recognize my distinguished colleague, Senator Stabenow, for any opening remarks she might have.

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

Senator STABENOW. Well, thank you, Mr. Chairman, for holding this hearing as we begin the process of reauthorizing the Grain Standards Act. We thank all of the experts before us today. We appreciate all of your perspectives.

I have to particularly say thank you to Bruce Sutherland, who has traveled here from Michigan. We appreciate all of you being here.

We all know that our nation's farmers grow the best products in the world, period. Whether it is Michigan soybeans—or Kansas wheat—buyers around the world know that when American products have a U.S. Department of Agriculture certificate, their quality is second to none.

This credential has made the U.S. the premier supplier of high-quality grains and oilseeds and the number 1 exporter of farm goods worldwide.

Agricultural exports are crucial to our economy, supporting more than 1 million American jobs, including over 22,000 jobs in Michigan.

The trust associated with official USDA certificates of inspection and weighing is a big part of that success story. That is why it is critical we maintain the Federal Grain Inspection Service.

Before the creation of this important agency in the 1970s, 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 inspection entities were shortchanging our trading partners by inaccurately weighing grain, shipping it in contaminated vessels, and even accepting bribes. Several individuals and companies were indicted by federal grand juries.

The scandal damaged our reputation as a reliable business partner and harmed our competitive advantage in international markets.

The good news is, in response, Congress created the Federal Grain Inspection Service in 1976. As a result, the integrity of American agricultural exports was restored. Since then, exports have increased more than six times.

The Grain Standards Act created the official USDA certificate of inspection. That certificate helps assure American farmers they are getting a fair price and guarantees international customers can trust the products they are buying.

Because farmers are facing uncertainty on many fronts, as we know, Mr. Chairman, it is crucial that we maintain the integrity of our inspection system.

American farmers have been struggling with low commodity prices, in addition to extreme weather that has damaged farms across the country and delayed planting for farmers in Michigan and around the Midwest.

On top of that, this Administration's reckless approach to trade has taken a toll on our ability to export agricultural products— and it is having a real impact on farmers across the country.

At a time when many buyers in international markets are questioning the reliability of the United States as a consistent supplier, it is important that those buyers are not also doubting the quality of the grains and oilseeds they purchase.

Mr. Chairman, the first bipartisan bill that we worked on under your leadership included the reauthorization of the U.S. Grain Standards Act in 2015. It was a pleasure to work with you then, and it is a pleasure to work with you now as we move forward to maintain the integrity of the existing inspection system. Thank you.

Chairman ROBERTS. Thank you. Let us get to the witnesses.

Number 1, Mr. Brian Linin, farmer and member of the National Association of Wheat Growers from Goodland, Kansas, which we refer to in Kansas as the "top of the world." Mr. Brian Linin is a farmer in northwest Kansas where he grows wheat, corn, soybeans, and raises three children. He is the mayor of Goodland, Kansas, a Kansas Wheat Commissioner, a member of the National Association of Wheat Growers, and most importantly a graduate from the home of the ever optimistic and fighting Wildcats, Kansas State University. Welcome to Brian.

Mr. David Ayers on behalf of Tom Dahl, president, American Association of Grain Inspection and Weighing Agencies, Sioux City, Iowa. Mr. Tom Dahl, the President of the American Association of Grain Inspection and Weighing Agencies and General Manager of the Sioux City Inspection and Weighing Service, was our invited witness for the hearing. Unfortunately, he had to stay in Iowa for a family emergency. Delivering his statement is David Ayers, former president of the association. David, Welcome.

Mr. Bruce Sutherland, Member and Board of Directors, National Grain and Feed Association from Lansing, Michigan, is our third witness.

Senator Stabenow, I understand you would like to introduce him.

Senator STABENOW. Thank you, Mr. Chairman. I definitely would, and again, I want to welcome Bruce Sutherland to the hearing today.

He is a member of the board of directors for the National Grain and Feed Association, and serves as President of the Michigan Agricultural Commodities— or "MAC"— where he has worked for 33 years. MAC, headquartered in Lansing, is the largest grain handler in Michigan with seven elevators across the state, offering many other important services for Michigan commodity farmers and employing more than 100 workers.

I know that your wife Teresa is here today, and we say welcome. Welcome, Teresa, and we are pleased to have you both here.

Bruce resides in Okemos, Michigan, and we look forward to your testimony.

Chairman ROBERTS. Our fourth witness is Mr. Nick Friant, who is the Chairman, Grades and Inspections Committee for the North American Export Grain Association from—I am going to try this— "Wayzata"?

Mr. FRIANT. Wayzata.

Chairman ROBERTS. Wayzata, one word.

Nick is the Chairman of the North American Export Grain Association Grades and Inspections Committee. He is also the Raw Materials Quality Leader for Cargill Agriculture Supply Chain North America. He is based out of Wayzata——

That is exactly why they had this—see, when you put these things in parens, it is supposed to give to the Chairman a little example, but of course, the Chairman did not recognize that until right now.

[Laughter.]

Chairman ROBERTS [continuing]. in Minnesota. Welcome, Nick.

Brian, why don't you start this off.

STATEMENT OF BRIAN LININ, FARMER AND MEMBER, NATIONAL ASSOCIATION OF WHEAT GROWERS, GOODLAND, KANSAS

Mr. LININ. Well, greetings, and thank you, Chairman Roberts and Ranking Member Stabenow and fellow Committee members. I really appreciate being here. It is really an honor to be here today.

You announced my organizations and affiliations, so I will skip over that, but I will note that my written testimony goes into more detail. I am just here to give a verbal summary of that.

I will focus on three main areas, and that is a brief overview of the ag economy just for some context and then an overview of why an effective grain system is so critically important for agriculture and finally a recap of the benefits and the improvements made in the last reauthorization bill, which we greatly appreciate.

First of all, the overall overview of the ag economy and our export situation. About 50 percent of the wheat in the U.S. is exported. Our international markets are critically important for driving economic activity down to the farm level. Farmers are experiencing many challenges resulting from the weather and uncertain trade environment, and these things are causing significant decreases in net farm income today.

Having a functioning and respective grain inspection system has enabled the U.S. to be a reliable exporter and facilitate continued demand for our commodities. With these tough economic conditions being faced by farmers, including several years of low commodity prices and the headwinds to exporting wheat, it is critically important that we at least maintain a smooth grain inspection system.

Now I will move into an overview of why an effective grain inspection system is so critically important for agriculture.

International buyers have acknowledged that sustained service from U.S. wheat associates and our State commissions and our foreign ag service programs counterbalance the headwinds to expanded exports.

I will give you an example. In June, Kansas Wheat hosted a trade team from Brazil consisting of wheat buyers for flour mills using funds from the Market Access Program, MAP. The team visited the Federal Grain Inspection Service facility in Kansas City and were very interested in the role that FGIS plays as an independent third-party entity conducting inspections. They walked away with more confidence in buying U.S. grain because of the unbiased third-party system.

A strong grain inspection enables us to keep the quality of U.S. wheat at a premium and prevent international customers from looking to other countries for their wheat.

Another example of how our system adds value to our grain, the Federal Grain Inspection's International Affairs Office provides educational training programs that help foreign buyers to better understand inspection protocol and testing methods.

Earlier this year, they held a training program in Peru, where I have actually visited a few years ago, and that is an import market of about 73.5 million bushels for that country.

This training enabled our foreign customers to have increased trust in our certification process and will ultimately help to ensure

satisfaction with U.S. wheat by our international markets. They know that the quality they are getting from us is good.

It is also important that FGIS continues to conduct regular reviews of specifications for wheat classes. These reviews serve as an important opportunity for stakeholders to engage FGIS if issues arise.

Finally, an overview of the improvements made in the last reauthorization bill that we would like to see continued. The last bill required that delegated agencies that decided to discontinue service provide 72 hours' notice. This helps to give certainty to our international trading partners that inspections will continue uninterrupted.

The last reauthorization also established a recertification process for delegated State agencies. This provision provides transparency by allowing opportunity for public comment and feedback about the operations of the agencies. The bill included various reporting requirements, and these reports are useful to stakeholders, particularly if there are any disruptions or problems.

The bill also required a report to Congress about the policy barriers U.S. grain producers like me face in countries that do not provide grain with official grades or the lowest quality grade. What we are talking about here is Canada as one of the big problems there.

This report laid the groundwork for our current administration to successfully negotiate an important provision in the USMCA to facilitate reciprocal grain grading with our key trading partners. This is a very important step for wheat in the United States.

In conclusion, I would say, ultimately, the effectiveness of our grain inspection and grading system has very important implications for both our international and domestic markets. Farmers are facing low prices, high costs, and an uncertain trade environment. Given this uncertainty, it is critical that we maintain one of our key advantages, the Federal Grain Inspection Service.

Foreign and domestic customers value an independent agency certifying shipments to meet the grade requirements of their contracts. The 2015 reauthorization bill included many improvements, and we hope to continue to build on those improvements through this reauthorization.

In order to avoid disruptions to this effective system, I strongly urge you to move forward with a reauthorization bill this year, and I look forward to working with you through this process.

Thank you very much.

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

Chairman ROBERTS. Brian, thank you for an excellent statement. We will be sure to make every effort to do just exactly what you suggested. Mr. Ayers, please.

STATEMENT OF DAVID AYERS, FORMER PRESIDENT, ON BEHALF OF TOM DAHL, PRESIDENT, AMERICAN ASSOCIATION OF GRAIN INSPECTION AND WEIGHING AGENCIES, SIOUX CITY, IOWA

Mr. AYERS. Mr. Chairman and members of the Committee, thank you for this opportunity. I request that the entire written testimony be entered into the record.

My name is David Ayers. I am the past president of the American Association of Grain Inspection and Weighing Agencies, commonly called AAGIWA, on whose behalf I am presenting the testimony today.

AAGIWA is the national professional association representing the public and private agencies that are designated and delegated by the USDA's FGIS, Federal Grain Inspection, to weigh, inspect, and grade the Nation's grain.

Our member agencies perform over 90 percent of all the inspections under the Grain Standards Act, and our agencies employ over 2,000 dedicated individuals.

There is an important role for a Federal regulatory and supervisory agency in the grain inspection business. FGIS 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.

Official agencies have evolved with the changing pace of the grain industry by providing onsite inspection laboratories for shuttle loaders and at container yards shipping grain. FGIS 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 FGIS's willingness to change and provide more rapid and accurate testing capabilities.

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.

FGIS quality and weights certificates issued by official agencies are regarded as prima facie evidence in all courts and serve to resolve disputes that allow for collection of funds when the grain is traded.

This third-party role was recently strengthened when FGIS moved to the Agricultural Marketing Service, thereby placing all inspection activities under one USDA agency. AAGIWA has observed positive results from this part of the 2017 USDA reorganization.

AAGIWA supports the reauthorization of the U.S. Grain Standards Act. AAGIWA believes that the customers deserve first-class service from official agencies, and that the current exception and boundary provisions along with other provisions ensure that first-class service is available to all customers when the provisions are properly administered.

AAGIWA recommends reauthorization of the Advisory Committee. The Advisory Committee provides the opportunity for all stakeholders to present issues and develop resolutions that benefit all parties.

The USGSA currently requires that persons producing, processing, storing, merchandising, consuming, and exporting indus-

tries, including grain inspection and weighing agencies, and scientists with expertise in research related to grain testing be on the Committee.

AAGIWA recommends that the provisions for assessing user fees with an administrative cap be reauthorized. The cap ensures that FGIS spends fees collected from its customers judiciously on administrative expenses.

We also support the funding of standardization and compliance activities from appropriated funds because these activities serve all parties in the marketing chain and not just users of the official system.

AAGIWA supports also maintaining the mandatory export provisions and the limitations on who can perform export inspections. AAGIWA members, their employees, and their families know how important grain exports are to the health of both rural and export communities.

In conclusion, AAGIWA commends FGIS and the grain industry for their continued commitment to market America's grain. We are proud to serve as part of this important effort. It is important that the necessary sections of the U.S. Grain Standards Act be reauthorized to ensure that the Act serves to support all those involved in producing and marketing American grains.

Thank you.

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

Chairman ROBERTS. Mr. Ayers, thank you. Mr. Sutherland.

STATEMENT OF BRUCE SUTHERLAND, MEMBER, BOARD OF DIRECTORS, NATIONAL GRAIN AND FEED ASSOCIATION, LANSING, MICHIGAN

Mr. SUTHERLAND. Chairman Roberts, Ranking Member Stabenow, and members of the Committee, I am pleased to testify today on reauthorizing the U.S. Grain Standards Act on behalf of the National Grain and Feed Association on whose board of directors I serve.

NGFA, established in 1896, comprises more than 1,050 member companies with roughly an equal number of farmer-owned cooperatives and privately held entities that operates more than 7,000 facilities and handles more than 70 percent of the U.S. grain and oilseed crop.

For 45 years, the NGFA has worked to maintain and improve the U.S. official grain inspection system, and we strongly support reauthorization of the Grain Standards Act.

NGFA aligns itself with testimony provided by the North American Export Grain Association.

MAC, the company of which I am president, is a voluntary user of FGIS officially designated grain and inspection and weighing agencies, principally for more than 15 million bushels of our grain and oilseed by ship and by rail.

The U.S. grain handling and export system is recognized globally for its ability to provide a competitively priced, fungible, abundant, and safe commodity supply, responsive to customer needs. The FGIS serves an essential role by establishing official U.S. grain

standards, critical to determining value and providing for price discovery in the marketplace.

Farmers benefit when FGIS provides official inspection and weighing services in a reliable, uninterrupted, and cost-effective manner.

NGFA appreciates this Committee for its bipartisan leadership and enacting important reforms as part of the 2015 reauthorization.

As you will recall, in 2013 and 2014, the reputation of the official system providing reliable and cost-effective service was called into question after a delegated State agency repeatedly and without notice withdrew official inspection service at a major export elevator.

Through bipartisan reforms, including more transparent notification and reporting, changes to the way FGIS calculates fees and regular public review of FGIS delegation of its official inspection authorities, our industry and our farmer customers are in a much better position today than we were then.

Reforms enacted by Congress serve as a springboard for a series of improvements to FGIS and the official inspection system. Another major contribution was Secretary of Agriculture Perdue's decision as part of his 2017 reorganization of USDA to return FGIS to the Agricultural Marketing Service, where it had resided prior to 1994, as well as to install fresh, new leadership at the agency.

NGFA strongly supported these changes and commends the dedicated career public servants within AMS and FGIS for their commitment in addressing important issues during this transition.

Given improvements realized from both the 2015 Grain Standards Act and the 2017 reorganization, NGFA recommends the next reauthorization period be extended from the current five years to a time period of up to 10 years, leaving it to Congress to determine the appropriate interval.

NGFA wishes to briefly highlight the following policy recommendations contained in our written testimony. First, require FGIS to conduct a comprehensive review of current geographic boundaries for domestic official agencies. A major review has not happened in 43 years and would provide FGIS with a much better basis for determining appropriate updates to geographic boundaries for officially designated agencies than it does now.

On a related matter, NGFA thanks this Committee and your staff for including language in the 2018 farm law that gave grain handlers who had exception agreements wrongly canceled the opportunity to restore this service arrangement with their prior officially designated domestic inspection agency.

Second, NGFA believes user fees FGIS collects from our industry, which represents 70 percent of its budget, should be used solely for official inspection and weighing services and related overhead costs. The remaining 30 percent should continue to be appropriated for such activities as maintaining and updating the grain standards, which have broad societal benefits for farmers and consumers and for compliance and enforcement activities.

Third, the FGIS Grain Inspection Advisory Committee, upon which I serve, should be reauthorized, as it provides valuable counsel on the implementation of the Grain Standards Act, inspection services that have value in the grain marketplace, and keeping the

agency focused on fulfilling its statutory mission. NGFA also supports three other important changes to the Grain Standards Act that will be focused on by my colleagues from NAEGA.

In conclusion, reauthorizing the Grain Standards Act on time or even a bit early would provide continued certainty to grain handlers, farmers, and our global customers. NGFA is committed to working constructively with you to enact these policies and achieve these positive outcomes.

Thank you for the opportunity to testify, and I will be pleased to respond to any questions later.

[The prepared statement of Mr. Sutherland can be found on page 32 in the appendix.]

Chairman ROBERTS. Mr. Sutherland, thank you so much for an excellent statement.

Next, we have the gentleman from Wayzata, Mr. Friant. Please proceed.

STATEMENT OF NICK FRIANT, CHAIRMAN, GRADES AND INSPECTIONS COMMITTEE, NORTH AMERICAN EXPORT GRAIN ASSOCIATION, WAYZATA, MINNESOTA

Mr. FRIANT. Thank you, Mr. Chairman. Chairman Roberts, Ranking Member Stabenow, members of the Committee and staff, thank you for the opportunity to testify today on behalf of the North American Export Grain Association, or NAEGA. It is my and NAEGA's honor to be part of this panel to testify regarding the reauthorization of the U.S. Grain Standards Act.

Your leadership and hard work enacting fundamental reforms as part of the 2015 reauthorization of the Act and the resulting implementation by the USDA within the service-oriented culture of AMS, combined with strong and effective new leadership at FGIS has had a very positive impact that is serving American farmers in our industry well. We look forward to building on that success.

NAEGA promotes and sustains the international trade of grain and oilseeds from the United States. Established in 1912, NAEGA's members include private and publicly owned companies and farmer-owned cooperatives serving the bulk grain and oilseed export industry.

NAEGA strongly supports the reauthorization of the U.S. Grain Standards Act and the U.S. official grain inspection and weighing system. Both domestic and international markets for commodities covered under the U.S. Grain Standards Act are complex and ever changing. We are committed to continued improvements to the system as well as the broader regulatory and commercial environment to improve the value, safety, competitiveness, and sustainability of U.S. agriculture.

I serve as Chair of the relevant technical committees of both NAEGA and the National Grain and Feed Association. We stand ready to work with you and other stakeholders to maintain and improve the Act.

NAEGA works in the best interest of the entire value chain to provide for optimal commerce and official practices that provide for safe and secure commerce, increased efficiency, risk management and mitigation, promotion of trade and investment, and a level and competitive global playing field.

We include seven recommendations in submitted written testimony for this hearing. I would like to highlight three of those recommendations that would enhance our ability to accomplish this mission.

First, NAEGA urges Congress to strengthen USGSA by expressly prohibiting the misuse of official determinations of grain standard quality factors. The purpose of the USGSA is to establish official marketing standards for the covered commodities. The misuse of official determination of the grain quality factors, foreign material, on phytosanitary certificates issued by APHIS has recently and unfortunately been deployed. Using USGSA quality factors as an indicator of plant health risk is inappropriate and misleading, and we believe this practice should be expressly prohibited by statute so it ends, never reoccurs, and does not set dangerous precedent.

Second, Congress in the 2015 reauthorization to section 79 of the USGSA mandated that FGIS-delegated agencies provide USDA 72-hour advanced notification if they intend to discontinue providing official inspection service. While the statutory language expressly requires such notification be made to USDA, FGIS did not require its delegated agencies to grant the same advanced notification to the actual facilities affected by such disruptions in official service, nor did USDA commit to providing such notification itself. These disruptions adversely affect a facility's ability to fulfill existing grain contracts with customers, alter their ability to handle inbound and outbound grain movements, cause disarray in domestic and export transportation logistics, complicate staffing requirements, and create a host of other business consequences. We recommend legislation language to require a comparable 72-hour notification for affected facilities.

Third, we recommend requiring that FGIS report the number of and specific type or types of waivers from official inspection and weighing service being requested and granted, the number of non-use of service exceptions requested and granted, and the number of specific testing services requested with appropriate protection of confidential business information. We believe making this information available would benefit Congress and stakeholders alike by continually improving sustainability and growth of the U.S. official system made possible by the Grain Standards Act.

NAEGA believes that all the NGFA and NAEGA recommendations for modification of the Act will strengthen the official system and foster the competitive position of covered commodities.

Reauthorizing the U.S. Grain Standards Act on schedule or early would provide continued certainty grain handlers, farmers, and our global customers. We are committed to working constructively with Congress and all the stakeholders to enact policies that achieve these positive outcomes.

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

[The prepared statement of Mr. Friant can be found on page 45 in the appendix.]

Chairman ROBERTS. Mr. Friant, thank you so much for your pertinent testimony and the suggestions that you recommended, and to all witnesses, thank you for being on time or under time.

Mr. Boozman is now leaving to introduce somebody to the Judiciary Committee. Be careful.

Senator BOOZMAN. Thank you.

[Laughter.]

Chairman ROBERTS. Brian, thank you for taking time away from your operation to share your perspectives as well as those of other farm organizations.

In your testimony, you said—and I am quoting here—"The grain inspection system is one that is valued by our overseas customers and adds value to our commodities." Explain the value of U.S. grain standards to foreign customers and what it ultimately means for producers on the farm or especially with the situation we face today, sort of a tariff retaliation death valley.

Mr. LININ. Well, thank you, Chairman Roberts.

The value that the grain inspection service is to the farm, I have visited with customers in international countries, grain buyers, flour millers, and they rely on U.S. grain standards and our inspection service to verify that the grain that they have contracted is, in fact, the quality that they have specified on their contracts.

The reason that is important to me as an ag producer is because as ag producers, we are working as hard as we can to grow the best grain that we can. We are trying to feed the world, and it would be a disservice to our farmers if that grain was not properly represented in the marketplace and our customers in the world were not receiving the grain that they have paid for and asked for, no different than if you or I go buy a car and it has been specified what quality it is and what factors it has, and then we get it in something different. That is what the grain inspection is for us to the world.

It is critically important that we have that reliability and quality that other countries in the world do not have with the grain that they export. It is very important to our buyers.

We have educated them on the grain quality factors. We have shown them what is important, what makes good dough out of flour in the case of wheat or what makes good feed in the case of corn, and those are the factors that they are looking for. Our grain inspection service verifies that for them.

Chairman ROBERTS. Brian, I appreciate it. You could not put it any better than that.

Mr. Ayers, I understand that you and others on the panel have firsthand experience with the Grain Inspection Advisory Committee. Can you explain the role that the Advisory Committee plays in advising the Department on these type of issues?

I am going to ask you a followup, so you can just include this in your comments on that question. Do you or anyone else on the panel—I want you all to think about this—have any recommendations to make the committee more effective in representing industry views? For example, would you support allowing Advisory Committee members to apply and serve for more than one term, which I understand is three years and then it is adios? Am I correct?

Mr. AYERS. Yes.

Chairman ROBERTS. I would say to the distinguished Ranking Member, I have decided I would just—if we had three-year terms, I would have had to run, with a primary, 26 times.

[Laughter.]

Chairman ROBERTS. I am not sure I could——

Senator STABENOW. Keep busy.

Chairman ROBERTS. I do not know where you are on that, but any rate, it just struck me that that is a law for one term, three years, and so just about the time you really get experienced, why then you are wandering off into the sunset.

Please proceed.

Mr. AYERS. Mr. Chairman, the Advisory Committee produces resolutions giving direction to FGIS on technology, processes, and any other matters—finances—and gives them guidance from our viewpoint versus the FGIS internal viewpoint, and I think that is very important. The more and more input that we have and can have with the FGIS on the spending of their money, the new technology from all the viewpoints is very important.

The second part of your question is I would highly recommend that the three-year limit be kept in place. It allows for new ideas, new thoughts to be reintroduced every three years—or every year and not the same old people doing the same old thing time after time.

Thank you.

Chairman ROBERTS. Mr. Friant, your testimony addresses an issue regarding foreign material as proxy for weed seed on an APHIS-generated phytosanitary certificate. It is my understanding that grade factor determinations such as foreign material or test-weight are the purview of the Federal Grain Inspection Service, as opposed to any other Federal agency.

Should grade factor determinations made by FGIS be reflected only on an official certificate authorized under this Act?

Mr. FRIANT. Thank you, Mr. Chairman.

Yes, based on the provisions in the Act, we as NAEGA believe that the use of quality factor determinations on certificates other than those authorized by this Act are, indeed, misleading and should not be used as such.

Chairman ROBERTS. Your statement demonstrates a lot of work with customers all over the world that value U.S. grain and oil exports. How have their demands or specifications changed over time? Are they seeking different requirements in other countries? Do you see any new demands on the horizon from our foreign customers? I think the answer to that is obviously yes.

Mr. FRIANT. Yes, Mr. Chairman. Thank you for that question. I think it is a great question, and you hit the nail on the head with the short answer.

We absolutely are seeing more requests from our international buyers. What we see a lot more of is they want to understand the safety of the products that they are receiving. When we talk about safety in the grain world, it is things like mycotoxins, chemical residues. They want to know that that food they are receiving is safe.

Of course, they still want to know about the quality of the product, but in addition to the quality, we see more requests for what we would call end-use functionality. My colleague, I think, from U.S. Wheat mentioned the dough quality. We see more requests for the end-use functionality.

Then we also see more requests for how the grain or products were produced, and so we do see that. It is ever changing. That is a big part of my role is to review those requirements and understand our ability to meet them, and so we do see more and more of those all the time.

Chairman ROBERTS. I appreciate that.

Senator Stabenow?

Senator STABENOW. Well, thank you, Mr. Chairman, and thank you again to each of you.

Let me start with Mr. Sutherland and certainly welcome others' thoughts. I go back to the Chairman's questions regarding the Advisory Committee, and this is one of the provisions that we need to reauthorize. I do not think there is any doubt in the value of the Advisory Committee.

Mr. Sutherland, you have now been on the Committee for about one year of your three-year term, so you are not quite an old guy with—I do not know, Mr. Ayers, whatever you were saying in terms of the outdated person with old ideas, although I would still question whether three years is long enough to be one of the old guys.

I would like your thoughts on what you have learned so far, and from your perspective, how would you improve the functions of the Advisory Committee?

Mr. SUTHERLAND. Thank you, Ranking Member Stabenow, for that question.

Well, currently, I think the Advisory Committee serves dual roles. Shippers like ourselves need a voice to recommend to FGIS ways they can improve or enhance their services.

Second, it is a great opportunity for other members, from producers to end users, exporters, to voice their opinions.

I would like to submit as a matter of record, on April 30th, 2018, NGFA and NAEGA wrote a letter to FGIS for the Advisory Committee on how to staff and to improve the committee's functions. Actually, alternating two- and three-year terms are helpful so we don't lack a quorum.

NGFA does believe, however, that we should have an ability to serve more than one term, up to two terms within an eight-year period.

Now, we do believe that new members should be rotated consistently to provide a fresh perspective and diversity throughout the United States, but we do think that continuity, though, is important as well.

Senator STABENOW. Thank you.

I think, Mr. Friant, you also previously served on the Advisory Committee. Do you have any thoughts or suggestions you would like to add?

Mr. FRIANT. Yes, Senator Stabenow. I appreciate the question as well.

I served two separate three-year terms on the committee, and I would like to start with our appreciation for the work that current leadership, both in AMS, particularly Administrator Summers, and the new leadership at FGIS has put into the committee and listening to the concerns, not just of our industry, but the growers and other members of the value chain.

My comment regarding the term limits or how long folks can serve on the committee, the real key for me and for NAEGA is that we have diversity and continuity on the committee to meet the needs of the industry and producers.

One of the issues that we ran into with the committee was we got caught in a situation where several members of the committee rolled off at once, and we had several new members come on that were not as familiar with the issues. Having some form of continuity so folks can continue on with existing concerns that the agency is working on as well as new members that can raise new concerns that may affect the grain industry in the U.S. would be good.

Senator STABENOW. Thank you very much.

Mr. Sutherland, I wanted to ask you specifically about Michigan for a moment. You have been involved in Michigan's grain industry your entire career, and beyond the suggestions you outlined in your testimony, what concerns are you hearing from Michigan producers right now?

Mr. SUTHERLAND. Well, again, Senator, thank you.

From Michigan's perspective, I think it emphasizes why we do believe a comprehensive review of the boundaries is important.

Two issues that we have primarily in the State of Michigan, we are one of the top producers of soft red wheat in the United States. We ship quite a bit throughout the Midwest, and we have two providers that are limited on their ability to provide toxin testing for us in a timely manner. We think that that issue needs to be addressed, and we think this review would show some of the deficiencies maybe in staffing or equipment or services they are providing.

Another thing is that in the last 30 years, we have grown the ability to ship grain throughout the United States in grain trains. We are shipping 90 car trains, 110 car trains, and during harvest time, you can have multiple trains in the State at once.

Again, our providers are not always able to provide a service in a timely fashion. You are required to load those trains within 24 hours or less, and if you do not have timely service and meeting official weights and grades, you get demurrage charges, and it is a cost factor on shippers like ourselves.

So, again, we think that these issues need to be reviewed and that our service providers maybe consider staffing or territorial changes.

Senator STABENOW. All right. Thank you.

Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Hyde-Smith?

Senator HYDE-SMITH. Thank you, Mr. Chairman and Ranking Member.

Mr. Sutherland, will you elaborate on some potential ways to help prevent the misuse of U.S. Grain Standards Act, quality factors for inappropriate and misleading purposes, as we have discussed?

Mr. SUTHERLAND. Senator, I appreciate the question, but if I could, I would like to defer to Mr. Friant. He is more technically inclined in those areas, and perhaps he can answer that question.

Senator HYDE-SMITH. Not a problem at all.

Mr. FRIANT. Thank you, Senator. Would you mind repeating the question to make sure I understood it all?

Senator HYDE-SMITH. Would you just elaborate on some of the potential ways to prevent the misuse of the Act, quality factors for inappropriate or misleading purposes?

Mr. FRIANT. Absolutely. Without getting too much into the technical details of the Act itself, there is some language in section 78 of the Act that talks about the inappropriate or misleading use of grade factors, and I think what we would like to see is some strengthening of that language and, again, to make sure not only it does not happen, but it does not happen again in the future.

Senator HYDE-SMITH. Strengthening in ways of increased fines or——

Mr. FRIANT. Well, I think it would be probably a best discussion that we would have with others and some more technical folks to be involved in the discussion, maybe not necessarily in this setting, but yes, some strength in the language to make sure that the way that the factors are being used is appropriate and not misleading.

Senator HYDE-SMITH. Somebody that deals with it every day that might—would have some suggestions because that does make a difference.

Mr. FRIANT. Yes, correct.

Senator HYDE-SMITH. Mr. Friant, what are some of the benefits of reauthorizing the USDA Grain Inspection Advisory Committee that maybe we have not talked about already?

Mr. FRIANT. I think my colleagues have spoken very well about it in terms of the information that not just industry, but other key stakeholders can get to the agency to make sure that the areas where they are focusing are, indeed, helpful to the industry. It is situations that can help with the efficiency of the service delivered, improvements on the cost, because what we heard was we rely on the gold standard of the Federal Grain Inspection Service. We want to maintain that, and the Advisory Committee is a great way to get that feedback, not only on public record, but to the folks at the agency who do the work. We want to continue to see that happen.

Senator HYDE-SMITH. Thank you, every one of you, for being here and your part in this.

Mr. FRIANT. Thank you, Senator.

Chairman ROBERTS. Senator Smith?

Senator SMITH. Thank you, Chair Roberts and Ranking Member Stabenow, and thanks to all of you for being here. A special greeting to my fellow Minnesotan, Mr. Friant. I am sorry I was not able to be here in the beginning to introduce you, but I am really glad that you are here and very much appreciate your work.

I would like to ask a question about the impact of the U.S. Grain Standards Act on our ability to export products. Really, this is a question for the whole panel. This U.S. Grain Standards Act has provided consistent and dependable grain standards for decades, and my question to everyone on the panel is, Are these standards still trusted by importers of U.S. grain? Is there anything that we need to do to modernize our grain standards to remain competitive in foreign markets?

I will start with Mr. Linin.

Mr. LININ. Well, thank you, Senator. Appreciate the question.

I guess I would agree that the Grain Standards Act has been in place a long time. It has been a key aspect of exporting grains and protecting our quality and our name in the world.

I believe that the grain standards are trusted by other countries. I do think—and in my comments, I urge the Committee to consider a review of the grain standards on a regular basis. I think that is important to ensure that those standards are accurate and they are still important to our customers in the world.

I think this ties in also to the question Senator Hyde-Smith asked about the Advisory Committee. The wheat industry also supports having an Advisory Committee, and that Advisory Committee is your voice from people in the industry to communicate what is important and what maybe needs to change if there are changes that are needed.

I actually know personally two of the folks that currently serve on the Advisory Committee, Sarah Bowser from Kansas Sorghum and a K-State employee and Tom Tunnell who is the former CEO of our Kansas Grain and Feed Association and a former elevator operator. They are very qualified. They understand the industry and the grain business, and that is what I would say is the mechanism or the vehicle for keeping the standards updated is through that Advisory Committee.

Senator SMITH. Thank you.

Mr. Ayers?

Mr. AYERS. Thank you, Senator.

The grain standards are reviewed on a regular basis, at least the functions performed under the Grain Standards Act, and I would like to commend FGIS for keeping things up to date and making the changes necessary to keep the Grain Standards Act up to date and active. I think they have done a very good job at that.

For a document that was written in the early 1900's and still basically stands the same way it did says a lot for those who wrote it, and I think that FGIS along with the congressional oversight, that they will continue. The Grain Standards Act needs to be reviewed, and I think that everybody in place is doing a fine job with it.

Senator SMITH. Thank you.

Mr. Sutherland?

Mr. SUTHERLAND. Senator, I appreciate the question.

I may add a little bit different twist to this. I think the Grain Standards Act provides a great foundation for our exporting services throughout the world, and I think it perhaps even emphasizes the importance in trade agreements for ag, specifically the ratification of the USMCA, to build on our Grain Standards Act and to provide continuity between trading partners, to resolve any issues that may arise, and to use resolution mechanisms through those agreements. I think the Grain Standards Act provides a great foundation to build on that and use those trade agreements to facilitate even further.

Senator SMITH. Thank you.

Mr. FRIANT. Thanks, Senator.

If I might paraphrase your question, is the Grain Standards Act still the gold standard in the world? It absolutely is.

Working in the export industry, we trade grain, and the key is the FGIS certification. It absolutely is important to our industry, and maintaining the Grain Standards Act and reauthorizing it with some of the improvements that NAEGA and NGFA have proposed only make that that much stronger and continues to give weight and credence to the U.S. certificate that producers and manufacturers in other countries are getting what they expect to get.

Senator SMITH. Thank you.

Well, that is good to know, and at a time when Minnesota producers and I know producers all over the country are really struggling with a really challenging time, uncertainties, to put it nicely, with our trade deals around the world, bad weather, low prices, to have something that can be, as Mr. Friant says, the gold standard and for us to be able to do all of our work to make sure that it continues to work well for Minnesota producers is certainly important. I appreciate it. Thanks very much.

Thank you, Mr. Chair.

Chairman ROBERTS. I have a question for the entire panel, and could I ask you to go from my right to your left. That is not a very good idea.

[Laughter.]

Chairman ROBERTS. Do you like that? Somewhat progressive. All right. I quit. Just in time for additional questions.

Each of you have a long history of working in the various sectors of the grain and oilseeds industry. As you know, Secretary Perdue has sought to improve customer service throughout the Department of Agriculture. Can you quickly outline any of your experiences and reactions with the realignment of the Federal Grade Inspection Service within the USDA, please?

Mr. FRIANT. Thank you, Mr. Chairman, and an excellent question because we have noticed a marked improvement in the agency with the realignment into AMS.

Just a couple areas that I would like to call out are the accountability and the responsiveness in the agency. What we have seen—we have heard it said by many employees at FGIS that they want to put the service back in the Federal Grain Inspection Service, and we have particularly seen that in their responsiveness when we raise concerns, whether that is issues with timeliness of service or concerns we have on accuracy of grades.

The agency has been much more responsive when we have raised these concerns, and a particular example I would like to share with everyone today is there is an oversight process of the graders at export port facilities, where a certain number of samples are re-inspected by the Central Office in Kansas City.

It is called "monitoring," to ensure that the graders are accurately performing their service. When the monitoring program went through some revisions a couple years ago, what industry found was when monitoring samples were being collected, the timeliness to get those samples graded and then collected and sent was impacting the ability of the facilities to load. In fact, it was slowing down to where inspections on the officially exported sub-lots or lots of grain could not occur in a timely manner.

About two years ago at an industry FGIS workshop down in New Orleans, that issue was raised with the then Acting Deputy Administrator for FGIS about this timeliness. It was raised with her in the meeting. She took that back to her staff, had that discussion, and the result was some changes did not reduce the amount of monitoring that was happening. The integrity of the system was still maintained, but it ensured that the timeliness and the speed with which the monitoring samples were being graded and collected was much quicker and not impacting the facilities that were loading the grain.

We have seen great improvements in the responsiveness and the culture of the agency, and we definitely appreciate that and look forward to continue working with FGIS and leadership to continue to increase the efficiency of the agency.

Chairman ROBERTS. Mr. Sutherland?

Mr. SUTHERLAND. Well, I will just second what Mr. Friant said. I really cannot add more, but I will relate my experience on the Advisory Committee when I went to the grain center last year in August in Kansas City.

I was impressed with the energy and focus on the FGIS directors and regional staff and managers with their interest in our issues. They gave us detailed explanations of their procedures, their ideas and thoughts, and were generally interested in what we had to say. I was impressed by that, and I look forward here in August to my next meeting and interacting more with those folks.

Chairman ROBERTS. Mr. Ayers?

Mr. AYERS. Thank you, Mr. Chairman.

Under AMS, we have seen a tremendous increase in communication, openness, and responsiveness from the AMS management team that is in place. They are very responsive to anything. Whether they tell us yes or no is irregardless, but they are responsive. We did not see that under the old group prior to FGIS being under AMS.

It is very good. The communication is much better. The responsiveness and the openness is a big relief for all of us.

Chairman ROBERTS. I think the Secretary will be pleased to hear that.

Brian?

Mr. LININ. Thank you, Mr. Chairman.

I would agree that from an end-user standpoint, the move has worked well under AMS.

I would just point out that the GIPSA, the Grain Inspection Packers and Stockers Administration, is more of an enforcement agency, and it operates under a different statute than the Federal Grain Inspection Service. I think FGIS fits better under AMS.

Thank you.

Chairman ROBERTS. I appreciate that.

Senator Braun?

Senator BRAUN. Thank you, Mr. Chair. I got here late. I was at a different forum today on health care and education, two other issues that we discuss a lot here.

I would like to direct this question to Mr. Linin in the sense that I am involved in farming. I understand everything that this hear-

ing is about. Whenever I have a farmer here, I would like your opinion on how you see the future in terms of your occupation.

I am constantly getting questions from farmers that I rent ground to that they are worried about farming as it currently exists, regardless of tariffs, trying to find markets which seemed to be in what many of us consider to be worse than what it was like when we had LDPs and direct payments because prices are not a whole lot better now than what they were then. Most farmers like the fact that they are not as dependent on government.

I look at the industry itself and the high altitude of putting a crop out, whether it is soybeans, corn, or wheat, and I remember 15 years ago, it was probably one-third, at least one-half of what it is now.

How do you see the industry as it has evolved, regardless of finding new markets, which we all want to do that? How do you see finding your way to make your enterprise thrive and hopefully go into the next generation when you see what has happened to agriculture and how it has evolved into fewer and fewer companies that sell you supplies, chemicals and so forth? Where does that fit into your view of the future?

Mr. LININ. Well, thank you, Senator. Appreciate the question.

I do think that there is some concern about consolidation in the suppliers to farmers, consolidation of equipment dealers, consolidation of grain handlers, consolidation of input providers, fertilizer and chemical companies and such, that we depend on to operate our business.

It is a different landscape than it was 20 years ago, and I am in a unique situation because I have just kind of gotten into farming full-time. I have always been involved with the farm but kind of had a job off the farm here up until recently, and so I am taking the plunge, if you will.

Farming is more than just a business. Farming is a lifestyle, and we have chosen that lifestyle of living in a rural community and raising our family there and enjoying some of the amenities that that offers and also giving up some of the amenities that you have when you live in the city. I have also lived in the city. I lived in Kansas City for eight years, right out of college. That is where I met my wife. It is a lifestyle, and it is a life decision, I think.

I think farming is getting more to be just like any other business. It is a little bit less of a lifestyle for us, and it is more of a business. We have to be better at managing our costs and producing more with less and becoming more efficient.

While I am concerned about that, I also know that people have to eat. We have seen the population projection numbers. We know that the earth is going to nine billion people by 2050, and we know all those people are going to need to eat something. We are going to have to provide that food.

The U.S. is the most reliable source of food in the world, and it is going to be on our shoulders to do that. I really believe that.

I think other countries have better growing conditions maybe than we have, but I think we are more resilient and more adaptive than other countries are.

I guess I see it as a challenge, but I love what I do. We get better at it every day.

Senator BRAUN. A question. Because competition is the variable on any business, like mine, and growing it over 37 years, you do everything well if you are oversupplied. You still do not bring much home from the bottom line. Do you think American farmers can still operate as the low-cost producer? Because you are selling the same product, and of course, there is a quality difference that may be out there. Do you think you have the tools with the current supply chain to be the low-cost producer? Because when you go through tough times, that is your only protection of living for another day. Do you feel confident that that is there?

Mr. LININ. I think it is and it is not. The market moves and changes. If there was something that we could do to help on that cost side, I think that would be positive.

Things that concern me, farmland going out of business years ago, almost 20 years ago. That hurt the industry. I mean, they were a consistent supplier of anhydrous ammonia, different chemicals and products that we need on the farm, and we do not have that today. A lot of the suppliers today are just in it for the dollar and the business aspect of it. They may or may not be there, depending on if their profit margins are there.

Senator BRAUN. That statement right there, I would like everybody to remember and listen to because that is a simple deduction. The folks that are in that position of being the lifeblood for farmers when it comes to inputs and supplies, they seem to be doing okay. I think that is maybe a place farmers need to look to, to get some relief, rather than looking to government, because I think we know what that involves.

Mr. LININ. Sure.

Senator BRAUN. Thank you so much.

Mr. LININ. You are welcome. Thank you.

Chairman ROBERTS. Senator Perdue? You are up. The distinguished Senator——

Senator PERDUE. I apologize, Mr. Chairman. No, I was looking at the other side. Republican, Democrat, I guess we really are nonpartisan today. That is great. I love it.

[Laughter.]

Senator PERDUE. Well, I want to thank you guys here. This is obviously a strategic industry for us, and this standard is one that is very important.

I know the Ranking Member here has talked long and hard about managed regulation. We want to make sure we have a level playing field and protect this industry. At the same time, we do not want to be onerous or intrusive.

Mr. Ayers, Georgia is a designated State for FGIS inspections on domestic trade. How do official inspections differ from a delegated State? If the Act is not authorized, how would domestic trade suffer within the State and across the Country?

Mr. AYERS. Thank you, Senator.

There are two types of official agencies in the Country. There are designated and delegated. Delegated are reserved for State entities, departments of agriculture, et cetera, that actually run the inspection, and it is at export locations, where there is actually ship loading going in. I believe there are seven States that are delegated,

maybe six now, but there are seven States. All the rest of them are domestic market.

We as a designated agency cannot provide official inspection service in an export area along the coast where they load ships, and that is the biggest differences. Otherwise, we all follow the same rules, the same guidelines, the same procedures and processes.

Senator PERDUE. On competing for our grain producers to compete around the world, one of the things I am concerned about is the cost structure. You guys were talking about cost structure just a second ago.

Labor, raw material, ancillary overhead is different in the ag business than most other businesses that I am aware of. It just is, and all those things fluctuate, but they run up against a fixed ceiling called "commodity prices." The commodity prices are not cost of goods driven. They are market driven, as really most industries are.

In this one, though, they do not move with market forces from what I have seen. We have outside speculators, particularly in the grain industry, that are affecting this. I would love to hear any of you talk about the conundrum here about—a grain standard and the inspections and all that, I get, but the bigger issue is how do we continue to provide grain for the world? Because there are only a few bread baskets in the world: Ukraine, Brazil, North America. Going from 6.5-to 9 billion in the next few decades, this was a real issue in terms of trying to solve this economic problem that we have.

Government subsidies will not supply that long term. We can provide ups-and-down protection, but we cannot provide a structural protection long term because you lose the competitive position.

Does anybody have an offering on that?

Mr. SUTHERLAND. Well, Senator, I appreciate the question.

Obviously very complicated, but we are in a global environment. Competition in that global environment is key, and allowing American producers to do what they do best, produce, in an unencumbered environment is critical, and our current trade disruptions are problematic at best.

I think for producers—and I have many customers.

Senator PERDUE. Sorry to interrupt. I want to come back to that, but would you agree that the long-term implications of getting a more level playing field around the world and equal access is also something that we would like to try to achieve?

Mr. SUTHERLAND. When you say equal access, Senator, can you elaborate a little bit?

Senator PERDUE. Sure. There are plenty of ag products that we cannot ship to other countries that they can ship here. All we want is equal access.

Mr. SUTHERLAND. Right.

Senator PERDUE. There are a number of ways to get there. This is one, but I believe this is the best thing we can do for ag.

I mean, China today imports $15 billion worth of U.S. ag products. That is ridiculous. Australia does many, many times that, and

they are a fifth of our population or less—or less than 10 percent really.

I am concerned about it too, but it seems to me that that is something that one of the solutions here is to get the demand cycle moving more naturally around the world to help on that commodity price issue.

Mr. SUTHERLAND. That is true, and getting these trade agreements cemented are important.

Again, I refer to the USMCA. Getting that one ratified would be important as that next step.

Senator PERDUE. Agreed, agreed.

Mr. SUTHERLAND. That is my opinion on that.

Senator PERDUE. That is very good.

Anybody else, real quick?

Mr. FRIANT. Senator, I would just like to talk more about your question on costs. That was one of the key achievements that we had in the 2015 reauthorization was a change in how the FGIS user fees were calculated to a five-year rolling average, and it allowed the agency to be more responsive to these changes in export flows and be able to more easily adjust their user fees for the industry.

I think continuing to look at ways that the agency can take costs out helps us continue to be the low-cost service provider, and that is an important mission both of the agency and then one of the key roles of the FGIS Advisory Committee that we are advocating to be reauthorized because that is another venue for the agency to hear about ways that the users of the system think they can reduce costs and continue to be an efficient service provider.

Senator PERDUE. Okay. I am out of time. Thank you very much.

Thank you, Chair.

Chairman ROBERTS. With that excellent question and that excellent response from the panel, that will conclude our hearing today. Thank you to our witnesses for sharing your views on these important topics and for giving the Committee much to think about as we work to reauthorize the U.S. Grain Standards Act.

For those in the audience and all of our stakeholders, if you want to provide additional views on reauthorization, we have set up an address on the Senate Agriculture Committee's website to collect your input. Do not worry. It is safe. Please go to ag.senate.gov and click on the Grain Standards Reauthorization box on the left-hand side of the screen. Please note that link will be open for 5 business days following today's hearing.

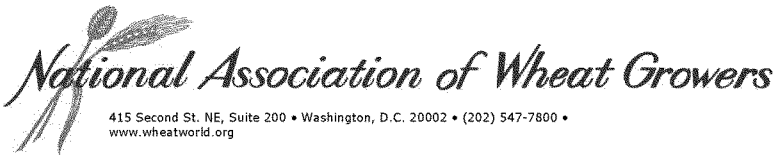
To my fellow members, we would ask that any additional questions you may have for the record be submitted to the Committee 5 business days from today or by 5 p.m., next Wednesday August 7th.

The Committee stands adjourned. Thank you.

[Whereupon, at 10:39 a.m., the Committee was adjourned.]

APPENDIX

JULY 31, 2019



Written Testimony of Brian Linin
Wheat Grower and Member, National Association of Wheat Growers
Before Senate Agriculture, Nutrition, and Forestry Committee
Grain Standards Act Reauthorization
July 31, 2019

Chairman Roberts, Ranking Member Stabenow, and Committee members, I am Brian Linin, a wheat farmer from Goodland, Kansas. I am a member of the National Association of Wheat Growers, serve on the Kansas Wheat Commission, and am a board member of the U.S. Wheat Associates where I served as past chairman of the U.S. Wheat Associates and National Association of Wheat Growers Joint International Trade Policy Committee. Off the farm, I also serve as the Chief Financial Officer for Frontier Ag, Inc. Thank you for the opportunity to testify today as a farmer and on behalf of NAWG on the importance of reauthorizing the Grain Standards Act.

The United States' grain inspection system, authorized through the Grain Standards Act, provides certainty to our foreign customers that all U.S. grains and oilseeds have been inspected and certified by an independent agency and provides great value to U.S. commodities, thereby enhancing our competitiveness in the world market. I know many other farmers and agriculture organizations share this view. I look forward to sharing why the reauthorization is important and needed this calendar year and how I've seen some of the improvements made in the 2015 authorization be implemented.

As a grower of winter wheat, among other crops, I stepped off my combine yesterday to be with you here to serve as a voice for fellow wheat farmers across the country about the importance of maintaining a smooth export system. It's been a very difficult few years for farmers, as we've dealt with extreme weather events, disease and pest pressures impacting our grain, high cost of production, low prices caused in part by tariffs (among other factors), and significant decreases in net farm income. Congress and the Administration have done important work to help us mitigate these factors in the form of Farm Bill commodity programs, crop insurance, and federal investments in research. Having a functioning and respected grain inspection system has enabled the U.S. to be a reliable exporter and facilitate continued demand for our commodities. When we've seen disruptions to our grain inspection system in the past it has resulted in billions of dollars of lost value throughout the production chain.

The Grain Standards Act serves a critical role in exporting grains and oilseeds, including U.S. wheat, of which about 50% is exported each year. With such a large volume of wheat being exported, our export markets are critical to wheat farmers' bottom lines. Despite challenging market factors, U.S. wheat exports for marketing year (MY) 2018/19, which ended May 31, 2019, totaled 25.8 million metric tons (MMT) (948 million bushels), in line with USDA's adjusted export volume estimate. That is 9% ahead of MY 2017/18 and 1% ahead of the 5-year average of 25.5 MMT (937 million bushels). Commercial sales of all classes of wheat in MY 2018/19 exceeded 2017/18 levels due to abundant exportable supplies, excellent harvest qualities, and competitive export prices.

U.S. wheat exports increased despite bearish factors such as a strong U.S. dollar, uncertainty about U.S. trade policies, and difficult inland transportation logistics. International buyers acknowledge that sustained service from U.S. Wheat Associates (USW), supported by the member state wheat commissions, and with the USDA

Foreign Agriculture Service programs counterbalance many bearish factors that work as headwinds to expanded exports. Our product is known for its premium quality, and our customers are willing to pay for that. However, when barriers to trade arise, this hampers farmers' ability to sell their grain overseas and lowers farmgate prices. These barriers may take the form of inspection delays, new tariffs, or other non-tariff barriers found in the international market. With tough economic conditions being faced by our farmers including several years of low commodity prices and the headwinds to exporting wheat, it is critically important that we at least maintain a smooth grain inspection system.

The grain inspection system is one that is valued by our overseas customers and adds value to our commodities. Foreign customers can be assured that an independent agency has certified shipments to meet the grade requirements specified in a contract. This certainty and reliability has helped wheat and other U.S. commodities to grow our export markets and serves as a significant advantage of purchasing U.S. wheat versus wheat from other origins. As an example, in June the Kansas Wheat Commission and U.S. Wheat Associates hosted a trade team from Brazil consisting of wheat buyers for flour mills using funds from the Market Access Program (MAP). The team visited the Federal Grain Inspection Service (FGIS) facility in Kansas City and were very interested in the role that FGIS plays as an independent, third-party entity conducting inspections. They learned about the process through which the agency settles disputes on quality standards. They walked away with more confidence in buying U.S. grain because of this unbiased, third party arbitration system. A strong grain inspection process can also help to prevent the shipping of wheat with excessive foreign material, keeping quality of U.S. wheat at a premium and preventing international customers from looking to other countries to purchase their wheat.

As another example of the added value our grain inspection system provides, the FGIS international affairs office provides educational training programs that help foreign buyers to better understand inspection protocol and testing methods. Just earlier this month, they held a training program in Peru, an import market of about 73.5 million bushels. 53 people from the five largest wheat importing companies in Peru left with increased trust and confidence in the FGIS certification process. More so, these foreign buyers will implement changes in their mills following these training sessions which will result in fewer discrepancies between the FGIS grade and the results of local inspections, leading to increased satisfaction with U.S. wheat overall. Ensuring that there are no disruptions in inspection services and that FGIS is required to step in and provide a smooth grain inspection and export system is of top priority to the wheat industry.

With the grain inspection system being so important, the wheat industry and other commodities were pleased to see needed improvements as a result of the 2015 reauthorization. We hope that a reauthorization will continue to require that delegated agencies that decide to discontinue service must provide 72 hours' notice and that FGIS is required to immediately take necessary actions to maintain inspections. Reliability and certainty to our export markets by avoiding disruptions in inspection services is a top priority. Additionally, we have seen benefit in allowing a recertification process for delegated state agencies to provide an open opportunity for public comment and feedback about the operations of those agencies. More so, we were pleased that the 2015 reauthorization bill included additional reporting requirements, including immediate reports to Congress about future disruptions in official inspection services.

The wheat industry saw great value in FGIS reporting to Congress (as required in by the 2015 reauthorization) the policy barriers U.S. grain producers face in countries that don't provide U.S. grain with official grades (or only the lowest quality grade). We believe this reporting helped facilitate efforts of the Administration to include provisions in the U.S.-Mexico-Canada agreement (USMCA) to require reciprocal grain grading, an improvement that is one of the key reasons NAWG is supportive of the USMCA agreement. We also see great value in ensuring we continue a FGIS advisory committee that has been composed of farmers, grain handlers, trade groups, and

academics to continue providing a forum for improvements to the grain inspection system. Additionally, we strongly feel it is important for FGIS to conduct regular reviews of specifications for wheat classes and for there to be a public comment opportunity for those reviews.

A properly functioning grain inspection system is critical, and we urge Congress to reauthorize the Grain Standards Act this year. Despite the significant impacts of tariffs on exports, U.S. wheat has maintained some competitiveness in the international market in part thanks to the advantage and premium international buyers place on the U.S. grain inspection system. Given the current uncertainty in trade agreements and many of the bearish factors working against U.S. wheat exports, it is critical we maintain one of our key advantages. Foreign and domestic customers value an independent agency certifying shipments to meet the grade requirements of contracts.

Although issues specific to other crops are not addressed by this statement, the following groups – American Farm Bureau Federation, American Soybean Association, National Barley Growers Association, National Corn Growers Association, National Farmers Union, National Sunflower Association, U.S. Canola Association, U.S. Pea and Lentil Trade Association, and USA Dry Pea and Lentil Council – also agree that a properly functioning grain inspection system is critical, and on behalf of all of our organizations, we urge Congress to reauthorize the Grain Standards Act this year for at least five years. The 2015 reauthorization of the Grain Standards Act included many improvements and we hope to continue and build upon those improvements through this reauthorization.

Again, thank you for the opportunity to testify today about the importance of our grain inspection system and the advantages it provides to U.S. wheat along with other grains and oilseeds. I look forward to working with you towards a timely reauthorization of the Grain Standards Act.

American Association of Grain Inspection and Weighing Agencies (AAGIWA)
Statement Before the
Committee on Agriculture, Nutrition and Forestry
United States Senate
On
U.S. Grain Standards Act Review
July 31, 2019

Mr. Chairman and members of the Committee:

I am Tom Dahl, 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 operate and am one of the owners of the designated Sioux City Inspection and Weighing Service Company, headquartered in Sioux City, Iowa. I have been in the grain inspection business for nearly 45 years.

The American Association of Grain Inspection and Weighing Agencies (AAGIWA) is the national professional association representing the public and private agencies that are designated and delegated by USDA's Federal Grain Inspection Service (FGIS) 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 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 72 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, 2020. In doing so, the association wishes to support the reauthorization of the expiring provisions, and provide the following observations to the Committee:

There is an important role for a Federal regulatory and supervisory agency in the operation of an official grain inspection system. FGIS 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 44 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 within seconds. These advancements are a result of the vision, hard work, and commitment of the grain industry and FGIS.

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. FGIS 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 FGIS's willingness to change and provide more rapid and accurate testing capabilities.

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. FGIS quality and weights certificates issued by official agencies are regarded as prima facia evidence in all courts 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.

This third-party role was recently strengthened when FGIS was moved to the Agricultural Marketing Service thereby placing all inspection activities under one USDA Agency. AAGIWA has observed positive results from this part of the 2017 USDA reorganization.

AAGIWA supports reauthorization of the U. S. Grain Standards Act.

The last reauthorization removed the nonuse of service boundary exception. The nonuse of service provision was reinstated via the 2018 Farm Bill. AAGIWA has maintained a neutral position regarding changes to both exceptions and boundary provisions within the Act because of the divisive nature of these issues within its membership. Changes to these provisions tend to create unnecessary turmoil within the official system and the grain industry receiving our services. AAGIWA believes that all customers deserve first class service from official agencies and that the current exception and boundary provisions along with other provisions ensure that first class service is available to all customers when these provisions are properly administered.

AAGIWA recommends reauthorization of the Advisory Committee. The Advisory Committee provides the opportunity for all stakeholders to present issues and develop resolutions that benefit all parties. The USGSA currently requires that persons producing, processing, storing, merchandising, consuming, and exporting industries, including grain inspection and weighing agencies, and scientist with expertise in research related to grain testing and quality be on the Committee. AAGIWA believes it is important that representatives from each of the required disciplines be on the committee and that alternates from each of these disciplines be available to participate so that discussions and resolutions can be thoroughly vetted by all interested parties to the benefit of the entire American grain commerce system. AAGIWA supports continuation of the Advisory Committee provision and appreciates having the opportunity to serve on this important Committee.

AAGIWA recommends that the provisions for assessing user fees with an administrative cap be reauthorized. The cap insures that FGIS spends fees collected from its customers judiciously on administrative expenses. We also support the continued funding of Standardization and Compliance activities from appropriated funds because these activities serve all parties in the marketing chain, and not just users of the official system.

AAGIWA supports maintaining the mandatory export provisions and the limitations on who can perform export inspections. AAGIWA members, their employees, and their families know how important grain exports are to the health of both rural and export communities. We are part of these communities and are dealing with negative repercussions that the current export downturn is having throughout our communities. Any changes that would even be perceived as weakening America's commitment to ensure the delivery of the high-quality grain our customers pay for would not be prudent under the current economic conditions and would make obtaining new markets and regaining old markets more difficult.

In conclusion, AAGIWA commends FGIS and the grain industry for their continued commitment to market America's grain. We are proud to serve as a part of this important effort. It is important that the necessary sections of the U.S. Grain Standards Act be reauthorized to ensure that the Act serves to support all those involved in producing and marketing American grain.

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Written Testimony

on Reauthorization of the U.S. Grain Standards Act

Before the

Committee on Agriculture, Nutrition and Forestry

U.S. Senate

By Bruce Sutherland, President

Michigan Agriculture Commodities, Lansing Mich.

on Behalf of

National Grain and Feed Association

July 31, 2019

Chairman Roberts, Ranking Member Stabenow and members of the Committee, I am Bruce Sutherland, President of Michigan Agricultural Commodities Inc. (MAC), headquartered in Lansing, Mich. I am pleased to testify today on the very important topic of reauthorizing the U.S. Grain Standards Act (USGSA) on behalf of the National Grain and Feed Association (NGFA), on whose Board of Directors I serve. I also serve as a recently appointed member of the Federal Grain Inspection Service's (FGIS) Grain Inspection Advisory Committee.

I have been with MAC for more than 33 years, and have served as its president since June 2016. My duties include capital planning, acquisitions, employee services, trading and risk management. MAC is a privately held, for-profit corporation that buys, sells and stores agricultural commodities throughout the United States and Canada. MAC currently is Michigan's largest grain handler, operating seven elevators with nearly 44 million bushels of total storage capacity. MAC also provides direct-ship, agronomy, dry edible bean and identity-preserved soybean services for Michigan farmers and other customers.

NGFA, established in 1896, comprises more than 1,050 member companies that operate more than 7,000 facilities and handle more than 70 percent of the U.S. grain and oilseed crop. NGFA's membership encompasses all sectors of the industry, including country, terminal and export grain elevators; commercial feed and feed ingredient manufacturers; biofuels producers; cash grain and feed merchants; end-users of grain and grain products, including processors, flour millers, and livestock and poultry integrators; commodity futures brokers and commission merchants; and allied industries. The NGFA also has strategic alliances with North American Export Grain Association (NAEGA) and the Pet Food Institute. In addition, affiliated with the NGFA are 33 state and regional agribusiness associations.

NGFA strongly supports reauthorization of the USGSA to maintain and continually improve the U.S. Official grain inspection system. Our association has a long history of advocating for a federal Official grain inspection and weighing system. We have worked continuously for nearly 45 years to encourage continued improvements to this system – and have several recommendations to further enhance it in our testimony today. NGFA also works to improve the broader regulatory and commercial environment to enhance the value, safety,

competitiveness and sustainability of U.S. agriculture, and the positive contribution it makes to America's balance of trade and job-creation.

FGIS performs an essential role by establishing, maintaining and updating the Official U.S. grain standards, which are critical to establishing value and price-discovery in the U.S. and global grain and oilseed marketplace. The inspection and other services provided by FGIS, which are funded principally through industry-paid fees, 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 recognized around the world for its ability to market and provide a competitively priced, 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 and designated state and private agencies provide state-of-the-art, market-responsive Official inspection and weighing of bulk grains and oilseeds, and do so in a reliable, uninterrupted, consistent and cost-effective manner.

At the outset, I want to state that NGFA aligns itself with, and supports, the testimony being provided here today by NAEGA, with which we are co-located. NGFA and NAEGA have collaborated closely in developing joint recommendations through our respective committees and Boards of Directors.

NGFA wishes to begin by expressing its appreciation to Congress – and particularly this Committee – for its leadership in enacting fundamental reforms as part of the 2015 reauthorization of this statute, which set in motion dramatic improvements within FGIS that place our industry and our farmer-customers in a much better position today than we were then, when the reputation of the Official system for providing reliable and cost-effective Official inspection and weighing service was under serious challenge.

The troubling experience in 2013-14 involving one delegated state agency that repeatedly and with little, if any, notice withdrew Official inspection service at a major export elevator caused NGFA and NAEGA to propose several important changes that Congress saw fit to enact:

- The most important was to establish a transparent notification and reporting requirement if one of FGIS's delegated Official inspection agencies at export ports intended to discontinue offering such service for any reason other than a "major disaster." This notification provides the opportunity for FGIS to step in to fill the void to help preserve the United States' reputation as a reliable supplier. The legislative language also appropriately directs the Secretary of Agriculture to consider such conduct as a factor when determining future delegations of inspection authority.

- A second important change was to modify the method used to calculate export inspection user fees so they are based on a five-year rolling average of the volume of grain being Officially inspected. This helps ensure that fees reflect the volume of business being done by the Official inspection system and prudently provides for upward and downward adjustments in fees accordingly.

- Third was to require transparency and regular review of FGIS's delegation of its Official inspection authority. This subsequently has resulted in the publication of a notice in the ***Federal Register***, a 30-day comment period, and publication of a detailed ***Federal Register*** notice explaining why a state agency has been either approved or disapproved for delegation.

NGFA would be remiss, though, if it didn't voice concern about recent language in the majority report of the House agricultural appropriations bill that contradicts the action taken by Congress in 2015 to provide for predictable and uninterrupted Official inspection service. The House report language, in effect, strongly encourages FGIS employees *not* to fulfill their congressionally mandated obligation to perform Official grain inspection and weighing services by encouraging them not to cross picket lines during a labor dispute at a facility.

U.S. farmers and exporters have worked hard to gain access to overseas markets – particularly given current significant trade disruptions – and any action by state or federal agencies to disregard their statutory obligations would undermine the United States' reputation as a reliable, predictable supplier of grains and oilseeds. Therefore, we have urged the Senate Appropriations Committee, on which a number this committee's members also sit, to reject this misguided and inappropriate House report language. Doing otherwise would send a dangerous and counterproductive signal to domestic and foreign buyers that it's permissible for inspectors not to perform their statutory duties – and would do so at exactly the wrong time.

As mentioned previously, the reforms enacted by Congress in 2015 set in motion a series of improvements to FGIS and the Official inspection system. The second major contribution was Secretary of Agriculture Sonny Perdue's decision as part of his 2017 USDA reorganization plan to extricate FGIS from the Grain Inspection, Packers and Stockyards Administration (GIPSA) and return it to the Agricultural Marketing Service, where it had resided prior to 1994, as well as to install fresh new leadership at the agency.

NGFA and NAEGA strongly supported this aspect of Secretary Perdue's reorganization plan. The merger of FGIS and the Packers and Stockyards Administration into GIPSA during the Clinton administration had always been an odd fit, since the two agencies have distinctly different missions and functions. FGIS is an agency focused on maintaining grain standards and providing Official inspection and weighing service to facilitate the marketing of U.S. agricultural products under authority provided by both the U.S. Grain Standards Act and the Agricultural Marketing Act, under the latter of which AMS operates. By contrast, the Packers and Stockyards Administration is primarily an enforcement agency operating under a completely different statute (the Packers and Stockyards Act).

In addition, the synergy provided by AMS's administrative support services, development of quality standards, training expertise and experience in operating user-fee-funded services have enhanced FGIS's performance. So, too, has the capable new leadership installed at the agency. Further, the reorganization helped FGIS address problems that occurred over the last decade involving the overall expense and effectiveness of federally mandated FGIS Official

grain inspection services by eliminating programmatic redundancies, reducing administrative costs, and providing opportunities for interaction with AMS personnel with a similar mission and focus. We especially want to recognize and commend the dedication of many career public servants within AMS and FGIS for their hard work and commitment in addressing important stakeholder issues during this transition.

While continual improvement is necessary and important for all enterprises, NGFA and NAEGA believe that the service-oriented culture of AMS – combined with strong and effective new leadership at FGIS – has had a demonstrable and transformatively positive impact that is serving American farmers and our industry well.

While changes to the USGSA in 2015 and the reorganization of FGIS in 2017 have improved Official inspection and weighing services, NGFA and NAEGA believe there are several additional improvements that can be made to create an even more reliable, competitive and cost-effective system to facilitate the marketing of U.S. grains and oilseeds in export and domestic markets.

NGFA and NAEGA's recommendations consist of the following:

- First, we urge that the USGSA be strengthened by expressly prohibiting the inappropriate and misleading practice of using grain standard quality factors as an indicator of plant health risk on phytosanitary certificates issued by USDA's Animal and Plant Health Inspection Service (APHIS).

  APHIS inappropriately and unwisely in our view acquiesced in late December 2017 to Chinese officials' requests that foreign material (FM) content – a grain quality factor – be used as a proxy for weed seed content in U.S. soybean export shipments. Subsequently, starting in January 2018, APHIS began requiring that an FGIS grain quality factor determination of FM exceeding 1 percent be replicated on APHIS-issued phytosanitary certificates, even though FM content already is listed on the FGIS Official grain inspection certificate. This was a startling development,

because APHIS data shared with industry stakeholders in November and December 2017 prior to its meetings with the Chinese showed no direct correlation between FM and weed seed content, and there was substantial evidence that many of the weeds of alleged concern to China already were present in that country. This action had the effect of further flagging this factor for Chinese import officials, inferring a plant health risk that did not exist in U.S. soybean shipments and disregarding mitigation measures that can be implemented at import (e.g., processing) to denature weed seeds so they cannot germinate. The result was predictable and damaging: APHIS's action cut across existing industry contracts and had the effect of creating huge market risk given the lack of certainty on how such U.S. cargoes would be treated upon arrival in China. That, in turn, led to a significant reduction in U.S. soybean exports to China long before the imposition of retaliatory tariffs later in the year, as demonstrated in the attached analysis done by NGFA. To our knowledge, no other country faces a comparable a requirement from China.

The purpose of the USGSA is to establish Official marketing standards (not plant health and safety standards) for covered commodities. As already articulated in Section 78 of the USGSA, Official grade designations, including grain quality factors like FM, are not to be used in a false or misleading fashion. But that's exactly what APHIS did.

Using USGSA quality factors as an indicator of plant health risk is inappropriate and misleading, and NGFA and NAEGA believes this practice should be expressly prohibited by statute so it never recurs nor sets a dangerous precedent for future misguided action by APHIS.

- Our second recommendation pertains to the 72-hour advance notification requirement mandated by Congress under the 2015 reauthorization to Section 79 of the USGSA if FGIS-delegated agencies intend to discontinue providing Official inspection service. While the statutory language expressly requires such notification be made to USDA, FGIS when implementing this provision inexplicably did not require its delegated

agencies to grant the same advance notification to the actual facilities affected by such disruptions in Official service. Nor did USDA commit to providing such notification itself.

We strongly believe affected facilities need and deserve the same courtesy and consideration as currently provided to USDA so they can make appropriate logistical and other alternative arrangements to continue to serve customers whenever possible – including farmers and upstream and downstream customers. Such disruptions, if and when they occur, adversely affect a facility's ability to fulfill existing grain purchase-and-sales contracts with customers (including farmers and domestic and foreign buyers), alter their ability to handle inbound and outbound grain movements, cause disarray in domestic and export transportation logistics (including costly demurrage), complicate staffing requirements, and create a host of other business consequences. We therefore recommend legislative language to require comparable 72-hour advance notification for affected facilities.

- Third, we urge FGIS to conduct a detailed review of the current domestic geographic boundaries used to establish the territories within which each designated Official agency operates.

  In the domestic market, the use of Official grain inspection and weighing service is voluntary, which is appropriate given the diverse nature of the industry. Grain handling facilities wishing to use Official grain inspection and weighing services designated by FGIS in the domestic market generally only can use the single Official agency designated by FGIS for the specific geographic territory in which the facility is located. If the Officially designated agency is unable to perform inspection and weighing services, then the grain handling facility can request from FGIS a "non-use of service exception," which allows a non-incumbent Officially designated agency to perform the functions of the incumbent agency.

Previous misinterpretation by GIPSA of the intent of the 2015 Reauthorizations Act caused many grain elevators to have their exception agreements with a domestic Official inspection agency wrongly and unilaterally terminated. As a result, the NGFA worked last year with this Senate Committee, as well as the House Agriculture Committee, to include language in the 2018 farm law that gave grain handlers – who had exception agreements wrongly canceled – the opportunity to restore the service arrangement with their prior Officially designated domestic inspection agency by notifying USDA of the change. The NGFA greatly appreciates this committee's and your staffs' efforts to address this issue.

But for our industry, this points to a larger matter. FGIS, while making minor adjustments from time-to-time, has not conducted a truly comprehensive review of its geographic boundaries for domestic Official agencies since it was established in 1976. During that 43-year span, there have been significant changes in the number and operations of both grain handling facilities and Officially designated inspection agencies; the amount of grain and oilseeds handled and processed within each geographic boundary; and the number of quality attributes and other quality tests conducted by these agencies. These changes in the domestic marketplace, we believe, necessitate that USDA comprehensively update information and data upon which the geographic boundaries are based.

For these reasons, we urge that Congress include language in the USGSA to require FGIS to periodically conduct such a comprehensive review and report its findings to Congress. Upon completing such a review, we believe FGIS will have a much better basis for determining if, whether and how to update geographic boundaries for Officially designated agencies than it does now.

- Fourth, given the extremely positive changes brought about by Congress in revising the USGSA in 2015, combined with the highly successful reorganization and realignment of FGIS into AMS and the continued improvement of FGIS operations in providing accurate, reliable, timely and more predictable service, NGFA and

NAEGA are comfortable recommending that the reauthorization period be extended from the current five years to a time period of more than five years but no longer than 10 years. We defer to Congress to determine the appropriate number of years for reauthorization within that time span.

- Fifth, to maintain transparency with stakeholders, NGFA recommends requiring that FGIS report the number of and specific type(s) of waivers from Official inspection and weighing service being requested and granted, the number of non-use of service exceptions requested and granted, and the number of specific testing services requested (e.g., for such services as intrinsic quality and food safety factor determinations that are available from FGIS or private surveyors upon request), with appropriate protection to preserve the confidentiality of trade secrets and confidential business information. We believe more transparency of this information would be valuable for Congress and stakeholders alike.

- Sixth, we believe FGIS user fees paid by the industry should be directed solely to Official inspection and weighing services. Users of these Official services already pay for the direct costs incurred by FGIS in providing them, plus administrative overhead for those services, which typically comprises 70 percent of FGIS's total annual budget. The remaining 30 percent (approximately $20 million annually) is covered through appropriated funds and are used to finance the agency's activities to establish, maintain and update the U.S. grain standards, as well as for monitoring and compliance/enforcement activities. The activities financed by appropriated funds have broad societal benefits – for instance, farmers and consumers alike benefit from the efficient price-discovery made possible by the U.S. grain standards. Assessing additional user fees to finance these non-inspection-related functions of FGIS would increase business costs and likely be passed back to farmers in the form of reduced farmgate prices for their commodities given the highly competitive global market in which U.S. agriculture operates.

- Seventh, and finally, we recommend that the FGIS Grain Inspection Advisory Committee be reauthorized. The advisory committee provides counsel to the FGIS administrator on the implementation of the USGSA. It is comprised of members who represent the interests of grain producers, exporters and handlers. NGFA and NAEGA believe the advisory committee serves a worthwhile function by providing expert advice and assistance to FGIS – and helps hold the agency accountable – for fulfilling its core mission of ensuring that Official inspections are performed in a reliable, consistent, cost-effective and uninterrupted manner to facilitate the export of U.S. grains and oilseeds to global customers.

Conclusion

The grain storage, handling and export industry specializes in the logistics of purchasing the commodities a farmer grows and finding a market for it here at home or in global markets. In serving this role, our industry relies on FGIS and its delegated and designated state and private agencies to provide competent, state-of-the-art and reliable Official inspection, weighing and related services for which the industry pays to facilitate the efficient and cost-effective marketing of U.S. grains and oilseeds.

NGFA and NAEGA believe our legislative recommendations to amend the USGSA will strengthen the Official inspection and weighing system, foster the competitive position of U.S. grains and oilseeds in world markets, and maintain the integrity of Official inspection results. In addition, reauthorizing the USGSA on schedule – or even a bit early – would provide continued certainty to grain handlers, farmers and our global customers. NGFA is committed to working constructively with Congress to enact policies that achieve these positive outcomes.

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

Bruce Sutherland Biography

Current Position: President, Michigan Agricultural Commodities (MAC) since 2016.

Tenure: 33 years at MAC.

Education: Graduated from Central Michigan University with a B.S. in Business Administration and Finance (1981).

Related Industry Activities:

- Member: National Grain and Feed Association (NGFA). Current Member of NGFA Board of Directors and Crop Technology Committee. Former Chairman, NGFA Country Elevator Committee.
- Trustee: National Grain and Feed Foundation.
- Member: Michigan Agri Business Association (MABA). Currently member of MABA Grain Committee. Former MABA Board member and Chairman of the Board.
- Committee member: Federal Grain Inspection Service Advisory Committee (Since 2019).
- Committee member: Surface Transportation Board National Grain Car Council (since 2017).

Married to Teresa Sutherland and lives in Okemos, MI.

Attachment

1. *"Estimated Price Impact on U.S. Soybeans due to Additional Declaration Requirement on Phytosanitary Certificates"* by National Grain & Feed Association, July 24, 2019

Testimony on

the Reauthorization of the U.S. Grain Standards Act

Before the

United States Senate Committee on Agriculture,

Nutrition, and Forestry

By Nick Friant, Raw Materials Quality Leader

Cargill Inc., Wayzata, Minn.

on Behalf of the

North American Export Grain Association

July 31, 2019

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Chairman Roberts, Ranking Member Stabenow, and members of the committee, thank you for the opportunity to testify today. I am Nick Friant, Raw Materials Quality Leader for Cargill Inc. 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 North American Export Grain Association (NAEGA). I serve as Chairman of NAEGA's Grades and Inspections Committee, which addresses issues concerning the official grain inspection and grading system and the U.S. Grain Standards Act that are the subject of this hearing. I also serve as the Chairman of the National Grain and Feed Association (NGFA) Grain Grades and Weights Committee. NAEGA aligns itself with, and supports, the testimony being provided here today by the NGFA with which we are co-located. NGFA and NAEGA have collaborated closely in developing joint recommendations through our respective committees and Boards of Directors.

First and foremost please accept our appreciation to Congress – and particularly this Committee – for its leadership in enacting fundamental reforms as part of the 2015 reauthorization of this statute, which set in motion dramatic improvements within FGIS that place our industry and our farmer-customers in a much better position today than we were then, when the reputation of the Official system for providing reliable and cost-effective Official inspection and weighing service was under serious challenge.

NAEGA promotes and sustains the international trade of grain and oilseeds from the United States. Established in 1912, NAEGA's members include private and publicly owned companies and farmer-owned cooperatives serving the bulk grain and oilseed exporting industry. NAEGA represents the industry in communications with foreign buyers, U.S. and foreign governmental bodies, and before international institutions. NAEGA-member companies ship and support the vast majority of the highly competitive and fungible U.S. grain export supply.

The U.S. grain export industry is a robust, diverse, and dynamic system. It reaches publicly, privately and cooperatively owned and managed facilities and trading entities. NAEGA works in the best interest of the entire value chain to provide for optimal commercial and official practices that provide for safe and secure commerce, increased efficiency, risk management and mitigation, promotion of trade and investment, and a level and competitive global playing field. NAEGA and its members, in cooperation with the U.S. Department of Agriculture's trade-related programming and the U.S. Coast Guard's security programming, provide market education, contract models, dispute resolution, and guidance related to trading and logistics functions for the international trade of grains, oilseeds, and several of their primary derivative products

Having worked with and been in leadership positions with 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.

NAEGA strongly supports reauthorization of the U.S. Grain Standards Act to improve and maintain the U.S. official grain inspection system. NAEGA has a long history of supporting a

federal official grain inspection and weighing system, and I testified in support of the 2015 reauthorization on NAEGA's behalf. NAEGA has continuously worked 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.

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. The 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 – particularly exporters and their customers. 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 adequate fungibility and competitive marketing 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.

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 must diligently 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. We see the reauthorization of the Act as an opportunity to work to improve and enhance U.S. competitiveness and 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 evaluates reauthorization of the Act, the question of how our system for determining grades and communicating quality to create the most value for the U.S. agricultural supply chain must remain front and center. 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, America's 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. Federal Official weights and grades must be used only to assess the quality of grain, not for inappropriate and misleading purposes such as plant health, which can only serve to degrade the quality of the current system. Further, the best inspection system in the world cannot generate sufficient value if it is not predictable and reliable. These inspections 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.

In addition to close collaboration with the NGFA, NAEGA consideration of the upcoming reauthorization of the U.S. Grain Standards Act is informed by communication with multiple

stakeholders including ongoing engagement with the USDA's Foreign Agriculture Service (FAS) Cooperator Program and our highly valued and relevant partner organizations like the U.S. Grains Council, the U.S. Soybean Export Council and U.S. Wheat Associates which are integral to understanding the global marketplace for commodities addressed by the Act. NAEGA has also again turned to W. Kirk Miller, former General Sales Manager for FAS and former FGIS Administrator for analysis and advice. Mr. Miller's report from May 23, 2019: "*2019 U.S. GRAIN STANDARDS ACT REAUTHORIZATION ISSUES*" is attached for background.

While changes to the USGSA in 2015 and the reorganization of FGIS in 2017 have greatly improved U.S. official inspection and weighing services, NGFA and NAEGA believes there are several additional improvements that can be made to create an even more reliable, competitive and cost-effective system to facilitate the marketing of U.S. grains and oilseeds in export and domestic markets.

NGFA and NAEGA's recommendations consist of the following:

- First, we urge that the USGSA be strengthened by expressly prohibiting the inappropriate and misleading practice of using grain standard quality factors as an indicator of plant health risk on phytosanitary certificates issued by USDA's Animal and Plant Health Inspection Service (APHIS). The purpose of the USGSA is to establish Official marketing standards (not plant health and safety standards) for covered commodities. As already articulated in Section 78 of the USGSA, Official grade designations, including grain quality factors like FM, are not to be used in a false or misleading fashion. Using USGSA quality factors an indicator of plant health risk is inappropriate and misleading, and NGFA and NAEGA believes this practice should be expressly prohibited by statute so it never recurs nor sets a dangerous precedent for future misguided action by APHIS.

  As you will find in the attached 2018 reports *"NAEGASoybeanReportMay30"* and "*Estimated Price Impact on U.S. Soybeans due to Additional Declaration Requirement of Foreign Material*" APHIS inappropriately and unwisely in our view reportedly acquiesced in late December 2017 to Chinese officials' requests that foreign material (FM) content – a grain quality factor – be used as a proxy for weed seed content in U.S. soybean export shipments. Subsequently, starting on January 1, 2018, APHIS began requiring that an FGIS grain quality factor determination of FM exceeding 1 percent be replicated on APHIS-issued phytosanitary certificates, despite the fact that FM content is appropriately listed on the mandatory Official inspection certificate provided for by the Act. This was a startling development, because APHIS data shared with industry stakeholders in November and December 2017 prior to its meetings with the Chinese showed no direct correlation between FM and weed seed content, and there was substantial evidence that many of the weeds of alleged concern to China already were present in that country and the action was taken contrary to 2017 indications of possible actions from APHIS without sufficient notice to U.S. farmers and grain handlers. The APHIS action had the effect of further flagging this factor for Chinese import officials, inferring a plant health risk that did not exist in U.S. soybean shipments and disregarded

international conventions for risk assessment and management including mitigation measures that can be implemented at import (e.g., processing) to denature weed seeds so they cannot germinate. The result was predictable and damaging: With little to no certainty on how such U.S. cargoes would be treated upon arrival in China, APHIS's action cut across existing industry contracts and had the lasting effect of creating huge market uncertainty that immediately led to a significant reduction in U.S. soybean exports to China long before the imposition of retaliatory tariffs later in the year. To our knowledge, no other country faces a comparable requirement from China.

- Our second recommendation pertains to the 72-hour advance notification requirement mandated by Congress under the 2015 reauthorization to Section 79 of the USGSA if FGIS-delegated agencies intend to discontinue providing Official inspection service. While the statutory language expressly requires such notification be made to USDA, FGIS when implementing this provision inexplicably did not require its delegated agencies to grant the same advance notification to the actual facilities affected by such disruptions in Official service. Nor did USDA commit to providing such notification itself.

  We strongly believe affected facilities need and deserve the same courtesy and consideration as currently provided to USDA so they can make appropriate logistical and other alternative arrangements to continue to serve customers whenever possible – including farmers and upstream and downstream customers. Such disruptions, if and when they occur, adversely affect a facility's ability to fulfill existing grain purchase-and-sales contracts with customers (including farmers and domestic and foreign buyers), alter their ability to handle inbound and outbound grain movements, cause disarray in domestic and export transportation logistics (including costly demurrage), complicate staffing requirements, and create a host of other business consequences. We therefore recommend legislative language to require comparable 72-hour advance notification for affected facilities.

- Third, we urge FGIS to conduct a detailed review of the current domestic geographic boundaries used to establish the territories within which each designated Official agency operates.

  In the domestic market, the use of Official grain inspection and weighing service is voluntary, which is appropriate given the diverse nature of the industry. Grain handling facilities wishing to use Official grain inspection and weighing services designated by FGIS in the domestic market generally only can use the single Official agency designated by FGIS for the specific geographic territory in which the facility is located. If the Officially designated agency is unable to perform inspection and weighing services, then the grain handling facility can request from FGIS a "non-use of service exception," which allows a non-incumbent Officially designated agency to perform the functions of the incumbent agency.

  Previous misinterpretation by GIPSA of the intent of the 2015 Reauthorizations Act caused many grain elevators to have their exception agreements with a domestic Official

inspection agency wrongly and unilaterally terminated. As a result, the NGFA worked last year with this Senate Committee, as well as the House Agriculture Committee, to include language in the 2018 farm law that gave grain handlers – who had exception agreements wrongly canceled – the opportunity to restore the service arrangement with their prior Officially designated domestic inspection agency by notifying USDA of the change. We greatly appreciate this committee's and your staffs' efforts to address this issue.

But for our industry, this points to a larger matter. FGIS, while making minor adjustments from time-to-time, has not conducted a truly comprehensive review of its geographic boundaries for domestic Official agencies since it was established in 1976. During that 43-year span, there have been significant changes in the number and operations of both grain handling facilities and Officially designated inspection agencies; the amount of grain and oilseeds handled and processed within each geographic boundary; and the number of quality attributes and other quality tests conducted by these agencies. These changes in the domestic marketplace, we believe, necessitate that USDA comprehensively update information and data upon which the geographic boundaries are based.

For these reasons, we urge that Congress include language in the USGSA to require FGIS to periodically conduct such a comprehensive review and report its findings to Congress. Upon completing such a review, we believe FGIS will have a much better basis for determining if, whether and how to update geographic boundaries for Officially designated agencies than it does now.

- Fourth, given the extremely positive changes brought about by Congress in revising the USGSA in 2015, combined with the highly successful reorganization and realignment of FGIS into AMS and the continued improvement of FGIS operations in providing accurate, reliable, timely and more predictable service, NAEGA and NGFA are comfortable recommending that the reauthorization period be extended from the current five years to a time period of more than five years but no longer than 10 years. We defer to Congress to determine the appropriate specific number of years for reauthorization that should be within that time span.

- Fifth, to maintain transparency with stakeholders, we recommend requiring that FGIS report the number of and specific type(s) of waivers from Official inspection and weighing service being requested and granted, the number of non-use of service exceptions requested and granted, and the number of specific testing services requested (e.g., for such services as intrinsic quality and food safety factor determinations that are available from FGIS or private surveyors upon request), with appropriate protection to preserve the confidentiality of trade secrets and confidential business information. We believe more transparency of this information would be valuable for Congress and stakeholders alike.

- Sixth, we believe FGIS user fees paid by the industry should be directed solely to Official inspection and weighing services. Users of these Official services already pay for the

direct costs incurred by FGIS in providing them, plus administrative overhead for these services, which typically comprises 70 percent of FGIS's total annual budget. The remaining 30 percent (approximately $20 million annually) is covered through appropriated funds and are used to finance the agency's activities to establish, maintain and update the U.S. grain standards, as well as for monitoring and compliance/enforcement activities. The activities financed by appropriated funds have broad societal benefits – for instance, farmers and consumers alike benefit from the efficient price-discovery made possible by the U.S. grain standards. Assessing additional user fees to finance these non-inspection-related functions of FGIS would increase business costs and likely be passed back to farmers in the form of reduced farmgate prices for their commodities given the highly competitive global market in which U.S. agriculture the United States operates.

- Seventh, and finally, we recommend that the FGIS Grain Inspection Advisory Committee be reauthorized. I have enjoyed serving on the committee in the past. The advisory committee is designed to provides counsel to the FGIS administrator on the implementation of the USGSA. It is comprised of members who represent the interests of grain producers, exporters and handlers. NAEGA and NGFA believe the advisory committee serves a worthwhile function by providing expert advice and assistance to FGIS – and helps hold the agency accountable – for fulfilling its core mission of ensuring that Official inspections are performed in a reliable, consistent, cost-effective and uninterrupted manner to facilitate the export of U.S. grains and oilseeds to global customers.

Conclusion

The grain storage, handling and export industry specialize in the logistics of purchasing the commodities a farmer grows and finding a market for it here at home or in global markets. In serving this role, our industry relies on FGIS and its delegated and designated state and private agencies to provide competent, state-of-the-art and reliable Official inspection, weighing and related services for which the industry pays to facilitate the efficient and cost-effective marketing of U.S. grains and oilseeds to domestic and global markets.

NAEGA and NGFA believe that the legislative recommendations contained herein to amend the USGSA will strengthen the Official inspection and weighing system, foster the competitive position of U.S. grains and oilseeds in world markets, and maintain the integrity of Official inspection results. In addition, reauthorizing the USGSA on schedule – or even a bit early – would provide continued certainty to grain handlers, farmers and our global customers. We are committed to working constructively with Congress and all stakeholders to enact policies that achieve these positive outcomes.

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

Nick Friant
Raw Materials Quality Leader
Cargill Agriculture Supply Chain North America

Nick grew up on a small, family grain farm in north-central Illinois, which his father just retired from after the 2017 harvest. The main commodities were 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 has held several roles within the Operations and Food Safety, Quality, and Regulatory teams focusing on grain quality, inventory control, food safety, and regulatory affairs, including time working at facilities involved in both domestic and export grain operations. During his time with Cargill, he has worked in Topeka, KS, New Orleans, LA, and Minneapolis, MN. His current role, Raw Materials Quality Leader, was created when Cargill's North American grain origination and oilseeds processing business units combined to form one new business group – Cargill Agriculture Supply Chain North America.

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 North America Export Grain Association (NAEGA) Grain Grades and Inspections Committee. He also works with the US Government (USDA FGIS & APHIS, and FDA) on these issues as well as International Sanitary and Phytosanitary (ISPS) Regulations. Nick served as a member of the Federal Grain Inspection Service Grain Inspection Advisory Committee from April 2007 to March 2010 and from October 2015 to September 2018. 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.

Attachments

1. "*2019 U.S. GRAIN STANDARDS ACT REAUTHORIZATION ISSUES*" by W. Kirk Miller, NAEGA Consultant, May 23, 2019.

2. **"***NAEGASoybeanReportMay30"* by Informa Agribusiness Consulting, May 30, 2018

3. *"Estimated Price Impact on U.S. Soybeans due to Additional Declaration Requirement on Phytosanitary Certificates"* by National Grain & Feed Association, July 24, 2019

DOCUMENTS SUBMITTED FOR THE RECORD

JULY 31, 2019

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June 2018
By Max Fisher

Price Impact on U.S. Soybeans due to Additional Declaration Requirement of Foreign Material

The United States is a leading exporter of soybeans and China is the world's primary soybean importer as shown in table 1. This analysis attempts to quantify the disruption to U.S. soybean shipments to China that followed the Animal and Plant Health Inspection Service's announcement on Dec. 18, 2017 of a mandatory disclosure of foreign material on phytosanitary certificates. However, this analysis does not attempt to quantify losses to U.S. exporters due to the declaration requirement. Instead it focuses on losses for sellers of U.S. soybeans marketed between Dec. 18, 2017 and Mar. 31, 2018. Losses beyond March are not included because U.S.-China soybean trade was further impacted on Apr. 4, 2018 when China announced its intention to levy a 25-percent tariff on U.S. soybeans if the U.S. proceeded with applying countermeasures related to its Section 301 investigation of China's forced technology transfers and discriminatory intellectual property practices.

Table 1: Summary Statistics for 2017/18 Marketing Year (Million MT)

Item	U.S.	Brazil	China	World
Production	120	119	14	337
Exports	56	75	0	152
Imports	1	0	97	153

U.S. soybean exporters say the spread between Brazil and U.S. soybean prices widened during the Dec. 2017 to March 2018 period by as much as $0.10/bu. for U.S. Gulf soybean exports and $0.20/bu. for Pacific Northwest soybean exports due to increased risk of detainments and/or rejections at China customs because of the additional disclosure on phytosanitary certificates. Due to the outsized influence of the China market for U.S. soybeans, the $0.10/bu. to $0.20/bu. reduction in Chinese buyers' bids for U.S. soybeans relative to Brazil soybeans would have impacted the entire U.S. soybean market by an amount comparable to the $0.10/bu. to $0.20/bu. additional discount.

For Dec. 18, 2017 thru Mar. 31, 2018, the estimated loss to U.S. soybean sellers due to the additional disclosure requirement ranges from $140,750,849 to $281,501,698. The loss was found by multiplying the price loss of $0.10/bu. to $0.20/bu. by 1,407,508,490 bushels of U.S. soybeans that are estimated to have been marketed by producers between Dec. 18, 2017 and Mar. 31, 2018.

Table 2: Estimated U.S. Soybean Marketings by Producers (Bu.)

Item	2017/18
Total Production	4,392,000,000
Marketings	4,392,000,000

Table 3: U.S. Soybean Marketing Percentages by Producers

Month	2012/13	2013/14	2014/15	2015/16	2016/17	5-yr Avg.
September	11.7%	5.7%	5.3%	7.7%	6.4%	7.36%
October	22.3%	26.8%	27.3%	23.8%	31.6%	26.36%
November	8.7%	14.2%	13.8%	7.5%	12.4%	11.32%
December	9.3%	11.0%	10.7%	9.7%	9.2%	9.98%
January	15.9%	16.3%	13.4%	12.1%	16.8%	14.90%
February	7.1%	8.5%	7.8%	6.4%	5.3%	7.02%
March	5.0%	5.3%	5.1%	9.5%	3.2%	5.62%
April	4.3%	3.7%	3.4%	9.0%	2.2%	4.52%
May	5.9%	2.2%	2.5%	4.7%	2.6%	3.58%
June	3.6%	2.2%	4.7%	4.6%	2.9%	3.60%
July	3.9%	2.2%	3.6%	2.7%	4.4%	3.36%
August	2.3%	1.9%	2.4%	2.3%	3.0%	2.38%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.00%

Table 4: Estimated U.S. Soybean Marketings by Producers after the Additional Disclosure Announcement

Item	Prior 5-yr Avg.	Est. 2017/18 Marketings (Bu.)
Marketings for 2017/18	100.00%	4,392,000,000
Dec. 18, 2017 thru Dec. 31, 2017	4.51%	197,951,690
Jan. 2018	14.90%	654,408,000
Feb. 2018	7.02%	308,318,400
Mar. 2018	5.62%	246,830,400
Dec. 18, 2017 thru Mar. 31, 2018	32.05%	1,407,508,490

Table 5: Estimated Loss from Dec. 18, 2017 thru Mar. 31, 2018 for Soybean Producers due to the Additional Disclosure Requirement

Item	Dec. 18, 2017 thru Mar. 31, 2018
Soybean Marketings (Bu.)	1,407,508,490
-$0.10/bu. Estimated Price Loss	-$140,750,849
-$0.20/bu. Estimated Price Loss	-$281,501,698
Estimated Range of Loss	-$140,750,849 to -$281,501,698

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Analysis of Factors Impacting China Soy Imports from U.S.

Prepared for:

North American Export Grain Association

NAEGA
North American Export Grain Association

May 30, 2018

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Disclaimer & Glossary

Disclaimer

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Glossary

NAEGA – North American Export Grain Association

Issue and Study Objective

AD Requirement for China Soybean Imports from the U.S.

- Beginning January 1, 2018 U.S soybean exports to China are required to have an additional declaration (AD) on APHIS-issued phytosanitary certificates for U.S. soybean consignments exceeding 1% foreign material (FM).
  - APHIS says the AD requirement is in response to China's 2016 decree 177 establishing a 1% FM standard.
  - APHIS indicates that shipments with more than 1% FM may be subject to additional inspection, cleaning or treatment at Chinese ports.
  - Half of U.S. soybeans exported to China this year would not meet Chinese rules for routine delivery in 2018, according to shipping data reviewed by Reuters.
- This new AD requirement has coincided with a sharp reduction in the U.S. quantity and market share of China's imports from December 2017 to March 2018.
  - China's imports from the U.S. decreased by almost 5.0 MMT during the December 2017 to March 2018 period while imports from Brazil increased by 5.0 MMT.
  - U.S. share of China's imports from December 2017 to March 2018 were 63% compared with 82.5% the previous year.

China Soybean Imports, December-March

	2013/14	2014/15	2015/16	2016/17	2017/18
U.S.					
1,000 MT	19,675	22,231	19,742	23,539	18,450
% Share	86.5	92.0	77.8	82.5	63.4
Brazil					
1,000 MT	1,622	706	3,163	3,004	8,095
% Share	7.1	2.9	12.5	10.5	27.8
Other					
1,000 MT	1,451	1,221	2,477	1,972	2,568
% Share	6.4	5.1	9.8	6.9	8.8
Total (1,000 MT)	**22,748**	**24,158**	**25,382**	**28,516**	**29,114**

Source: Global Trade Tracker

This report examines the factors that can explain why China's imports from the U.S. dropped sharply from December 2017 to March 2018 compared to the same time period in previous years. The study analyzes:

- U.S. and Brazil soybean supply and demand.
- U.S. and Brazil exports and China imports.
- U.S. and Brazil soybean prices.
- China import policy.
- U.S. and Brazil shipping costs.

Interviews were conducted with U.S. and Brazilian traders to get their perspectives.

Exporter Interviews

Exporter Interviews

- Informa interviewed a number of U.S. and Brazilian soybean exporters to China to get their perspectives regarding why the U.S. share of China soybean imports dropped sharply during the December 2017 to March 2018 period.
- All of the U.S. exporters interviewed believe the AD declaration on the APHIS phytosanitary certificate is having the biggest adverse impact on China's imports from the U.S. because of:
  - Risk and cost of shipments being held up in port if the shipment testing above 1% FM.
    - This risk is causing difficulties in securing letters of credit from financial institutions because of the 1% FM requirement.
    - Chinese buyers are hesitant in buying U.S. soybeans because of the risk.
- U.S. exporters argue China is not treating the U.S. and Brazil on a level playing field because:
  - The U.S. is the only exporter required to provide the AD declaration.
    - Exporters argue that the FGIS Grade Certificate already includes the percent FM so the AD is not needed.
    - Brazil only indicates percent FM on the ANEC contract.
  - Nearly all Brazil soybeans are exported under Association Nacional Dos Exportadores de Cereais (ANEC) Contract which includes percent FM. This contract states "Foreign matter basis 1% maximum 2% with non-reciprocal allowance of 1% for each 1%, fractions in proportion, in Buyer's favor for any deficiency." The Brazilian exports thus can exceed 1% FM with applicable discount up to 2%.
  - Some exporters argue that Brazil and the U.S. define the percent FM differently. For example, the sieve used by Brazil appears to be less strict than the sieve used by the U.S.
    - The Brazil's **foreign material and impurities** are defined as all material passing through a 3 millimeter sieve (7.5/64 inches).
    - The U.S. **foreign material and impurities** are defined as all material passing through a 3.175 millimeter sieve (8.0/64 inches).

Exporter Interviews Continued

- Brazil soybeans normally receive a price premium over U.S. soybeans because of higher protein content. U.S. exporters say the spread between Brazil and U.S. soybean prices widened during the December 2017 to March 2018 period by as much as 10 cents per bushel for U.S. Gulf and to 20 cents per bushel for PNW. This wider spread demonstrates the risk involved in China importing U.S. soybeans. China was willing to buy more soybeans from Brazil even though Brazil prices were much higher than normal than U.S. prices.
  - There were instances when PNW soybeans were considerably cheaper than Brazilian soybeans and the U.S. exporter could not make a sale.
  - Chinese buyers normally prefer to import #2 soybeans from the U.S. with 2% FM and do not want to pay a premium for #1 soybeans with less than 1% FM.
- All the U.S. exporters argue that the issuance of the GMO safety certification is often delayed by China to slow imports of soybeans into the country. However the exporters say that this requirement hampers both Brazil and the U.S. and is not an issue for just the U.S.
- None of the exporters indicate logistics problems or transportation costs were the reason for lower China soybean imports from the U.S.
- Brazilian soybean exporters though argue that the main reason the U.S. share of the China market decreased from December 2017 to March 2018 was because Brazil:
  - Had record soybean supplies from a record crop and needed to increase soybean exports.
    - Recent improvements in shipping capacity allowed Brazil to ship soybeans and corn simultaneously this past year. In the past it was necessary for Brazil exporters to switch from exporting soybeans to corn after September of each year.
  - Farmers held soybeans off the market in the first half of 2017 because of lower prices and a less favorable exchange rate. In the second half of the year prices and the exchange rate improved and farmers started pushing more soybeans onto the market.

U.S. and Brazil Supply and Demand Analysis

U.S. and Brazil Supplies and Stocks at Record Levels

- Brazil had record a record crop and supplies in 2017/18.
  - Production was a record 114.1 MMT, 18.6 MMT above the previous year's crop.
  - As a result supplies on September 1 were a record 43.2 MMT, 12.9 MMT above the previous year.
  - December 1 stocks were a record 20.8 MMT, 4.1 MMT above the previous year.
- U.S. production and supplies were also a record in 2017/18.
  - Production was a record 119.5 MMT, 2.6 MMT above the previous year.
  - Supplies on September 1 were also a record at 127.8 MMT, 5.5 MMT above the previous year.
  - December 1 stocks were also a record 86.0 MMT, 7.1 MMT above the previous year.

U.S. & Brazil Soybean Supplies and Stocks in MMT

Soybean Supplies September 1, 2017

	2013/14	2014/15	2015/16	2016/17	2017/18
Brazil	28.6	27.4	33.8	30.3	43.2
United States	95.2	109.4	112.0	122.3	127.8

Source: Informa

Soybean Stocks December 1, 2017

	2013/14	2014/15	2015/16	2016/17	2017/18
Brazil	13.3	13.4	14.9	16.7	20.8
United States	58.6	68.8	73.9	78.9	86.0

Source: Informa

Although Brazil had record supplies on September 1 and record stocks on December 1, the U.S. also had record supplies and stocks and had soybeans to export to China to maintain previous levels and shares.

Brazil Export Gains to China Offset U.S. Export Losses to China

- Brazil's exports to all destinations for the period December 2017 to March 2018 were a record 15.6 MMT, 1.5 MMT above the previous year's record.
  - Most of the gain in exports was to China, with exports to China a record 12.5 MMT, 1.1 MMT above the previous year's record.
  - Exports to other destinations were also a record 3.1 MMT, slightly above the previous year.
- U.S. exports to all destinations for the period December 2017 to March 2018 fell by nearly 3.3 MMT from the previous year despite record supplies.
  - China accounted for a large part of the decrease, with U.S. exports falling by 1.2 MMT.
  - Exports to other destinations fell by 2.1 MMT during that period.

U.S. and Brazil Soybean Exports in MMT

December 2017 to March 2018 Soybean Exports

	2013/14	2014/15	2015/16	2016/17	2017/18
Brazil	9,091	6,685	11,537	14,053	15,597
China	7,508	5,114	8,937	11,339	12,478
Other	1,583	1,571	2,600	2,714	3,119
US	22,567	22,303	21,152	22,942	19,666
China	13,747	13,188	12,297	13,916	12,728
Other	8,819	9,115	8,856	9,025	6,938

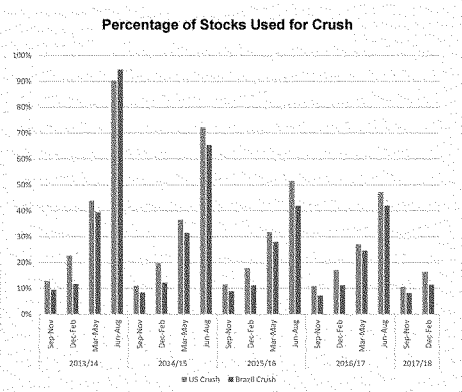
Source: Informa

Brazil's gain in exports during the December 2017 to March 2018 period was at the expense of U.S. exports. Brazil's gain of 1.1 MMT of soybean exports to China essentially offset the loss in U.S. exports of 1.2 MMT.

Reduction in US Crush as a Percent of Stocks

- Higher levels of soybean supplies did not lead to increased crushing in either the U.S. or Brazil.
- In the US, the percent of soybean supplies used for crush declined in the Dec-Feb quarter, maintaining a downward trend since 2013/14, from 23% of stocks to 16% in the second quarter of 2017/18
- Brazilian crush has remained relatively unchanged, consistently attributing ~8% between September to November and ~11% in December to February since 2013/14
- While the US carried a record amount of soybean stocks into December, it used the smallest percentage of its supplies for crushing over a five year period, opening up a larger portion of soybean for exports.

Thus the decrease in U.S. soybean exports to China in the December-February period was not the result of greater U.S. soybean crush or reduced availability of supplies for export.



Source: Informa

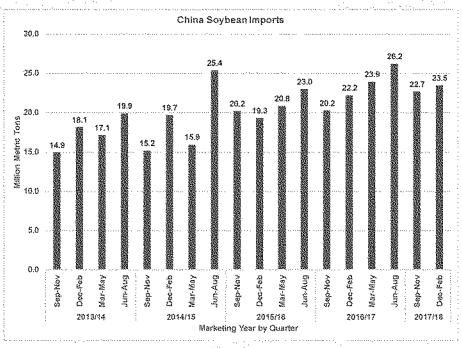
China Import Analysis

China Imports Growing

- China's soybean imports in 2017/18 marketing year are forecast at a record 98.0 MMT, 4.5 MMT above the previous year.
- On a quarterly basis China's imports are growing in all quarters.
- In the December 2017 to February 2018, when U.S. exports to China dropped sharply, China's total imports during that period are estimated at a record.
  - China's imports during the December-March 2017/18 period were 23.5 MMT, 1.3 MMT above the previous year and 4.2 MMT above two years ago.

The U.S. had the supply to meet China's large imports.

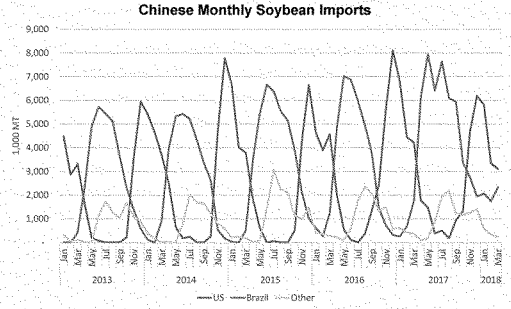
China Soybean Imports in MMT



China Soybean Imports - Monthly Volume

- The U.S. and Brazil are the primary soybean suppliers to China.
  - The U.S. plants soybeans in late April through June and harvests in late September through November.
  - Brazil plants soybeans in mid-August through mid-December and harvests in February through May.
- With the U.S. and Brazil having alternate seasons, China's imports run in a cycle with high imports from the U.S. during the growing season in Brazil and high imports from Brazil during the growing season in the U.S.
  - Additionally, imports from countries other than the U.S. and Brazil peak during the US growing season.
- These trade patterns are consistent for years 2013 through 2016; however, for the 2017/18, December-March period, the share and quantity of imports from the U.S. fell sharply from levels for those months as in the past.
- Instead, China's imports from Brazil continued into Brazil's growing season when imports from Brazil are traditionally lower and imports from the US are traditionally higher.

Chinese Monthly Soybean Imports

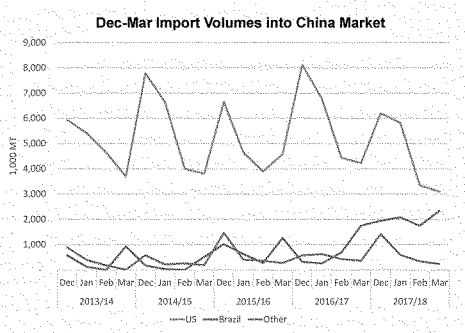


Source: Global Trade Tacker

China's imports form Brazil and the U.S. shifted from previous trends in the December 2017 to March 2018 period.

China Soybean Imports - December-March Volume

- As discussed on the previous slide, China's imports from Brazil traditionally drop off during Brazil's growing season and shift to imports from the US where harvest has recently occurred. China's imports deviated from this trend, in 2017 and into 2018.
- To better illustrate this deviation, the months December through March are examined for the last five years.
- Imports from Brazil during the 2017/18 December-March period were 2.7 times greater than during the same time period in 2016/17 and 11 times greater than in 2014/15.
- Conversely, imports from the US during the 2017/18 December-March period were 22 percent lower than during the same time period in 2016/17.
- Imports from countries other than the US and Brazil during December-March are comparable with historic levels and did not replace imports from the U.S.



Source: Global Trade Tracker

Imports from Brazil substantially increased during the December-March lower period while imports from the US decreased from a traditionally higher period.

China Soybean Imports - Monthly Market Share

- Much like the previous slides illustrating the decreased levels of China's imports from the US and increased import levels from Brazil, the share of imports into China tells a similar story.
- Traditionally, the US and Brazil reach shares of ~85 percent and above during the other's growing season; however, in 2017 and into 2018, US share of Chinese soybean imports did not reach 70 percent.
- Also during this time, when Brazil's share of Chinese imports is traditionally lower than 20 percent, Brazil's share reached a level over 40 percent.
- Additionally, the share of Chinese imports held by countries other than the US and Brazil was near or slightly below historic levels.

Brazil's increased share in Chinese imports came primarily at the detriment of US share.

Share of China Soybean Imports

US Share of China Soybean Imports
HS 1201

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2013	93.6%	98.7%	86.1%	41.5%	3.7%	1.0%	0.0%	0.0%	0.0%	5.2%	58.9%	80.2%
2014	91.5%	96.4%	79.9%	38.8%	10.9%	2.8%	3.2%	0.0%	0.0%	6.1%	77.4%	91.2%
2015	96.6%	94.0%	84.6%	35.0%	10.2%	0.0%	0.6%	0.1%	0.0%	9.3%	57.5%	72.9%
2016	81.9%	86.3%	75.0%	28.6%	7.2%	1.3%	0.1%	4.7%	18.8%	46.6%	71.7%	90.2%
2017	88.5%	79.9%	66.7%	22.2%	15.3%	5.0%	5.0%	2.1%	11.6%	22.6%	53.7%	64.8%
2018	68.6%	61.7%	54.7%									

Sources: Global Trade Tracker and Informa

Brazil Share of China Soybean Imports
HS 1201

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2013	0.0%	0.0%	10.9%	58.1%	96.2%	82.5%	75.6%	80.3%	77.6%	55.0%	23.0%	7.8%
2014	2.0%	0.0%	20.1%	60.7%	89.1%	84.8%	69.8%	71.9%	67.0%	64.3%	8.9%	2.0%
2015	0.4%	0.0%	11.3%	64.7%	88.6%	82.4%	67.0%	71.1%	70.7%	70.2%	28.9%	11.1%
2016	11.0%	5.9%	20.7%	68.1%	91.6%	90.9%	77.1%	64.6%	52.2%	27.9%	9.3%	3.5%
2017	3.3%	12.4%	27.7%	76.7%	82.8%	83.5%	75.7%	72.0%	73.2%	57.7%	31.8%	20.3%
2018	24.5%	32.2%	41.2%									

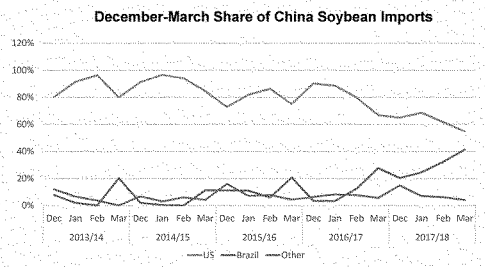
Sources: Global Trade Tracker and Informa

Source: Global Trade Tracker

China Soybean Imports - December-March Market Share

- To better illustrate the deviation discussed in the previous slide, the months December through March are examined for the last five years.
- As illustrated in the chart, Brazil's share of Chinese imports rarely makes up 20 percent; however, during 2017 and into 2018, Brazil's share of Chinese imports achieved levels of over 40 percent.
- Additionally during these periods, the share of imports held by countries other than the US and Brazil remained around historic levels suggesting the increased share held by Brazil came primarily from US share.

Brazil's increased share in Chinese imports came primarily at the detriment of US share.



Source: Global Trade Tracker

Policy Evaluation

Systems Approach to China Imports from U.S.

- Beginning January 1, 2018, an additional declaration (AD) is required on the U.S. soybean phytosanitary certificate where foreign material on the grade certificate exceeds one percent.
- This AD is part of a larger systems approach for soybean exports to China. This system begins at farm level and continues through to China's ports of arrival. The four main components include:
  - Production and harvesting measures designed to reduce weed seed contamination in U.S. soybeans;
  - Soybean sampling and foreign material analysis by USDA to monitor for weed seeds in China-bound U.S. bulk and container shipments;
  - Notifying China when a soybean shipment exceeds 1 percent foreign material by placing an additional declaration on the official phytosanitary certificate that says "this consignment exceeds 1 percent foreign material;" and
  - Possible inspection, cleaning, treatment or other protective measures by China to mitigate pest risk.
- APHIS states that the "USDA's Federal Grain Inspection Service (FGIS) will sample China-bound soybean shipments and analyze foreign material to monitor for weed seeds in U.S. bulk and container shipments. *When FGIS determines that a consignment exceeds 1 percent foreign material, APHIS will include an additional declaration on the phytosanitary certificate that says: "This consignment exceeds 1 percent foreign material."* This action will allow all U.S. soybean exports to China to continue without interruption until the United States is able to fully implement the other parts of the systems approach during the 2018 crop year. In China: China's General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) has agreed to expedite agricultural clearance of shipments with 1 percent or less foreign material. They will determine whether any phytosanitary measures including inspection, cleaning, treatment or other protective actions may be appropriate to mitigate pest risk in shipments with more than 1 percent foreign material. AQSIQ will not hold or unnecessarily delay incoming shipments based solely on the volume of foreign material."

The U.S. is the only country required to provide an AD phytosanitary certificate. This information is already provided by the U.S. on the FGIS Grade Certificate. The FM percent is provided only on Brazil's ANEC contract – "foreign matter basis 1% maximum 2% with non-reciprocal allowance of 1% for each 1% fractions in proportion."

Source: USDA APHIS

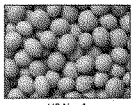
U.S. Grading Standards

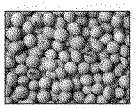
- Soybean exports are covered under the United States Grain Standards Act (USGSA)
- The Grain Inspection, Packers and Stockyards Administration (GIPSA) is required to certify the quality and weight of all export shipments of grain covered by the USGSA.
- These grading standards regulating the acceptable levels of foreign material have been in place for many years; however, recent changes by China requiring an additional declaration has created some concerns amongst both importers and exporters.

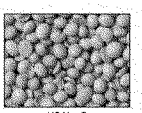
Grades and Grade Requirements for Soybeans						
		Damaged Kernels				
Grade	Minimum Test Weight (lb/bu)	Heat Damaged (%)	Total (%)	Foreign Material (%)	Splits (%)	Soybeans of Other Colors (%)
US No. 1	56	0.2%	2%	1%	10%	1%
US No. 2	54	0.5%	3%	2%	20%	2%
US No. 3	52	1%	5%	3%	30%	5%
US No. 4	49	3%	8%	5%	40%	10%
Sample Grade*						

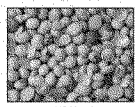
*U.S. Sample grade is soybeans that: (a) Do not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4; or (b) Contain 4 or more stones which have an aggregate weight in excess of 0.1 percent of the sample weight, 1 or more pieces of glass, 3 or more crotalaria seeds (Crotalaria spp.), 2 or more castor beans (Ricinus communis L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic foreign substance(s), 10 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth in a 1,000 grams of soybeans; or (c) Contain 11 or more animal filth, castor beans, crotalaria seeds, glass, stones, or unknown foreign substance(s) in any combination; or (d) Have a musty, sour, or commercially objectionable foreign odor (except garlic odor); or (e) Are heating or otherwise of distinctly low quality.

Source: USDA/AMS – GIPSA, Iowa State University

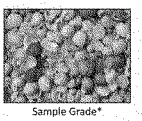

US No. 1


US No. 2


US No. 3


US No. 4

Brazil FM percent for Grade #1 is 1%, for Grade #2 is 1.5%, for Grade #3 is 3% and grade #4 is 5%. It is important to note that ANEC quality specifications used in export trade do not match those of any one grade. For example, allowable foreign material is the same as No. 1 grade, but broken beans is equivalent to the No. 3 limit, while damage uses the limit established for grade No. 4.


Sample Grade*

US Soybean Exports to China – Required Documentation

- There are three documents required for exporting soybeans to China, APHIS Phytosanitary Certificate, Soybeans Biotech Safety Certificate and the FGIS Grain Inspection Service.
- APHIS Phytosanitary Certificate
  - **Purpose:** Certifies soybeans free of quarantine pests.
  - **Target:** Plant Health
  - **Requesting Ministry**: AQSIQ
- Soybeans Biotech (GMO) Safety Certificate
  - **Purpose**: An MOA certificate is needed that indicates that the product "contains registered GMO's," proper labeling is also required for all biotech products.
  - **Target**: Plant Health
  - **Requesting Ministry**: MOA
- FGIS Grain Inspection Service
  - **Purpose**: Certifies product quality.
  - **Target**: Product Quality
  - **Requesting Ministry**: AQSIQ

Traders indicate that China periodically slows imports from both Brazil and the U.S. by delaying approval of the Biotech safety certificate.

Source: USDA/AMS – GIPSA, Iowa State University

BRAZILIAN STANDARD SOYBEAN EXPORT CONTRACT - ANEC

- Brazil has a standard contract issued by ANEC (Associação Nacional dos Exportadores de Cereais) translated (National Grains Shipping Association).
- According to trade sources most Brazilian soybeans shipped to China have 1% FM. The contract also indicates that a shipment can have up to 2% FM with proportional discounts in price above 1% FM, although traders say shipments rarely exceed 1% FM.
- All trading from farm gate to the port applies the standards of ANEC contract. Almost all of the soybeans produced in Brazil are cleaned and dried to reach this standard. For soybean delivered from farmers to local elevators, coops and trading without drying and cleaning, costs and discounts are applied.
- Damage soybeans in some cases are mixed for traders that apply heavily price discounts to mix them with good quality product in the level to reach the ANEC standard.

According to U.S. exporters the ANEC contract is the only place 1% FM is indicated. In addition the ANEC contract does allow for imports from Brazil to exceed 1% FM up to 2% FM with proportional discounts.

ANEC CONTRACT

hhttp://www.anec.com.br/en/services/contracts

QUALITY / CONDITION FOR BRAZILIAN SOYBEANS

2. QUALITY / CONDITION. Brazilian soyabeans, crop.
- Oil content basis 18.5% (AOCS Ac 3 – 44) with non-reciprocal allowance of 1% for each 1%, fractions in proportion, in Buyer's favour for any deficiency;
- Moisture maximum 14%;
-Foreign matter basis 1% maximum 2% with non-reciprocal allowance of 1% for each 1%. fractions in proportion;
- Damaged beans basis 8%, maximum 8.5% with non-reciprocal allowance 2:1, fractions in proportion, of which maximum 4% heat damaged and burned (being maximum 1% burned) and 6 % mouldy;
-Broken beans maximum 30%;
-Greenish beans maximum 8%
-Free from poisonous seeds / husks but tolerance 1 particle of treated vegetable seeds with unknown level of toxicity for each 1 kg sample at each lot of 5,000 metric tons loaded and max 0.005% castorseed and/or castorseed husks.

To be final at time and place of shipment per certificate/s issued by Independent Surveyor, cost being for Seller's account. Other quality/ condition in accordance with Brazilian Legislation ruling at time and place of shipment.
Buyer has the option, at his expense, to request for joint sampling and sealing, advising the Seller in due time the name of the Independent Surveyor he is appointing.

If the difference of any of the following items between Buyer and Seller certificates does not exceed the below mentioned percentages, then the Seller's results will be final. Otherwise, at request of either party at his expenses, within 45 days from the B/L date, a third test shall be carried out by a mutually agreed Independent Laboratory. The average of the 2 closest analysis results shall be final under this contract and must be settled by a complementary debit note.

- Moisture 0.5%, Damaged Beans 0.5%, Heat Damaged 0.5% and Foreign Matter 0.2%
  Greenish beans 0.5%, Burned 0.10% and Mouldy 0.5%

Such agreement can be settled directly between Shipper (first Seller) and final FOB Buyer. In that case, all the parties involved in the string must be informed in writing about the agreement and at a later stage about the results. Settlement of differences to be done between each counter party.

Soybean Biotech Safety

- China has strict regulations around GMOs and the Soybean Biotech Safety Certificate must accompany US soybean exports to China.
- There continues to be concern around China's biotech approval system and its inability to keep up new events.
- According to an FAS Report "The approval system lags behind the pace of international commercialization of new events and adds uncertainty to the soybean trade. Currently, four soybeans events are in the Chinese regulatory pipeline and under review for final approval. USDA continues to request MOA to streamline its biotech approval process as market access is key for trading partners and critical for China's price stability and food security. In addition, China has not yet established a tolerance level for the adventitious presence of unapproved biotech events in imports of bulk grain, oilseed, and hay products. Although there were no reported disruptions to U.S. soybean exports to China, please consult Post's Annual Biotechnology Report for additional information on China's biotechnology policy and for an updated list of China's approved biotech events."

According to traders both the U.S. and Brazil are impacted by delays in China approving the soybean biotech safety certificates

Source: USDA/AMS – GIPSA, Iowa State University

Freight Differences

Brazil Freight Costs

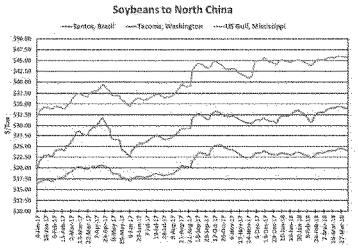
- Historically, the ocean freight rates for grain cargos from South America to Asia are less expensive than from the U.S. Gulf because of dry-bulk vessel route patterns, lower cost port charges, higher Panama Canal tolls, and less burdensome navigation restrictions.
  - Brazilian ports also provide less expensive dockage costs for vessels
- However, ocean freight rates from Pacific Northwest are lower than from Santos, Brazil.
  - The rate per ton from Tacoma, Washington was $24.01 per ton compared with $34.01 per ton from Santos, Brazil in March 2018.

Ocean freight rates have been lower from Tacoma, Washington to North China than from Santos to North China, and that spread widened this year. Thus freight rates are not the reason China's imports from the U.S. decreased from December, 2017 to March, 2018 and were below normal. This supports one of the exporters comments that even though PNW soybean prices were much lower than for Brazil soybeans, they could not make a sale to China.

Grain Ocean Shipping Rates

Grain Ocean Shipping Rates

Index/Routes	Cargo/Vessel Type	DWT	Unit	Rate per Ton	YTD Change
Santos, Brazil to North China	Soybeans	60,000	$/ton	$34.01	9.7%
Tacoma, Washington to North China	Soybeans	60,000	$/ton	$24.01	3.6%
Mississippi Gulf to North China	Soybeans	55,000	$/ton	$45.69	3.0%
Mississippi Gulf to North China	Soybeans	66,000	$/ton	$44.09	3.4%



Summary of Findings

Study Findings

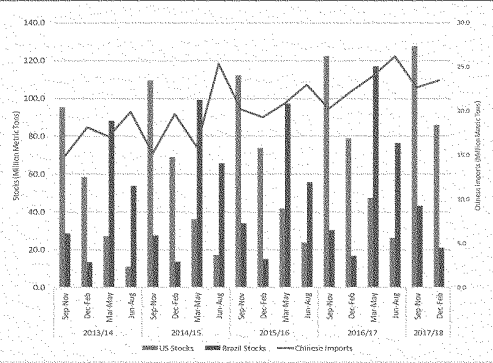
- The study finds that the AD on the phytosanitary certificate is the main reason for the reduced U.S. soybean shipments and share of the China import market for the period December 2017 to March 2018.
  - The AD declaration singles out the United States when FM exceeds 1% while other countries such as Brazil do not face this same requirement.
    - Brazil's ANEC contracts indicate that Brazil soybeans can exceed 1% with an allowable discount up to 2%.
- Although Brazil had record soybean supplies from a record crop, the U.S. also had record supplies from a record crop and had soybeans available to maintain previous shares of the China import market.
- Price is not an issue because the spread between Brazil and U.S. soybean prices widened from December-March 2017/18 period and Brazil soybeans were much higher priced. Brazil soybeans normally are priced at a premium because of higher protein levels.
- Freight costs were not the reason for lower U.S. exports to China because ocean freight rates were lower from Tacoma, Washington to North China than from Santos, Brazil to North China.
- Although the GMO safety certification can be an issue for U.S. soybeans, exporters indicate that Brazil faces the same issue.
- The potential trade tariffs that China may impose if there is a trade war between the U.S. and China is another issue which came later than the AD declaration which began in January. A trade war can only exacerbate the AD declaration issue.

The study recommends that APHIS USDA:

- Work with China's AQSIQ to make sure soybean imports from the U.S. are not treated differently from imports from Brazil. Since other suppliers such as Brazil are not required to provide an AD on their phytosanitary certificate, then the U.S. should not be required to do so. The U.S. already indicates the % FM on the FGIS Grade Certificate.
- Work with AQSIQ to clarify what the remedies are for soybeans with an FM between 1% to 2%. Exporters say they are told by the Government of China there are remedies to resolve the situation but the Government of China does not explain what the remedies are.
- Review Brazil's soybean grading standards to make sure those standards are equivalent to the U.S. standards, especially in how the percent FM is determined.

Appendix

Summary US and Brazil Soybean Quarterly Stock Levels and China Imports



The U.S. had significantly higher soybean stocks on the December 1, 2017 than Brazil and could have met the increasing import demand from China.

US and Brazil Soybean Quarterly Supply and Demand Tables

	2013/14		2014/15		2015/16		2016/17		2017/18	
	US	Brazil	US	Brazil	US	Brazil	US	Brazil	US	Brazil
Sep 1 Supply	95.2	28.6	109.4	27.4	112.0	33.8	122.3	30.3	127.8	43.2
SEP-NOV										
Imports	0.2	0.0	0.2	0.0	0.1	0.0	0.1	0.0	0.1	0.0
Crush	12.2	8.9	11.9	9.2	12.8	10.0	13.2	8.8	13.5	10.5
Exports	18.4	4.1	22.1	2.4	21.6	3.4	25.2	2.2	23.1	9.1
Seed/Residual	6.2	2.3	6.7	2.5	3.9	2.6	5.1	2.6	5.3	2.7
Total Use	36.8	15.3	40.8	14.0	38.3	18.9	43.5	13.6	41.9	22.4
Stocks (Dec 1)	58.6	13.3	68.8	13.4	73.9	14.9	78.9	16.7	86.0	20.8
DEC-FEB										
Imports	0.2	0.1	0.2	0.1	0.1	0.1	0.2	0.1	0.1	0.0
Crush	13.2	6.8	13.5	8.4	13.1	8.2	13.4	8.8	14.0	9.8
Exports	19.4	4.5	19.7	3.0	18.5	5.0	19.8	5.1	16.4	7.0
Seed/Residual	-0.8	---	-0.4	---	0.7	---	-1.5	---	-1.7	---
Total Use	31.8	11.4	32.9	11.4	32.3	13.2	31.7	13.8	28.8	16.8
Stocks (Mar 1)	27.0	2.0	36.1	2.2	41.7	1.8	47.3	2.9	57.3	4.1
Production	---	86.1	---	97.0	---	95.4	---	114.1	---	117.0
Mar 1 Supply	27.0	88.1	36.1	99.2	41.7	97.2	47.3	117.0	57.3	121.1
MAR-MAY										
Imports	0.7	0.2	0.2	0.1	0.1	0.1	0.1	0.1		
Crush	11.8	10.7	13.2	11.3	13.2	11.6	12.8	11.6		
Exports	5.1	22.3	5.1	24.1	4.9	29.0	7.0	30.4		
Seed/Residual	-0.3	1.8	1.0	-1.6	0.0	1.0	1.4	-1.2		
Total Use	16.7	34.7	19.2	33.8	18.1	41.7	21.2	40.8		
Stocks (Jun 1)	11.0	53.6	17.1	65.5	23.7	55.7	26.3	76.3		
JUN-AUG										
Imports	0.8	0.2	0.2	0.0	0.1	0.1	0.1	0.1		
Crush	10.0	10.4	12.3	11.1	12.2	8.9	12.4	11.0		
Exports	1.6	16.0	3.2	20.6	7.9	15.6	7.1	22.1		
Seed/Residual	-2.2	---	-3.4	---	-1.6	---	-1.4	---		
Total Use	9.3	26.4	12.1	31.8	18.5	25.5	18.2	33.1		

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2019 U.S. GRAIN STANDARDS ACT REAUTHORIZATION ISSUES

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2019 U.S. GRAIN STANDARDS ACT REAUTHORIZATION ISSUES

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INTRODUCTION

The purpose of this project is to provide research, analysis and reporting in support of NAEGA's efforts to understand developments related to the implementation of the 2015 U.S. Grain Standards Act (USGSA) and to inform the development of policies related to the reauthorization of the USGSA prior to expiration on September 30, 2020. Specifically the project includes the following elements:

- Summary of what actions have taken place since the last USGSA reauthorization
- Summary of what practices and requirements have changed and which ones were recommended by industry in 2015 that were not changed
- Summary of stakeholder views of changes since last reauthorization
- Summary of what is and is not working and why
- Recommendations for additional steps that could be taken to cause further systemic improvement, i.e. customer satisfaction and cost effectiveness

EXECUTIVE SUMMARY

The USGSA was last reauthorized by Congress on September 30, 2015, with the enactment of the Agriculture Reauthorizations Act of 2015 (P.L. 114-54).*1/* Four expiring provisions—authority for appropriations, authority to charge fees, an administrative/supervisory cost cap, and authority for an advisory committee—were extended until September 30, 2020.

During the deliberative process, Congress also considered and included several other policy issues in the final reauthorization act (P.L. 114-54) including provisions on disruptions in inspection and weighing services; requirements for USDA to keep Congress informed should there be other disruptions in Federal Grain Inspection Service; provisions allowing domestic customers to utilize inspection and weighing services outside of exclusive geographic boundaries if certain conditions are met; requiring that delegated state agencies be certified every five years; and UDSA was given one year to establish a notice-and-comment process for certifying delegated state agencies. *2/* All of these additional policy changes were implemented by FGIS via the formal rule making process on July 29, 2016. *3/* These changes were advocated and supported by the North American Export Grain Association (NAEGA) and the National Grain and Feed Association (NGFA). A link to FGIS's summary of actions taken since the last reauthorization is included in Appendix I.

Language to allow the Administrator to provide general waivers from mandatory official inspection and weighing was included in the reauthorization law passed by Congress but was not implemented by FGIS (see Page 49857 in the July 20, 2016 Federal Register – Appendix II).

Numerous examples and reasons were discovered during the course of this project that indicate that additional use of general waivers for mandatory FGIS inspection and/or weighing services would lead to enhanced efficiencies and cost savings without jeopardizing the integrity of U.S. origin exports. The new AMS FGIS Deputy Administrator had been briefed prior to the author's interview with him, but neither he nor his support staff person were aware of the specific new language that was added in 2015 providing for the category of general waivers.

Also in the last four years, new requirements for phytosanitary related services have been placed on FGIS grain quality inspections at export locations without regard to how fulfilling those APHIS service requests by FGIS will impact the interior market system, impact export merchandising costs, or the competitiveness of U.S. origin grains and oilseeds.

U.S. export operators continue to express concern for variability and inaccurate test results mostly associated with subjective test procedures.

In summary, this project examined issues that were addressed and satisfactorily resolved by the last USGSA reauthorization; closely examined the issue of general waivers that the grain industry had supported during the last reauthorization and thought had been addressed in the law, but wasn't implemented by FGIS; identified new USGSA related issues since the last reauthorization caused by new uses of grain inspection for phytosanitary purposes; and opportunities and challenges associated with renegotiation of the USMCA and ongoing bilateral talks with China; and provides recommendations for actions that could be taken to increase the efficiency and global competitiveness of U.S. grain and oilseed exports identified by elevator operators.

BACKGROUND

The United States Grain Standards Act (USGSA) of 1916—P.L. 64-190, as amended (7 U.S.C. 71 et seq.)—authorizes the Federal Grain Inspection Service (FGIS) of the U.S. Department of Agriculture (USDA) to establish official marketing standards (not health and safety standards) for certain grains and oilseeds. *4/*

The specific crops are barley, canola, corn, flaxseed, oats, rye, sorghum, soybeans, sunflower seed, triticale, wheat, and mixed grain. Official grain standards define each grain, classes of the grain, and numerical grades. The grades specify physical characteristics such as minimum weight and maximum percentage of defects (e.g., foreign *material*, damaged kernels). The standards facilitate the marketing of grain by serving as contract language, enabling buyers and sellers to more easily determine quality (and therefore value) of these commodities. FGIS promotes the uniform application of U.S. grain standards by official inspection personnel. Specifically, to encourage the marketing of high-quality grain for an agriculture sector that is highly dependent upon export demand, the USGSA requires that exported grains and oilseeds be officially inspected (if sold by grade) and weighed. *4/*

Except for grain exported under authorized waivers provided for shippers of less than 15,000 mt or overland shipments to Canada and Mexico, export inspections are carried out by either

federal inspectors or federally supervised state inspection agencies, called delegated official inspection agencies. Domestically marketed grain and oilseeds may be, but are not required to be, officially inspected. Official inspections of domestically traded grain are done by federally supervised state agencies and private companies, called designated official inspection agencies. As authorized by the USGSA, all official inspections are financed by user fees, with the federal portion of fee revenue maintained in a trust fund. *4/*

FGIS activities such as developing grain standards and improving techniques for measuring grain quality are financed with congressionally appropriated funds. In FY2018, user fee revenue under USGSA was $37 million, and the FGIS appropriation was $20 million.

The USGSA also prohibits deceptive practices with respect to the inspection and weighing of grain and provides penalties for violations of the act. Prohibitions include altering official certificates, exporting grain without official personnel on site, and adding foreign material to any grain. In general, policy officials in USDA and the grain industry support the continuation of nationally uniform grades, the availability of official inspections in the domestic market, and the mandatory application of official weighing and inspection for exported grain. *4/*

For exports, FGIS directly inspects about two-thirds of exported grain and oversees the inspection of the remainder. Exporters are required to use the service provided by either the FGIS field offices (located in Louisiana, Ohio, Oregon, and Texas) or a delegated state agency (Alabama, South Carolina, Virginia, Washington, and Wisconsin) within geographic boundaries of the export port in which they operate. In FY 2017, FGIS provided mandatory export inspection and weighing services on a fee basis at 45 export elevators, including 4 floating rigs. The five delegated state agencies offered official service at an additional 13 export elevators with FGIS oversight. Fees are specified in 7 C.F.R. Section 800.71, and are composed of hourly rates, fees for services beyond basic grade analysis (e.g., protein level), and a fee for each metric ton to cover local administrative and/or national support costs. *4/*

STRATEGIES

In preparation of this report, the author met with the USDA AMS FGIS Deputy Administrator and communicated with the head of the Canada Grain Commission, which is the counterpart organization to FGIS in Canada. The author reviewed selected pertinent publications, articles, industry communications, and the U.S. Grain Standards Act for background (see bibliography). Export elevator operators and closely aligned industry technical experts were surveyed and the author participated in a tele-conference in which past and present issues surrounding grain export inspection were discussed including practices that are, and those that are not, working well. The findings section for this report indicates areas that reflect actions that have been taken since the last reauthorization to implement the revised 2015 act and one principle matter which industry had requested and expected action to be taken, but which was not implemented. The author also reviewed actions that have been taken that already, or could, involve FGIS and the grain export industry as a result of

ongoing trade talks with China or the yet-to-be ratified U.S., Mexico and Canada Agreement (USMCA).

FINDINGS

Most of the United States Grain Standards Act (USGSA) is permanently authorized, including requirements for mandatory inspection and weighing of exported grain and federal authority to establish and amend grain standards of quality. However, several key provisions of the law such as authority for appropriations, authority to charge fees, an administrative/supervisory cost cap, and authority for an advisory committee are set to expire on September 30, 2020. While the expiring provisions would not necessarily bring official grain inspections and weighing to a halt, a lapse could affect funding and disrupt the current grain inspection and weighing program.

Congress also considered and included several other policy issues in the final reauthorization act (P.L. 114-54) which resulted in the following actions by USDA FGIS:

- Eliminated mandatory barge weighing;
- Removed the discretion for emergency waivers of inspection and weighing;
- Revised the FGIS fee structure;
- Revised exceptions to official agency geographic boundaries;
- Extended the length of licenses and designations; and
- Imposed new requirements for delegated states.

All of these additional policy changes were implemented by FGIS via the formal rule making process on July 29, 2016. These changes were advocated and supported by the North American Export Grain Association (NAEGA) and the National Grain and Feed Association (NGFA).

On September 7, 2017, Agriculture Secretary Sonny Perdue announced the realignment of a number of offices within the U.S. Department of Agriculture including the transfer of the Federal Grain Inspection Service to the Agricultural Marketing Service. This move was taken to, "help us better meet the needs of farmers, ranchers, and producers, while providing improved customer service and maximize efficiency." On March 29, 2019, Arthur Neal was appointed AMS FGIS Deputy Administrator effective April 1, 2019.

One major policy issue that the grain industry associations sought in the 2015 reauthorization process that was not achieved was greater flexibility for the trade to execute export trades without mandatory official FGIS export inspections in cases where both the buyer and seller were willing to agree to such a waiver. Congress included language in the reauthorization to allow FGIS to issue general waivers, but during the rule-making process, FGIS backed away from their proposed language to allow general waivers in instances where the integrity of the trade would not be adversely impacted. (See Appendix II for the July 29, 2016 Federal Register language from page 49857of the Final Rule implementing the 2015 USGSA

reauthorization and Appendix III which provides the Federal Register policy language on FGIS waivers.) The FGIS language clearly acknowledges that waivers are already granted under specified conditions, but not when parties to an export contract mutually agree that mandatory FGIS inspection and weighing is not needed.

At the time that the USGSA Act was adopted in 1976, a significant percentage of U.S. grain exports were destined for export to parastatal trading companies or companies with extremely close ties to their respective governments (see footnote 1) and were often stimulated or promoted with U.S. Government trade facilitation tools (footnote 2). Inappropriate actions by a few exporters became an embarrassment and political irritant to the U.S. Government so there was pressure from both external and domestic sources to improve the integrity of the system. This led the creation of the Federal Grain Inspection Service led by a Presidentially appointed and Senate-confirmed Administrator.

Today grain and oilseed exports tend to be either between sophisticated major firms, based on very legalistic commercial practices, including extremely detailed contracts and dispute resolution processes with third party arbitration, or on the other end of the spectrum, smaller, specialty product buyers and sellers.

Neither the USGSA, nor current FGIS policies, stipulate reasonable conditions under which parties wishing to enter into a U.S. origin international grain sales contract greater than 15,000 metric tonnes can expect to be granted an automatic waiver from unnecessary official FGIS services, which would allow the parties to trade solely basis of independent third party inspection and/or weighing results. Based on the FGIS arguments in the Federal Register Final Rule dated July 29, 2016 for the last reauthorization, if waivers for consenting parties to a contract are to become reality, it seems that Congress will need to stipulate or provide even more direction to FGIS in the law during the 2020 reauthorization cycle.

Interestingly, the U.S. Grain Standards Act requires that almost all grain and oilseed exports be officially weighed and inspected except for shipments less than 15,000 mt or those being shipped overland to Mexico or Canada, which exempts most, smaller transactions or trade with two of the largest customers for U.S. grains and oilseeds from mandatory weighing and inspection, but still maintains mandatory export inspection requirements on the largest, bulk exports. This paradox seems to defy logic and common sense.

Over the last five years the percentage of grain that is exported without mandatory USDA AMS FGIS inspection or weighing has averaged 5% and 15% respectively (See Appendix IV). Much of this non-mandatory inspected or weighed business is probably identity preserved, higher value and quality commodities destined for specialty foods uses. The irony is that large shipments of bulk grains, most of which is destined for commercial food, feed or

Footnote 1/ Parastatal trading companies or companies with very close ties to governments that were major factors in U.S. grain and oilseed exports have included Chinese COFCO, Russian Exportkhleb, Mexican CONASUPO, Indian STC, Algerian ONIC, Korean Chaebols, the Japanese cooperative, Zenchu and large Japanese Keiretsu and others.

Footnote 2/ P.L. 480 Title I 30-year, low interest credit program, Foreign Market Development Program, and the predecessors to the GSM 102 export credit guarantees and USDA Market Access Program.

industrial uses, is required to be officially weighed and inspected by an agency of the U.S. Government, while the more valuable specialty grains do not require the same level of U.S. Government scrutiny. This does not mean that the latter is not meeting buyer needs or expectations or should be inspected and weighed by the U.S. Government, but it does raise questions why the U.S. Government still thinks it is necessary to weigh and inspect all of the larger bulk business, even when consenting parties to the transaction stipulate it is not needed or necessary.

At the very least it would seem to call for a more logical and defined system under which exporters and importers who don't need or want official USDA inspection or weighing can expect to be granted waivers and enter into contracts knowing whether they meet the conditions for a general waiver. The industry thought that the language change in 2015 had remedied the problem, but that was not accomplished because FGIS continues to support mandatory inspection and weighing practices. During the 2020 USGSA Reauthorization process, the industry should encourage the inclusion of more definitive language into the Act that clarifies and stipulates the conditions under which general waivers will be granted. Efforts in the past to leave this to the discretion of the Administrator on a case by case basis have not been productive. Failure to make this change has not served the needs of the highly competitive U.S. bulk export industry.

FGIS and producer organizations usually argue that somehow the integrity of the U.S. could be adversely impacted, if the U.S. Government is not involved in inspecting or weighing all grain exports. Based on the existing waivers already allowed by FGIS for smaller shippers and overland shipments to Canada and Mexico, the logic that the U.S. Government must be involved in every transaction to assure foreign buyers that they are getting what they expect is currently not uniformly applied or valid.

In reality, a company entering into a trade transaction without mandatory FGIS inspection or weighing and with large amounts of money at risk, is the party which needs to be concerned about the integrity of the execution, logistics, and third party surveyor involved with a trade, not USDA or the producer groups who have already sold their grain to the grain merchandising industry. If the exporter in this case fails to perform or meet customer expectations, not only will there be commercial liabilities, but it is likely that will be the last time that company will have the opportunity to sell to that buyer, as there are many alternative supplier options available in today's global market. Modern export elevators and export trading practices are designed to give customers exactly what they contract to buy.

FGIS, Congress and producer advocates should understand that this is only a fraction of trades where the buyer and seller may want to invoke this practice. Such transaction will logically only be between companies that have already established a rapport or have commercial linkages that allow them to know and trust each other already. If Congress is not convinced, then instruct FGIS to work with the merchandising industry to design and implement relevant pilot studies that will definitively show whether, or not, this concept has merit.

As part of the research for this report, the author reached out to the Canada Grain Commission (CGC) to learn of any changes that are under consideration there that might impact the inspection and competitiveness of U.S. origin shipments. A high-level spokesperson for the (CGC) indicated that some members of the industry have raised concerns that CGC acts both as a regulator and as a service provider for inspection documents. In response to these concerns, the Government of Canada has made the commitment to review the Canada Grain Act. This process is being led by Agriculture and Agri-Food Canada and is currently in its early stages.

The current Canada Grain Act requires CGC to provide official inspection services to ensure that grain on board meets the specifications of the loading order. When a shipment meets the contractual specifications, CGC issues a Certificate Final. A Certificate Final is issued for every export shipment of grain loaded to bulk cargo vessels from licensed terminal elevators and is provided to the Canadian exporter. Certificate Finals are to be included with the shipping documents for every shipment of grain. They provide information about the shipment including the grain, grade or specifications, the vessel loading protocol, and the weight of the shipment.

The CGC also offers two types of voluntary export documentation, Letters of Analysis and Statements of Assurance, on a fee-for-service basis. Letters of Analysis provide grain sample analytical testing results, while Statements of Assurance provide aggregate monitoring statistics. These documents are Canada's assurance that customers are receiving the grain they agreed to purchase. The intention is to provide overseas markets with a high level of assurance of Canada's reliability as a supplier of grain.

In terms of weighing of grain during loading to bulk vessels for export, the Canada Grain act requires that all grain exported from terminal elevators be officially weighed, but does not prescribe the manner in which this must be done. In 2013, the CGC's role in official weighing was changed from direct service delivery to an oversight/accreditation service delivery model. The CGC certifies the initial installation of weighing equipment and provides periodic inspections of the weight equipment. Accredited shippers are now responsible for weighing, monitoring and reporting grain weights to the CGC. If any interested party disagrees with the weighing results, the CGC acts as the appeal mechanism.

A survey was conducted of the North American Export Grain Association (NAEGA) grades and inspection committee to identify stakeholder views of changes to the U.S. grain inspection and weighing system since the last reauthorization. 5/

The industry has been concerned that objective evaluation of sorghum odors has led to inter-market differences. This issue that might be solvable via the application of new, non-export grain industry technology such as that which is currently used in the brewing industry to determine fragrances and odors. FGIS should be encouraged to regularly audit new artificial intelligence and analytical technology applications for possible transfer to the grain inspection business.

Another example that was brought to the author's attention during the research for this report is a problem at export inspection locations with misidentification of clusters of moldy grain as deer excrement. This issue might be resolved with the development and use of a quick ELISA-like test kit or reference slides.

Industry stakeholders raised concern that FGIS accepts alternative forms of sampling for some standardized commodities and byproducts for phytosanitary purposes, but not on others, which they insist require sampling via the diverter sampler. Rigid application of mandatory official sampling practices seems like an unreasonable requirement for cargoes that are going to be fumigated anyway.

FGIS should undertake a review of whether requirements for official inspection thru export elevators are transferable and fair to mid-river transfer operators or whether modified practices can provide a similar level of integrity. This issue has been raised and seems to be especially impactful for customers who may not need official grades and/or weights.

Issues have also been raised about the possibility for greater flexibility for identity preserved cargo waivers, which the buyer by definition already knows about the underlying commodity. This could include more options for collecting phytosanitary samples and weighing.

Another industry representative expressed concern with inconsistent and contradictory results from FGIS cargo hold inspections. According to this person, a cargo hold that meets FGIS requirements one day may not pass a repeat inspection a couple of days later.

One of the industry representatives said that the FGIS weights, grades and sampling process serves a very good purpose for most exports and that FGIS is truly a non-biased 3rd party service provider and it is important for the industry to keep them involved to uphold the integrity of U.S. exports. But when a buyer and seller contractually agree to alternative means of loading quality-control/and weighing processes, FGIS should be more flexible in providing waivers.

Some of these are operational details, but during the reauthorization process, there is often a request by Congress or a need to offer up specific examples of areas that need to be improved in agency performance.

USDA needs to continue to utilize the industry in addressing commercial trade issues such as China. Since the last reauthorization of the USGSA in 2015, the Chinese Government has expressed growing concern with the amount of weed seeds in U.S. soybean shipments to China. During bilateral discussions, USDA APHIS and FGIS agreed with the Chinese quarantine agency, AQSIQ, to establish and adopt a "Systems Approach" protocol (See Appendix V) whereby APHIS will be notified by FGIS whenever the Foreign Material (FM) level of any given cargo exceeds one percent. Foreign Material Samples from lots exceeding one percent will be to be sent to the AMS weed seed laboratory for analysis and APHIS has

agreed to insert language on the Phytosanitary Certificate that more than one percent FM was found in that cargo. The Chinese plant quarantine authorities are thereby notified that there is a higher likelihood that there will potentially be more weed seeds in that cargo than they may allow and can subject the cargo to closer scrutiny upon arrival. *6/*

This "Systems Approach" protocol expands the usage of the grain inspection system beyond its original intent and creates a precedent for interjecting grain quality issues into phytosanitary regulatory process. *7/* Something they were never intended to do. The new protocol was adopted January 1, 2018 during the middle of the crop marketing year, which is very unfair and disruptive to the grain merchandising system, which had already acquired and taken possession of much of the soybean crop.

Ironically, it is the failure of China and many other major trading partners to approve new crop biotech traits with resistance to new pesticide products which have been developed to address resistance in weed populations to earlier generation pesticide products that is causing more weed seeds and objectionable foreign material in international grain shipments now. *8/*

Ongoing trade negotiations with China to address these TBT issues may create additional opportunities/needs for sanitary and phytosanitary and biotechnology dispute resolution and joint-cooperation measures not only by FGIS and U.S. government agencies but also potentially with other the North American trading partners. *9/* Taking full advantage of these breakthroughs may require Congress to revisit the authority and scope of USDA regulatory agencies including AMS FGIS. According to the 2017 FGIS Annual Report, FGIS had a representative in attendance at the Chinese AQSIQ workshop on Quarantine, Inspection and Detection Methods, May 21 – 25, 2017 as well as other multi-lateral trade policy meetings.

Since the last USGSA reauthorization, FGIS has also been enlisted by USDA Animal Plant Health Inspection Service (APHIS) to support their mission in new phytosanitary testing protocol for Canadian Thistle in shipments to Vietnam.

At the very least, Congress should be aware of the expansion of FGIS's role and consider how the costs for mitigating trade policy issues and related services should be allocated broadly across the entire grain production and handling system.

Opportunities for further improvement exist in the proposed U.S. Mexico Canada Agreement which is awaiting ratification. The agreement establishes new requirements for harmonization of U.S. and Canadian inspection requirements and procedures for wheat originating from outside the borders of the other country. This is important because the inspection system operated by the Canadian Grain Commission incorporates seed classification language in the grading process, which has caused U.S. origin wheat not part of the Canadian seed regulatory system, to be denigrated and discounted vis a vis the Canadian wheat, which may or may not be equal to the U.S. origin wheat for certain specific end uses. The relevant USMCA language is contained in the Grain Article 3.A.4 of the proposed USMCA agreement. Subpoint 3. Specifically says that "[A]t the request of the other party, the parties shall discuss issues related to the operation of a grain grading or grain class

system, including issues related to the seed regulatory system associated with the operation of any such system, through existing mechanisms. The Parties shall endeavor to share best practices with respect to these issues, as appropriate." (See Appendix VI for the Entire Article 3.A.4 section of the USMCA)

While the language in "Article 3.A.4 – Grain" of the USMCA is quite specific, other provisions in the USMCA regarding general agricultural trade provisions and Committee on Agricultural Trade; the transparency and consultation provision; U.S. – Mexico provisions; and the general topic of agricultural biotechnology and language on Low Level Presence are more open-ended. These provisions could impact the role and responsibility of FGIS and efficiency and competitiveness of the U.S. grain export industry in the future, depending on how they are implemented. *10/*

In general, the USMCA, if ratified, creates definite opportunities for greater regional cooperation and international leadership on such things as grain standardization and testing methods research, phytosanitary inspection procedures, and pest risk mitigation and management including weed seed identification and testing methods, and clear direction for continued and better cross-utilization of personnel to inspect exports at locations used by exporters from both countries. Joint efforts with North American trading partners to enforce proper phytosanitary risk assessment and management principles by importers around the world are ultimately in the best self-interest of the U.S. grain and oilseed industry. This can be done thru joint or coordinated educational efforts at multi-lateral meetings such as the International Plant Protection Convention as well as bilateral trade talks. Whether FGIS should be involved in these discussions is a topic that Congress might want to take into consideration and clarify during the next reauthorization round. Funding for this type of activity is not company or industry segment specific and should come not from user fees, but from general appropriations.

CONCLUSIONS AND RECOMMENDATIONS

As Congress and USGSA stakeholders contemplate the next reauthorization effort, there are several FGIS actions and commercial trade concerns that Congress could be encouraged to consider.

In cases where the parties to a grain trade prefer private third party inspections and weighing as the basis for their contract, FGIS services are redundant and unnecessary expenses.*11/* Therefore, failure by FGIS to adopt provisions for general waivers when requested by a mutually agreeable buyer and seller is costly and inefficient. The grain industry should request Congress during the reauthorization process to instruct FGIS management to re-issue and then adopt general waiver rules like the ones they promulgated in 2016 but did not adopt in the Final Rule. This should be stipulated to occur within a specific, reasonable time frame. Those rules are already written and should be easy to adopt.

If the USMCA is adopted, Congress should encourage FGIS to undertake regional coordination and cooperation measures in conjunction with its Canadian and Mexican counterparts on the issues raised in USMCA Article 3.A.4. The original focus could be

standards development and testing methods and electronic documentation. This could include clear authority and direction for FGIS to participate along with APHIS in the North American Plant Protection Organization (NAPPO) and International Plant Protection Convention (IPPC) and other related multi-lateral fora which could impact U.S. origin grain and oilseed exports. FGIS is more attuned to export industry operations and capabilities at export locations and could be helpful in resolving Technical Barrier to Trade disputes.

Congress should specify and limit the use of FGIS grain quality inspections in phytosanitary dispute resolution activities and ensure that FGIS allocate the cost for identification and mitigation measures on a systemic basis, not just against export facility operators. Congress could stipulate a role for the export industry in determining when and where FGIS will be involved in phytosanitary and other TBT activities that will impact export contracts and operations. Congress should also clarify how this work will be funded. Like standardization and test development research, the benefits accrue to the entire grain supply chain, both domestic and international, not just to exporters. Collection of any fees for such activities should not fall to the export elevator operators just because they are easy targets at the end of the supply chain funnel.

In 1987 shortly after the introduction and use of Near Infrared Reflectance instrumentation in the grain inspection business, FGIS conducted a quality management study that included a look at utilizing new technologies and methods that could be transferred and adapted for objective grain inspection. Congress could instruct FGIS to regularly conduct an external review to seek objective technologies that might have application in the grain inspection business. Every day there are new breakthroughs in artificial intelligence and instrumentation that could be considered for integration into the commercial grain and oilseed inspection service business. The goal would be to eliminate, or at least minimize, subjectivity and provide better consistency and more accurate determinations of the intrinsic value of the underlying commodity for its intended uses.

Alternative practices and procedures should be sought in the domestic production and handling system to avoid export inspections from bearing the burden of being the last critical control point for control of any pest problems that are being used as TBT's. The next iteration of the USGSA could include references citing the need for practical systemic solutions to trade disputes. This could start with better and more relevant noxious weed seed act and state seed improvement association weed seed tolerances; better grower education and cultural practices; more wide-spread and rapid adoption by major foreign governments of new biotech crop traits which would allow farmers to use updated plant pest products to control pests that are resistant to existing pest control products; continual development of new rapid test procedures for commercial application at the farm and through-out the grain handling system to export grain handling facilities to facilitate pest screening and testing; and the encouragement of more reasonable treatment by foreign governments including transparent, science based risk assessments, risk management and national treatment practices.

U.S. trade dispute resolution officials should insist that foreign complaints are rooted in scientifically valid risk assessments and that any foreign government issuing a TBT complaint is practicing proper risk management and requiring national treatment.

Congress should insist that FGIS and APHIS negotiate a delay in the implementation of new phytosanitary inspection procedures until the end of a crop marketing year so that all parties in the grain production and merchandising system are impacted equally, by any new requirements that evolve from dispute resolution activities with other countries.

Many, if not most, improvements, such as procedures to utilize where appropriate, private third-party inspectors at export or realignment of the grade determining specifications can be made via the regulatory rulemaking process based on existing law, but clear Congressional direction is important in cases where FGIS chooses to ignore the law.

APPENDIX

Appendix I - USDA Accomplishments Email

Kirk Miller

From: Kline, Kendra - AMS <Kendra.C.Kline@ams.usda.gov>
Sent: Tuesday, March 12, 2019 9:40 AM
To: wkmglobal@aol.com
Subject: Reauthorization of the USGSA

Good Morning,

You can read about the changes the USDA made following the Reauthorization of U.S. Grain Standards Act here: https://www.federalregister.gov/documents/2016/07/29/2016-17762/reauthorization-of-the-united-states-grain-standards-act.

Some of the changes included:

- Eliminating mandatory barge weighing;
- Removed the Discretion for Emergency Waivers of Inspection and Weighing;
- Revised the FGIS' fee structure;
- Revised exceptions to official agency geographic boundaries;
- Extended the length of licenses and designations; and
- Imposed new requirements for delegated states.

Thank You,

USDA | **Kendra Kline | Assistant to the Deputy Administrator**
USDA AMS FGIS | 1400 Independence Ave. SW 20250
Phone: (202) 690-2410 | Cell: (202) 768-0473 | kendra.c.kline@usda.gov

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Appendix II - July 29, 2019 Federal Register

supportive of the proposed rule, with some suggested changes to the proposed regulations. Suggestions are addressed below in the order they appear in the regulations.

Emergency Waivers (7 CFR 800.0 and 18)

Several commenters suggested changes to GIPSA's proposed definition of the term "emergency." The grain industry associations suggested that GIPSA remove the terms "outside of the control of the Service or a delegated State" from the definition. They felt this would allow GIPSA to use excuses to avoid issuing emergency waivers. The farm organization commented that waivers of official inspection and weighing, even in emergency situations, could impair the objectives of the USGSA. They suggested that GIPSA define "emergency," as narrowly as possible.

GIPSA notes that the intent of Congress in changing the language of the USGSA is to remove the Secretary's discretionary authority to deny emergency waivers. But, GIPSA does not agree with the industry associations' comment that GIPSA does not have the authority to define the term through the rulemaking process. Without a concrete definition, what constitutes an emergency is ambiguous and requires clarification.

For example, the industry associations' suggestion that any situation that prevents service should constitute an emergency is far too broad. This suggestion makes possible "emergency" situations in cases where the applicant or other interested party could have otherwise taken steps to allow official inspection or weighing to occur. GIPSA does agree, however, with the industry associations' comment that whether the situation is under the control of GIPSA should not matter for determining an emergency. But, GIPSA also agrees with the farm organization's comment that excessive waivers could impair the USGSA as they allow grain to be exported from the U.S. without official inspection or weighing.

Therefore, GIPSA finds it important to define "emergency" in the regulations to prevent future confusion over what does and does not constitute an emergency. GIPSA is adopting a definition of "emergency" to describe situations outside of the control of the applicant for service, as defined in the regulations. Under this definition, applicants would still be responsible for complying with the requirements for obtaining official service listed in 7 CFR 800.46.

Waivers for Other Circumstances (7 CFR 800.18)

The industry associations and farm organization both addressed the issuance of waivers in circumstances other than emergencies. The industry associations point out that the language of the USGSA provides for mandatory waivers in instances other than emergencies for "other circumstances that would not impair the objectives of the USGSA when the buyer and seller agree to waive official inspection and weighing requirements." The associations requested that GIPSA revise the language in 7 CFR 800.18(b)(7)(A) and (B) to be inclusive of this. The associations contend that waivers must be granted regardless of whether an "emergency" exists. The farm organization maintains that by allowing grain to ship without certification of quality or quantity, waivers impair the objectives of the USGSA and should not be granted in non-emergency situations.

7 CFR 800.18 provides for two categories of waivers: (1) Emergency and (2) other circumstances that do not impair the objectives of the USGSA. The Reauthorization Act removed GIPSA's discretionary authority to approve such waivers but added to the second category the condition that the parties to a contract must mutually agree to the waiver and provide documentation to GIPSA. The proposed rule incorporated portions of this language in 7 CFR 800.18, but review of the comments showed that this interpretation would be misconstrued to connect "emergency waivers" with the "other circumstances" waivers.

In the Congressional findings and declaration of policy (7 U.S.C. 74), the objectives of the USGSA include "that grain may be marketed in an orderly and timely manner and that trading in grain may be facilitated" and "that the primary objective of the official United States standards for grain is to certify the quality of grain as accurately as practicable."

GIPSA already provides for waivers in "other circumstances that would not impair objectives of [the USGSA]" in 7 CFR 800.18. GIPSA provides waivers for: Elevators that ship fewer than 15,000 metric tons in a calendar year, grain exported for seeding purposes, grain shipped in bond, grain exported by rail or truck to Canada or Mexico, grain not sold by grade (7 U.S.C. 77 provides for this specific category of waiver), service not available, and high quality specialty grain shipped in containers. GIPSA has determined that these circumstances, as described in the regulations, do not impair the objectives of the USGSA and that granting them helps facilitate the marketing of U.S. grain. GIPSA has historically used the notice-and-comment process of the **Federal Register** to determine which circumstances do not impair the objectives of the USGSA. Soliciting public opinion is the best method for determining other classes of waivers that do not impair the objectives of the USGSA. GIPSA agrees with the farm organization that waivers run counter to the objective of certifying grain as accurately as practicable and that excessive waivers would lead to a loss of confidence in U.S. exports. Provided that parties reach mutual agreement and provide notice to GIPSA, the amended USGSA requires GIPSA to consider what other circumstances for waivers would not impair the objectives of the USGSA. Additional general regulation is not required. For these reasons, GIPSA is omitting the proposed sections 800.118(b)(7)(B) & (C) from the final rule and is not adding a new blanket category of waivers for situations in which the buyer and seller agree to waive official inspection or Class X weighing.

Fees for Official Inspection and Weighing (7 CFR 800.71)

The grain industry associations recommend that GIPSA use the midpoint of the 3 to 6 month reserve figure as the determination of when fees are to be adjusted. They suggest that fees should be raised or lowered based on whether they exceed or fall below 4.5 months reserve. They agreed with GIPSA's proposal of 2 percent increase per $1 million above or below the target amount, though they disagreed with GIPSA's proposal of a 5 percent limit per year on increases or decreases and suggested there be no limit.

GIPSA agrees with the recommendation of setting the trigger for adjusting fees at the midpoint of 4.5 months reserve. This target should better help GIPSA to maintain a 3 to 6 month operating reserve. GIPSA disagrees with the grain industry associations' suggestion that there be no limit. GIPSA believes that a yearly limit on fee increases and decreases is necessary to provide a more stable fee structure from year to year, which affects all sectors of the industry. While a large decrease would likely be welcomed by producers, marketers, and consumers, GIPSA believes that the possibility of a large increase in future years would be untenable to these same groups. In the April 15, 2013, fee rule (78 FR 22151), GIPSA increased fees by 5 percent in the first year and by 2 percent in each ensuing year, in order

Appendix III – Code of Federal Regulations Waivers

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of April 17, 2019

Title 7 → Subtitle B → Chapter VIII → Part 800 → §800.18

Title 7: Agriculture
PART 800—GENERAL REGULATIONS

§800.18 Waivers of the official inspection and Class X weighing requirements.

(a) *General.* Waivers from the official inspection and Class X weighing requirements for export grain under section 5 of the Act shall be provided in accordance with this section and the Act.

(b) *Waivers*—(1) *15,000 metric-ton waiver.* Official inspection and Class X weighing requirements apply only to exporters and individual elevator operators who (i) exported 15,000 metric tons or more of grain during the preceding calendar year, or (ii) have exported 15,000 metric tons or more of grain during the current calendar year. Exporters and elevator operators who are granted a waiver by reason of this paragraph shall, as a condition of the waiver, keep such accounts, records, and memorandum to fully and correctly disclose all transactions concerning lots of all export grain shipments. In addition, the exporters or elevator operators shall notify the Service in writing of the intention to export grain under this waiver. In the case of lots waived under this provision, if such lots are required by contract to be inspected or weighed, or if the lots are represented by official inspection or weight certificates, then such certificates shall meet the requirements of section 5 of the Act.

(2) *Grain exported for seeding purposes.* Official inspection and Class X weighing requirements do not apply to grain exported for seeding purposes, provided that (i) the grain is (A) sold or consigned for sale and invoiced as seed; and (B) identified as seed for seeding purposes on the Shipper's Export Declaration; and (ii) records pertaining to these shipments are made available, upon request by the Service, for review or copying purposes.

(3) *Grain shipped in bond.* Official inspection and weighing requirements do not apply to grain that is shipped from a foreign country to a foreign country through the United States in bond in accordance with applicable regulations of the United States Customs Service (19 CFR part 18).

(4) *Grain exported by rail or truck to Canada or Mexico.* Inspection and weighing requirements do not apply to grain exported by rail or truck from the United States to Canada or Mexico.

(5) *Grain not sold by grade.* Official inspection requirements may be waived by the Service on a shipment-by-shipment basis for export grain not sold, offered for sale, or consigned for sale by official grade if (i) the contract and any amendments clearly show that the buyer and seller mutually agree to ship the grain without official inspection and (ii) a copy of the contract and any amendments is furnished in advance of loading, along with a completed application on a form prescribed by the Service.

(6) *Service not available.* Upon request, any required official inspection or Class X weighing of grain may be waived on a shipment-by-shipment basis if (i) official personnel are not and will not be available within a 24-hour period to perform needed inspection or weighing services and (ii) both the buyer and seller of the grain are made aware that the grain has not been officially inspected or Class X weighed.

(7) *Emergency waiver.* (i) Upon request, the requirements for official inspection or Class X weighing will be waived whenever the Service determines that an emergency exists that precludes official inspection or Class X weighing;

(ii) To qualify for an emergency waiver, the exporter or elevator operator must submit a timely written request to the Service for the emergency waiver and also comply with all conditions that the Service may require.

(8) *High quality specialty grain shipped in containers.* Official inspection and weighing requirements do not apply to high quality specialty grain exported in containers. Records generated during the normal course of business that pertain to these shipments must be made available to the Service upon request, for review or copying. These records must be maintained for a period of 3 years.

(Approved by the Office of Management and Budget under control number 0580-0011)

[50 FR 49669, Dec. 4, 1985, as amended at 70 FR 21923, Apr. 28, 2005; 70 FR 73559, Dec. 13, 2005; 75 FR 41695, July 19, 2010; 76 FR 45399, July 29, 2011; 81 FR 49860, July 29, 2016]

Appendix IV- Amount of U.S. Standardized Grain Exports without Mandatory FGIS Inspection or Weighing

CALCULATION WORKSHEET TO DETERMINE VOLUME AND PERCENTAGE OF U.S. STANDARDIZED GRAINS AND OILSEEDS EXPORTED WITHOUT OFFICIAL FGIS INSPECTION OR WEIGHING (MMT)				
U.S. Exports 1/	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2018**
Wheat	21.1	22.4	28.0	21.0
Rice	4.1	3.9	4.1	3.1
Coarse Grains	56.2	59.2	62.0	68.6
Soybeans	50.4	54.1	60.1	56.7
Total Standardized Grain and Oilseed Exports	**131.8**	**139.6**	**154.2**	**149.4**
U.S. Exports Officially Inspected 2/	125.3	133.2	146.0	3/
Calculated U.S. Exports NOT Officially Inspected	6.5	6.4	8.2	
Calculated Percent NOT Officially Inspected	5.2%	4.8%	5.6%	
U.S. Exports Officially Weighed 2/	112.4	119.7	129.0	3/
Calculated U.S. Exports NOT Officially Weighed	19.5	19.9	25.2	
Calculated Percent NOT Officially Weighed	14.8%	14.3%	16.3%	

1/ Source: Prior year data from Table 3 ERS Outlook for U.S. Agricultural Trade, February 2016 -2019
2/ Source: USDA Federal Grain Inspection Service 2017 Annual Report pp. 33 and 38
3/ USDA Federal Grain Inspection Service 2018 Annual Report Not Yet Available

Appendix V – Chinese "Systems Approach"

USDA
United States Department of Agriculture

Animal and Plant Health Inspection Service
Plant Protection and Quarantine

Frequently Asked Questions: Ensuring Continued U.S. Soybean Exports to China

Why is China requiring the United States to implement a systems approach for soybean exports to that country?

China, the largest importer of U.S. grain, expressed concerns in September 2017 over increased interceptions of quarantine weed seeds in U.S. soybean exports. In response, USDA assembled a federal-industry working group to develop practical recommendations for addressing China's concerns and keep U.S. soybeans moving to China without delay. The recommendations included applying a series of measures, called a systems approach, across the soybean supply chain and in China to effectively reduce plant pest risk. In December 2017, China accepted USDA's recommendations, ensuring the continued export of U.S. soybeans valued at $14.4 billion annually.

What will the systems approach include?

The systems approach for U.S. soybeans will begin at the farm level, continue through U.S. export terminals, and extend into China's ports of arrival. Specifically, it will include:

1. Production and harvesting measures designed to reduce weed seed contamination in U.S. soybeans;
2. Soybean sampling and foreign material analysis by USDA to monitor for weed seeds in China-bound U.S. bulk and container shipments;
3. Notifying China when a soybean shipment exceeds 1 percent foreign material by placing an additional declaration on the official phytosanitary certificate that says "this consignment exceeds 1 percent foreign material;" and
4. Possible inspection, cleaning, treatment or other protective measures by China to mitigate pest risk.

Who will be responsible for implementing the systems approach?

Participants across the U.S. grain supply chain and in China will be responsible for implementing the systems approach.

On Farm: USDA's Animal and Plant Health Inspection Service (APHIS), working with federal, state, and university experts, will develop specific recommendations based on weed seed control best practices. The recommendations will include production and harvesting measures designed to reduce weed seed contamination at the farm level. APHIS will provide these recommendations to U.S. soybean producers before the 2018 growing season begins.

At Export: USDA's Federal Grain Inspection Service (FGIS) will sample China-bound soybean shipments and analyze foreign material to monitor for weed seeds in U.S. bulk and container shipments. When FGIS determines that a consignment exceeds 1 percent foreign material, APHIS will include an additional declaration on the phytosanitary certificate that says: "This consignment exceeds 1 percent foreign material." This action will allow all U.S. soybean exports to China to continue without interruption until the United States is able to fully implement the other parts of the systems approach during the 2018 crop year.

In China: China's General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) has agreed to expedite agricultural clearance of shipments with 1 percent or less foreign material. They will determine whether any phytosanitary measures including inspection, cleaning, treatment or other protective actions may be appropriate to mitigate pest risk in shipments with more than 1 percent foreign material. AQSIQ will not hold or unnecessarily delay incoming shipments based solely on the volume of foreign material.

When will the United States and China implement the systems approach?

The United States and China will begin implementing the systems approach on January 1, 2018, starting with USDA including an additional declaration on the phytosanitary certificate for China-bound shipments of U.S. soybeans that have more than 1 percent foreign material. This action will allow all U.S. soybean exports

Appendix V (continued)

to China to continue without interruption until the United States is able to fully implement the other parts of the systems approach during the 2018 crop year.

What is China's standard for foreign material?

China's standard for foreign material is 1 percent.

What will China do when it receives a U.S. soybean shipment that has an additional declaration on the phytosanitary certificate indicating that there is more than 1 percent foreign material?

China will determine whether shipments with more than 1 percent foreign material may need additional inspection, cleaning, treatment, or other protective measures. China also may require importers to have a compliance agreement to manage phytosanitary risk. China will not hold or unnecessarily delay incoming U.S. shipments based solely on the volume of foreign material.

What about U.S. soybean shipments with 1 percent or less foreign material?

For those shipments that have 1 percent or less foreign material, APHIS will issue a standard phytosanitary certificate without an additional declaration, and China has agreed to expedite agricultural clearance of those shipments.

What information does an exporter need to provide APHIS to obtain a phytosanitary certificate?

The exporter must provide APHIS with a copy of Form 921-2 from FGIS indicating whether the shipment exceeds 1 percent foreign material.

Did China set a maximum limit for the volume of foreign material they will accept in U.S. shipments?

No, China did not set a maximum limit for foreign material.

Must all U.S. soybean shipments exported to China be accompanied by a phytosanitary certificate?

All soybean exports to China, including consignments from small volume exporters, must be accompanied by an official phytosanitary certificate from APHIS. To obtain a phytosanitary certificate, the exporter must request Form 921-2 from FGIS indicating whether the shipment exceeds 1 percent foreign material.

Does the requirement to include an additional declaration for shipments that have more than 1 percent foreign material apply to container and bagged shipments of U.S. soybeans to China?

Yes, the requirement to include an additional declaration for shipments that have more than 1 percent foreign material applies to bulk, container, and bagged consignments.

Does the requirement to include an additional declaration for shipments that have more than 1 percent foreign material apply to consignments that leave the United States before January 1, 2018?

Consignments of U.S. soybeans to China that leave the United States before January 1, 2018, are not subject to this requirement.

Does China require U.S. exporters shipping soybeans to China to be registered?

Yes, China requires all companies exporting any commodity to that country to be registered. To meet this requirement for grain commodities, FGIS developed a list of all U.S. soybean exporters who ship to China. The list includes facilities that are required by FGIS to register under the U.S. Grain Standards Act as well as facilities that ship less than 15,000 metric tons and are exempt from FGIS registration. FGIS provided the list to China in December. A copy is available on the FGIS web site. FGIS will periodically update the list.

When will the USDA-recommended best practices for weed control at the farm level be available?

USDA is consulting with federal, state, and university experts to determine effective production, harvesting and other measures that should be used at the farm level to reduce weed seed contamination in soybeans. We will provide specific recommendations before the 2018 soybean growing season begins.

How will participants across the grain supply chain get information about the components of the systems approach?

USDA will work with federal and state agencies that facilitate grain exports, Extension, and affected industry stakeholder groups to create broad awareness about the systems approach. Interested stakeholders also are encouraged to subscribe to APHIS' Stakeholder Registry for the latest updates.

How and when will China determine if the systems approach is effective?

Officials from USDA-APHIS Plant Protection and Quarantine and China's General Administration of Quality Supervision, Inspection and Quarantine will evaluate the effectiveness of the systems approach in December 2019, with a mid-point assessment in December 2018.

USDA is an equal opportunity provider, employer, and lender.

Issued December 2017

Appendix VI U.S.- Mexico – Canada Agreement Article 3.A.4: "Grain"

1. Each Party shall accord to originating wheat imported from the territory of the other Party treatment no less favorable than that it accords to like wheat of domestic origin with respect to the assignment of quality grades, including by ensuring that any measure it adopts or maintains regarding the grading of wheat for quality, whether on a mandatory or voluntary basis, is applied to imported wheat on the basis of the same requirements as domestic wheat.

2. No Party shall require that a country of origin statement be issued on a quality grade certificate for originating wheat imported from the territory of the other Party, recognizing that phytosanitary or customs requirements may require such a statement.

3. At the request of the other Party, the Parties shall discuss issues related to the operation of a domestic grain grading or grain class system, including issues related to the seed regulatory system associated with the operation of any such system, through existing mechanisms. The Parties shall endeavor to share best practices with respect these issues, as appropriate.

4. Canada shall exclude from the application of the Maximum Grain Revenue Entitlement, established under the Canada Transportation Act, or any modification, replacement, or amendment thereof, movements of agricultural goods originating in Canada and shipped via west coast ports for consumption in the United States.

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5/ North American Export Grain Association Grades and Inspections Committee Survey, April 2019

6/ U.S.D.A. Statement on New Procedures for U.S. Soybean Exports to China effective January 1, 2018

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8/ "2017 Report to Congress on China's WTO Compliance", U.S. Trade Representative, January 2018

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QUESTIONS AND ANSWERS

JULY 31, 2019

Senate Committee on Agriculture, Nutrition & Forestry
Hearing on Perspectives on Reauthorization of the U.S. Grain Standards Act
July 31, 2019
Questions for the Record
Mr. Brian Linin

Senator John Hoeven

1) How would failure to reauthorize the U.S. Grain Standards Act impact wheat growers?

Thank you for the question, Senator Hoeven. The failure to reauthorize the U.S. Grain Standards Act (GSA) would be devastating to wheat growers due to the impact it would have on our domestic and international markets. We export about 50% of our wheat per year from the U.S., and the GSA provides for the Federal Grain Inspection Service (FGIS), which acts as a third-party inspection agency to certify weights and grades of our commodities to domestic and international buyers. This system provides an independent party to certify the quantity and quality of our grain that is sold on contract specifications, and our customers (both domestic and international) rely on FGIS as an independent, third-party inspector, to certify the quantity and quality of our grain. The absence of this service would be a stake in the heart of growers' ability to market and sell grain in the U.S. and around the world. We currently face many headwinds in the ag sector: low prices, falling farm incomes, trade wars, rising equipment costs, and rising costs of inputs like oil, fuel, fertilizers, and chemicals; the presence of FGIS as an independent, third-party inspector is one of the tools we still have left that helps us keep our markets open, and gives us an advantage over other countries that seek to take over our markets for agricultural products. Our buyers depend on FGIS, and the GSA, to ensure that we are the best quality, most reliable, and stable supplier of food in the world.

Senate Committee on Agriculture, Nutrition & Forestry
Hearing on Perspectives on Reauthorization of the U.S. Grain Standards Act
July 31, 2019
Questions for the Record
Mr. Bruce Sutherland

Senator John Hoeven

1) Do you believe delegated agencies should have to notify facilities, in addition to USDA, if they are planning a disruption in service?

Senator Hoeven, I appreciate your question. Yes, NGFA strongly believes affected facilities need and deserve the same courtesy and consideration as currently provided to USDA so they can make appropriate logistical and other alternative arrangements to continue to serve customers whenever possible – including farmers and upstream and downstream customers.
We therefore recommend legislative language to require comparable 72-hour advance notification for affected facilities.

Senate Committee on Agriculture, Nutrition & Forestry
Hearing on Perspectives on Reauthorization of the U.S. Grain Standards Act
July 31, 2019
Questions for the Record
Mr. Nick Friant

Senator John Hoeven

1) How have the amendments to the U.S. Grain Standards Act enacted in 2015 improved the operation of the grain inspection system?
    a. The 2015 reauthorization set many improvements in motion. Three key changes were:
        i. Establishment of a transparent notification and reporting requirement if an FGIS-delegated agency at an export port location intends to discontinue providing official service. While this was a great improvement in the 2015 reauthorization, in the 2019 reauthorization we would like to see this notification extended to the facility receiving the inspection and weighing service, a provision that was omitted in the previous reauthorization. Frankly, we encouraged FGIS to require such notification of affected facilities when promulgating regulations implementing the 2015 reauthorization law, but the agency cited the lack of specific legislative authority as a reason for not doing so. Hence our request that it be made explicit in the 2019 reauthorization.
        ii. Modifying the method used to calculate export user fees to be based on a five-year rolling average, which ensures that fees reflect the fluctuating volume of the export business and provides for adjustment of the fees accordingly.
        iii. Requiring transparency and regular review of FGIS delegation of its official inspection authority at export ports.

2) What is your top priority as the committee works to reauthorize the act before its scheduled expiration in 2020?
    a. As the committee works to reauthorize the USGSA before its scheduled expiration in 2020, a key priority of the three we highlighted in our testimony at the hearing is to prevent in the future the inappropriate and misleading use of official grade factor determinations, such as foreign material, on certificates that are not authorized under the USGSA. The precedent set by allowing the use on phytosanitary certificates of quality factor determinations as an indicator of plant health or other sanitary and phytosanitary standards is inappropriate, detrimental to U.S. exports, and should be expressly prohibited.

Senator Amy Klobuchar

Minnesota is the fourth largest agricultural exporting state in the country, with our 2016 agriculture exports being valued at $7.1 billion. In fact, agriculture exports grew by 226 percent from 2000 to 2016 and contributed over one-third of Minnesota's total agricultural sales.

1) In your testimony, you discussed how the services provided by the Federal Grain Inspection system are critical to both grain exporters and customers from around the globe who looking for efficiency and reliability when sourcing grain. How well do farmers think that the current system is working?
    a. While I did grow up on a family grain farm in north central Illinois, I am not farmer nor does NAEGA directly represent farmers. However, we place a high priority on understanding the views and needs of our farmer customers. We know the transparent and competitive markets for U.S. farm products that benefit from FGIS services work quickly and effectively to inform farmers, as well as others in the value chain, and believe U.S. farmer confidence in FGIS is high. For example, during my two separate three-year terms on the FGIS Grain Inspection Advisory Committee, I had the opportunity to interact with various producer representatives. I found all to be committed to the official third-party official inspection system and continued improvement in the accurate, reliable, and cost-effective service provided by FGIS. Generally, I find U.S. farmers to be like minded with us in strongly supporting reauthorization of the U.S. Grain Standards Act and the U.S. official grain inspection and weighing system.

2) As you know, there are numerous challenges affecting farm country lately, from historically low farm income and adverse weather conditions to uncertain global markets. Why is having a reliable, cost-effective system to facilitate the marketing of U.S. grain and oilseeds in export and domestic markets important, especially for farmers and rural communities?
    a. U.S. farmers and the entire marketing chain benefit from and are challenged by competition for markets. Our domestic and international customers are always trying to understand better the source, quality, safety, and end-use functionality of the products they are purchasing. This value equation has may dimensions. Having the backbone of the third-party official inspection system provided for by the Grain Standards Act gives our farmers and customers confidence that the products they are selling and buying are accurately assessed for weight and quality and that quality determination is consistent over time. If we do not have this system, or if it is not reliable, transparent and cost effective, buyer and seller confidence and their desire to purchase U.S. grains and oilseeds could erode. We are committed to meeting needs of the entire value chain, including by providing for confidence in determinations of quality and weight. Efficient and responsive export markets, in combination with domestic markets, ultimately are the source of economic well-being for U.S. farmers and rural communities. Indeed, the U.S. Grain Standards themselves serve as the "short-hand" way of

communicating grain quality attributes that play an indispensable role in market pricing of grains and oilseeds (e.g., U.S. No. 2 yellow corn, etc.). A reliable, cost-effective system to facilitate the marketing of U.S. grain and oilseeds in export and domestic markets is essential to achieving a competitive, sustainable and stable U.S. food supply.

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