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U.S. Grain Standards Act: Potential Reauthorization in the 114th Congress

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Summary

Under the United States Grain Standards Act (USGSA) of 1916, the federal government is authorized to establish official marketing standards (not health and safety standards) for grains and oilseeds, and to provide procedures for grain inspection and weighing. Most of the act is permanently authorized, including mandatory inspection and weighing of exported grain, as well as authority to amend grain standards of quality. However, several provisions expire on September 30, 2015. A lapse in authorization could disrupt the current grain inspection and weighing program, but it would not necessarily halt official grain inspections.

As issued and modified in regulations, official grain standards define each grain, classes of grain, and numerical grades. The grades specify physical characteristics such as minimum weight and maximum percentage of defects. 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. To encourage the marketing of high-quality grain for an agriculture sector that is highly dependent on export demand, the USGSA requires that exported grains and oilseeds be officially inspected (if sold by grade) and weighed. Domestic shipments do not require official inspection, but the service is available and is often performed. 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. Activities such as developing grain standards and improving procedures for measuring grain quality are financed with congressionally appropriated funds.

The Federal Grain Inspection Service (FGIS) of the U.S. Department of Agriculture promotes the uniform application of U.S. grain standards by official inspection personnel. FGIS inspects or oversees the inspection (by official state or private agencies) of more than half of the grain produced in the United States. During FY2011-FY2013, the average annual amount of grain receiving official inspection was 273 million metric tons, or about 56% of U.S. production. FGIS directly inspects about two-thirds of exported grain and oversees the inspection (by state agencies) of the remainder.

The provisions expiring on September 30, 2015, and potential impacts are:

1. **Authority for appropriations (7 U.S.C. 87h).** Appropriators could still choose to fund FGIS activities (other than inspections) if this provision lapses.
2. **FGIS authority for charging fees required for federal supervision of state agencies' export inspections and weighing (7 U.S.C. 79(j)(4) and 7 U.S.C. 79a(l)(3)).** Unless other funds are secured for federal supervision, expiration would end the use of state agencies for export services and require FGIS to perform (for a fee) all services, which would disrupt the current program.
3. **Administrative/supervisory cost cap of 30% (7 U.S.C. 79d).** User fees could rise, as FGIS would no longer be required to contain administrative and supervisory costs when determining fee amounts.
4. **Authority for an advisory committee (7 U.S.C. 87j(e)).** Expiration would end the formal link established by Congress between the grain industry and FGIS.

Options for the 114th Congress include (1) reauthorizing the Grain Standards Act by simply extending the date of expiration, as Congress did most recently in 2005; (2) reauthorizing by extending the law and modifying fees or other provisions; or (3) letting the provisions expire.

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Most of the United States Grain Standards Act is permanently authorized, including 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 expire on September 30, 2015. While the expiring provisions, including authority for collecting certain user fees, would not necessarily bring official grain inspections to a halt, a lapse could affect funding and disrupt the current grain inspection and weighing program. The last reauthorization occurred in 2005.

The United States Grain Standards Act

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.¹ The specific crops are barley, canola, corn, flaxseed, oats, rye, sorghum, soybeans, sunflower seed, triticale, wheat, and mixed grain.² As issued and modified in regulations, 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. 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.³ FGIS activities such as developing grain standards and improving techniques for measuring grain quality are financed with congressionally appropriated funds. In FY2013, user fee revenue under USGSA was \$31.8 million, and the FGIS appropriation was \$16.7 million.⁴

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

¹ FGIS is located in USDA's Grain Inspection, Packers and Stockyards Administration (GIPSA).

² Under a separate law, the Agricultural Marketing Act (AMA) of 1946, as amended, FGIS also administers and enforces certain inspection and standardization activities related to rice, pulses, lentils, and processed grain products such as flour and corn meal, as well as other agricultural commodities.

³ Appropriators typically limit agency obligations for inspection and weighing services from fees collected. The limit was \$50 million in FY2014. Total FGIS user fee account obligations were an estimated \$42 million in FY2014.

⁴ User fees collected under AMA totaled \$8.6 million in FY2013. The FGIS appropriation covers activities under both acts (USGSA and AMA).

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.

Table A-1, at the end of this report, contains links to the act's statutory provisions, associated regulations, official service providers, and other information.

U.S. Grain Inspection System⁵

FGIS inspects or oversees the inspection of more than half of the grain produced in the United States. During FY2011-FY2013, the average annual amount of grain receiving official inspection was 273 million metric tons, or about 56% of U.S. production. Of the inspected amount, 62% was for domestic shipment and the remainder for export. Grain not officially inspected includes grain that does not require official inspection (e.g., grain used domestically), grain inspected by unofficial entities, and exports by companies shipping less than 15,000 metric tons, which are not covered by the USGSA.⁶

For domestic shipments, voluntary official grain inspection is provided primarily by a network of official state and private agencies under the USGSA. FGIS oversees a total of 50 official agencies (called designated state agencies and designated private agencies) located throughout the country.⁷ Each agency covers a specific and exclusive geographic area, which is authorized by the USGSA in part to ensure that the official state or private agency receives enough business for it to remain financially viable and to maintain staff for an on-site laboratory that can serve the entire area.⁸ FGIS grants requests by grain shippers that allow for some boundary flexibility.

All employees of an official agency must be licensed and lab equipment must meet federal standards. User fees charged by official state and private agencies for services are approved by FGIS and must be "reasonable" as specified in 7 C.F.R. Section 800.70.⁹ An additional fee is charged by FGIS for supervising official inspection and/or weighing services. Other (unofficial) inspection companies may be operating in these regions, but only an agency designated by FGIS is allowed to issue official inspection certificates.

⁵ The primary source for this section is U.S. Department of Agriculture, *Federal Grain Inspection Service: 2013 Annual Report*, December 2013, <http://www.gipsa.usda.gov/publications/fgis/ar/2013-fgis-AR.pdf>.

⁶ The USGSA requires registration of exporters who buy, handle, weigh, or transport at least 15,000 metric tons per year of U.S. grain for sale in foreign commerce. During FY2014, FGIS issued 106 certificates of registration to individuals and firms.

⁷ See map at http://www.gipsa.usda.gov/about/pdf_files/map-oa.pdf.

⁸ According to USDA, exclusive territories also minimize the risk of "grade shopping" that could be exacerbated by competition for business if every agency could provide service anywhere. Furthermore, without exclusive territories, inspection agencies might focus on larger, higher volume exporters and possibly overlook smaller exporters. The opposing view is that elimination of geographic boundaries would benefit the grain industry by increasing competition and would not necessarily jeopardize the integrity of the official inspection program.

⁹ Fees are to (a) cover the cost of inspection and weighing services, (b) be consistent with similar fees assessed by adjacent agencies, (c) be assessed based on average cost of similar services at all locations, and (d) be supported by information showing how the fees were developed. Approved fee schedules are posted at http://www.gipsa.usda.gov/fgis/svc_provid/providers.html.

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. FGIS provides mandatory export inspection and weighing services on a fee basis at 45 export elevators, including 4 floating rigs. The five delegated state agencies offer 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.¹⁰

In 2013, amid broad industry support to maintain inspection services, USDA increased fees to ensure full funding of official inspection and weighing services in future years.¹¹ With reduced levels of grain volume in FY2012 and FY2013 due to drought-reduced crops in 2012, fee revenue did not keep pace with costs, resulting in a negative balance in the user fee trust fund for the export inspection and weighing program. With a rebound in grain volumes (and higher fees), fee revenues in FY2014 increased substantially, resulting in a positive fund balance.¹²

FGIS headquarters are located in Washington, DC. The agency operates the National Grain Center in Kansas City, MO, seven field offices, one federal/state office, and three sub-offices. In FY2013, the agency employed approximately 400 full-time staff and 123 temporary staff. In total, the U.S. grain inspection network consists of approximately 2,000 staff members at federal, state, and private laboratories.

Legislative History

During the last half of the 19th century, and prior to enactment of current grain standards law, local grain markets operated with their own grades and grading methods. By 1900, numerous states and trade organizations were inspecting grain for quality at inspection points across the country, often with widely different standards and terminology. The lack of accepted grain standards and inspection procedures contributed to chaotic marketing conditions and inefficient marketing of agricultural commodities. Disputes arose between producers, traders, and buyers from as far away as Europe with charges of poor quality and unfair practices.¹³

¹⁰ In 7 C.F.R. §800.71, Schedule A is FGIS inspections and Schedule B is FGIS supervision of inspection and weighing services.

¹¹ USDA did not receive any comments that were in opposition to the proposed rule. See Grain Inspection, Packers and Stockyards Administration, “Fees for Official Inspection and Official Weighing Services Under the United States Grain Standards Act (USGSA),” 78 *Federal Register* 22151-22166, April 15, 2013.

¹² In FY2013, trust fund levels were positive for the other three FGIS programs: oversight of official agencies, rice program, and commodity program (edible beans, peas, lentils, and processed products like wheat flour, soybean meal, vegetable oil, and corn meal). See U.S. Department of Agriculture, *Federal Grain Inspection Service: 2013 Annual Report*, December 2013, p. 39, <http://www.gipsa.usda.gov/publications/fgis/ar/2013-fgis-AR.pdf>. For FY2014 data, see Kendra Kline, *Reauthorization/Financial Information*, USDA, Federal Grain Inspection Service, Grain Inspection Advisory Committee Meeting, November 4, 2014, <http://www.gipsa.usda.gov/fgis/advcommittee/Nov2014/Reauthorization-Financial-Information.pdf>.

¹³ Information sources for this section include U.S. Department of Agriculture, *The Federal Grain Inspection Service (FGIS)*, Annual Report to Congress 1977, http://www.gipsa.usda.gov/Publications/fgis/ar/1977_fgis_AR.pdf; and Lowell D. Hill, *Grain Grades and Standards—Historical Issues Shaping the Future* (University of Illinois Press, (continued...))

Enactment of Federal Grain Standards and Inspections in 1916

Following unsuccessful attempts by the industry to voluntarily adopt grain standards, the United States Grain Standards Act (USGSA) was enacted on August 11, 1916, to help coordinate efforts to improve the grading system. The first standard was established for corn and became effective December 1, 1916. The act also required certain export and interstate shipments of grain to be officially inspected if sold by grade. USDA was directed to issue licenses to state inspectors and private inspection agencies, and to supervise their activities. Only licensed inspectors could issue official grade certificates.

Amendments through 1976: Increasing the Federal Role

The USGSA has been amended 18 times since it was enacted (see **Table A-2**). The first change came in 1940 when it was modified to include soybeans. In 1956 it was amended to prohibit issuance of false certificates by the deceptive loading, handling, or sampling of grain. In 1958, an amendment authorized USDA to recover the cost of overtime resulting from performing appeal inspection services.

A major revision came in 1968, when Congress eliminated the requirement that interstate shipments be inspected if sold by grade, which reportedly created inefficiencies in grain movements and added costs by requiring inspections even when neither buyer nor seller wanted an official grade. (For export shipments, inspections and designations by grade remained mandatory.) Other provisions extended the lead time to initiate changes in standards from 90 days to one year and increased penalties for violations of the act.

Another significant change in the mid-1970s elevated the federal role following investigations into reports of misgrading of grain, “short” weighing, bribery, and other irregularities in grain inspection and weighing. A number of firms and individuals were indicted by federal grand juries and ultimately convicted. The incidents threatened the credibility of the U.S. grain marketing system, and in response, amendments to USGSA were enacted in 1976 that for the first time established official weighing services, recordkeeping by elevators, registration of grain exporters, and user fees to cover federal supervision costs. Importantly, the 1976 amendment established the Federal Grain Inspection Service (FGIS) and required either federal inspection or state agency inspections for export. Previous law had required either state agency or private agency inspections but had not authorized federal inspections. The 1976 amendment also included provisions restricting grain companies and boards of trade from sponsoring inspection agencies, which had apparently led to conflicts of interest.

1980s and 1990s: Funding, Advisory Committee, and Quality

In the late 1970s and early 1980s, legislation focused on funding and advisory issues, including a repeal and then reinstatement of user fees, establishment of an industry advisory committee, elimination of the requirement for official weighing except for exports, and limits on administrative and supervisory costs in user fees. Also, for the first time, legislation in 1981

(...continued)
1990).

provided the authorization of appropriations for a specified period of time (through FY1984). Subsequent reauthorizations of the USGSA have extended this authority for varying periods of time, including through FY2015 in the USGSA reauthorization enacted in 2005.

Beginning in the mid-1980s, congressional focus shifted to grain quality. The 1985 farm bill (P.L. 99-198) required a study on grain export standards and blending practices. In 1986, measures were enacted to prohibit reintroduction of foreign material (including dust) once removed from grain, and to study incentives for high quality and the feasibility of tests for determining value of end-use characteristics. The quality emphasis continued in the 1990 farm bill (P.L. 101-624), which established a grain quality committee within USDA, as well as provisions for improving the cleanliness of grain through existing standards and additional prohibitions on grain contamination.

Since 1990: Cost Containment and Modest Change

In 1993, Congress extended the authorization of appropriations for grain inspection services and collection of user fees through FY2000, authorized inspection and weighing activities in Canadian ports, and authorized a pilot program to permit more than one official agency to carry out inspections within a single geographic area. Congress also directed USDA to develop and carry out a comprehensive cost containment plan to minimize taxpayer expenditures and user fees.¹⁴

Congress in 2000 reauthorized the pilot program to allow more than one designated official agency to carry out inspections and weighing services within the same geographic area under certain conditions. It also reduced the limitation on administrative and supervisory costs in user fees from 40% to 30% and prohibited the disguising of grain quality. Congress also extended through FY2005 the authorization of appropriations for grain inspection services, collection of certain user fees, and authority for an advisory committee.

The most recent reauthorization of the USGSA was enacted as P.L. 109-83 in 2005 (see box below). It made no change to the law except to extend the respective end dates for certain authorities through FY2015. To reduce federal staff costs, Congress had considered giving USDA authority to contract export inspections and weighing services to private companies (with federal oversight), but USDA determined it already had that authority.¹⁵

Text of P.L. 109-83

SECTION 1. REAUTHORIZATION OF ACT. (a) IN GENERAL.—Sections 7(j)(4), 7A(l)(3), 7D, 19, and 21(e) of the United States Grains Standards Act (7 U.S.C. 79(j)(4), 79a(l)(3), 79d, 87h, 87j(e)) are amended by striking “2005” each place it appears and inserting “2015”. (b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on September 30, 2005.

¹⁴ In 1994, P.L. 103-354 made miscellaneous conforming amendments to USGSA.

¹⁵ Senator Chambliss, “U.S. Grain Standards Act,” *Congressional Record*, September 28, 2005, p. S10583.

Four Expiring Provisions and Potential Impacts

Most of the United States Grain Standards Act is permanently authorized, including mandatory export inspections and USDA's authority to establish (and amend) grain standards. However, four specific provisions of the law, outlined below, expire on September 30, 2015.

1. Authority for Appropriations

Congress appropriates funds for FGIS to develop standards, pay for related agency costs, and improve measuring procedures. The FGIS appropriation was \$16.7 million in FY2013. Appropriations do not fund inspections, which are covered by user fees. The authority for appropriations of such sums as necessary, to the extent that financing is not obtained from fees, expires on September 30, 2015 (USGSA, as amended, Section 19; 7 U.S.C. 87h).

In general, Congress appropriates money for programs after a specific act has authorized the appropriation. However, appropriators could still choose to fund FGIS if this provision lapses. There is no constitutional or general statutory requirement that an appropriation must be preceded by a specific act that authorized the appropriation.¹⁶ Nevertheless, renewed authority would eliminate potential uncertainty about whether Congress would choose to appropriate funds without an authorization.

An example of "unauthorized" appropriations occurred in 2012 during the lapse of the 2008 farm bill (P.L. 110-246). More than 100 farm bill programs briefly lost their authorization for appropriations at the end of FY2012, before a one-year extension was passed on January 1, 2013. These programs nonetheless received \$2.3 billion in FY2012.¹⁷

2. Collection of Certain Fees for Supervising Export Inspections and Weighing

Official inspections and weighing services are performed by either FGIS or official agencies under FGIS supervision. User fees that are separate from those collected for direct services support FGIS's supervisory activities. The following expiring provisions would affect fees for the required federal supervision of official agencies for export services. Fee collection for domestic services would be unaffected.

- Fees charged for the required federal supervision of export inspections performed by a state agency expire on September 30, 2015, as does the authority to invest these funds (USGSA, as amended, Section 7(j)(4); 7 U.S.C. 79(j)(4)). This would end the use of state agencies for export inspections unless alternative funding for federal supervision is secured.
- Similarly, authority to collect fees for the required federal supervision of weighing services performed by an official agency expires on September 30,

¹⁶ Note that unauthorized appropriations are subject to, and may be limited by, a point of order during the legislative process. See CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*.

¹⁷ See CRS Report R42442, *Expiration and Extension of the 2008 Farm Bill*.

2015 (USGSA, as amended, Section 7A(1)(3); 7 U.S.C. 79a(1)(3)). This would end the use of official agencies for weighing services unless alternative funding for federal supervision is secured.

Additionally, for services performed directly by FGIS (both export inspections and weighing), after September 30, 2015, fees must exclude administrative costs, in the absence of reauthorization.

Based on CRS interpretation of the statute, the expiring provisions of USGSA would not necessarily shut down export inspection and weighing services because of two possible scenarios: (1) FGIS could perform all inspections and weighing (financed completely by user fees and without administrative costs included in the fees), or (2) another source of funding for federal supervision of state agencies could be secured to replace revenue from discontinued fees.

In other words, the expiring provisions would not affect authority for FGIS to perform direct inspection of exports and weighing services, and to collect user fees for these services. Currently, FGIS accounts for about two-thirds of export inspections, while state agencies account for the remainder (under federal supervision). Thus, FGIS could expand its share to 100% by providing all export inspections. Such a shift would likely disrupt operations of the current inspection system. FGIS would need to hire more staff to handle the substantial increase in workload of direct inspection and weighing activities. Users would still pay for the services because the law allows FGIS to charge user fees to cover the inspection and weighing costs (but not administrative and supervisory costs). Presumably any additional costs would need to be covered by appropriated funds.

As an alternative to shifting all export inspections and weighing to FGIS, the agency could maintain the current mix of both direct federal inspection and federal supervision of other official agencies' export inspections and weighing services, but only if alternative funding is secured for federal supervision, such as additional appropriations or transfers from other accounts.

Expiration of these provisions would likely disrupt the current grain inspection and weighing program, and could impose significant adjustments to FGIS operations to cope with loss of authority to collect user fees for supervising export services. No estimates are available for how user fees or appropriated levels might change if FGIS performs all inspections and weighing services. Also, given current budget austerity, additional appropriations might be unlikely.

3. Limits on Administrative and Supervisory Costs

Current law establishes a 30% limit on administrative and supervisory costs relative to total costs for services. The cap had been put in place (and subsequently reduced) to encourage cost cutting by FGIS. The provision expires on September 30, 2015 (USGSA, as amended, Section 7D; 7 U.S.C. 79d). Expiration of the cap might result in higher total costs for inspections and weighing (resulting in higher user fees or requests for appropriated funds) because FGIS would not be required by statute to contain administrative and supervisory costs.

4. Authority for Advisory Committee

Authority for an advisory committee expires on September 30, 2015 (USGSA, as amended, Section 21(e); 7 U.S.C. 87j(e)). The advisory committee meets regularly to advise FGIS on

programs and services it delivers, and its recommendations are designed to help the agency better meet the needs of its customers. The committee is composed of 15 members appointed by the Secretary of Agriculture. They represent various segments of the grain industry, including grain producers, processors, merchandisers, handlers, exporters, consumers, grain inspection agencies, and scientists. Elimination of committee authority would end the formal communication link established by Congress between the industry and FGIS.

Additional Policy Issues

Little public discussion of USGSA reauthorization has occurred as of late 2014. A summary of the July 2014 meeting of the Grain Inspection Advisory Committee noted that “no major changes have been suggested” for the 2015 reauthorization of the USGSA, and the committee recommended that the expiring provisions of the act should be reauthorized for a minimum of 10 years in order to assure uninterrupted service.¹⁸ Nevertheless, Congress might consider several policy issues.

Fees for Standards Development and Maintenance

The FY2015 President’s budget proposal recommended that user fees replace \$5 million of appropriated funds to pay for FGIS standardization activities. Standardization activities include the setting and updating of official standards, and the evaluation, selection, and calibrating of testing equipment. This proposal was first made in the early 1980s and has been repeated most years since. The House and Senate Appropriations Committees have not accepted the proposal, noting that such a change in policy belongs with the authorizing committees (the House and Senate Agriculture Committees). The argument in favor of charging fees for standardization is that the grain industry clearly benefits from the service and should pay the cost. Opponents argue that the entire industry benefits, not only the users of inspection services, and it would be unfair to require the users of inspection services to pay the entire cost.

Fee Changes and the User Fee Trust Fund

The Grain Inspection Advisory Committee has asked for a suspension of additional increases in export grain inspection and weighing fees when retained earnings (fee revenue minus costs) exceed the agency’s three-month reserve level, which is maintained so that FGIS has sufficient operational funds. It also recommends that GIPSA publish financial information for FGIS user fee accounts on a monthly basis to the agency website for access by users.

Interruption in Service

In early July 2014, the state agency providing export inspections at the United Grain Corporation terminal at the Port of Vancouver (Washington) discontinued its service amid an ongoing labor dispute between United Grain (and two other exporting companies) and the International Longshore and Warehouse Union. The inspection agency had been concerned with employee

¹⁸ Grain Inspection Advisory Committee, *Meeting Summary*, Kansas City, MO, July 15-16, 2014, <http://www.gipsa.usda.gov/fgis/advcommittee/july2014/Summary-GIAC-Meeting-KC-071514.pdf>.

safety at the entrance of the site where demonstrations have been held since the dispute began in 2013. The United Grain terminal is a major grain export facility on the West Coast.

In mid-July 2014, a number of agricultural groups urged USDA to take immediate action to restore service, by using either federal inspectors or qualified inspectors from other delegated agencies.¹⁹ The Grain Advisory Committee also called on USDA to restore grain inspection service. The committee adopted the following resolution in its July 2014 meeting.²⁰

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

Under the USGSA and given that export inspections are mandatory, USDA has discretion to grant a waiver of inspection in an emergency, and the Secretary of Agriculture has broad authority to determine what constitutes an emergency.²¹ In July, United Grain reportedly shipped grain in one case by obtaining a waiver from the inspection requirement.²² The company also relocated grain to other facilities for inspection, which increased shipping costs. In early August, USDA reportedly declined using federal inspectors at the United Grain Corporation terminal at the Port of Vancouver because “the situation does not ensure that FGIS inspectors will have safe access to the facility.”²³ Later that month, the grain companies and union reached an agreement to end the dispute, and inspections resumed at the United Grain company terminal.

Some in the grain industry are concerned that a disruption such as this one, if repeated, could adversely affect the reputation of U.S. grain exporters as reliable suppliers. During debate for USGSA reauthorization in the 114th Congress, some legislators might be interested in taking measures to prevent future disruptions in inspection services.

Options for Reauthorization

The 114th Congress has several options when considering expiration of several USGSA provisions. One is to reauthorize them as Congress did most recently in 2005, by simply extending the date of expiration. Another option is to reauthorize and make program modifications such as fee changes or provisions to minimize service disruptions. A third option is to let the provisions expire, which could shift all export inspections and weighing services to FGIS and disrupt current operations that use both federal and state agency inspection services.

¹⁹ National Grain and Feed Association, “USDA Urged to Immediately Restore Official Grain Inspection Service at Port of Vancouver, Wash.,” press release, July 29, 2014, <http://www.ngfa.org/2014/07/29/usda-urged-to-immediately-restore-official-grain-inspection-service-at-port-of-vancouver-wash/>.

²⁰ Grain Inspection Advisory Committee, *Resolutions*, Kansas City, MO, July 15, 2014, <http://www.gipsa.usda.gov/fgis/advcommittee/july2014/July-2014-Meeting-Resolutions.pdf>.

²¹ 7 U.S.C. §77(a)(1).

²² Mike Francis, “United Grain Operations Slow at Port of Vancouver after Gov. Inslee Pulls Security Escorts,” *The Oregonian*, July 24, 2014, http://www.oregonlive.com/business/index.ssf/2014/07/united_grain_operations_slow_a.html.

²³ Christine Stebbins, “US Pacific Northwest exports backlogged, delays could worsen,” *Reuters*, August 8, 2014.

Appendix. References for United States Grain Standards Act

Table A-1. Laws, Regulations, and Other Information

Item	Reference	Link
Statute	Compilation, as amended through P.L. 109-83, September 30, 2005	http://www.ag.senate.gov/download/united-states-grain-standards-act
	P.L. 109-83 (USGSA, amendment)	http://www.gpo.gov/fdsys/pkg/PLAW-109publ83/pdf/PLAW-109publ83.pdf
	119 Stat. 2053	http://heinonline.org/HOL/Page?handle=hein.statute/sal119&id=1&size=2&collection=statute&index=statdocs#2114
Codification	7 U.S.C. 71 et seq.	http://uscode.house.gov/view.xhtml?path=/prelim@title7/chapter3&edition=prelim
Regulations	7 C.F.R. §800 - General regulations	http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=89728873dd6db7cbd4920c182863a5a1&tpl=/ecfrbrowse/Title07/7cfr800_main_02.tpl
	7 C.F.R. §801 - Official performance requirements for grain inspection equipment	http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=89728873dd6db7cbd4920c182863a5a1&tpl=/ecfrbrowse/Title07/7cfr801_main_02.tpl
	7 C.F.R. §802 - Official performance and procedural requirements for grain weighing equipment and related grain handling systems	http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=89728873dd6db7cbd4920c182863a5a1&tpl=/ecfrbrowse/Title07/7cfr802_main_02.tpl
	7 C.F.R. §810 - Official United States standards for grain	http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=89728873dd6db7cbd4920c182863a5a1&tpl=/ecfrbrowse/Title07/7cfr810_main_02.tpl
Historical standards	Historical compilation of standards changes	http://www.gipsa.usda.gov/fgis/standards/history/standards_history.pdf
Official Service Providers	List of providers that comprise the official grain inspection and weighing system	http://www.gipsa.usda.gov/fgis/svcpro.html
FGIS information	Agency reports and publications, including annual reports, grain export quality reports, directories, and technical handbooks, brochures, and procedure references	http://www.gipsa.usda.gov/Publications/pub_fgis.html#hb

Source: CRS.

Note: An electronic compilation of USGSA information (in pdf) is available from the author.

Table A-2. Legislative History of the United States Grain Standards Act (USGSA)

Date	Statute	Public Law	Selected provisions
Aug. 11, 1916	39 Stat. 482	P.L. 64-190—United States Grain Standards Act (USGSA)	Authorized the Secretary of Agriculture to investigate grading of grain, establish standards of quality for corn, wheat, rye, oats, barley, and flaxseed. If sold by grade, prohibited interstate or foreign shipment unless inspected. USDA directed to issue licenses to state inspectors and private inspection agencies, and supervise their activities.
Jul. 18, 1940	54 Stat. 765	P.L. 76-750—USGSA, amendment	Added soybeans to list of commodities.
Aug. 1, 1956	70 Stat. 780	P.L. 84-861—USGSA, amendment	Prohibited issuance of false certificates.
Jul. 11, 1958	72 Stat. 352	P.L. 85-509—USGSA, amendment	Authorized USDA to recover the cost of overtime from performing appeal inspection services.
Aug. 15, 1968	82 Stat. 761	P.L. 90-487—U.S. Grain Standards Act	Removed requirement for inspecting interstate shipments if sold by grade; greater penalties for violations.
Oct. 21, 1976	90 Stat. 2867	P.L. 94-582—USGSA of 1976	Established the Federal Grain Inspection Service; established official weighing services; required elevator recordkeeping and exporter registration; authorized direct FGIS inspections for exports; required user fees for federal supervision of inspection and weighing services.
Sep. 29, 1977	91 Stat. 1024	P.L. 95-113—USGSA, amendment; Title XVI of the Food and Ag. Act of 1977 (1977 farm bill)	Supervisory costs to be paid via appropriations only; established a temporary advisory committee; reduced recordkeeping burden for users.
Oct. 13, 1980	94 Stat. 1870	P.L. 96-437—USGSA, amendment (Dole-Ashley bill)	Permitted grain to be delivered into or out of export elevators without official weighing if conveyed by means other than barge.
Aug. 13, 1981	95 Stat. 357	P.L. 97-35—Omnibus Budget Reconciliation Act of 1981	Revised the system covering inspection and supervision fees; limited the administrative and supervisory costs to a maximum of 35% of total costs; established a permanent advisory committee; specified authorization for appropriations for only FY1981 through FY1984.
Dec. 22, 1981	95 Stat. 1268	P.L. 97-98—Agricultural Food Act (1981 farm bill)	Permitted state agency authority for grain inspection at export port locations if operating prior to July 1, 1976.
Oct. 11, 1984	98 Stat. 1831	P.L. 98-469—Omnibus Budget Reconciliation Act of 1981, amendment	Extended the authorization for appropriations through September 1988. Increased the cap on administrative and supervisory costs from 35% to 40% for FY1985 through FY1988.
Dec. 23, 1985	99 Stat. 1632	P.L. 99-198—Food Security Act of 1985 (1985 farm bill)	Directed FGIS and the Agricultural Research Service to cooperate in developing new means of establishing grain classifications. Required a study by the Office of Technology Assessment on grain export standards, blending practices, and export competitiveness.
Nov. 10, 1986	100 Stat. 3564	P.L. 99-641—Futures Trading Act of 1986, Title III-Grain Quality Improvement Act of 1986	Prohibited the reintroduction of foreign material (including dust) once removed from grain; required a study of incentives for high quality and feasibility of test for determining the value of end-use characteristics.
Oct. 24, 1988	102 Stat. 2584	P.L. 100-518—USGSA Amendments of 1988	Extended the authorization for appropriations through September 1993; expanded the advisory committee from 12 to 15 members; mandated a study on dockage in wheat grades; established a pilot program on incorporating premiums for superior quality grain delivered to the Commodity Credit Corporation.

Date	Statute	Public Law	Selected provisions
Nov. 28, 1990	104 Stat. 3928	P.L. 101-624—Food, Agriculture, Conservation, and Trade Act of 1990 (1990 farm bill), Title XX- Grain Quality Incentives Act of 1990	Established a Committee on Grain Quality at USDA to evaluate concerns with quality of U.S. grain; established provisions for improving the cleanliness of grain through existing standards and additional prohibitions on grain contamination; directed FGIS to test all exported corn for aflatoxin contamination.
Nov. 24, 1993	107 Stat. 1525	P.L. 103-156—USGSA Amendments of 1993	Extended the authorization of appropriations for grain inspection services and collection of user fees through FY2000, authorized inspection and weighing activities in Canadian ports, and authorized a pilot program to permit more than one official agency to carry out inspections within a single geographic area; directed USDA to carry out a cost containment plan to minimize taxpayer expenditures and user fees.
Oct. 13, 1994	108 Stat. 3237	P.L. 103-354—Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, USGSA Amendments of 1994	Enacted miscellaneous conforming amendments.
Nov. 9, 2000	114 Stat. 2058	P.L. 106-472—Grain Standards and Warehouse Improvement Act of 2000	Reauthorized the pilot program to allow more than one designated official agency to carry out inspections and weighing services within the same geographic area under certain conditions; reduced the limitation on administrative and supervisory costs in user fees from 40% to 30%; prohibited the disguising of grain quality; extended through FY2005 the authorization of appropriations for grain inspection services, collection of certain user fees, and authority for an advisory committee.
Sep. 30, 2005	119 Stat. 2053	P.L. 109-83—USGSA, amendment	Extended expiring provisions through FY2015.

Source: CRS, using statutes and Lowell D. Hill, *Grain Grades and Standards - Historical Issues Shaping the Future* (University of Illinois Press, 1990).

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