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# U.S. Grain Standards Act: Reauthorization in the 114<sup>th</sup> Congress

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Analyst in Agricultural Policy

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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. 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 and weighing, but the service is available and is often performed. As authorized by the USGSA, all official services are financed by user fees, with the federal portion of fee revenue maintained in a trust fund. Activities such as developing grain standards and procedures for measuring quality are financed with congressionally appropriated funds.

The Federal Grain Inspection Service (FGIS) of the U.S. Department of Agriculture (USDA) 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. FGIS directly inspects about two-thirds of exported grain and oversees the inspection (by state agencies) of the remainder.

Most of the USGSA is permanently authorized, including mandatory inspection and weighing of exported grain, as well as authority to amend grain standards of quality. However, several provisions were set to expire on September 30, 2015. A lapse in authorization could have disrupted the current grain inspection and weighing program, but it would not necessarily have halted official grain inspections.

The USGSA was reauthorized on September 30, 2015, with the enactment of the Agriculture Reauthorizations Act of 2015 (P.L. 114-54). 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.

Besides extending the four expiring provisions, the act addressed several policy issues. These policy issues were included in either the original House (H.R. 2088) or Senate (S. 1417) reauthorization bills, or both.

For example, the final reauthorization act (P.L. 114-54) included provisions on disruptions in inspection and weighing services. The act requires USDA to take immediate action to address a disruption of inspection and weighing services, but leaves the decision about how to resume services to the Secretary. The act also requires USDA to keep Congress informed should there be other disruptions in service. P.L. 114-54 also allows customers to utilize inspection and weighing services outside of exclusive geographic boundaries if certain conditions are met. In addition, the act requires that delegated state agencies be certified every five years and USDA has one year to establish a notice-and-comment process for certifying delegated state agencies.

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## Reauthorization of USGSA

Most of the United States Grain Standards Act (USGSA) 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 were set to expire on September 30, 2015. While the expiring provisions would not necessarily have brought official grain inspections and weighing to a halt, a lapse could have affected funding and disrupted the current grain inspection and weighing program.

The USGSA was reauthorized on September 30, 2015, with the enactment of the Agriculture Reauthorizations Act of 2015 (P.L. 114-54). 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. Besides extending the four provisions, the act included provisions addressing disruptions in inspection and weighing services, geographic service boundaries, and inspection and weighing authorities that were included in the House (H.R. 2088) and/or Senate (S. 1417) reauthorization bills. (See **Table 1** for a comparison of the two bills and the enacted bill.)

The agriculture committees in both chambers approved by voice vote their respective bills to reauthorize the expiring provisions for five years. The House passed H.R. 2088 by voice vote on June 9, 2015. The Senate-reported bill did not receive a floor vote. The Senate amended the House-passed Mandatory Price Reporting Act of 2015 (H.R. 2051) to include reauthorization provisions for the USGSA, Mandatory Price Reporting, and the National Forest Foundation, all of which were set to expire on September 30, 2015. H.R. 2051, as amended by the Senate, passed the Senate by unanimous consent and passed the House by voice vote.

## 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.<sup>1</sup> The specific crops are barley, canola, corn, flaxseed, oats, rye, sorghum, soybeans, sunflower seed, triticale, wheat, and mixed grain.<sup>2</sup> 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

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

<sup>2</sup> 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.

officially inspected (if sold by grade) and weighed.<sup>3</sup> 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.<sup>4</sup> FGIS activities such as developing grain standards and improving techniques for measuring grain quality are financed with congressionally appropriated funds. In FY2014, user fee revenue under USGSA was \$45.8 million, and the FGIS appropriation was \$17.9 million.<sup>5</sup>

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.

**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 System<sup>6</sup>

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.<sup>7</sup>

For domestic shipments, voluntary official grain inspection is provided primarily by a network of official state and private agencies under the USGSA. FGIS's Domestic Inspection Operations Office (DIOO) in Kansas City oversees a total of about 50 official agencies (called designated state agencies and designated private agencies) located throughout the country.<sup>8</sup> Each agency

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<sup>3</sup> References to official inspection in this report also include official weighing.

<sup>4</sup> Appropriators typically limit agency obligations for inspection and weighing services from fees collected (however, the annual appropriations law typically does not limit the amount of user fees that can be collected). The limit was \$50 million in FY2014 (not accounting for any reduction due to sequestration). Total FGIS user fee account obligations under both USGSA and AMA were a combined \$46 million in FY2014.

<sup>5</sup> User fees collected under AMA totaled \$8 million in FY2014. The FGIS appropriation covers activities under both acts (USGSA and AMA).

<sup>6</sup> 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>.

<sup>7</sup> 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.

<sup>8</sup> See map at [http://www.gipsa.usda.gov/about/pdf\\_files/map-oa.pdf](http://www.gipsa.usda.gov/about/pdf_files/map-oa.pdf).

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.<sup>9</sup> 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.<sup>10</sup> 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.

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.<sup>11</sup>

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.<sup>12</sup> 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 in FY2013. With a rebound in grain volumes (and higher fees), fee revenues in FY2014 increased substantially, resulting in a positive fund balance.<sup>13</sup>

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

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<sup>9</sup> 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.

<sup>10</sup> 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](http://www.gipsa.usda.gov/fgis/svc_provid/providers.html).

<sup>11</sup> In 7 C.F.R. §800.71, Schedule A is FGIS inspections and Schedule B is FGIS supervision of inspection and weighing services.

<sup>12</sup> USDA did not receive any comments opposing 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.

<sup>13</sup> 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). Annual user fee account data are available for FY2000-FY2014 at [http://www.gipsa.usda.gov/fgis/public\\_financialdata.aspx](http://www.gipsa.usda.gov/fgis/public_financialdata.aspx).

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 19<sup>th</sup> century, and prior to enactment of current grain standards law, local grain markets were 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.<sup>14</sup>

### 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

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<sup>14</sup> Information sources for this section include USDA, *The Federal Grain Inspection Service (FGIS), Annual Report to Congress 1977*, [http://www.gipsa.usda.gov/fgis/publication/ar/1977\\_fgis\\_AR.pdf](http://www.gipsa.usda.gov/fgis/publication/ar/1977_fgis_AR.pdf); and Lowell D. Hill, *Grain Grades and Standards—Historical Issues Shaping the Future* (Urbana, IL: University of Illinois Press, 1990).

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 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 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 and provisions for improving cleanliness of grain through existing standards and additional prohibitions on 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 expenditures and user fees.<sup>15</sup>

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.<sup>16</sup> USDA later evaluated the cost

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<sup>15</sup> In 1994, P.L. 103-354 made miscellaneous conforming amendments to USGSA.

<sup>16</sup> Senator Chambliss, "U.S. Grain Standards Act," *Congressional Record*, September 28, 2005, p. S10583.



effectiveness of using its existing contract authority for contractors to provide official inspection and weighing services at export port locations. It concluded that doing so would not result in savings for the industry or enhance the competitiveness of U.S. grain exports.<sup>17</sup> In contrast, analysis conducted for the North American Grain Export Association concluded that a competitive model of inspection service delivery might result in lower overall costs for the industry based on a cost comparison across countries (see “Expanding the Pool of Agencies for Export Inspections”).<sup>18</sup>

### **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.

## **Major Provisions in the Final Reauthorization**

The 114<sup>th</sup> Congress had several options when considering expiration of several provisions of the U.S. Grain Standards Act (USGSA). One was to reauthorize them, as Congress did most recently in 2005, by simply extending the date of expiration. Another option was to reauthorize and make program modifications, such as fee changes or provisions to minimize service disruptions. A third option was to let the provisions expire, which would have shifted all export inspections and weighing services to FGIS and disrupted current operations that use both federal and state agency inspection services.

Congressional action to reauthorize the USGSA started with H.R. 2088, which was introduced on April 29, 2015, and offered by the bipartisan leadership of the House Agriculture Committee. The committee approved the bill by voice vote and without amendment on April 30, 2015. The House passed H.R. 2088 by voice vote on June 9, 2015.

A similar pattern emerged in the Senate. The Senate Agriculture Committee held a hearing on May 5, 2015. The committee on May 21, 2015, approved a bill (S. 1417) by voice vote and without amendment. However, S. 1417 did not receive floor action.

On September 21, 2015, the Senate passed, by unanimous consent, an amended version of the House-passed Mandatory Price Reporting Act of 2015 (H.R. 2051) that included reauthorization provisions for the USGSA, Mandatory Price Reporting, and the National Forest Foundation, three laws (or certain provisions of the laws) that would have expired on September 30, 2015. The House took up Senate-amended H.R. 2051 on September 28, 2015, and the House passed it by voice vote. The Agriculture Reauthorizations Act of 2015 (P.L. 114-54) was enacted on September 30, 2015.

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<sup>17</sup> USDA, GIPSA, Federal Grain Inspection Service, Evaluation of the Use of Contractors to Enhance the Delivery of Official Inspection and Weighing Services at Export Port Locations, March 2009, <http://www.gipsa.usda.gov/fgis/publication/Contracting-Report-03-2009.pdf>.

<sup>18</sup> WKMGlobal Consulting, *U.S. Grain and Oilseed Inspection Services Competitiveness Study Report*, Export Competitor and Importer Information, Fairfax, VA, January 30, 2015.

## Expiring Provisions

Most of the USGSA is permanently authorized, including mandatory export inspections and USDA's authority to establish (and amend) grain standards. Four specific provisions of the law would have expired on September 30, 2015.

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.<sup>19</sup> Others, including the National Grain and Feed Association and the North American Export Grain Association, recommended a shorter, five-year authorization, given the dynamic nature of the grain industry.

The following four provisions were extended five years until September 30, 2020, in the enacted Agriculture Reauthorizations Act of 2015 (P.L. 114-54).

- **Authority for appropriations (7 U.S.C. 87h).** Congress appropriates funds to GIPSA that are made available to FGIS for developing standards, paying for related agency costs, and improving measurement procedures. Of the \$40.3 million appropriated to GIPSA in FY2014, GIPSA provided \$17.9 million for FGIS activities. Appropriations do not fund inspections, which are covered by user fees.
- **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)).** Official inspections and weighing services are performed by either FGIS or official agencies under FGIS supervision. The authority allows FGIS to charge fees for the required federal supervision of export inspections performed by a state agency and the authority to invest these funds. Similarly, the authority allows FGIS to collect fees for the required federal supervision of weighing services performed by an official agency.
- **Administrative/supervisory cost cap of 30% (7 U.S.C. 79d).** The reauthorized statute maintains a 30% limit on administrative and supervisory costs relative to total costs for services. The cap was established (and subsequently reduced) to encourage cost cutting.
- **Authority for an advisory committee (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.

See **Appendix B, Issues for Expiring Provisions**, for a discussion of potential consequences if the four provisions had not been reauthorized.

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<sup>19</sup> 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>.

## Additional Policy Issues

Besides expiring authorities, several policy issues were considered as Congress reviewed the reauthorization of the USGSA. These issues involved fees, the period of official agency designation, the approval process for delegated state agencies, limits on geographical boundaries, and a congressional response to the interruption in export services in the state of Washington in 2014.<sup>20</sup>

Some of the policy issues and enacted provisions, where relevant, are discussed below. **Table 1** provides a detailed comparison of all provisions in H.R. 2088 and S. 1417 with current law, and the enacted legislation, P.L. 114-54.

## Interruption in Service/Continuity of Operations

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 safety at the entrance of the site where demonstrations had 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.<sup>21</sup> The Grain Advisory Committee also called on USDA to restore grain inspection service. The committee adopted the following resolution in its July 2014 meeting.<sup>22</sup>

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.<sup>23</sup> In July 2014, United Grain reportedly shipped grain by obtaining a waiver from the inspection requirement.<sup>24</sup> The company also relocated grain to other facilities for inspection, which increased shipping costs, as it attempted to maintain grain

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<sup>20</sup> Information in this section is based in part on testimony delivered during the hearings conducted by the House and Senate Agriculture Committees. For testimony, see <https://agriculture.house.gov/hearing/subcommittee-general-farm-commodities-and-risk-management-%E2%80%93-public-hearing> and <http://www.ag.senate.gov/hearings/review-of-the-us-grain-standards-act>.

<sup>21</sup> 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/>.

<sup>22</sup> Grain Inspection Advisory Committee, *Resolutions*, Kansas City, MO, July 15, 2014, <http://www.gipsa.usda.gov/fgis/advcommittee/july2014/July-2014-Meeting-Resolutions.pdf>.

<sup>23</sup> 7 U.S.C. §77(a)(1).

<sup>24</sup> 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](http://www.oregonlive.com/business/index.ssf/2014/07/united_grain_operations_slow_a.html).

flows to export customers. In early August 2014, USDA 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.”<sup>25</sup> Later that month, the grain companies and union reached an agreement to end the dispute, and inspections resumed at the United Grain company terminal. Although the incident was resolved, grain industry and congressional concerns continued through fall 2014 and into 2015.<sup>26</sup>

In response to questions about the July/August 2014 events, FGIS reported at the March 3, 2015, hearing of the House Appropriations Subcommittee on Agriculture that the agency now has a safety mitigation plan in place for entrance and exit at the Port of Vancouver, Washington. Consequently, FGIS is confident that the next time an incident occurs, the response time for sending in federal inspectors to ensure the export of grain will be much shorter. After reviewing the plan and the situation on the ground, FGIS expects to work as quickly as possible to relocate federal inspectors to Vancouver from other parts of the country. FGIS has also prepared preliminary safety plans for all grain export facilities in the United States by using lessons learned in Vancouver, including researching and cataloging all local, state, and federal emergency contacts in the locality of each facility.

These steps by FGIS might not sufficiently address industry and congressional concerns. Testimony at a House Agriculture Subcommittee hearing on April 22, 2015, by the grain industry—including the National Grain and Feed Association (NGFA), North American Export Grain Association (NAEGA), and American Farm Bureau—called for legislative language that would reinforce the obligation of USDA to perform inspections, including a specific timeline for action by USDA to maintain the availability of export inspections.

A point of contention is who would serve as the “safety valve” when inspections provided by state agencies are disrupted. Some groups, including NGFA and NAEGA, want to use private inspectors to fill the gap in the event of a disruption, noting the cost-competitiveness of private inspectors and widespread use of additional inspection services that they currently provide. Others, including the National Association of Wheat Growers and the American Federation of Government Employees, prefer that any restored service would be conducted by FGIS or by another delegated state agency, given serious problems in the 1970s with private export inspection agencies that led to a more prominent federal role for official export inspections. Separately, the National Farmers Union is concerned that enacting a specific timeline and required actions for USDA could limit or even eliminate USDA’s discretionary authority when responding to unforeseen events.

Both H.R. 2088 and S. 1417 addressed the issue of service disruptions and maintaining the availability of export inspections, but they differed in how USDA is to respond. The House bill required mandatory waivers of requirements for export inspection. The Senate bill left more discretion to the Secretary in determining how to address a disruption.

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<sup>25</sup> Christine Stebbins, “US Pacific Northwest Exports Backlogged, Delays Could Worsen,” Reuters, August 8, 2014.

<sup>26</sup> For example, see Office of Senator Steve Daines, “Daines Demands Commitment to On-Time Federal Grain Inspection Services,” press release, March 10, 2015, <http://www.daines.senate.gov/content/daines-demands-commitment-time-federal-grain-inspection-service>. Concerns from the industry include the U.S. Wheat Associates, the export market development organization for the U.S. wheat industry, which has emphasized the need for uninterrupted grain inspection services. See “Policy Matters,” *Wheat Life*, March 2015, pp. 22-23, [http://www.wheatlife.org/Issues/03\\_WLMar15web.pdf](http://www.wheatlife.org/Issues/03_WLMar15web.pdf).

### ***Enacted Provisions***

The final reauthorization act (P.L. 114-54) requires USDA to take immediate action to address a disruption of inspection and weighing services, but leaves the decision about how to resume services to the Secretary. Within 24 hours of a disruption, USDA is required to submit a report to Congress that describes the disruption and what actions need to be taken to address it. USDA is to continue to send Congress daily update reports until the inspection and weighing services are resumed. The act also requires any state agency that decides to temporarily suspend inspection and weighing services to provide USDA an advance notice of at least 72 hours.

Lastly, the act requires USDA to submit a report to Congress on the factors that led to the disruption in federal inspection of grain exports at the Port of Vancouver in the summer of 2014. The report is to include a description of the port facility, security needs at the port (with available resources for security), and any policy changes that can be implemented to prevent a similar disruption at any location.

### **Geographical Boundaries for Official Agencies**

Each official agency covers a specific and exclusive geographic area, which is authorized by the USGSA. Exclusivity is granted to ensure the economic viability of inspection and weighing services (see “U.S. Grain Inspection System”). Inspection customers could seek a waiver of the geographic boundaries restriction (if, for example, they are not satisfied with their service), and USDA could consider granting it under certain circumstances. These included the official inspection agency not being able to conduct the inspection in a timely manner, the customer not previously being an existing customer of the official agency, or the customer was requesting a probe inspection on a barge-lot basis.

A provision in the House bill (H.R. 2088) addressed exclusive geographic boundaries by allowing official agencies to perform domestic inspection and weighing services outside their geographic boundaries under certain conditions. The Senate bill (S. 1417) did not include a provision on geographic boundaries

### ***Enacted Provisions***

The reauthorization act states that USDA “shall allow” official agencies to cross geographic boundaries to conduct inspections under three conditions. The “timely manner” and “probe inspection” provisions were maintained. The “existing customer” condition was dropped. The third condition, from H.R. 2088, allows customers to receive official domestic inspection or weighing from a service provider in an adjacent geographic area if both the prospective service provider and the current one agree to waive, in writing, the current geographic area restriction at the request of the customer.

### **Period of Official Agency Designation**

USDA approves state and private entities to provide official inspection and/or weighing services on behalf of the federal government. The time period for “official agency designation” was three years, as specified in regulation, after which the agency must request a renewal of the

designation.<sup>27</sup> The American Association of Grain Inspection and Weighing Agencies (AAGIWA) wanted Congress to extend the period of designation to five years. The association expects that the longer period would allow agencies to secure more favorable financing and better control business costs without limiting FGIS's authority to revoke the designation if the agency does not adequately perform. Both House and Senate bills included provisions to increase the designation duration to five years.

### ***Enacted Provisions***

The final reauthorization act (P.L. 114-54) changed the period of designation from three to five years.

### **Approval Process for Delegated State Agencies**

The National Grain and Feed Association (NGFA) and the North American Export Grain Association (NAEGA) advocated for more openness in the process of approving a delegated state agency (for export inspections). They would like FGIS to adopt the approach used for approving agencies for domestic inspection, including a *Federal Register* notice-and-comment period. The industry groups said the current process did not provide for a periodic and public review of state inspection agencies. H.R. 2088 and S. 1417 included provisions to address the certification of delegated state agencies.

### ***Enacted Provisions***

The final reauthorization act (P.L. 114-54) requires that state agencies be certified every five years. Within one year of enactment, USDA is to develop a certification process for delegating authority to state agencies. The process must include a *Federal Register* notice-and-comment period. Final approval must include consideration of the public comments and describe the rationale for approval.

### **Expanding the Pool of Agencies for Export Inspections**

Besides allowing private agencies to serve as a backup for state agencies in a contingency plan, groups representing grain exporters also are interested in using current statutory authority to allow private agencies to perform official inspections at export elevators, thereby potentially reducing system-wide export inspection costs. The NGFA and NAEGA say foreign buyers of U.S. grain often require a wide variety of documented characteristics in addition to certificates specifying U.S. grade, and consequently many shipments are assessed a second time by private agencies for protein levels or for other analyses. According to the proponents, the current practice of additional testing by private agencies, and the widespread acceptance by foreign buyers of their results, suggest that potential cost savings are available to the industry as a whole if official inspections and additional testing activities are consolidated and performed by a single entity, with official inspection and weighing activities remaining under federal supervision. Opponents remain wary of reducing the federal role in direct inspection and prefer to keep the current system

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<sup>27</sup> 7 C.F.R. 800.196 (h).

intact, with export inspections performed directly by FGIS or by delegated state agencies.<sup>28</sup> Neither the House nor Senate bills addressed expanding the pool of inspection agencies.

### ***Enacted Provisions***

The final reauthorization act (P.L. 114-54) did not include provisions on using private inspectors.

### **Fees for Standards Development and Maintenance**

The President's FY2016 budget proposal recommended that user fees replace \$6 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 calibration 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. Neither bill included provisions to add user fees to replace some appropriations for standardization activities.

### ***Enacted Provisions***

The final reauthorization act (P.L. 114-54) did not include provisions on user fees for standardization activities.

### **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 FGIS retained earnings (fee revenue minus costs) exceed the agency's three-month reserve level (and tonnage is at or above projected levels), which is maintained so that FGIS has sufficient operational funds. A step further is advocated by the National Grain and Feed Association and the North American Grain Export Association, which want tonnage fees based on a flexible calculation that would result in more accurate fees and prevent an excessive buildup in the trust fund.<sup>29</sup> The Advisory Committee also recommended that the Grain Inspection, Packers and Stockyards Administration publish financial information for FGIS user fee accounts on a monthly basis to the agency website for access by users.<sup>30</sup> Both the House and Senate bills included provisions to set a method to calculate inspection and weighing fees.

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<sup>28</sup> Official inspections of grain headed for export via inland containers account for about 13% of official export inspections. These official inspections are performed by designated agencies (not delegated state agencies).

<sup>29</sup> Testimony by Nick Friant, on behalf of National Grain and Feed Association and North American Export Grain Association, U.S. Congress, House Committee on Agriculture, Subcommittee on General Farm Commodities and Risk Management, hearing to review the reauthorization of the U.S. Grain Standards Act, 114<sup>th</sup> Cong., 1<sup>st</sup> sess., April 22, 2015, <https://agriculture.house.gov/sites/republicans.agriculture.house.gov/files/pdf/Friant%20Testimony.pdf>.

<sup>30</sup> Annual figures are available at [http://www.gipsa.usda.gov/fgis/public\\_financialdata.aspx](http://www.gipsa.usda.gov/fgis/public_financialdata.aspx).

### ***Enacted Provisions***

The final reauthorization act (P.L. 114-54) specified a method to determine fees for inspection and weighing services at export ports. The portion of fees based on export tonnage is to be based on the rolling five-year average of exports. USDA is to maintain a three- to six-month operating reserve, and the Secretary is to adjust fees annually to maintain the reserve.

**Table 1** provides a detailed comparison of all provisions in H.R. 2088 and S. 1417 with current law, and the enacted legislation, P.L. 114-54.



**Table I. Comparison of Current Law, House-Passed Bill (H.R. 2088), Senate Agriculture Committee-Approved Bill (S. 1417), and Enacted Law (P.L. 114-54)**

Current Law/Policy	House-Passed Bill (H.R. 2088)	Senate Agriculture Committee- Approved Bill (S. 1417)	Enacted: Agriculture Reauthorizations Act of 2015 (H.R. 2051; P.L. 114-54)
<b>General Policy and Definitions</b>			
<p>The United States Grain Standards Act (USGSA) of 1916—P.L. 64-190, as amended—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.</p> <p>Most of the 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 provisions expire on September 30, 2015 (see below). <b>[7 U.S.C. 71 et seq.]</b></p>	<p>This act may be cited as the “United States Grain Standards Act Reauthorization Act of 2015.” <b>[\$1]</b></p>	<p>Same as House bill. <b>[\$1]</b></p>	<p>Reauthorization of the U.S. Grain Standards Act was combined with Mandatory Price Reporting and the National Forest Foundation Act Reauthorization into a single bill.</p> <p>The act may be cited as the Agriculture Reauthorizations Act of 2015. <b>[\$1]</b></p>
<p>Specifies that it is the policy of Congress—(1) to promote the marketing of grain of high quality to both domestic and foreign buyers; (2) that the primary objective of the official U.S. standards for grain is to certify the quality of grain as accurately as practicable; and (3) that official standards for grain shall define uniform and accepted descriptive terms to facilitate trade in grain and provide other functions for efficient marketing of grain. <b>[7 U.S.C. 74(b)]</b></p>	<p>Deletes “to both domestic and foreign buyers” (in paragraph 1) and replaces with “responsive to the purchase specifications of domestic and foreign buyers.”</p> <p>A fourth policy objective is added: “to provide an accurate, reliable, consistently available, and cost-effective official grain inspection and weighing system.” <b>[\$2(a)]</b></p>	<p>No comparable provision.</p>	<p>No comparable provision.</p>

Current Law/Policy	House-Passed Bill (H.R. 2088)	Senate Agriculture Committee- Approved Bill (S. 1417)	Enacted: Agriculture Reauthorizations Act of 2015 (H.R. 2051; P.L. 114-54)
Defines a list of terms for official inspection and weighing, including the term "grain," which means corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under Section 7 (canola, sunflower seed, and triticale). [7 U.S.C. 75]	For a new provision establishing continuity of operations (below), adds the term "major disaster," which has the meaning given that term in Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), except that the term also includes a severe weather incident causing a region-wide interruption of government services." [§2(b)]	No comparable provision.	No comparable provision.
<b>Official Inspection and Weighing</b>			
Exported grain must be officially inspected and weighed (not required if grain is not sold by grade or not requested by the shipper or receiver). The Secretary of Agriculture <i>may</i> waive the requirement in an emergency. [7 U.S.C. 77(a)(1-2)]	Changes waiver authority from discretionary to mandatory by replacing the words "may waive" with "shall promptly waive." [§2(c)(1)]	No comparable provision.	Similar to the House bill as "shall waive" replaces "may waive." [§301(a)(1)]
Incoming grain at export elevators (for overseas shipment) must be weighed, except for intra-company shipments and for grain transferred into an export elevator by transportation modes other than barge. [7 U.S.C. 77(a)(2)]	The waiver for incoming grain is broadened to cover shipments of grain into an export elevator by any mode of transportation. [§2(c)(2)]	Same as House bill. [§2(a)(1)]	Same as House bill. [§301(a)(2)]

Current Law/Policy	House-Passed Bill (H.R. 2088)	Senate Agriculture Committee- Approved Bill (S. 1417)	Enacted: Agriculture Reauthorizations Act of 2015 (H.R. 2051; P.L. 114-54)
<b>Delegation of Official Inspection Authority (Exports)</b>			
<p>Authorizes the Secretary to delegate authority for official inspection of export shipments to state agencies that qualify to perform official inspection and were performing official inspections at export port locations on or before July 1, 1976. Any such delegation may be revoked by the Secretary at any time. There is no provision for length of delegation term or requirement for renewal of delegation authority. <b>[7 U.S.C. 79(e)(2)]</b></p>	<p>Removes language specifying that state agencies are required to have been operating as of a certain date. <b>[\$2(d)(1 and 2(A))]</b></p>	<p>No comparable provision.</p>	<p>No comparable provision.</p>
	<p>Establishes a maximum length of delegation of five years, and delegation may be renewed. <b>[\$2(d)(2)(A)(iii)]</b></p>	<p>State agencies must be certified every five years. <b>[\$2(b)(1)]</b></p>	<p>Same as Senate bill. <b>[\$301(b)(1)(C)]</b></p>
<p>Prior to delegating authority to a state agency for performing official inspection at export port locations, the Secretary shall conduct an investigation to determine whether such agency is qualified. <b>[7 U.S.C. 79(e)(3)]</b></p>	<p>Specifies the process for reviewing an applicant requesting the delegation of authority (or renewal of authority), including a notice of the application published in the <i>Federal Register</i> with a minimum 30-day comment period and an investigation based on public comments and other information. A notice is to be published in the <i>Federal Register</i> announcing whether the state agency has been approved and the rationale for its approval.</p>	<p>Process for certifying state agencies is similar to House bill. It includes consideration of any notice of disruption that the state agency may have filed (requires a 72 hour advance notice by the state agency). <b>[\$2(b)(1)]</b></p>	<p>Same as the Senate. <b>[\$301(b)(1)(C)]</b></p>
	<p>State agencies must provide at least a 72-hour advance notice if services are going to be temporarily discontinued. <b>[\$2(d)(2)(C)]</b></p>		

Current Law/Policy	House-Passed Bill (H.R. 2088)	Senate Agriculture Committee- Approved Bill (S. 1417)	Enacted: Agriculture Reauthorizations Act of 2015 (H.R. 2051; P.L. 114-54)
No comparable provision.	Not later than two years after the date of the enactment of this act, the Secretary shall determine if each state agency is qualified to continue to perform official inspection services at export elevators at export port locations on behalf of the Secretary <b>[§2(d)(4)]</b>	No comparable provision.	No comparable provision.
<b>Continuity of Operations for Export Inspections and Weighing</b>			
No comparable provision.	No comparable provision.	Within 180 days of enactment, the Secretary must submit to Congress a report describing the specific factors that led to disruption in federal inspection of grain exports at the Port of Vancouver in the summer of 2014, including a description of the port facility, security needs, and available resources for that purpose. The report is to include any changes in policy that the Secretary has implemented to ensure that a similar disruption in any location does not occur in the future. <b>[§3]</b>	Same as Senate bill. <b>[§302]</b>
No comparable provision.	Except in the case of a major disaster, the Secretary shall provide official inspections at export port locations without interruption by either official inspection personnel employed by the Secretary or by a state agency delegated such authority. If interrupted, services are to be resumed by utilizing official inspection personnel employed by the Secretary or by another delegated state agency. Service is to resume within 6 hours after the interruption if the Secretary received advance notice of interruption, or within 12 hours if the state agency failed to provide the required advance notice.	Requires the Secretary to take immediate action to address any disruption in inspections or weighing and leaves the decision on how to resume service to the Secretary. <b>[§2(a)(2)]</b>	Same as Senate bill. <b>[§301(a)(3)]</b>

Current Law/Policy	House-Passed Bill (H.R. 2088)	Senate Agriculture Committee- Approved Bill (S. 1417)	Enacted: Agriculture Reauthorizations Act of 2015 (H.R. 2051; P.L. 114-54)
No comparable provision.	<p>If the Secretary is unable to restore official inspection services within the applicable time period, the interested person requesting such services at the export elevator shall be authorized to utilize official inspection personnel employed by another state agency with delegated authority (exports) or designated authority (domestic). Such service by a delegated or designated agency may continue for up to 90 days. <b>[\$2(e)]</b> Provisions also apply to official weighing. <b>[\$2(i)]</b></p>	No comparable provision.	No comparable provision.
No comparable provision.	<p>Except in the case of a major disaster, if a state agency fails to perform at export port locations, the Secretary shall submit a report to Congress on the reasons for the failure and the rationale as to whether or not the Secretary will permit the state agency to retain its delegated authority. <b>[\$2(d)(2)(C)]</b></p>	<p>Not later than 24 hours after the start of the disruption, the Secretary must submit to Congress a report that describes the disruption and actions necessary to address the problems so that service may resume. Daily updates to Congress are required until official service has resumed. <b>[\$2(a)(2)]</b></p>	Same as Senate bill. <b>[\$301(a)(3)]</b>
No comparable provision.	<p>If a state agency intends to temporarily discontinue inspection or weighing services, the state agency must notify the Secretary at least 72 hours in advance. <b>[\$2(e)]</b></p>	Same as House bill. <b>[\$2(b)(1)]</b>	Same as House bill. <b>[\$301(b)(1)(C)]</b>

Current Law/Policy	House-Passed Bill (H.R. 2088)	Senate Agriculture Committee- Approved Bill (S. 1417)	Enacted: Agriculture Reauthorizations Act of 2015 (H.R. 2051; P.L. 114-54)
<b>Geographic Boundaries for Official Agencies</b>			
<p><b>Official Inspection Authority.</b> USDA is authorized to designate a state or local agency or person as to conduct official inspections based on certain criteria. <b>[7 U.S.C. 79(f)(1)]</b></p> <p>Not more than one official agency shall operate at the same time in any geographic area defined by the Secretary. Exceptions are allowed if the Secretary determines that the presence of more than one designated official agency in the same geographic area will not undermine the general policy objectives of the U.S. Grain Standards Act (e.g., facilitate the marketing of grain). <b>[7 U.S.C. 79(f)(2)]</b></p> <p>The Secretary may allow more than one designated official agency to carry out inspections within the same geographical area as part of a pilot program. <b>[7 U.S.C. 79(f)(2)(A)]</b></p> <p>The Secretary <i>may allow</i> a designated official agency to cross boundary lines to carry out inspections in another geographic area if:</p> <p>(i) the current designated official agency for that geographic area is unable to provide inspection services in a timely manner;</p>	<p>No comparable provision.</p> <p>Restrictions and exceptions continue, with changes below. <b>[§2(f)(1)]</b></p> <p>Deletes this provision.</p> <p>The Secretary <i>shall allow</i> a designated official agency to cross boundary lines under following conditions (two are unchanged, one is modified).</p> <p>Retains condition.</p>	<p>The Secretary is to conduct periodic consultations with customers of inspection agencies to review performance, and work with agencies to address concerns. <b>[§2(b)(2)]</b></p> <p>No comparable provision.</p> <p>No comparable provision.</p> <p>No comparable provision.</p> <p>No comparable provision.</p>	<p>Same as Senate bill. <b>[§301(b)(2)]</b></p> <p>For inspection services, mandates USDA to allow designated official agencies to cross boundaries if certain conditions are met. <b>[§301(b)(3)(A)]</b></p> <p>Same as House bill. <b>[§301(b)(3)(A)]</b></p> <p>Same as House bill. <b>[§301(b)(3)(A)]</b></p> <p>Same as House bill. <b>[§301(b)(3)(A)]</b></p>

Current Law/Policy	House-Passed Bill (H.R. 2088)	Senate Agriculture Committee- Approved Bill (S. 1417)	Enacted: Agriculture Reauthorizations Act of 2015 (H.R. 2051; P.L. 114-54)
(ii) a person requesting inspection services in that geographic area has not been receiving official inspection services from the current designated official agency for that geographic area; or	Condition replaced with “the current official agency for that geographic area agrees in writing with the adjacent official agency to waive the current geographic area restriction at the request of the applicant for service.”	No comparable provision.	Same as House bill. <b>[§301(b)(3)(A)]</b>
(iii) a person requesting inspection services in that geographic area requests a probe inspection on a barge-lot basis. <b>[7 U.S.C. 79(f)(2)(B)]</b>	Retains condition.	No comparable provision.	Same as House bill. <b>[§301(b)(3)(A)]</b>
<b>Official Weighing Authority.</b> Same as inspection authority above but excludes item (iii) above. <b>[7 U.S.C. 79a(i)(2)]</b>	Same provisions as for inspections above but excludes condition related to probe inspection on a barge-lot basis. <b>[§2(f)(2)]</b>	No comparable provision.	Same as House bill. <b>[§301(b)(3)(B)]</b>
<b>Duration of Designation of Official Agencies</b>			
Designations of official agencies shall terminate at such time as specified by the Secretary but not later than triennially and may be renewed. <b>[7 U.S.C. 79(g)(1)]</b>	Duration of the designation term is increased from 3 years to 5 years. <b>[§2(g)]</b>	Same as House bill. <b>[§2(b)(3)]</b>	Same as House bill. <b>[§301(b)(4)]</b>
<b>Inspection Fees</b>			
The Secretary shall charge and collect reasonable inspection fees to cover the estimated cost to the Secretary incident to the performance of official inspection. Fees are deposited into a fund and made available without fiscal year limitation for the expenses of the Secretary incident to providing services. <b>[7 U.S.C. 79(j)(1)]</b>	Provision retained. Specifies a method to determine fees for official inspection and weighing at export port locations (performed either by USDA or delegated state agencies) to better reflect current export levels (which affect per-unit costs). The portion of fees based on export tonnage shall be based on a rolling five-year average of export tonnage. Also, in order to maintain an operating reserve of between three to six months, the Secretary shall adjust fees at least annually. <b>[§2(h)(1)]</b>	Same as House bill for inspections <b>[§2(b)(4)]</b> and weighing <b>[§2(c)]</b> .	For inspection, same as House bill. <b>[§301(b)(5)(B) &amp; (D)]</b> For weighing, same as House bill. <b>[§301(c)(2)(B) &amp; (D)]</b>

Current Law/Policy	House-Passed Bill (H.R. 2088)	Senate Agriculture Committee- Approved Bill (S. 1417)	Enacted: Agriculture Reauthorizations Act of 2015 (H.R. 2051; P.L. 114-54)
<b>Licensing of Inspectors</b>			
The Secretary is authorized to issue licenses to individuals for official inspection or weighing. [7 U.S.C. 84(a)] All classes of licenses issued shall terminate triennially. [7 U.S.C. 84(b)]	Duration of license is increased from three to five years. [§2(l)(1)]	Same as House bill. [§2(e)]	Same as House bill. [§301(e)]
<b>Report on Policy Barriers</b>			
No comparable provision.	No comparable provision.	Within 180 days of enactment, the Secretary is required to submit to Congress a report describing the policy barriers to U.S. grain producers in countries that do not offer grading of U.S. grain or designate U.S. grain at a lower grade than its official U.S. grade. [§4]	Same as Senate bill. [§303]
<b>Expiring Provisions</b>			
Authority for charging fees for supervision of inspection services [7 U.S.C. 79(j)(4)] and official weighing [7 U.S.C. 79a(1)(3)] expires on September 30, 2015.	Expiration date is changed to September 30, 2020. [§2(h)(2) and §2(j)]	Same as House bill. [§2(b)(4) and §2(c)]	Expiration date is changed to September 30, 2020. [§301(b)(5)(E)]
The total administrative and supervisory costs that may be incurred for services performed for each of the fiscal years 1989 through 2015 shall not exceed 30% of the total costs. [7 U.S.C. 79d]	Provision is extended through FY2020. [§2(k)]	Same as House bill. [§2(d)]	Provision is extended through FY2020. [§301(d)]



Current Law/Policy	House-Passed Bill (H.R. 2088)	Senate Agriculture Committee- Approved Bill (S. 1417)	Enacted: Agriculture Reauthorizations Act of 2015 (H.R. 2051; P.L. 114-54)
Congress appropriates funds for developing standards, paying for related agency costs, and improving lab procedures. 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 from fees, expires on September 30, 2015. <b>[7 U.S.C. 87h]</b>	Expiration date is changed to September 30, 2020. <b>[\$2(m)]</b>	Same as House bill. <b>[\$2(f)]</b>	Expiration date is changed to September 30, 2020. <b>[\$301(f)]</b>
An advisory committee meets regularly to advise the Secretary on programs and services it delivers. Authority for the advisory committee expires on September 30, 2015. <b>[7 U.S.C. 87j(e)]</b>	Expiration date is changed to September 30, 2020. <b>[\$2(n)]</b>	Same as House bill. <b>[\$2(g)]</b>	Expiration date is changed to September 30, 2020. <b>[\$301(g)]</b>

**Source:** CRS.

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

**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)**

<b>Date</b>	<b>Statute</b>	<b>Public Law</b>	<b>Selected provisions</b>
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.
Nov. 28, 1990	104 Stat. 3928	P.L. 101-624—Food, Agriculture,	Established a Committee on Grain Quality at USDA to evaluate concerns with quality of U.S. grain; established provisions for improving

<b>Date</b>	<b>Statute</b>	<b>Public Law</b>	<b>Selected provisions</b>
		Conservation, and Trade Act of 1990 (1990 farm bill), Title XX- Grain Quality Incentives Act of 1990	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.
Sep. 30, 2015		P.L. 114-54—Agriculture Reauthorizations Act of 2015, Title III	Extended expiring provisions through FY2020. Also includes provisions addressing disruptions of inspection and weighing services, certifying state agencies, and sets conditions for allowing delegated agencies to cross geographic boundaries if certain conditions are met.

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

## Appendix B. Issues for Expiring Provisions

### Authority for Appropriations

Congress appropriates funds to GIPSA that are made available to FGIS for developing standards, paying for related agency costs, and improving measurement procedures. 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, either as a separate FGIS appropriation or by providing clear legislative intent that the GIPSA appropriation would cover FGIS activities not funded by fees. There is no constitutional or general statutory requirement that an appropriation must be preceded by a specific act that authorized the appropriation.<sup>31</sup> 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 appropriations of \$2.3 billion in FY2012.<sup>32</sup>

### Collection of Certain Fees for Supervising 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 provisions would have expired on September 30, 2015, and affected fees for the required federal supervision of official agencies for export services. Fee collection for domestic services also would have been affected.

Authority to charge fees for the required federal supervision of export inspections performed by a state agency and the authority to invest these funds would have expired (USGSA, as amended, Section 7(j)(4); 7 U.S.C. 79(j)(4)). This would have ended the use of state agencies for export inspections unless alternative funding for federal supervision were secured.

Similarly, authority to collect fees for the required federal supervision of weighing services performed by an official agency would have expired (USGSA, as amended, Section 7A(1)(3); 7 U.S.C. 79a(1)(3)). This would have ended the use of official agencies for weighing services unless alternative funding for federal supervision were secured.

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

Based on CRS interpretation of the statute, the expiring provisions of USGSA would not have necessarily shut down export inspection and weighing services because of two possible scenarios: (1) FGIS could have performed all inspections and weighing (financed completely by user fees

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<sup>31</sup> 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*.

<sup>32</sup> See CRS Report R42442, *Expiration and Extension of the 2008 Farm Bill*.

and without administrative costs included in the fees), or (2) another source of funding for federal supervision of state agencies could have been secured to replace revenue from discontinued fees.

In other words, the expiring provisions would not have affected 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 have expanded its share to 100% by providing all export inspections. Such a shift might have disrupted operations of the current inspection system. FGIS would have needed to hire more staff to handle the substantial increase in workload of direct inspection and weighing activities. Users would have still paid 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 have maintained 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 had been secured for federal supervision, such as additional appropriations or transfers from other accounts.

Expiration of these provisions would likely have disrupted the current grain inspection and weighing program, and could have imposed 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 have been unlikely.<sup>33</sup>

### **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 (USGSA, as amended, Section 7D; 7 U.S.C. 79d). If the cap on collecting fees for supervisory costs (described above) had expired, the result might have been higher total costs for inspections and weighing (requiring higher user fees) because FGIS would not have been required by statute to contain administrative and supervisory costs.

### **Authority for Advisory Committee**

Authority for an advisory committee would have expired (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.

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<sup>33</sup> Article I, Section 7, Clause 1 of the U.S. Constitution prescribes that the House, and not the Senate, must originate legislative measures that contain revenue provisions. The "Origination Clause" does not necessarily extend to other types of receipts or collections, often referred to as "user fees," which are referred to as "offsetting receipts or collections," and not revenue. In general, a user fee is not considered to be revenue (and related legislation would not have to originate in the House) if two conditions hold: (1) the fee collection pays for the service that payer is receiving, and (2) the amount is equivalent to the cost of the service provided. For more information, see CRS Report R41408, *Rules and Practices Governing Consideration of Revenue Legislation in the House and Senate*.

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 have ended the formal communication link established by Congress between the industry and FGIS.

## **Author Contact Information**

(name redacted)  
Analyst in Agricultural Policy  
redacted@crs.loc.gov7-....

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