

Grain, Grades and Weights Committee

Report to the Board of Directors

September 2024

I. Key Issues:

- FGIS User Fees Increase
- 2025 U.S. Grain Standards Act Reauthorization Priorities
- Washington State Department of Agriculture User Fee Increase
- Grain Grading Technology
- FDA Reconditioning

II. Committee Activities:

- A. FGIS User Fees Increase:** FGIS on June 6 published an [interim rule](#) to increase the hourly and unit fees for official inspection services that are performed under the U.S. Grain Standards Act (USGSA). The new fees went into effect on July 8, 2024.

Under the rule, the hourly contract rate will increase from \$41.20 to \$65, and the non-contract rate will increase from \$73 to \$93.30. The contract rate for weekends and overtime will increase from \$49.10 to \$81.30. The non-contract rate will increase from \$73 to 116.60.

Without adjusting hourly and unit-based fees, FGIS anticipates a deficit in its fiscal year 2024 operating reserves of nearly \$9 million. With such a shortfall, FGIS will not have sufficient revenue to meet obligations and will cease operations. According to FGIS, the following factors that have contributed to the current financial shortfall:

- eight years of low fees (i.e., 2024 fees (before April 1) at \$39.20/hour are lower than 2016 fees at \$40.20/hour);
- regulatory provisions that limit annual fee increases and do not fully account for the actual cost of services provided;
- inflation;
- cost-of-living adjustments for the federal workforce;
- increased service delivery costs driven by unprecedented weather events;
- declining global demand for grain; and
- an increased volume of U.S. grain being distributed to domestic processing plants (which excludes them from mandatory inspection and weighing under the USGSA).

FGIS also plans to publish a proposed rule for public comment later this summer that will establish a new fee formula for calculating hourly and unit fees.

The fee revision published in June does not include an additional tonnage fee adjustment for 2024 that was originally published on March 7 and went into effect on April 1. Effective April 1, FGIS increased inspection and weighing service fees by five percent since FGIS' operating reserve was below 4.5 months of operating expenses.

NGFA and NAEGA submitted comments to FGIS encouraging the agency to de-couple the hourly contract rates from the five-year rolling average for tonnage fees in order to make the fees more in line with the market rates and adjust based on COLA.

B. 2025 U.S. Grain Standards Act (USGSA) Reauthorization: NGFA and NAEGA began discussion on the proposed priorities for the 2025 USGSA Reauthorization Act, including improving grain grading technology and modifying the calculation of user fees. The goal is to finalize the recommendations for consideration at the Board meeting and begin reaching out to Congressional committees and members in September.

C. Washington State Department of Agriculture (WSDA) User Fee Increase: NGFA and NAEGA submitted comments to the WSDA in response to their proposal to increase user fees for the Grain Inspection Program which handles all domestic and export inspection and weighing services for the *Delegated* State of Washington. Based on the proposed tonnage fee increase, it appears that these fees are being used to offset the overhead costs that are not transparent in how they are calculated to stakeholders. Unfortunately, these increased costs - in a volatile market where it does not appear that there will be an increase in exports for some time – also do not appear to be decreasing in the near future.

NGFA and NAEGA encourage WSDA to be more transparent about what is covered by the overhead fees and how the amount is determined and are willing to work with the WSDA to identify possible solutions that align with the current market rates and needs.

D. Grain Grading Technology Automation: The NGFA, NAEGA and AAGIWA have agreed to focus on the short-term goals of streamline sampling, adoption of the auto-kicker and test weight.

In addition, AAGIWA is working to create a directory of the equipment manufacturers, both domestic and international. This will be helpful in reaching out to the right groups to invite to discussions and ask for information on specific issues since not all the organizations are members or our respective organizations. The directory can also be used to compare who the FGIS is also working with in analyzing the available technology.

NGFA and NAEGA are also working with AMS leadership to potentially use Commodity Credit Corporation funding to assist with implementing “pilot projects” at export facilities in order to utilize the new technology to increase the effectiveness of FGIS’ Official inspection and weighing services. AMS is in the process of developing an outline, which will be shared with NGFA and NAEGA in the coming weeks for review and comments, which describes how the pilot program will be implemented. The goal is to submit the final proposal to Secretary Vilsack for consideration and approval before Oct 1.

E. FDA Reconditioning: In June NGFA participated in a meeting with FDA’s Office of Regulatory Affairs, Center for Food Safety and Nutrition and Center for Veterinary Medicine to discuss the significant delays that grain export facilities in the New Orleans area have experienced over the past several months regarding reconditioning plans after the FGIS has determined that the grain, e.g., corn, wheat or soybean needs reconditioning due to aflatoxin or is a Distinct Low Quality due animal excreta, e.g., deer droppings. The goal of the meeting was to identify ways to streamline the approval process and for the FDA to implement pre-approved reconditioning plans.

According to the FDA, they are in the process of working with the FGIS to revise the Directive to implement the MOU and are also streamlining the Standard Operating Procedure document for staff to use when a reconditioning request is submitted by a grain handling facility to expedite the approval process. They did not give a timeline when the revisions would be completed. NGFA will continue to work with FGIS and FDA to resolve the delays in the approval process.

NGFA is continuing to work with Capitol Hill staff in order to develop *Questions for the Record* on the issue, in order to get an official response from the agency on their policy as well as potential report language for the FDA's appropriations bill. The Senate version of the Ag Appropriations bill contains language directing USDA and FDA to update their MOU on reconditioning grain in consultation with the industry.

III. Issues for Discussion:

- A. For elevators operating in the interior market, has FGIS been responsive to your request to: 1) revert to the use of your previous Official inspection agency; and/or 2) use a different domestic Official designated agency if your facility is not receiving timely service from its incumbent agency? What experiences, pro and con, are you having with Official agencies at either export elevators or domestic facilities?
- B. Are there further suggestions on issues that should be addressed with FGIS?

IV. Other Actions:

The committee and NGFA staff also were engaged in the following activities from March 2024 – September 2024:

- Delivered a presentation on NGFA's FGIS and OSHA priorities during the American Association of Grain Inspection and Weighing Agencies annual meeting in San Antonio on Apr. 15-16. Following the annual meeting the AAGIWA Board supported the recommendations of the NGFA-NAEGA Grain Grading Technology Workgroup regarding technology improvement.
- Conducted a Regional NGFA/NAEGA Industry Workshop on May 21 in New Orleans, La. These workshops bring together industry members and representatives of federal government agencies, including USDA's Animal and Plant Health Inspection Service and FGIS, the Food and Drug Administration and U.S. Coast Guard to discuss current industry issues and trends. These regional meetings have received high marks from federal and industry attendees. About 50 people attended the event.