National Grain and Feed Association
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BY ELECTRONIC MAIL

Mr. Randall Jones
Deputy Administrator
Grain Inspection, Packers and Stockyards Administration
U.S. Department of Agriculture
1400 Independence Avenue, S.W., Room 1643-S
Washington, D.C. 20250-3604

RE: Comments on Notice of Proposed Rulemaking of Fees for Official Inspection and Weighing Services Under the United States Grain Standards Act

Dear Deputy Administrator Jones:

The National Grain and Feed Association (NGFA) and North American Export Grain Association (NAEGA) appreciate the opportunity to submit this statement in response to proposed changes to the fee schedule for official inspection and weighing services performed under the U.S. Grain Standards Act, as published in the January 14, 2013 edition of the ***Federal Register*** by the Grain Inspection, Packers and Stockyards Administration (GIPSA).

The NGFA is comprised of 1,050 member companies that operate more than 7,000 facilities and handle more than 70 percent of the U.S. grain and oilseed crop. NGFA membership encompasses all sectors of the industry, including country, terminal and export grain elevators; commercial feed and feed ingredient operations; biofuel producers; cash grain and feed merchants; end-users of grain and grain products, including processors, flour millers, and livestock and poultry integrators; commodity futures brokers and commission merchants; and allied industries.

NAEGA, a not-for-profit trade association established in 1912, consists of private and publicly owned companies and farmer-owned cooperatives that are involved in and provide services to the bulk grain and oilseed exporting industry. NAEGA's membership is largely domiciled in both the U.S and Canada. NAEGA's mission is to promote and sustain the development of commercial export of grain and oilseeds and their primary products. Through a reliance on member action and support, NAEGA acts to accomplish its mission from its office in Washington D.C., and in markets throughout the world.

The NGFA and NAEGA believe any proposed changes to the fees for official inspection need to be considered carefully for (at least) two very good reasons: 1) to make certain a changes are justified and will facilitate the marketing of U.S. grains and oilseeds; and 2) to not unduly disrupt the U.S. official standards and grading system, which serve as the "gold standard" for marketing grains and oilseeds worldwide. The fact that domestic and international customers of U.S. grains and oilseeds, as well as farmers and grain marketers, can count on an inspection and weighing system that includes GIPSA official services in providing unmatched integrity, reliability and value is a significant competitive advantage for the United States in serving the global marketplace.

For these reasons, and given our review of the current financial status of the official inspection and weighing system, the NGFA and NAEGA support the agency's proposed changes to the fee schedule, contingent upon GIPSA's adoption of the recommendations contained herein to modify the overall structure of the current user fee system.

The NGFA and NAEGA recognize that GIPSA is required to cover its costs and is striving through this proposal to rebuild its operating reserve. Although we recognize that fee increases may be necessary from time to time, we encourage GIPSA to continue efforts to provide efficient service at a reasonable price to its customers. These agency efforts should include new and innovative ways to deliver service without degrading quality and timeliness. As GIPSA notes in its proposed rule, the projected fee increase will be borne primarily by exporters, since U.S. grains and oilseeds exported from the United States generally are required to be officially inspected and weighed. In a highly competitive world market, U.S. exporters have limited ability to pass such increased costs on to foreign buyers. Rather, the impact most frequently is passed back through the marketing system, and ultimately is reflected in cash bids for commodities at the farm gate. While the projected fee increase also would affect the cost of official services provided in the domestic market, its effect would be moderated to some degree because, as GIPSA notes, buyers and sellers have the flexibility to seek alternatives to official inspection and weighing services.

With respect to GIPSA's proposal, the NGFA and NAEGA particularly are concerned that the projected baseline volume of 65 million metric tons (mmt) for fiscal years 2014-17 on which the proposed increase in official inspection and weighing fees is based is too low. The tonnage user fees assessed by GIPSA are based primarily upon export tonnage projections over a five-year period. The previous method used to determine those projections was based upon USDA's long-term export projections, and focused more on trends that minimized market variability. As a result, fiscal 1996 official fees were based upon projections for 85 mmt of exported grain, while the fiscal 2005 fee assumed 80 mmt in exports. Since fiscal year 2011, the tonnage user fee has utilized a new calculation based upon official grain inspection data, USDA World Agricultural Supply and Demand Estimates (WASDE) and a 95 percent confidence variability.

The NGFA and NAEGA believe the current approach to the establishment of official inspection fees needs to be improved. To enhance U.S. export competitiveness, the fee structure needs to: 1) be more predictable for system users and responsive to market conditions; 2) improve flexibility and reduce the time and costs needed to make changes; and 3) reduce the impact of subjective forecasting of export volumes. Rather than continuing to rely only upon the subjective and time- and resource-consuming rulemaking process to modify fees, the NGFA and NAEGA suggest that GIPSA approach the establishment of fees as an ongoing and market-responsive process.

Specifically, we recommend that GIPSA adopt the following procedural changes to determine official inspection and weighing fees:

- ***First, use a rolling five-year average as the basis for the tonnage user fee calculation. The use of a rolling-average methodology to establish base tonnage for determining the fee level will lead to a greater correlation between both high- and low-volume market fluctuations, as well as better enable U.S. exporters to project future costs. This correlation of fees to both a five-year moving average and continuing pursuit of cost-controls and revenue management should create an environment in which official fees could be adjusted continually and more accurately.***

- ***Provide for a maximum three-month operating reserve fund, with an automatic trigger to reduce fees once the reserve fund reaches its cap. Including a trigger or snap-back mechanism to provide for as immediate-as-possible a fee reduction when the mandatory limit on the reserve fund is reached would provide for downward adjustment in the fee level without new rulemaking.***

In addition, the NGFA and NAEGA remain concerned that the agency continues to experience financial stress despite continued efforts to reduce administrative costs. Rather than implementing such a large fee increase, which as noted previously will disproportionately affect export facilities that handle higher volumes than others, GIPSA should determine what programs can be terminated, scaled back or consolidated (either within the agency or with other federal entities) to reduce its administrative overhead further.

GIPSA also aggressively should seek ways to reduce indirect employee expenses, such as workers compensation, which is being reallocated from the national office to local offices. Since workers compensation is related to injuries and illnesses that occur on the job, the agency should review its safety and health program to ensure that it is providing effective training to its employees on injury-prevention.

Finally, GIPSA should review cooperative agreements that it has with other federal agencies, such as the Animal Plant and Health Inspection Service (APHIS). APHIS' use of GIPSA to sample and inspect grain and grain-product shipments for phytosanitary certification information is bringing more business to the official system. In addition, more products are requiring phytosanitary certification because of import requirements. In addition, the growing export container business is affecting the volume of phytosanitary certifications. Because of the increase in these activities, GIPSA needs to give serious consideration as to how to recover these costs from APHIS, and impose them on the export sector through higher official fees. Further, GIPSA needs to consider ways to increase revenue from other services it may provide that are not included within official inspection and weighing services under the U.S. Grain Standards Act.

The NGFA and NAEGA appreciate GIPSA's consideration of these views and recommendations on its proposed changes to the fee schedule for official inspection and weighing services, and would be pleased to respond to any questions the agency may have. As always, the NGFA and NAEGA stand ready to work with GIPSA to seek ways to improve the efficiency and cost-effectiveness of the valued official inspection system.

Sincerely,

Randall C. Gordon
President
National Grain and Feed Association

Gary C. Martin
President and Chief Executive Officer
North American Export Grain Association