



United States  
Department of  
Agriculture  
  
Marketing and  
Regulatory  
Programs  
  
Washington, DC  
20250

**TO:** Lower Mississippi River Grain Exporters  
**FROM:** Jenny Lester Moffitt  
Under Secretary  
Marketing and Regulatory Programs  
**DATE:** September 16, 2021  
**SUBJECT:** U.S. Grains Standards Act Emergency Declaration and Waiver Procedures

The U.S. Grain Standards Act and Regulations, thereunder, allow the AMS Administrator to waive the requirements for official grain inspection and weighing if an emergency exists that also would not preclude the objectives of the Act.

On August 28, 2021, Hurricane Ida struck southern Louisiana, which houses a significant portion of the nation's grain export capacity. Many grain elevators and employees were impacted by damage to facilities, operations, and homes. Power outages have lingered and continue to inhibit the timely export of grain. While AMS Federal Grain Inspection Service (FGIS) staff is available to provide grain inspection and weighing services, many facilities are not yet capable of loading grain. Further, since many New Orleans area operations have been reduced for over two weeks, a backlog has formed of vessels to load and barges to unload. Several members of the industry have requested to use floating rigs or crane operations, which do not have sampling and weighing capability, to help clear this backlog for customers in need of food and feed. In some instances, customers have acknowledged or contractually agreed that official inspection and weighing is not needed for the immediate emergency circumstance.

Therefore, as it pertains to 7 USC §77(a) and 7 CFR §800.18, an emergency is hereby declared for grain exporters located on the portion of the lower Mississippi River from Baton Rouge to the mouth of the river. **This emergency declaration allows for the waiving of official inspection and weighing on a shipment-by-shipment basis until September 30, 2021, under the following conditions:**

- This waiver only applies to facilities that do not have the capability to weigh or sample the grain with a diverter-type mechanical sampler.

- The applicant must submit a written request for a waiver to the FGIS Field Management Division Director, Anthony Goodeman, at [Anthony.T.Goodeman@usda.gov](mailto:Anthony.T.Goodeman@usda.gov), with the following information prior to shipment:
  - A copy of the contract signed by both buyer and seller;
  - The sales contract must acknowledge that official FGIS inspection and weighing is not needed;
  - The name of the vessel;
  - The location where loading will occur (with rig identity or location, if applicable);
  - The destination of the grain.
  - The approximate quantity of the grain; and
  - The approximate dates of loading.

Once the request is received, please allow at least one business day for review of the request and for any additional questions to be addressed. Please note that, because of phytosanitary requirements and potential trade implications of approved waivers, FGIS will coordinate its response with the Animal and Plant Health Inspection Service (APHIS) and the Foreign Agricultural Service. After considering all current circumstances, FGIS will send a signed response approving or denying the waiver of inspection and weighing requirements for the particular shipment.

For facilities or rigs operating under the 15,000 Metric Ton Exemption:

- The additional grain moving through the location for a shipment covered by an active emergency waiver will not be counted against their exemption for the current or upcoming year.

To support grain exports during this state of emergency, and after consideration of procedures and regulations, APHIS is also implementing an interim approach for export certification provided these certain conditions are met. For trading partners which require an official phytosanitary certificate for grain shipments, APHIS will require phosphine treatment prior to issuing the certificate. This interim approach only applies to shipments granted a waiver from the mandatory inspection and weighing requirements from FGIS.

- This is limited to elevators and/or floating rigs loading bulk maritime vessels in areas included in the original state of emergency.
  - APHIS must approve the inspection surveyor before inspection begins.
    - Requests for inspection surveyor approval should be submitted in writing to Mr. George Galasso ([George.Galasso@usda.gov](mailto:George.Galasso@usda.gov)) and Mr. Christian Dellis ([Christian.B.Dellis@usda.gov](mailto:Christian.B.Dellis@usda.gov))
  - Inspection “upriver” of barges as they are being loaded is permissible, but records of transload to ocean carrier must be provided to APHIS by the approved inspection surveyor.

- Barges may be probed in accordance with FGIS Directive 9180.35, “Phytosanitary Inspection” for all commodities impacted by the emergency. FGIS is waiving the “Bottom Not Sampled” restriction to allow for barge probing for phytosanitary inspection purposes.
- Inspection must use FGIS sampling and analysis procedures to determine freedom from quarantine pests and soil in accordance with the importing country phytosanitary requirements.
- Fumigation must be consistent with FGIS policy (procedures are outlined in FGIS Fumigation Handbook). This process must be documented by FGIS, which may include verification of recirculation tubing prior to loading and witnessing of fumigation after loading in accordance with official procedures.
- The inspection results must be provided on company letterhead and include:
  - Commodity name (common name and scientific name);
  - Volume;
  - Destination;
  - Vessel name;
  - Inspection date;
  - Date of departure;
  - Statement that the shipment was inspected according to official procedures and found free of pests of concern to the importing country; and
  - Signature of inspector and date of issuance.
- APHIS will include additional declarations on the phytosanitary certificates issued under this interim approach: “Official grain grading services were waived due to the unprecedented impact of Hurricane Ida. This shipment was inspected by an authorized service provider with oversight from USDA.”

If you have any questions concerning this emergency declaration or its associated waiver procedures, please contact Mr. Arthur Neal, Deputy Administrator, Federal Grain Inspection Service, at [Arthur.Neal@usda.gov](mailto:Arthur.Neal@usda.gov), or Dr. Osama El-Lissy, Deputy Administrator, Animal and Plant Health Inspection Service at [Osama.A.El-Lissy@usda.gov](mailto:Osama.A.El-Lissy@usda.gov).