DELEGATION OF AUTHORITY
From the Federal Grain Inspection Service
To
The Washington State Department of Agriculture

I. Purpose

The Federal Grain Inspection Service (FGIS) is delegating certain authority to the Washington State Department of Agriculture (the State). This document describes the delegation and implementation of the delegation.

II. Authority

The United States Grain Standards Act, as amended (7 U.S.C. §§ 71 - 87k) (Act) authorizes the Secretary of Agriculture to delegate the authority to perform all official services, except appeal inspection and review of weighing, at export port locations to qualified State agencies subject to such rules, regulations, instructions, and oversight as he/she may prescribe.

III. Provision of Delegation

FGIS hereby delegates the authority to the State to: (1) perform official inspection, official weighing (Class X and Y), scale testing, and related official services; (2) administer sampler and technician examinations pursuant to the provisions of the Act and the regulations under the Act (7 CFR Parts 800, 801, 802, and 810) (regulations); and (3) conduct the activities delegated to the State pursuant to the Act and regulations. FGIS grants this delegation pursuant to the provisions of the Act and the regulations under the Act and the terms and conditions set forth in this document.

IV. Terms and Conditions

A. As a condition of this delegation, FGIS requires that the State:

1. Perform timely, accurate and non-discriminatory official services, except appeal inspection and review of weighing, at export port locations within the geographic boundaries of Washington, as listed in the attached Appendix.

2. Comply with all provisions of the Act, regulations, standards, and FGIS instructions.

3. Designate a qualified State manager to:

   a. Consult with the appointed FGIS manager regarding the management of programs delegated to the State, as described in IV, A, 1, of this document.

   b. Manage all programs delegated to the State.
c. Function as the FGIS contact for delegated programs.

d. Inform FGIS immediately of any change in officials responsible for official service.

e. Ensure the State complies with any equal employment opportunity requirements that are imposed pursuant to Federal and State laws, as applicable.

4. Establish and manage a Quality Assurance Program in accordance with FGIS instructions and collaboration with the FGIS.

5. Test equipment, including scales, and provide data electronically according to FGIS handbooks and instructions.

6. Train State employees working under the delegation to maintain, upgrade, and diversify their skills. The associated training records must be maintained for five-years after the tenure of the licensee. The State will:

a. Maintain a documented training program to ensure official functions are performed in accordance with the regulations and instructions.

b. Maintain complete records of training for all official functions performed by official personnel. This also includes training records for office support and certification staff. Complete training records must include: i) name of trainee, ii) name of trainer, iii) date or dates of training, iv) specific function or functions trained, and v) the outcome of the training. (Testing records in FGISonline do not constitute or replace records of training.) The associated training records must be maintained for five-years or the tenure of the licensee, whichever is later.

7. Administer sampler and technician licensing examinations to State employees in accordance with regulations and FGIS instructions.

8. Assign licensed State employees to perform official functions.

9. Maintain an up-to-date elevator Facility Handbook for each location where official personnel provide services. Up-to-date copies of the handbook are kept at the inspection laboratory and at the scale floor or control room of the referenced grain elevator for use by official personnel.

10. Will employ personnel based on job qualifications rather than political affiliations, following a merit-based personnel management system for recruiting, training, promoting, and terminating State employees working under this delegation.

11. Retain records for a period not less than that specified in 7 CFR 800.145-800.159. This includes electronic records. The State will retain records in a readily usable format that permits easy and accurate retrieval in a timely fashion.
B. In granting this delegation, FGIS will carry out all duties and responsibilities under the Act, regulations, and instructions not delegated to the State under this document, including but not limited to:

1. Provide appeal inspection, review of weighing, and other official services not delegated to the State
2. Administer examinations to State inspectors and weighers.
3. Issue licenses to qualified State inspectors, weighers, samplers, and technicians.
4. Determining the eligibility of storage and handling facilities for weighing service.
5. Evaluate the State’s requests for fee revisions for potential approval.
6. Evaluate the State’s performance at least every five years for the delegation certification process prescribed by section 79(e)(2)(B) of the Act.

C. In assessing and paying fees:

1. The State will pay FGIS user fees in accordance with 7 CFR 800.71 and this section.
2. The State will:
   a. Assess fees and charges in accordance with a State fee schedule approved by FGIS.
   b. Maintain an account separate from the general revenues of the State, in which the State will deposit the money collected from fees and charges.
   c. Use the money collected from fees and charges only to finance the cost of the official inspection and Class X or Class Y weighing service and inspection equipment testing service performed by the State or the cost of other closely related programs administered by the State (e.g., certification, supervision, monitoring activities) and approved by FGIS, in accordance with 7 CFR 800.70.
   d. Pay FGIS each month the amount FGIS determines based on supervision tonnage information collected each month (e.g., FGIS-938 and FGIS-922).
3. The State will bill and collect administrative tonnage fees directly from export customers loading vessels and containers at locations under the State’s delegation to recover FGIS’ national administrative costs. FGIS will bill and collect the administrative tonnage fees from the State.
4. If the State agency fails to pay FGIS fees within 30 days after they are due, FGIS will automatically terminate this delegation. Provided, however, the delegation will be reinstated upon payment within such period as specified by the Secretary of the fee
currently due, plus interest and any further expenses incurred by the Secretary because of such termination as prescribed by Section 7 of the Act (7 U.S.C. § 79(j)(2)).

5. FGIS shall assess interest and penalties to all past due accounts. Interest is assessed at the rate established by the Department of Treasury pursuant to 31 U.S.C. § 3717. Additional penalties and charges may be assessed according to Sections 79(j)(2) and 79a(l)(2) of the Act.

V. Suspension, Amendment, Cancellation, and Revocation

A. If the State intends to suspend its delegated obligations for a temporary period of 30 days or less, except in the case of a major disaster, per 79(e)(2)(C) of the Act, the State will notify FGIS and affected users, in writing, at least 72 hours prior to suspending service. FGIS will not consider a period exceeding 30 days a temporary suspension. Upon notification, the State will:

   a. Allow FGIS access to and use of the lab facility and equipment to provide services.

   b. Pay any travel costs FGIS incurs to provide service to customers under the State’s obligation.

   c. Bill the customer for services provided based on the State’s fee schedule.

   d. Bill and collect administrative tonnage fees directly from customers loading vessels and containers.

B. If the State suspends its obligations under this delegation, except in the case of a major disaster, FGIS will bill and collect from the State for service based on FGIS fees plus a ten percent penalty and the administrative tonnage fees.

C. As required by the Act (7 U.S.C. § 79(e)(2)), this delegation and FGIS certification of the State is subject to reconsideration and renewal every five years, subject to a 30-day period for public comment.

D. FGIS may amend this delegation. The State may request that FGIS revise the delegation by submitting a written request not less than 90 calendar days before the desired effective date and specify the change the State desires.

E. This delegation may be voluntarily cancelled:

   1. By written mutual consent of FGIS and the State; or

   2. By the State, provided that it gives written notice to FGIS at least 90 days in advance of the proposed cancellation date.

F. FGIS may revoke this delegation upon notice to the State.
VI. Signatures

This delegation supersedes the Delegation of Authority dated 1 November 2013, and any subsequent amendments to that Delegation.

The signatories to this document certify they have the authority to consent to this delegation.

This delegation and the responsibilities thereunder are accepted for the Washington State Department of Agriculture.

______________________________  ______________________________
Signature                          Date

Derek I. Sandison  Director
Name                          Title

This delegation is hereby approved for the Federal Grain Inspection Service. It is effective [August 28, 2020].

______________________________  ______________________________
Administrator                          Date
BRUCE SUMMERS                          Agricultural Marketing Service

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