

REVIEW INSPECTIONS OF GRAINS AND COMMODITIES

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1. PURPOSE

The purpose of this directive is to provide instructions to applicants and inspection personnel concerning the review inspection procedures for grain and other commodities. This directive does not present any new policy information but consolidates existing information into one document.

2. REGULATORY INFORMATION

The United States Grain Standards Act (USGSA) authorizes reinspections and appeal inspections of grain by FGIS and official agencies (7 U.S.C. 79(c)). FGIS has established regulations that provide for reinspection, appeal inspection, and Board appeal inspection of grain samples (7 CFR 800.125-139). The regulations under the Agricultural Marketing Act of 1946 (AMA) authorize retest, appeal inspection, and Board appeal inspection of agricultural commodities not covered by the USGSA (7 CFR 868.50-63).

3. OVERVIEW OF LEVELS OF REVIEW

	USGSA			AMA		
	Individual Carrier, Composite, or Average Composite Lot	CuSum		Single Lot		Rice Roundlots
		Sublot	Entire Lot	Graded Commodities	Nongraded Commodities	
Levels of Review Permitted	3	2	3†	2	2	2
Levels	Reinspection, Appeal, Board Appeal	Reinspection OR Appeal, Board Appeal	Reinspection, Appeal, Board Appeal	Appeal, Board Appeal	Retest, Appeal	Appeal, Board Appeal
Eligibility	All Lots	Only Material Portions	All Lots	All Lots	All Lots	All Lots if Any Exceed Tolerance
Average or Replace	Replace	Average (if within material error limit)	Replace	Replace	Replace	Replace

† - The minimum level of review for an entire CuSum lot is the highest level of review that prevailed during loading of the lot.

4. DEFINITIONS

- a. Appeal Inspection – A review inspection provided by the FGIS Field Office with jurisdiction over the official service provider or by the Commodity Testing Laboratory (nongraded commodities only).
- b. Average Composite Lot – A lot consisting of multiple carriers which is certified on the basis of an average of results of individually sampled and graded carriers.
- c. Board Appeal Inspection – A review inspection provided by the FGIS Board of Appeals and Review (BAR). A Board appeal inspection is the final determination of quality available for a lot of grain.
- d. Composite Lot – A lot consisting of multiple carriers which is certified on the basis of a composite sample consisting of portions obtained from all carriers.
- e. CuSum – An on-line acceptance plan for inspection of grain in shiplots or unit trains.
- f. Graded Commodity – A commodity for which standards have been established under the AMA for grade designation.
- g. Interested Person – Any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, carrier, or otherwise.
- h. Lot – A specified amount of grain or commodity which is presented for inspection.
- i. Material Error – An error in the results of an official inspection service that exceeds the official tolerance.
- j. Nongraded Commodity – A processed commodity or an unprocessed commodity which is chemically tested for factors not included in the AMA
- k. Official Criteria – Quantified physical or chemical properties of grain that are determined upon request but do not affect the grade of the lot.
- l. Official Service Provider – FGIS or the official agency that performs an original inspection of a lot of grain or commodity.
- m. Reinspection – A review inspection provided by the same official service provider that performed the original inspection of the lot.
- n. Retest – A review inspection of a nongraded commodity or factor performed under the authority of the AMA.
- o. Roundlot – A single lot of rice comprised of multiple units inspected via an online acceptance plan.
- p. Sublot – For on-line sampling plans, a subplot is a smaller portion of a larger lot.

5. LEVELS OF REVIEW INSPECTION FOR SINGLE LOT INSPECTION

Only one inspection service is available per level of review for any given lot.

a. USGSA.

The regulations under the USGSA provide for three levels of review inspection on a single lot of grain.

(1) Reinspection.

The original service provider may provide a reinspection of an original inspection service. The result of an reinspection supersedes the original result.

(2) Appeal Inspection.

FGIS may provide an appeal inspection of an original inspection or a reinspection. The result of an appeal inspection supersedes the original or reinspection result.

(3) Board Appeal Inspection.

The BAR will only perform a Board appeal inspection on a sample that has already received an appeal inspection. The result of a Board appeal inspection supersedes the appeal inspection result.

b. AMA.

The regulations under the AMA provide for different review inspection options for single lots of graded and nongraded commodities and factors.

(1) Graded Commodities.

(a) Appeal Inspection.

FGIS may provide an appeal inspection of an original inspection. The result of an appeal inspection supersedes the original result.

(b) Board Appeal Inspection.

Under the AMA, the BAR may provide a Board appeal inspection of an original or appeal inspection. The result of a Board appeal inspection supersedes the original or appeal inspection result.

(2) Nongraded Commodities.

(a) Retest.

An official service provider may provide a retest of an original inspection. The result of a retest supersedes the original result.

(b) Appeal Inspection.

The Commodity Testing Laboratory may provide an appeal inspection of an original inspection or a retest. The result of an appeal inspection supersedes the original or retest result.

6. LEVELS OF REVIEW INSPECTIONS FOR ON-LINE INSPECTION PLANS

a. CuSum.

Applicants may request review inspections of a material portion subplot or of the entire lot. Sublots accepted by the loading plan are not eligible for review inspections except as part of a review inspection of the entire lot.

(1) Material Portion.

Review inspections of material portion sublots are limited to one field review (reinspection or appeal inspection) and one Board appeal inspection. A subplot is only eligible for a Board appeal inspection if the reinspection or appeal inspection does not remove the material portion designation. The review inspection results are averaged with the previous level(s) of inspection to obtain a result for the subplot unless they exceed the material error limit, in which case the review results replace the previous results.

In order to preserve the identity of the file sample, official personnel perform the field review analysis on unused extra grain from the sample, while the BAR performs Board appeal inspections based on the official file sample.

(2) Entire Lot.

Upon completion of a CuSum lot, applicants may request review inspections of the entire lot. The levels of inspection available are the same as those for single lot inspection. The first level of the review inspection of the entire lot is limited to the highest level of inspection that was performed on the CuSum lot. For example, if the applicant requested an appeal inspection on any subplot during loading, the lowest level of review inspection available for the entire lot is an appeal inspection. FGIS or the official agency will calculate new CuSum values based on the review inspection. The result of this newly calculated CuSum will supersede the original result.

Refer to the [Grain Inspection Handbook III - Inspection Procedures](#) for more details and specific procedures.

b. Rice Roundlots.

If a subplot factor exceeds the grade/contract requirements or the roundlot tolerance, the applicant may request an appeal inspection of that subplot. The results of the appeal inspection supersede the results of the original inspection.

- (1) If the subplot meets grade/contract requirements based on the appeal inspection, the applicant may elect to keep it in the roundlot. In this case, FGIS must perform an appeal inspection on all of the other subplots in the lot, including those that are yet to be loaded.
- (2) If the subplot does not meet grade/contract requirements based on the appeal inspection, the applicant must remove the subplot from the roundlot and submit it as a single lot.

Upon completion of the roundlot, an interested person may request an appeal inspection or Board appeal inspection of the entire lot. If an appeal inspection has already been performed during loading, then only a Board appeal inspection is available.

Refer to the [Rice Inspection Handbook](#) for more details.

7. REVIEW INSPECTION REQUESTS

a. Who May Request Review Inspection Service.

The regulations under the USGSA and the AMA provide that any interested person may request review inspection services.

b. How to Request Review Inspection Service.

Applicants for review inspections may request which factors they would like to be reinspected or appealed. The review inspection will focus on those factors, but also take into consideration all grade factors and review the accuracy of the previous level of inspection.

(1) Reinspections.

Applicants must request a reinspection from the official service provider that performed the original inspection. A verbal request for reinspection is usually sufficient, but official personnel may require the request to be confirmed in writing at their discretion.

(2) Appeal Inspections.

Applicants must request an appeal inspection from the FGIS field office that is responsible for oversight of the original service provider. Applicants may request an appeal inspection verbally, but must confirm the request in writing. Applicants should also inform the official service provider of their intention to apply for an appeal inspection in order for the sample to be shipped and inspected in a timely manner.

(3) Board Appeal Inspections.

Applicants must request a Board appeal inspection from the FGIS field office that performed the appeal inspection. Applicants may request an appeal inspection verbally, but must confirm the request in writing.

c. Sample Used for Review Inspections.

(1) USGSA.

(a) Sampled During Continuous Loading.

If a lot is sampled using an on-line sampling device (i.e., diverter-type mechanical sampler, pelican, or Ellis cup) during continuous loading, all review inspections except for condition factors (i.e., odor, infestation, and heating) are performed on the basis of the official file sample for single lots or an unworked portion of the sample for CuSum sublots. For domestic grain shipments, reinspection and appeal inspections for condition factors may be performed on the basis of a new probe sample drawn from a lot that was sampled during continuous loading.

(b) Probe Sampled.

If a lot is originally sampled using a probe sample, official personnel may make the decision to draw a new probe sample to be used for reinspection and appeal inspections.

The BAR performs all Board appeal inspections on the basis of the official file sample.

Note: Inspectors analyze the work portion and file sample to apply the special grade Infested. Accordingly, a review inspection will not remove the Infested designation unless the inspector determines that the original inspector erred in the original determination or the applicant requests infestation to be reviewed on the basis of a new probe sample.

(2) AMA.

Applicants may request that appeal inspections be based on a new sample drawn from a lot of a commodity provided the following:

- (a) Official personnel can positively identify the lot as the one that was originally inspected.
- (b) The entire lot is accessible for sampling.
- (c) The original inspection did not show that the commodity was contaminated by filth (other than insect fragments in nongraded commodities) and did not contain deleterious substances.

Note: If a review of the sampling procedure reveals improper sampling, a new sample may be drawn for an appeal inspection of contamination by filth.

Retests and Board appeal inspections under the AMA are based on the official file sample.

d. Timeliness of Requests.

(1) USGSA.

An applicant may request a review service if the following timeliness requirements are satisfied. The timeliness requirements apply to all levels of review inspections.

- (a) The applicant must request a review inspection before the grain has left the specified service point where it was located when the original inspection was performed.
- (b) The applicant must request a review inspection no later than the close of business on the second business day after date of the previous level of inspection.
- (c) The applicant must request a review inspection before the identity of the grain is lost.

(2) AMA.

The following timeliness requirements for review inspections under AMA apply to **rice only**.

- (a) The applicant must request the appeal inspection or Board appeal inspection before the rice has left the place where the inspection being appealed was performed.
- (b) The applicant must request the appeal inspection or Board appeal inspection no later than the close of business on the second business day following the date of the inspection being appealed.

e. Waiving Timeliness Requirements.

If a file sample is available, the Field Office or Official Agency Manager may, at his or her discretion, waive the timeliness requirements for review inspections if certain criteria are met. Waiver requests should be granted when doing so supports the mission of FGIS to facilitate the marketing of grain and other agricultural commodities. The official service provider must keep a record of all waiver requests with the review inspection record.

(1) USGSA.

- (a) Requirement (a) from the previous section may be waived upon written consent of all interested persons.
- (b) Requirements (b) may be waived at the request of the applicant or other interested persons or upon satisfactory showing by an interested person of evidence of fraud or that because of distance or other good cause, the time allowed for filing was not sufficient.

Note: To prevent deceptive practices, FGIS has implemented a policy of dismissing review inspections after three days when a carrier has not been shipped, unless the applicant can show evidence supporting a justifiable delay in requesting the review inspection. However, FGIS will provide a new original inspection based on a new sample after five business days from the last official inspection upon request.

- (c) Requirement (c) may be waived at the request of the applicant or other interested persons.

(2) AMA.

The timeliness requirements for rice appeal inspections and Board appeal inspections shall be waived if agreed upon by all interested persons.

f. Limitations on Requests.

A request for a review inspection is limited to the kind and scope of the original request.

(1) Kind.

The review inspection must be conducted in the same manner as the original inspection. For lots consisting of multiple carriers, official personnel shall conduct the review inspection using the following procedures:

(a) Composite Lot.

Official personnel shall analyze the official file sample composed of grain from all carriers sampled. One analysis shall be performed for each level of review inspection.

(b) Average Composite Lot.

Official personnel shall analyze each official file sample for every carrier that makes up the lot being reviewed and average the results in the same manner as the original inspection.

(2) Scope.

A review inspection is limited to the same factors that were inspected in the original service. An applicant cannot request that new factors be inspected as part of a review inspection. Additionally, regardless of the applicant's requested factors, all factors from the original inspection are subject to review. An applicant may, however, make separate review inspection requests for official grade factors or official criteria.

8. PERFORMING REVIEW INSPECTIONS

The following procedures represent best practices for performing review inspections.

- a. Review the application for review inspection. Determine which factor(s) the applicant has requested to be reviewed. If the request is outside the scope of the original inspection (i.e., different factors are requested), dismiss the application and contact the applicant.
- b. Locate the file sample(s) for the lot or unused backup grain for the subplot that is to be reviewed. Many official criteria analyses (e.g., mycotoxins) require that official personnel save an additional file sample.
- c. The inspector or technician who made the original grade or official criteria determination must not participate in the review inspection.

Exception: An additional inspector may not always be available when providing service at remote locations. In such cases, inform the applicant of this fact and proceed with the review with the original inspector if requested.

- d. Use different equipment, including test kits and machines, than what was used for the original inspection.

Exception: Additional equipment may not be available at all locations. Inform the applicant if this is the case and inquire as to whether performing the analysis at a nearby location would be preferable to using the same equipment, if possible.

- e. Analyze the sample for odor and condition.
- f. Analyze the requested factor(s) using official procedures found in the relevant Directives and Handbooks. Perform all analyses using the same methods that were used for the original inspection. For example, if the original sample was performed on the basis of an average composite, the review inspection must also analyze all samples individually and then average the results.
- g. Review the results of the previous inspection. If the original results do not appear to be correct for any other factors, analyze those along with the requested factor(s).

Note: The inspector who performs the review inspection certifies the results for all grade factors, not just those that the applicant requests.

- h. Save all portions from all analyses in clearly marked bags or coin envelopes. Label them with the factor, portion size, and your initials. Keep these with the file sample for future review inspections.
- i. When performing official criteria review analyses that change the composition of the file sample, save enough file sample for all possible future review inspections.
- j. Record all results on Form FGIS-918, "Sample Pan Ticket," or other similar form for later certification.
- k. Ensure that all factors affected by the review inspection are recorded properly. For example, if the review inspection of wheat gives a new result for foreign material, the total defects will need to reflect this new result.
- l. If the applicant requests further levels of review, send the file sample and all separations to the Field Office for an appeal inspection or BAR for a Board appeal inspection immediately. Make sure the sample is clearly marked for appeal inspection or Board appeal inspection.

9. CERTIFICATION

Certify all results according to the instructions in [Grain Inspection Handbook IV - Forms and Certificates](#). Review inspection results supersede the results of all previous levels of inspection. After preparing the certificate for the review inspection, void the certificate for the previous level of inspection.

Include the following statements in the “Remarks” section of review inspection certificates when relevant.

- a. Superseding Statements. Include these statements on all certificates for review inspections:

“The results of this inspection service supersede (*original/reinspection/appeal*) results of (*date*).”

“This certificate supersedes certificate No. (*number*), dated (*date*).”

- b. Certificate not Surrendered. If the previous original, reinspection, or appeal inspection certificate has been issued, include the following statement:

“The superseded certificate has not been surrendered.”

- c. File Sample. If the review inspection was performed using the file sample, include the following statement:

“Results based on official file sample.”

- d. Combining levels of Inspection. If grade and/or factor and official criteria results are based on different levels of inspection, include the following statement:

“(*Grade/Factor/Official criteria*) results based on official file sample. All other results are those of (*original/reinspection/appeal*) service.”

Note: A factor-only review inspection is only applicable to a factor-only original inspection. When reviewing an official grade result, all factors are subject to review and the statement must state “Grade results based on official file sample...”

- e. Condition Review Inspection Based on New Probe Sample. If a review inspection for condition factors (i.e., infestation, heating, odor) is based on a new probe sample, include the following statement:

“The factor(s) (*condition*) based on probe sample obtained (*date of sampling*). Based on examination of the probe sample, the grain (*was/was not*) (*infested/sour/etc.*) as defined in the standards.”

10. QUESTIONS

Direct any questions concerning this directive to the local Field Office, the Board of Appeals and Review at (816) 891-0421, or Field Management Division at (202) 720-0228.

/s/Anthony Goodeman

Anthony Goodeman, Acting Director
Field Management Division

Questions and Answers

Question: What if the applicant requests a Board appeal inspection before an appeal inspection has been performed?

Answer: The regulations require that a Board appeal inspection only be performed after an appeal inspection has been performed. If the applicant is only concerned with the Board appeal inspection results, analyze a factor that will not require changing the composition of the sample (e.g., moisture), check all previous results for accuracy, and certify the results on an appeal inspection certificate before sending the sample to the BAR.

Question: Can an applicant request different factors to be reviewed at different levels of inspection?

Answer: Yes, as long as the factors were determined on the original inspection. For example: an applicant requests a reinspection for moisture for a sample of corn. After receiving the result of the reinspection, the applicant may then request an appeal inspection for test weight on that same sample. Because both factors were analyzed during the original inspection, the different requests do not constitute a change in scope. Keep in mind that requests for grade and/or factors and requests for official criteria may be handled separately, so the applicant may request a reinspection for moisture and then a reinspection for aflatoxin at a later time.

Question: What if there is no unworked file sample available to use for a review inspection?

Answer: Inform the applicant that there is no unworked file sample and that all levels of review inspection will be based on a review of a previous level of inspection. If the inspector did not make a material error in the previous determination, the results will carry forward to the review inspection.

Question: Can an applicant request a review inspection on a subplot of an average quality ship or unit train?

Answer: A review inspection is only allowed if the grain does not meet the class requirements for the declared class. If they desire, applicants may remove sublots from the lot or request a review inspection of the entire lot after completion.

Question: Can the special grade Infested be added or removed as a result of a review inspection based on the official file sample?

Answer: If there is a sufficient amount of insects in the file sample, grade the sample as Infested during a review inspection. However, for land carriers and barges sampled during continuous loading, the special grade Infested may only be removed on the basis of a new probe sample, unless the inspector determines that the Infested designation was a result of a material error.

Question: What options does an applicant have if a lot is not eligible for review inspection?

Answer: Under the USGSA, an applicant may request a new original inspection if the sample identity has been lost, five business days have passed since the last level of inspection, or the lot has been moved outside of the assigned area of the original inspection agency. Under the AMA, an applicant may request a new original inspection based on a new sample as long as the lot was not found to be contaminated with filth (other than insect fragments in nongraded commodities). Certificates for new original inspections do not supersede previous inspections.