

# **Field Management Division**

## **Grain Inspection Advisory Committee December 6, 2011**

**Robert Lijewski  
Director**



# Outline

- OSHA Citation
- CuSum:
  - Increasing subplot size, cutoff on sublots, transferring material portions
- Reconditioning grain to reduce aflatoxin
- Rulemaking:
  - Container Regulations, Fees, Wheat, Barley
- Drop Sample Test Update

# OSHA Citation

- **June 24:**
  - OSHA Compliance Officer visits Corpus Christi sub-office;
  - questions employees regarding FGIS policy on probing rail cars; gives a verbal warning
  - rejects GIPSA interpretation of Miles Memorandum
- **July 11:**
  - OSHA request in writing for 19 documents
  - GIPSA responds on July 18
- **October 14:**
  - FGIS cited for alleged violation of fall protection regulations
- **November 8:**
  - Informal Conference: OSHA Corpus Christi Director and others

# OSHA Citation

## The Miles Memorandum (October 18, 1996)

- **John Miles, Director of Compliance Programs**
  - Enforcement policy of Agency (OSHA) is that falls from rolling stock would not be cited under fall protection standard.
  - Not appropriate to use the standard to cite exposure to fall hazards from tops of rolling stock unless stock is inside of or contiguous to structure where fall protection is feasible.

# OSHA Citation

- OSHA never witnessed any FGIS employee on a railcar without fall protection
- No one from the League City Field Office is on a railcar doing sample probing
- FGIS has requested Informal Conferences with OSHA Dallas regional office and Washington, DC national office.

# CuSum: Increasing Sublot Size

Requested by industry

Reviewed with FGIS statistician

No statistical implication

Maintain sampling frequency

Maximum component size

Minimum number of component checks

Handbook revision

Implementation into FGIS *online*--ITW

# CuSum: Increasing Sublot Size

## CURRENT SUBLLOT RESTRICTIONS

<u>Carrier</u>	<u>Lot Size</u>	<u>Minimum Number of Sublots</u>	<u>Maximum Size of Each Sublot</u>
Vessels and Lash Barges	80,000 bushels or less	1	-----
	80,001 to 160,000 bushels	2	80,000 bushels
	Over 160,000 bushels	3	80,000 bushels**
Unit Trains	Less than 200,000 bushels (Less than 50 cars)	2	5 cars
	200,000 bushels or more (50 cars or more)	5	10 cars

\*\* 160,000 bushels when component sample analysis is requested.

# CuSum: Increasing Sublot Size

- Vessels and lash barges:
  - Minimum lot size of shipments eligible for 100k bu. sublots TBD
  - Maximum sublot size increases to 100k/200k\*\*
  - Maximum component size capped at 40k to ensure uniformity
- Unit trains:
  - No proposed changes to sublot sizes

# CuSum: Increasing Sublot Size

<b>Sublot Size (bu)</b>	<b>Number of Components per Sublot</b>
Up to 80,000	2 - 8 components
80,001 – 120,000	3 - 5 components
120,001 – 160,000	4 – 6 components
160,001 – 200,000	5 - 8 components

**Minimum Component Size: 10,000 bu.**

**Maximum Component Size: 40,000 bu.**

# CuSum: Cutoff on Sublots

- Cutoff may be requested to end inspection in order to receive certification on a portion of a shiplot, unit train or lash barge inspected under CuSum
- Cutoff may be requested at any time by the applicant provided there is grain on board the carrier
- FMD issued FGIS Policy Bulletin Board #241 to clarify this policy to the trade.

# CuSum: Cutoff on Sublots

- First subplot is not eligible for a cutoff as no grain is on board
- A material portion in the first subplot will be documented and CuSum values calculated
- CuSum loading plan could be circumvented by starting a new inspection log by resetting CuSum values

# CuSum: Transferring Sublots

- Request by industry
- Reviewed policy with FGIS statistician
- Material portion sublots or extra grain sublots may be transferred to an Average quality or combination Average/CuSum lot loaded under the CuSum plan.
- FMD issued FGIS Policy Bulletin Board #240 to clarify this policy to the trade.

# CuSum: Transferring Sublots

- Current handbook language is restrictive on transferring MP's and extra grain
- Provides more options for grain handlers
- Current handbook language does not allow such a transfer; policy modified to accommodate Average Grade contracts.
- Example: a US No.3 o/b YC CuSum ship has an MP on 3.8% BCFM: the lot may be transferred to a ship with Average Grade All Factors US No.3 o/b YC

# Reconditioning Grain

- Industry requested multiple attempts at reconditioning grain with actionable aflatoxin content
- Currently: FDA & FGIS permit one attempt to recondition grain with actionable aflatoxin content, & one analytical aflatoxin test after reconditioning
- Applicable to lot or bins of grain
- FMD considering amended policy

# Reconditioning Grain

- Reconditioning must be done in a continuous manner on the entire lot
- Representative sample of reconditioned grain must be obtained
- Accounting for screenings
- Only one analytical test after reconditioning
- Discuss options with trade in New Orleans market and FDA
- Update the Aflatoxin handbook as needed

# Rulemaking: Wheat

- GIPSA published an Advance Notice of Public Rulemaking in 2009, asking stakeholders whether current wheat standards and grading procedures needed to be changed.
- GIPSA prepared a Notice of Proposed Rulemaking based on comments received. The Proposed Rule is in Departmental clearance.
- When the Proposed Rule is published in the Federal Register, GIPSA will notify stakeholder groups regarding the start of the comment period.

# Rulemaking: Barley

- Resolution from GIAC meeting to open barley standards for review (June, 2011)
- Advance Notice of Proposed Rulemaking prepared; in clearance (July, 2011)
- Published in *Federal Register* October 4, 2011 with comments due January 3, 2012
- After comment review, GIPSA will prepare a Notice of Proposed Rulemaking

# Rulemaking: User Fees

## Advance Notice of Proposed Rulemaking

- Drafting: March '09 – April '09
- GIPSA Clearance: April '09 – June '09
- Departmental Clearance: July '09 – November '09
- Publication: November '09

## Notice of Proposed Rulemaking

- Drafting: March '10 – October '10
- GIPSA Clearance: October '10 – January '11
- Departmental Clearance: April '11 - ongoing
- Publication: Anticipated-??

## Final Rule

- GIPSA will draft after 60-day comment period closes
- Effective Date: October 2013

# Rulemaking: Containers

- GIPSA determined a need to harmonize regulations pertaining to grain exported in ships, trains, barges, and containers. GIPSA published Notice of Proposed Rulemaking on July 18, 2011. The Proposed Rule:
  - Limits to **20** the number of containers that may be averaged or combined to form a single lot.
  - Requires Continuous Loading Operation (88 hour rule).
  - Restricts inspection/weighing to agency's area
  - 60 day file retention period
- Final Rule being prepared for clearance.

Summer 2011  
Proposed Rule

Winter 2012  
Publish Final Rule

Spring 2012  
Implement changes to  
program

Timeline is estimated.

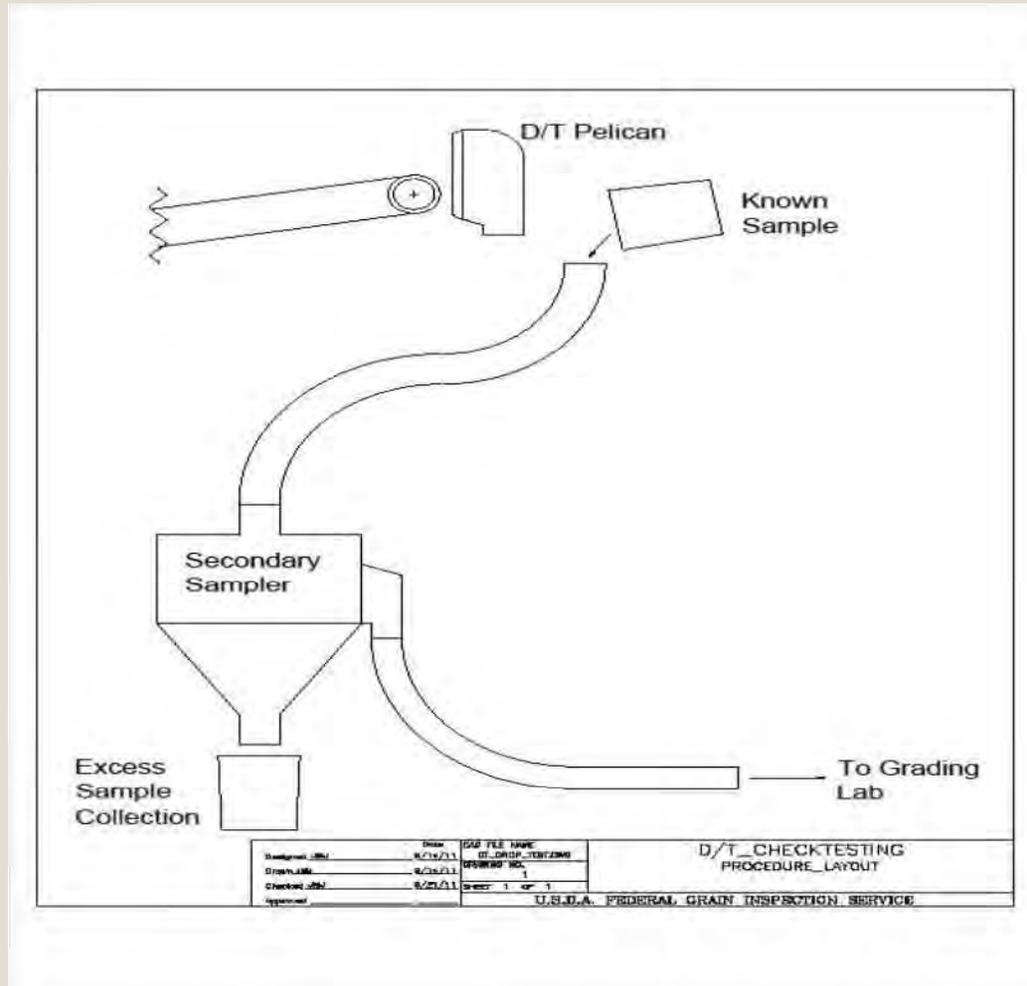
# Drop Sample Testing

- D/T check-testing was based on pelican sampler
  - Safety issues
  - Grain volume per time issues
- D/T not rechecked unless altered/ repaired
- FGIS investigated Drop Sample test
  - also used by Canadians
- Drop Sample Test is approved for authorizing D/T samplers
- Program Notice being prepared.

# Drop Sample Testing

- **Export Elevator**
  - FGIS tested D/T samplers at new elevator in Longview, Washington;
  - Reviewed drawings and inspected installation
  - Determined drop test was effective-samplers approved
- **Domestic Facilities**
  - FGIS staff conducted tests at 3 elevators in Midwest
  - Determined drop sample test was effective
  - Each facility unique so requires individual details
  - Official agencies will be given instructions on test
  - FGIS staff in W-DC will review drawings

# Drop Sample Testing



# Drop Sample Testing



# Drop Sample Testing

