



United States Department of Agriculture

Agricultural
Marketing
Service

Federal Grain Inspection
Service

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TO: FGIS POLICY BULLETIN BOARD

FROM: Robert Lijewski, Director
Field Management Division

SUBJECT: 88 Hour Rule for Containers

ORIGINATING OFFICE: Policies, Procedures, and Market Analysis Branch

1. PURPOSE

This memorandum establishes instructions on how the 88-hour rule applies to loading and weighing containers and when the lot is complete.

2. BACKGROUND

On July 22, 2013, FGIS published a Federal Register Notice which made several changes to the regulations regarding container loading and inspection. Among these changes was the implementation of the "Reasonably Continuous Operation" or "88-hour rule." The intent of this regulation was to align the inspection and weighing procedures for containers with vessels, trucks, and rail, which have been subject to this requirement since the early 1980's. This rule is intended to ensure that the official certificate accurately represents grain that was loaded in a continuous operation. The goal is to promote consistency in the grain export marketplace and maintain confidence in the quality of U.S. grain exports.

3. POLICY

- a. The applicant must not have a break in loading or weighing greater than 88 hours within a single lot.

Note: The 88-hour rule includes holidays, weekends, and nights.

- b. If the time exceeds 88 hours due to unforeseen circumstances, the applicant can request a waiver of the 88-hour rule by contacting the Field Office Manager. If the waiver is granted, the applicant may proceed loading the lot.

- c. If the waiver is not granted but the request was made prior to 88-hour limit, the lot will be considered complete. Composite all samples up to the point where continuous loading ended and certify according to the load order instructions. (e.g., stowage, grade, mycotoxin, etc.).

Example: If there is a break greater than 88 hours between container 5 and 6, certify containers 1 through 5 as a single lot according to initial load order.

Note: Once a container is assigned to a lot, the lot may not be reassembled.

- d. If a waiver is not granted and the request was made after 88 hours elapsed, each container will be certified as a single lot (no new load order is needed).
- e. At the completion of loading, the applicant has 88 hours from the time the last container was sampled, or the end of the next business day after the applicant receives individual grades (whichever is greater), to notify the official service provider that the lot is completed, and to confirm the identifications of the containers in the lot. This applies to both composite grades and average grades (max 20 containers per lot).

Example: If an applicant loads and completes a 40-container booking on Thursday and the official service provider (OSP) grades the containers on Friday, the applicant has until the close of business the next business day to notify the OSP which containers belong in each (max 20 container) lot so the OSP may complete certification. If the following Monday is a holiday, the applicant has until the close of business Tuesday to notify the OSP.

4. WAIVERS

Waiver requests must come from the applicant and include: name of person requesting the waiver, company name of applicant, Container-Lot, last container ID before break, reason for exceeding 88 hours, how much additional time needed, whether request is made before or after the 88-hour limit, and official service provider.

5. RESPONSIBILITIES

a. Official Service Provider's responsibility:

- 1) Advise the applicant of FGIS load order requirements and their responsibilities for continuous loading.
- 2) Monitor loading and loading times using proper documentation and actively work with the applicant so that they are aware of their 88 hour status for each lot.
- 3) Obtain enough of a sample to run mycotoxin tests in case a change in lot size occurs.
- 4) Provide the inspection results on containers by next business day following the day of sampling (unless other arrangements have been made between service provider and applicant).
- 5) Maintain applicable waiver requests and responses with each container lot.

b. Field Office Responsibility:

- 1) Approve or deny waiver requests in accordance with FGIS Program Directive 9020.1.
- 2) Notify the applicant and OSP on all waiver approvals or denials.

c. Applicant (applicant) responsibility:

- 1) Provide load order instructions prior to loading.
- 2) Monitor 88 hour limits while loading and actively work with the service provider so that they are aware of the 88 hour status, so that any potential violations of the 88-hour rule can be noted.
- 3) If the lot is being formed by containers loaded at different locations within the official service provider's area, it is the responsibility of the applicant to inform the official service provider that this is taking place.
- 4) On completion of the lot, send a list identifying the disposition of each sampled container to the official service provider by the next business day (COB) following the day inspection results were received.

6. FILING INSTRUCTIONS

File a copy of this memo with Directive 9180.78, Procedures for Bulk Grain Exported in Containers, until the directive is revised to include this change. Field office managers must ensure that a copy of this memorandum is provided to official agencies operating within their circuit.

7. QUESTIONS

Direct any questions regarding this procedure to the local field office or to [AMS - FGIS Policies Procedures Market Analysis Branch](#). Also, please visit the “Inspection and Weighing of Containers” Q & A page located at <https://www.ams.usda.gov/publications/content/containers>.