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248.	Commingling of agricultural products.
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CODIFICATION

The United States Warehouse Act, comprising this chapter, was originally enacted by act Aug. 11, 1916, ch. 313, pt. C, 39 Stat. 486, and amended by July 24, 1919, ch. 26, 41 Stat. 266; Feb. 23, 1923, ch. 106, 42 Stat. 1282; Mar. 2, 1931, ch. 366, 46 Stat. 1463; Pub. L. 97-35, title I, §158(a)(1), (2), Aug. 13, 1981, 95 Stat. 375, 376; Pub. L. 99-260, §14, Mar. 20, 1986, 100 Stat. 54; Pub. L. 101-624, title V, §508(a), (b), Nov. 28, 1990, 104 Stat. 3441, 3443; Pub. L. 102-237, title X, §1009, Dec. 13, 1991, 105 Stat. 1898; Pub. L. 102-553, §1, Oct. 28, 1992, 106 Stat. 4140. Such Act is shown herein, however, as having been added by Pub. L. 106-472, title II, §201, Nov. 9, 2000, 114 Stat. 2061, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 106-472.

§ 241. Definitions

In this chapter:

(1) Agricultural product

The term "agricultural product" means an agricultural commodity, as determined by the Secretary, including a processed product of an agricultural commodity.

(2) Approval

The term "approval" means the consent provided by the Secretary for a person to engage in an activity authorized by this chapter.

(3) Department

The term "Department" means the Department of Agriculture.

(4) Electronic document

The term "electronic document" means a document that is generated, sent, received, or stored by electronic, optical, or similar means, including electronic data interchange, electronic mail, telegram, telex, or telecopy.

(5) Electronic receipt

The term "electronic receipt" means a receipt that is authorized by the Secretary to be issued or transmitted under this chapter in the form of an electronic document.

(6) Holder

The term "holder" means a person that has possession in fact or by operation of law of a receipt or any electronic document.

(7) Person

The term "person" means—

- (A) a person (as defined in section 1 of title 1);
- (B) a State; and
- (C) a political subdivision of a State.

(8) Receipt

The term "receipt" means a warehouse receipt issued in accordance with this chapter, including an electronic receipt.

(9) Secretary

The term "Secretary" means the Secretary of Agriculture.

(10) Warehouse

The term "warehouse" means a structure or other approved storage facility, as determined by the Secretary, in which any agricultural product may be stored or handled for the purposes of interstate or foreign commerce.

(11) Warehouse operator

The term "warehouse operator" means a person that is lawfully engaged in the business of storing or handling agricultural products.

(Aug. 11, 1916, ch. 313, pt. C, §2, as added Pub. L. 106-472, title II, §201, Nov. 9, 2000, 114 Stat. 2061.)

CODIFICATION

This chapter constitutes part C of "An act making appropriations for the Department of Agriculture for the fiscal year ending June 13, 1917, and for other purposes," approved Aug. 11, 1916. Part A of act of Aug. 11, 1916, ch. 313, containing the "United States Cotton Futures Act" formerly classified to chapter 13 of Title 26, Internal Revenue Code, was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. Part B of that act contained the "United States Grain Standards Act" and constitutes section 71 et seq. of this title.

PRIOR PROVISIONS

A prior section 241, act Aug. 11, 1916, ch. 313, pt. C, §1, 39 Stat. 486, set forth short title, prior to the general amendment of this chapter by Pub. L. 106-472.

A prior section 2 of act Aug. 11, 1916, ch. 313, pt. C, was classified to section 242 of this title, prior to the general amendment of this chapter by Pub. L. 106-472.

SHORT TITLE

Act Aug. 11, 1916, ch. 313, pt. C, §1, as added by Pub. L. 106-472, title II, §201, Nov. 9, 2000, 114 Stat. 2061, provided that: "This Act [enacting this chapter] may be cited as the 'United States Warehouse Act'."

EFFECTIVE DATE; REGULATIONS

Pub. L. 106-472, title II, §202, Nov. 9, 2000, 114 Stat. 2068, provided that:

"(a) PROPOSED REGULATIONS.—Not later than 90 days after the date of the enactment of this Act [Nov. 9, 2000], the Secretary of Agriculture shall publish in the Federal Register proposed regulations for carrying out the amendment made by section 201 [enacting this chapter].

"(b) FINAL REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate final regulations for carrying out the amendment made by section 201.

"(c) EFFECTIVENESS OF EXISTING ACT.—The United States Warehouse Act (7 U.S.C. 241 et seq.) (as it existed before the amendment made by section 201) shall be effective until the earlier of—

- "(1) the date on which final regulations are promulgated under subsection (b); or
- "(2) August 1, 2001."

§ 242. Powers of Secretary

(a) In general

The Secretary shall have exclusive power, jurisdiction, and authority, to the extent that this chapter applies, with respect to—

- (1) each warehouse operator licensed under this chapter;
- (2) each person that has obtained an approval to engage in an activity under this chapter; and

(3) each person claiming an interest in an agricultural product by means of a document or receipt subject to this chapter.

(b) Covered agricultural products

The Secretary shall specify, after an opportunity for notice and comment, those agricultural products for which a warehouse license may be issued under this chapter.

(c) Investigations

The Secretary may investigate the storing, warehousing, classifying according to grade and otherwise, weighing, and certifying of agricultural products.

(d) Inspections

The Secretary may inspect or cause to be inspected any person or warehouse licensed under this chapter and any warehouse for which a license is applied for under this chapter.

(e) Suitability for storage

The Secretary may determine whether a licensed warehouse, or a warehouse for which a license is applied for under this chapter, is suitable for the proper storage of the agricultural product or products stored or proposed for storage in the warehouse.

(f) Classification

The Secretary may classify a licensed warehouse, or a warehouse for which a license is applied for under this chapter, in accordance with the ownership, location, surroundings, capacity, conditions, and other qualities of the warehouse and as to the kinds of licenses issued or that may be issued for the warehouse under this chapter.

(g) Warehouse operator's duties

Subject to the other provisions of this chapter, the Secretary may prescribe the duties of a warehouse operator operating a warehouse licensed under this chapter with respect to the warehouse operator's care of and responsibility for agricultural products stored or handled by the warehouse operator.

(h) Systems for electronic conveyance

(1) Regulations governing electronic systems

Except as provided in paragraph (2), the Secretary may promulgate regulations governing one or more electronic systems under which electronic receipts may be issued and transferred and other electronic documents relating to the shipment, payment, and financing of the sale of agricultural products may be issued or transferred.

(2) Limitations

The Secretary shall not have the authority under this chapter to establish—

- (A) one or more central filing systems for the filing of financing statements or the filing of the notice of financing statements; or
- (B) rules to determine security interests of persons affected by this chapter.

(i) Examination and audits

In addition to the authority provided under subsection (l) of this section, on request of the person, State agency, or commodity exchange, the Secretary may conduct an examination, audit, or similar activity with respect to—

(1) any person that is engaged in the business of storing an agricultural product that is subject to this chapter;

(2) any State agency that regulates the storage of an agricultural product by such a person; or

(3) any commodity exchange with regulatory authority over the storage of agricultural products that are subject to this chapter.

(j) Licenses for operation of warehouses

The Secretary may issue to any warehouse operator a license for the operation of a warehouse in accordance with this chapter if—

(1) the Secretary determines that the warehouse is suitable for the proper storage of the agricultural product or products stored or proposed for storage in the warehouse; and

(2) the warehouse operator agrees, as a condition of the license, to comply with this chapter (including regulations promulgated under this chapter).

(k) Licensing of other persons

(1) In general

On presentation of satisfactory proof of competency to carry out the activities described in this paragraph, the Secretary may issue to any person a Federal license—

(A) to inspect any agricultural product stored or handled in a warehouse subject to this chapter;

(B) to sample such an agricultural product;

(C) to classify such an agricultural product according to condition, grade, or other class and certify the condition, grade, or other class of the agricultural product; or

(D) to weigh such an agricultural product and certify the weight of the agricultural product.

(2) Condition

As a condition of a license issued under paragraph (1), the licensee shall agree to comply with this chapter (including regulations promulgated under this chapter).

(l) Examination of books, records, papers, and accounts

The Secretary may examine and audit, using designated officers, employees, or agents of the Department, all books, records, papers, and accounts relating to activities subject to this chapter of—

(1) a warehouse operator operating a warehouse licensed under this chapter;

(2) a person operating a system for the electronic recording and transfer of receipts and other documents authorized by the Secretary; or

(3) any other person issuing receipts or electronic documents authorized by the Secretary under this chapter.

(m) Cooperation with States

The Secretary may—

(1) cooperate with officers and employees of a State who administer or enforce State laws relating to warehouses, warehouse operators, weighers, graders, inspectors, samplers, or classifiers; and

(2) enter into cooperative agreements with States to perform activities authorized under this chapter.

(Aug. 11, 1916, ch. 313, pt. C, § 3, as added Pub. L. 106-472, title II, § 201, Nov. 9, 2000, 114 Stat. 2062.)

PRIOR PROVISIONS

A prior section 242, acts Aug. 11, 1916, ch. 313, pt. C, § 2, 39 Stat. 486; Feb. 23, 1923, ch. 106, 42 Stat. 1282, defined terms, prior to the general amendment of this chapter by Pub. L. 106-472. See section 241 of this title.

A prior section 3 of act Aug. 11, 1916, ch. 313, pt. C, was classified to section 243 of this title, prior to the general amendment of this chapter by Pub. L. 106-472.

§ 243. Imposition and collection of fees

(a) In general

The Secretary shall assess persons covered by this chapter fees to cover the costs of administering this chapter.

(b) Rates

The fees under this section shall be set at a rate determined by the Secretary.

(c) Treatment of fees

All fees collected under this section shall be credited to the account that incurs the costs of administering this chapter and shall be available to the Secretary without further appropriation and without fiscal year limitation.

(d) Interest

Funds collected under this section may be deposited in an interest-bearing account with a financial institution, and any interest earned on the account shall be credited under subsection (c) of this section.

(e) Efficiencies and cost effectiveness

(1) In general

The Secretary shall seek to minimize the fees established under this section by improving efficiencies and reducing costs, including the efficient use of personnel to the extent practicable and consistent with the effective implementation of this chapter.

(2) Report

The Secretary shall publish an annual report on the actions taken by the Secretary to comply with paragraph (1).

(Aug. 11, 1916, ch. 313, pt. C, § 4, as added Pub. L. 106-472, title II, § 201, Nov. 9, 2000, 114 Stat. 2064.)

PRIOR PROVISIONS

A prior section 243, act Aug. 11, 1916, ch. 313, pt. C, § 3, 39 Stat. 486, authorized investigation of warehousing, weighing, classifying, and certification of agricultural products, inspection of warehouses, and prescription of duties of warehousemen by Secretary of Agriculture, prior to the general amendment of this chapter by Pub. L. 106-472. See section 242 of this title.

A prior section 4 of act Aug. 11, 1916, ch. 313, pt. C, was classified to section 244 of this title, prior to the general amendment of this chapter by Pub. L. 106-472.

§ 244. Quality and value standards

If standards for the evaluation or determination of the quality or value of an agricultural product are not established under another Federal law, the Secretary may establish standards

for the evaluation or determination of the quality or value of the agricultural product under this chapter.

(Aug. 11, 1916, ch. 313, pt. C, § 5, as added Pub. L. 106-472, title II, § 201, Nov. 9, 2000, 114 Stat. 2064.)

PRIOR PROVISIONS

A prior section 244, acts Aug. 11, 1916, ch. 313, pt. C, § 4, 39 Stat. 486; Mar. 2, 1931, ch. 366, § 1, 46 Stat. 1463, authorized licensing of warehousemen, prior to the general amendment of this chapter by Pub. L. 106-472. See section 242 of this title.

A prior section 5 of act Aug. 11, 1916, ch. 313, pt. C, was classified to section 245 of this title, prior to the general amendment of this chapter by Pub. L. 106-472.

§ 245. Bonding and other financial assurance requirements

(a) In general

As a condition of receiving a license or approval under this chapter (including regulations promulgated under this chapter), the person applying for the license or approval shall execute and file with the Secretary a bond, or provide such other financial assurance as the Secretary determines appropriate, to secure the person's performance of the activities so licensed or approved.

(b) Service of process

To qualify as a suitable bond or other financial assurance under subsection (a) of this section, the surety, sureties, or financial institution shall be subject to service of process in suits on the bond or other financial assurance in the State, district, or territory in which the warehouse is located.

(c) Additional assurances

If the Secretary determines that a previously approved bond or other financial assurance is insufficient, the Secretary may suspend or revoke the license or approval covered by the bond or other financial assurance if the person that filed the bond or other financial assurance does not provide such additional bond or other financial assurance as the Secretary determines appropriate.

(d) Third party actions

Any person injured by the breach of any obligation arising under this chapter for which a bond or other financial assurance has been obtained as required by this section may sue with respect to the bond or other financial assurance in a district court of the United States to recover the damages that the person sustained as a result of the breach.

(Aug. 11, 1916, ch. 313, pt. C, § 6, as added Pub. L. 106-472, title II, § 201, Nov. 9, 2000, 114 Stat. 2064.)

PRIOR PROVISIONS

A prior section 245, acts Aug. 11, 1916, ch. 313, pt. C, § 5, 39 Stat. 486; Feb. 23, 1923, ch. 106, 42 Stat. 1282, related to term and renewal of license, prior to the general amendment of this chapter by Pub. L. 106-472.

A prior section 6 of act Aug. 11, 1916, ch. 313, pt. C, was classified to section 247 of this title, prior to the general amendment of this chapter by Pub. L. 106-472.

§ 246. Maintenance of records

To facilitate the administration of this chapter, the following persons shall maintain such