

forts relate to more accurately classifying types of wheat and other grains currently in use.”

INVESTIGATION AND STUDY REGARDING ADEQUACY OF GRAIN STANDARDS; CHANGES IN STANDARDS; REPORT TO CONGRESS BY OCTOBER 21, 1978

Section 24 of Pub. L. 94-582, which provided for investigation and study by Administrator of the Federal Grain Inspection Service regarding adequacy of grain standards established under this chapter in relation to needs and concerns of domestic and foreign grain buyers, with Administrator, as result of such study, to make necessary changes in grain standards, and to submit report to Congress setting forth findings of study and actions taken as result thereof not later than two years after Oct. 21, 1976, was repealed by Pub. L. 106-472, title I, §110(b), Nov. 9, 2000, 114 Stat. 2061.

**§ 77. Official inspection and weighing requirements; waiver; supervision by representatives of Secretary**

**(a) Official samples and certificates; waiver; excepted grains**

Whenever standards or procedures are effective under section 76 of this title for any grain—

(1) no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially weighed and officially inspected in accordance with such standards or procedures, and unless a valid official certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or the agent of the shipper, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided*, That the Secretary may waive the foregoing requirement in emergency or other circumstances which would not impair the objectives of this chapter: *Provided further*, That the Secretary shall waive the requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Secretary prior to shipment;

(2) except as the Secretary may provide in emergency or other circumstances which would not impair the objectives of this chapter, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards or procedure: *Provided*, That, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed; and

(3) except as otherwise authorized by the Secretary, whenever a lot of grain is both officially inspected and officially weighed while being transferred into or out of a grain elevator, warehouse, or other storage or handling

facility, an official certificate shall be issued showing both the official grade designation and the certified weight of the lot of grain.

**(b) Supervision by representatives of Secretary**

All official inspection and official weighing, whether performed by authorized employees of the Secretary or any other person licensed under section 84 of this title, shall be supervised by representatives of the Secretary, in accordance with such regulations as the Secretary may provide.

**(c) Testing for aflatoxin contamination of corn shipped in foreign commerce**

The Secretary is authorized and directed to require that all corn exported from the United States be tested to ascertain whether it exceeds acceptable levels of aflatoxin contamination, unless the contract for export between the buyer and seller stipulates that aflatoxin testing shall not be conducted.

(Aug. 11, 1916, ch. 313, pt. B, §5, 39 Stat. 483; Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 763; Pub. L. 94-582, §6, Oct. 21, 1976, 90 Stat. 2869; Pub. L. 95-113, title XVI, §1606(b), Sept. 29, 1977, 91 Stat. 1030; Pub. L. 96-437, §2, Oct. 13, 1980, 94 Stat. 1870; Pub. L. 101-624, title XX, §2007, Nov. 28, 1990, 104 Stat. 3931; Pub. L. 103-156, §12(c), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103-354, title II, §293(a)(3), (7), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 106-472, title I, §101, Nov. 9, 2000, 114 Stat. 2059.)

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106-472 struck out “(on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States)” after “officially inspected”.

1994—Pub. L. 103-354 substituted “employees of the Secretary” for “Service employees” in subsec. (b) and “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, §12(c), which directed amendment of “Section 5”, without specifying the name of the Act being amended, was executed to this section, which is section 5 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 103-156, §12(c)(1), substituted “the agent of the shipper” for “his agent”.

Subsec. (b). Pub. L. 103-156, §12(c)(2), substituted “regulations as the Administrator” for “regulations as he”.

1990—Subsec. (c). Pub. L. 101-624 added subsec. (c).

1980—Subsec. (a)(2). Pub. L. 96-437 inserted proviso that, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed.

1977—Subsec. (a). Pub. L. 95-113 substituted “standards or procedures” for “standards” wherever appearing.

1976—Subsec. (a). Pub. L. 94-582 designated existing provisions as par. (1) of subsec. (a); struck out “that is sold, offered for sale, or consigned for sale by grade” after “any lot of such grain”; inserted official weighing requirement; substituted “officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be

transported from the United States)" for "officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States"; required the certificate to show the certified weight of the lot of grain provided by official inspection personnel; substituted provision for waiver by the Administrator of requirement for official inspection certificate in emergency or other circumstances which would not impair the objectives of this chapter for provision for waiver by the Secretary of any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments; inserted provision for waiver by Administrator of requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator prior to shipment; and added pars. (2) and (3) of subsec. (a).

Subsec. (b). Pub. L. 94-582 added subsec. (b).

1968—Pub. L. 90-487 substituted provisions requiring an official inspection for export grains but authorizing the waiver of such requirements when official inspection is impracticable for provisions prohibiting misrepresentation respecting grade shipped or delivered for shipment, allowing reexamination, requiring hearing in the event of a false or misleading description, and allowing publication of findings.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

### § 78. Use of official grade designations required; false or misleading grade designations for grain shipped out of the United States

(a) Whenever standards relating to kind, class, quality, or condition of grain are effective under section 76 of this title for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: *Provided*, That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or with respect to interstate commerce, by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other criteria shall not be deemed to be a description of grain as being of any grade.

(b) No person shall, in any sale, offer for sale, or consignment for sale, of any grain which in-

volves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by any official grade designation, or other description, which is false or misleading.

(Aug. 11, 1916, ch. 313, pt. B, § 6, 39 Stat. 484; Pub. L. 85-509, July 11, 1958, 72 Stat. 352; Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 763; Pub. L. 94-582, § 7, Oct. 21, 1976, 90 Stat. 2870; Pub. L. 95-113, title XVI, § 1606(c), Sept. 29, 1977, 91 Stat. 1030.)

#### AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted "criteria" for "factor information".

1976—Subsec. (a). Pub. L. 94-582 substituted "standards relating to kind, class, quality, or condition of grain" for "standards".

1968—Pub. L. 90-487 substituted provisions requiring the use of official grade designations and prohibiting the use of false or misleading description of grain shipped out of the United States, for provisions allowing the appeal to the Secretary from official grading, authorizing the payment of additional fees for employees required in making appeal inspections, and making the findings prima facie evidence of the grain's true grade.

1958—Pub. L. 85-509 authorized payment of employees assigned to perform appeal inspection for all overtime, night, or holiday work, and permitted acceptance of reimbursement for any sums paid for such work.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90-487 provided that: "This Act [amending this section and sections 71, 74, 75, 76, 77, 79, 84, 85, 86, and 87 of this title and enacting sections 87a to 87h of this title] shall become effective one hundred and eighty days after enactment hereof [Aug. 15, 1968], except that the repeal of the mandatory inspection provisions with respect to grain shipped or delivered for shipment in interstate commerce shall become effective thirty days after enactment hereof, and the provisions of sections 6(a) and 13(a)(5) of the United States Grain Standards Act, as amended by this Act [subsec. (a) of this section and section 87b(a)(5) of this title] shall then become effective with respect to such grain."

### § 79. Official inspection

#### (a) Grain required to be officially inspected

The Secretary is authorized to cause official inspection under the standards provided for in section 76 of this title to be made of all grain required to be officially inspected as provided in section 77 of this title, in accordance with such regulations as the Secretary may prescribe.

#### (b) Inspections made pursuant to request of interested persons

The Secretary is further authorized, upon request of any interested person, and under such regulations as the Secretary may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submit-