

§ 87a. Records**(a) Samples of grain**

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter shall maintain such samples of officially inspected grain and such other records as the Secretary may by regulation prescribe for the purpose of administration and enforcement of this chapter.

(b) Period of maintenance

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall keep such records for a period of five years after the inspection, weighing, or transaction, which is the subject of the record, occurred: *Provided*, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Secretary to be maintained for not more than three years in addition to the five-year period whenever in the judgment of the Secretary the retention of such records for the longer period is necessary for the effective administration and enforcement of this chapter.

(c) Access to records; audits

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall permit any authorized representative of the Secretary or the Comptroller General of the United States to have access to, and to copy, such records at all reasonable times. The Secretary shall, from time to time, perform audits of official agencies and State agencies delegated authority of this chapter in such manner and at such periodic intervals as the Secretary deems appropriate.

(d) Maintenance of records by persons or entities receiving official inspection or weighing services; access to records and facilities

Every State, political subdivision thereof, or person who is the owner or operator of a commercial grain elevator, warehouse, or other storage or handling facility or is engaged in the merchandising of grain other than as a producer, and who, at any time, has obtained or obtains official inspection or weighing services shall maintain such complete and accurate records for such period of time as the Secretary may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter, and permit any authorized representative of the Secretary, at all reasonable times, to have access to, and to copy, such records and to have access to any grain elevator, warehouse, or other storage or handling facility used by such persons for handling of grain.

(Aug. 11, 1916, ch. 313, pt. B, §12, as added Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 766; amended Pub. L. 94-582, §14, Oct. 21, 1976, 90 Stat. 2882; Pub. L. 95-113, title XVI, §§1601, 1604(i), Sept. 29, 1977, 91 Stat. 1024, 1029; Pub. L. 103-156, §12(k), Nov. 24, 1993, 107 Stat. 1529; Pub. L. 103-354, title II, §293(a)(5)-(7), Oct. 13, 1994, 108 Stat. 3237.)

PRIOR PROVISIONS

A prior section 12 of act Aug. 11, 1916, ch. 313, pt. B, 93 Stat. 485, which appropriated a sum of \$250,000 for expenses of carrying into effect this chapter, was not classified to the Code.

AMENDMENTS

1994—Pub. L. 103-354 struck out “or Administrator” after “representative of the Secretary” in subsec. (c), struck out “or the Administrator” after “representative of the Secretary” in subsec. (d), and substituted “Secretary” for “Administrator” wherever appearing.

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

Subsec. (b). Pub. L. 103-156, §12(k)(1), substituted “the judgment of the Administrator” for “his judgment”.

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

1977—Subsecs. (a), (b). Pub. L. 95-113, §1604(i)(1), inserted “, every State agency delegated authority under this chapter,” after “official agency”.

Subsec. (c). Pub. L. 95-113, §1604(i)(1), (2), inserted “, every State delegated authority under this chapter,” after “official agency” and corrected a typographical error in Pub. L. 94-582 under which “delegate authority of this chapter” had been erroneously used instead of “delegated authority under this chapter”.

Subsec. (d). Pub. L. 95-113, §1601, substituted “shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter” for “shall, within the five-year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing of grain.”.

1976—Subsec. (a). Pub. L. 94-582 substituted “official agency” for “official inspection agency” and “Administrator” for “Secretary” and inserted reference to licensed performance of official weighing or supervision of weighing function.

Subsec. (b). Pub. L. 94-582 substituted “Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter” for “Every official inspection agency” and “Administrator” for “Secretary” in two places, increased from two to five years the period of time for keeping the records, and inserted provision for keeping the records after the weighing.

Subsec. (c). Pub. L. 94-582 substituted “Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter” for “Every official inspection agency”, provided for access to and the copying of records by any authorized representative of the Administrator or the Comptroller General, and required Administrator audits of official agencies and State agencies delegate authority.

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

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

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

MAINTENANCE OF RECORDS NOT INVOLVING OFFICIAL INSPECTION OR OFFICIAL WEIGHING

Pub. L. 103-111, title I, Oct. 21, 1993, 107 Stat. 1055, provided in part: "That hereafter, none of the funds available to the Federal Grain Inspection Service may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 [see Short Title of 1976 Amendment note set out under section 71 of this title] other than those necessary to fulfill the purposes of such Act."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-341, title I, Aug. 14, 1992, 106 Stat. 883.
 Pub. L. 102-142, title I, Oct. 28, 1991, 105 Stat. 887.
 Pub. L. 101-506, title I, Nov. 5, 1990, 104 Stat. 1324.
 Pub. L. 101-161, title I, Nov. 21, 1989, 103 Stat. 960.
 Pub. L. 100-460, title I, Oct. 1, 1988, 102 Stat. 2238.

§ 87b. Prohibited acts

(a) No person shall—

(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official mark;

(2) knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official mark, or knowingly possess, without promptly notifying the Secretary or the representative of the Secretary, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official certificate or other official form, or any device for making any official mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official mark without promptly giving such notice;

(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, weighing, or sampling of grain, or submitting grain for official inspection or official weighing or supervision of weighing knowing that it has been deceptively loaded, handled, weighed, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling or official weighing or supervision of weighing;

(4) alter any official sample of grain in any manner or, knowing that an official sample has been altered, thereafter represent it as an official sample;

(5) knowingly use any official grade designation or official mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container or officially weighed, respectively, and the grain was found to qualify for such designation or mark;

(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, or condition, or that particular facts have been established with respect to grain by official inspection under this chapter, or that any weighing service under this chapter has been performed with respect to grain;

(7) improperly influence, or attempt to improperly influence, any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this chapter or any officer or employee of the Department of Agriculture with respect to the performance of the duties of the officer, employee, or other person under this chapter;

(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this chapter or any officer or employee of the Department of Agriculture in, or on account of, the performance of the duties of the officer, employee, or other person under this chapter;

(9) falsely represent that the person is licensed or authorized to perform an official inspection or official weighing or supervision of weighing function under this chapter;

(10) use any false or misleading means in connection with the making or filing of an application for official inspection or official weighing or supervision of weighing;

(11) violate section 77, 78, 79, 79a, 79b, 84, 87, 87a, 87e, or 87f-1 of this title;

(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective weighing equipment; or

(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in grain, or the authorized agent of any such person, from observing the loading of the grain inspected under this chapter and the weighing, sampling, and inspection of such grain under conditions prescribed by the Secretary.

(b) No person licensed or authorized to perform any function under this chapter shall—

(1) commit any offense prohibited by subsection (a);

(2) knowingly perform improperly any official sampling or other official inspection or weighing function under this chapter;

(3) knowingly execute or issue any false or incorrect official certificate or other official form; or

(4) accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty.

(c) An offense shall be deemed to have been committed knowingly under this chapter if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

(d)(1) Subject to paragraphs (2) and (3), to ensure the quality of grain marketed in or exported from the United States—