

weighing shall be subject to the provisions of subsection (b) of this section. The term "use of official inspection service" shall be deemed to refer to the use of the services provided under such a delegation or designation.

(4) If a State or local governmental agency is delegated authority to perform official inspection or official weighing or supervision of weighing, or a State or local governmental agency is designated as an official agency, the Secretary shall specify the officials and other personnel thereof to which the conflict of interest provisions of this subsection (b) apply.

(5) Notwithstanding the foregoing provisions of this subsection, the Secretary may delegate authority to a State agency or designate a governmental agency, board of trade, chamber of commerce, or grain exchange to perform official inspection or perform official weighing or supervision of weighing except that for purposes of supervision of weighing only, the Secretary may also designate any other person, if the Secretary determines that any conflict of interest which may exist between the agency or person or any member, director, officer, employee, or stockholder thereof and any business involving the transportation, storage, merchandising, or other handling of grain or use of official inspection or weighing service is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by such agency. Whenever the Secretary makes such a determination and makes a delegation or designation to an agency that has a conflict of interest otherwise prohibited by this subsection, the Secretary shall, within thirty days after making such a determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, detailing the factual bases for such determination.

(c) Official agencies or State agencies not prevented from engaging in business of weighing grain

The provisions of this section shall not prevent an official agency or State agency delegated authority under this chapter from engaging in the business of weighing grain.

(Aug. 11, 1916, ch. 313, pt. B, §11, 39 Stat. 485; Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 766; Pub. L. 94-582, §13, Oct. 21, 1976, 90 Stat. 2880; Pub. L. 95-113, title XVI, §§1604(h), 1606(g), Sept. 29, 1977, 91 Stat. 1028, 1030; Pub. L. 103-156, §12(j), Nov. 24, 1993, 107 Stat. 1529; Pub. L. 103-354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 103-437, §4(a)(1), Nov. 2, 1994, 108 Stat. 4581.)

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103-354 substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (b)(5). Pub. L. 103-437 substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry".

1993—Pub. L. 103-156, §12(j), which directed amendment of "Section 11", without specifying the name of the Act being amended, was executed to this section, which is section 11 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §12(j)(1), substituted "the Administrator" for "he" before "determines".

Subsec. (b)(1). Pub. L. 103-156, §12(j)(2)(A), substituted "the producer" for "he".

Subsec. (b)(5). Pub. L. 103-156, §12(j)(2)(B), substituted "the Administrator" for "he" in two places.

1977—Subsec. (b)(3). Pub. L. 95-113, §1604(h)(1), substituted "to perform official weighing or supervision of weighing" for "to perform supervision of weighing".

Subsec. (b)(4). Pub. L. 95-113, §1606(g), substituted "official weighing or supervision of weighing" for "official weighing".

Subsec. (b)(5). Pub. L. 95-113, §1604(h)(2), substituted "to perform official inspection or perform official weighing or supervision of weighing except that" for "to perform official inspection or perform supervision of weighing except that" and "member, director, officer" for "member, officer".

Subsec. (c). Pub. L. 95-113, §1604(h)(3), inserted "or State agency delegated authority under this chapter" after "official agency".

1976—Subsec. (a). Pub. L. 94-582, §13(a)-(c), substituted "Administrator" for "Secretary" wherever appearing and "perform any official function" for "perform any official inspection function", and designated first paragraph provisions, as amended, as subsec. (a), respectively.

Subsecs. (b), (c). Pub. L. 94-582, §13(c), added subsecs. (b) and (c).

1968—Pub. L. 90-487 substituted provisions prohibiting a conflict of interest on the part of inspectors who are interested financially in a grain elevator or in grain merchandising, for provisions covering the separability of provisions of this chapter.

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.

§ 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 main-

tained 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, 39 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—