

person shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than \$20,000, or both such imprisonment and fine" for "but if such offense is committed after one conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year, or a fine of not more than \$5,000, or both such imprisonment and fine".

Subsec. (b). Pub. L. 94-582 substituted "Administrator" for "Secretary" and inserted provision that nothing in this chapter shall be construed as requiring the Administrator to report any violation of this chapter for prosecution when he believes that institution of a proceeding under section 86 of this title will obtain compliance with this chapter and he institutes such a proceeding.

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

#### 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.

### § 87d. Responsibility for acts of others

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of the employment or office of the official, agent, or other person shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

(Aug. 11, 1916, ch. 313, pt. B, §15, as added Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 768; amended Pub. L. 103-156, §12(n), Nov. 24, 1993, 107 Stat. 1529.)

#### AMENDMENTS

1993—Pub. L. 103-156, which directed amendment of "Section 15" by substituting "the employment or office of the official, agent, or other person" for "his employment or office", without specifying the name of the Act being amended, was executed to this section, which is section 15 of the United States Grain Standards Act, to reflect the probable intent of Congress.

#### 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.

### § 87e. General authorities

#### (a) Authority of Secretary

The Secretary is authorized to conduct such investigations; hold such hearings; require such reports from any official agency, any State agency delegated authority under this chapter, licensee, or other person; and prescribe such rules, regulations, and instructions, as the Secretary deems necessary to effectuate the purposes or provisions of this chapter. Such regulations may require, as a condition for official inspection or official weighing or supervision of weighing, among other things, (1) that there be installed specified sampling, handling, weighing,

and monitoring equipment in grain elevators, warehouses, and other grain storage or handling facilities, (2) that approval of the Secretary be obtained as to the condition of vessels and other carriers or receptacles for the transporting or storing of grain, and (3) that persons having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and official inspection thereof, under conditions prescribed by the Secretary. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this chapter shall be determined by tests made in accordance with such procedures as the Secretary may adopt to effectuate the objectives of this chapter, if the relevant facts are determinable by such tests. Proceedings under section 85 of this title for refusal to renew, or for suspension or revocation of, a license shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5.

#### (b) Investigation of reports or complaints of discrepancies and abuses in official inspection or weighing of grain

The Secretary is authorized to investigate reports or complaints of discrepancies and abuses in the official inspection and weighing of grain under this chapter. The Secretary shall prescribe by regulation procedures for (1) promptly investigating (A) complaints of foreign grain purchasers regarding the official inspection or official weighing of grain shipped from the United States, (B) the cancellation of contracts for the export sale of grain required to be inspected or weighed under this chapter, and (C) any complaint regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints.

#### (c) Monitoring of United States grain upon its entry into foreign nations

The Secretary is authorized to cause official inspection personnel to monitor in foreign nations which are substantial importers of grain from the United States, grain imported from the United States upon its entry into the foreign nation, to determine whether such grain is of a comparable kind, class, quality, and condition after considering the handling methods and conveyance utilized at the time of loading, and the same quantity that it was certified to be upon official inspection and official weighing in the United States.

#### (d) Authority of Office of Investigation of Department of Agriculture

The Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture) shall conduct such investigations regarding the operation or administration of this chapter or any official transaction with which this chapter is con-