

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

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, 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.

BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY

Administrator of Federal Grain Inspection Service to estimate economic impact, including benefits and costs and distribution of such benefits and costs, of any major changes necessary to carry out amendments to this section by title XX of Pub. L. 101-624 prior to making such changes, see section 2003 of Pub. L. 101-624, set out as a note under section 76 of this title.

CROSS REFERENCES

Punishment for violating the provisions of this section, see section 87c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 85, 86, 87c of this title.

§ 87c. Criminal penalties

(a) Any person who commits any offense prohibited by section 87b of this title (except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case the person shall be subject to the general penal statutes in title 18 relating to crimes and offenses against the United States) 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.

(b) Nothing in this chapter shall be construed as requiring the Secretary to report minor violations of this chapter for criminal prosecution whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning, or to report any violation of this chapter for prosecution when the Secretary believes that institution of a proceeding under section 86 of this title will obtain compliance with this chapter and the Secretary institutes such a proceeding.

(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this chapter shall be considered as an employee of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of Title 18.

(Aug. 11, 1916, ch. 313, pt. B, §14, as added Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 767; amended Pub. L. 94-582, §17, Oct. 21, 1976, 90 Stat. 2884; Pub. L. 103-156, §§8, 12(m), Nov. 24, 1993, 107 Stat. 1527, 1529; Pub. L. 103-354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, §12(m), which directed amendment of “Section 14”, without specifying the name of the Act being amended, was executed to this section, which is section 14 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §§8, 12(m)(1), substituted “the person” for “he”, and struck out “shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than twelve months, or a fine of not more than \$10,000, or both such imprisonment and fine; but, for each subsequent offense subject to this subsection, such person” before “shall be guilty of a felony”.

Subsec. (b). Pub. L. 103-156, §12(m)(2), substituted “the Administrator” for “he” in three places.

1976—Subsec. (a). Pub. L. 94-582 inserted “(except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case he shall be subject to the general penal statutes in Title 18 relating to crimes and offenses against the United States)”, increased the punishment for misdemeanors from six months to twelve months and the fine from \$3,000 to \$10,000, and denominated subsequent offenses as felonies, substituting “but, for each subsequent offense subject to this subsection, such 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

For effective date of amendment by Pub. L. 94-582, see section 27 of Pub. L. 94-582, 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 86 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 concerned, as the Director thereof deems necessary to assure the integrity of official inspection and weighing under this chapter.

(e) Research program to develop methods of improving accuracy and uniformity in grading grain

The Secretary is authorized to conduct, in cooperation with other agencies within the Department of Agriculture, a continuing research program for the purpose of developing methods to improve accuracy and uniformity in grading grain.

(f) Adequate personnel to meet inspection and weighing requirements

To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 74 of this title, the Secretary shall, notwithstanding any other provision of law, provide adequate personnel to meet the inspection and weighing requirements of this chapter.

(g) Testing of certain weighing equipment

(1) Subject to paragraph (2), the Secretary may provide for the testing of weighing equipment used for purposes other than weighing grain. The testing shall be performed—

(A) in accordance with such regulations as the Secretary may prescribe; and

(B) for a reasonable fee established by regulation or contractual agreement and sufficient to cover, as nearly as practicable, the estimated costs of the testing performed.

(2) Testing performed under paragraph (1) may not conflict with or impede the objectives specified in section 74 of this title.

(h) Testing of grain inspection instruments

(1) Subject to paragraph (2), the Secretary may provide for the testing of grain inspection instruments used for commercial inspection. The testing shall be performed—

(A) in accordance with such regulations as the Secretary may prescribe; and