

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87b 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 involves 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.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87b of this title.

§ 79. Official inspection

(a) Grain required to be officially inspected

The Secretary is authorized to cause official inspection under the standards provided for in