

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 86, 87e, 87f-2, 87j of this title.

§ 75. Definitions

When used in this chapter, except where the context requires otherwise—

(a) the term “Secretary” means the Secretary of Agriculture of the United States or delegates of the Secretary;

(b) the term “Department of Agriculture” means the United States Department of Agriculture;

(c) the term “person” means any individual, partnership, corporation, association, or other business entity;

(d) the term “United States” means the States (including Puerto Rico) or territories and possessions of the United States (including the District of Columbia);

(e) the term “State” means any one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

(f) the term “interstate or foreign commerce” means commerce from any State to or through any other State, or to or through any foreign country;

(g) the term “grain” means corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 76 of this title;

(h) the term “export grain” means grain for shipment from the United States to any place outside thereof;

(i) the term “official inspection” means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards provided for in this chapter, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or other facts relating to grain under other criteria approved by the Secretary under this chapter (the term “officially inspected” shall be construed accordingly);

(j) the term “official inspection personnel” means persons licensed or otherwise authorized by the Secretary pursuant to section 84 of this title to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing;

(k) the term “official mark” means any symbol prescribed by regulations of the Secretary to show the official determination of official inspection or official weighing;

(l) the term “official grade designation” means a numerical or sample grade designation, specified in the standards relating to kind, class, quality, and condition of grain, provided for in this chapter;

(m) the term “official agency” means any State or local governmental agency, or any person, designated by the Secretary pursuant to subsection (f) of section 79 of this title for

the conduct of official inspection (other than appeal inspection), or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing);

(n) the terms “official certificate” and “official form” mean, respectively, a certificate or other form prescribed by regulations of the Secretary under this chapter;

(o) the term “official sample” means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term “official sampling” shall be construed accordingly);

(p) the term “submitted sample” means a sample submitted by or for an interested person for official inspection, other than an official sample;

(q) the term “lot” means a specific quantity of grain identified as such;

(r) the term “interested person” means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

(s) the verb “ship” with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one’s own grain by any means of conveyance;

(t) the terms “false”, “incorrect”, and “misleading” mean, respectively, false, incorrect, and misleading in any particular;

(u) the term “deceptive loading, handling, weighing, or sampling” means any manner of loading, handling, weighing, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Secretary under this chapter;

(v) the term “export elevator” means any grain elevator, warehouse, or other storage or handling facility in the United States as determined by the Secretary, from which grain is shipped from the United States to an area outside thereof;

(w) the term “export port location” means a commonly recognized port of export in the United States or Canada, as determined by the Secretary, from which grain produced in the United States is shipped to any place outside the United States;

(x) the term “official weighing” means the determination and certification by official inspection personnel of the quantity of a lot of grain under standards provided for in this chapter, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales and the physical inspection of the premises at which the weighing is performed and the monitoring of the discharge of grain into the elevator or conveyance (the terms “officially weigh” and “officially weighed” shall be construed accordingly);

(y) the term “supervision of weighing” means such supervision by official inspection personnel of the grain-weighing process as is determined by the Secretary to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set

forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance; and

(z) the term “intracompany shipment” means the shipment, within the United States, of grain lots between facilities owned or controlled by the person owning the grain. The shipment of grain owned by a cooperative, from a facility owned by that cooperative, to an export facility which it jointly owns with other cooperatives, qualifies as an intracompany shipment.

(Aug. 11, 1916, ch. 313, pt. B, § 3, 39 Stat. 483; Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 761; Pub. L. 94-582, § 3, Oct. 21, 1976, 90 Stat. 2867; Pub. L. 95-113, title XVI, §§ 1604(a), 1606(a), Sept. 29, 1977, 91 Stat. 1026, 1030; Pub. L. 96-437, § 1, Oct. 13, 1980, 94 Stat. 1870; Pub. L. 102-237, title X, § 1007(1), Dec. 13, 1991, 105 Stat. 1897; Pub. L. 103-156, § 12(a), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103-354, title II, § 293(a)(1), (7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing in subsecs. (i) to (k), (m), (n), (u) to (w), and (y), redesignated subsec. (bb) as (z), and struck out former subsecs. (z) and (aa) which read as follows:

“(z) the term ‘Administrator’ means the Administrator of the Federal Grain Inspection Service or delegates of the Administrator;

“(aa) the term ‘Service’ means the Federal Grain Inspection Service; and”.

1993—Pub. L. 103-156, § 12(a), which directed amendment of “Section 3”, without specifying the name of the Act being amended, was executed to this section, which is section 3 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, § 12(a)(1), substituted “delegates of the Secretary” for “his delegates”.

Subsec. (z). Pub. L. 103-156, § 12(a)(2), substituted “delegates of the Administrator” for “his delegates”.

1991—Subsecs. (i) to (k), (u) to (x), (z), (aa). Pub. L. 102-237 substituted “the” for “The” before “term”.

1980—Subsec. (bb). Pub. L. 96-437 added subsec. (bb).

1977—Subsec. (g). Pub. L. 95-113, § 1604(a)(1), substituted “sorghum” for “grain sorghum”.

Subsec. (i). Pub. L. 95-113, § 1606(a), struck out reference to the determination of the quantity of sacks of grain upon the request of the interested party applying for inspection.

Subsec. (m). Pub. L. 95-113, § 1604(a)(2), substituted “or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing)” for “or subsection (b) of section 79a of this title for the conduct of supervision of weighing”.

Subsec. (x). Pub. L. 95-113, § 1604(a)(3), substituted “under standards provided for in this chapter” for “under standards provided in this chapter”.

Subsec. (y). Pub. L. 95-113, § 1604(a)(4), substituted “such supervision by official inspection personnel of the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance” for “the supervision of the weighing process

and of the certification of the weight of grain, and the physical inspection of the premises at which the weighing is performed to assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance represented on the weight certificate or other document”.

1976—Subsec. (i). Pub. L. 94-582, § 3(a), substituted “Administrator” for “Secretary”, and expanded definition of “official inspection” to include determination “(by original inspection, and when requested, reinspection and appeal inspection)” and determination and certification of the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of the grain.

Subsec. (j). Pub. L. 94-582, § 3(b), in redefining “official inspection personnel”, substituted provision declaring term to mean “persons licensed or otherwise authorized by the Administrator pursuant to section 84 of this title to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing” for “employees of State or other governmental agencies or commercial agencies or other persons who are licensed to perform all or specified functions involved in official inspection under this chapter; employees of the Department of Agriculture who are authorized to supervise official inspection and to conduct appeal inspection or initial inspection of United States grain in Canadian ports”.

Subsec. (k). Pub. L. 94-582, § 3(c), substituted “Administrator” for “Secretary” and “official inspection or official weighing” for “an official inspection”.

Subsec. (l). Pub. L. 94-582, § 3(d), substituted “standards relating to kind, class, quality, and condition of grain,” for “standards”.

Subsec. (m). Pub. L. 94-582, § 3(e), substituted definition of “official agency” meaning “any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (b) of section 79a of this title for the conduct of supervision of weighing” for definition of “official inspection agency” meaning “the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under this chapter”.

Subsec. (n). Pub. L. 94-582, § 3(f), substituted “Administrator” for “Secretary”.

Subsec. (u). Pub. L. 94-582, § 3(g), included within term defined and its definition the concept of “weighing” and substituted “Administrator” for “Secretary”.

Subsecs. (v) to (aa). Pub. L. 94-582, § 3(h), added subsecs. (v) to (aa).

1968—Pub. L. 90-487 substituted provisions defining terms used in the chapter for provisions that the standards fixed and established by the Secretary of Agriculture be known as the official grain standards of the United States.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 16 of Pub. L. 103-156 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act [amending this section and sections 75a to 77, 79 to 79b, 79d, 84 to 87e, 87f, 87f-1, 87h, 87j, and 87k of this title and repealing provisions set out as a note under section 79 of this title] shall take effect on the date of the enactment of this Act [Nov. 24, 1993].

“(b) SPECIAL EFFECTIVE DATE FOR CERTAIN PROVISIONS.—The amendments made by sections 2, 3, and 13(a) [amending sections 79d and 87h of this title and repealing provisions set out as a note under section 79 of this title] shall take effect as of September 30, 1993.”

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 title 49 sections 10709, 11101.

§ 75a. Repealed. Pub. L. 103-354, title II, § 293(a)(2), Oct. 13, 1994, 108 Stat. 3237

Section, act Aug. 11, 1916, ch. 313, pt. B, § 3A, as added Oct. 21, 1976, Pub. L. 94-582, § 4, 90 Stat. 2868; amended Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1604(b), 91 Stat. 1026; Nov. 24, 1993, Pub. L. 103-156, § 15, 107 Stat. 1530, established Federal Grain Inspection Service in Department of Agriculture and provided for cost containment plan to make the Service more efficient.

§ 75b. Omitted

CODIFICATION

Section, Pub. L. 101-624, title XX, § 2002, Nov. 28, 1990, 104 Stat. 3928, provided for establishment of Committee on Grain Quality and Grain Quality Coordinator, established duties of Coordinator with respect to grain quality and competitiveness, and provided for termination of section on Jan. 1, 2001.

§ 76. Standards and procedures; establishment, amendment, and revocation

(a) Authority of Secretary

The Secretary is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and such other grains as in the judgment of the Secretary the usages of the trade may warrant and permit, and (2) standards or procedures for accurate weighing and weight certification and controls, including safeguards over equipment calibration and maintenance, for grain shipped in interstate or foreign commerce; and the Secretary is authorized to amend or revoke such standards or procedures whenever the necessities of the trade may require.

(b) Notice and opportunity for comment; standards regarding cleanliness of grain

(1) Before establishing, amending, or revoking any standards under this chapter, the Secretary shall publish notice of the proposals and give interested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this chapter shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.

(2)(A)(i) If the Secretary determines that the establishment or amendment of standards regarding cleanliness conditions of wheat, corn, barley, sorghum and soybeans that meet the re-

quirements for grade number 3 or better (as set forth in subparagraph (B)) would—

(I) enhance the competitiveness of exports of wheat, corn, barley, sorghum and soybeans from the United States with wheat, corn, barley, sorghum and soybean exports marketed by other major exporters;

(II) result in the maintenance or expansion of the United States export market share for wheat, corn, barley, sorghum and soybeans;

(III) result in the maintenance or increase of United States producer income; and

(IV) be in the interest of United States agriculture, taking into consideration technical constraints, economic benefits and costs to producers and industry, price competitiveness, and importer needs;

the Secretary shall establish or amend the standards to include economically and commercially practical levels of cleanliness for wheat, corn, barley, sorghum and soybeans.

(ii) The Secretary shall make a finding under this subsection for grain of the type described in clause (i) as soon as practicable after November 28, 1990.

(B)(i) In establishing requirements for cleanliness characteristics, the Secretary shall—

(I) consider technical constraints, economic benefits and costs to producers and industry, the price competitiveness of United States agricultural production, and levels of cleanliness met by major competing nations that export wheat, corn, barley, sorghum and soybeans;

(II) promulgate regulations after providing for notice and an opportunity for public comment; and

(III) phase in any requirements for cleanliness characteristics by incrementally decreasing the levels of the objectionable material permitted in shipments of grade number 3 or better wheat, corn, barley, sorghum and soybeans.

(ii) Following the phase-in period referred to in clause (i)(III), subsequent revision of cleanliness requirements shall be conducted consistent with the schedule of the Secretary for reviewing grain standards.

(C) If the Secretary determines to establish requirements for cleanliness characteristics under this section, the Secretary shall ensure that such requirements are fully implemented not later than 6 years after November 28, 1990.

(c) Grade determining factors related to physical soundness and purity; notice and opportunity for comment

(1) In establishing standards under subsection (a) of this section for each grain for which official grades are established, the Secretary shall establish for each such grain official grade-determining factors and factor limits that reflect the levels of soundness and purity that are consistent with end-use performance goals of the major foreign and domestic users of each such grain. Such factors and factor limits for grades number 3 and better shall provide users of such standards the best possible information from which to determine end-use product quality. The Secretary shall establish factors and factor limits that will provide that grain meeting the re-