

TITLE 7 - AGRICULTURE

CHAPTER 3 - GRAIN STANDARDS

§ 87. Conflicts of interest

(a) Prohibition with respect to persons licensed or authorized by Secretary to perform official functions

No person licensed or authorized by the Secretary to perform any official function under this chapter, or employed by the Secretary in otherwise carrying out any of the provisions of this chapter, shall, during the term of such license, authorization, or employment,

(a) be financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, or

(b) be in the employment of, or accept gratuities from, any such entity, or

(c) be engaged in any other kind of activity specified by regulation of the Secretary as involving a conflict of interest: Provided, however, That the Secretary may license qualified employees of any grain elevators or warehouses to perform official sampling functions, under such conditions as the Secretary may by regulation prescribe, and the Secretary may by regulation provide such other exceptions to the restrictions of this section as the Secretary determines are consistent with the purposes of this chapter.

(b) Prohibition with respect to personnel of official or State agencies and business or governmental entities related to such agencies; substantial stockholder; use of official inspection service; authority delegation; report to Congressional committees

(1) No official agency or a State agency delegated authority under this chapter, or any member, director, officer, or employee thereof, and no business or governmental entity related to any such agency, shall be employed in or otherwise engaged in, or directly or indirectly have any stock or other financial interest in, any business involving the commercial transportation, storage, merchandising, or other commercial handling of grain, or the use of official inspection service (except that in the case of a producer such use shall not be prohibited for grain in which the producer does not have an interest); and no business or governmental entity conducting any such business, or any member, director, officer, or employee thereof, and no other business or governmental entity related to any such entity, shall operate or be employed by or directly or indirectly have any stock or other financial interest in, any official agency or a State agency delegated inspection authority. Further, no substantial stockholder in any incorporated official agency shall be employed in or otherwise engaged in, or be a substantial stockholder in any corporation conducting any such business, or directly or indirectly have any other kind of financial interest in any such business; and no substantial stockholder in any corporation conducting such a business shall operate or be employed by or be a substantial stockholder in, or directly or indirectly have any other kind of financial interest in, any official agency.

(2) A substantial stockholder of a corporation shall be any person holding 2 per centum or more, or one hundred shares or more, of the voting stock of the corporation, whichever is the lesser interest. Any entity shall be considered to be related to another entity if it owns or controls, or is owned or controlled by, such other entity, or both entities are owned or controlled by another entity.

(3) Each State agency delegated official weighing authority under section 79a of this title and each State or local agency or other person designated by the Secretary under such section to perform official weighing or supervision of 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.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscp.html>).

(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.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

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.