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USDA's United States Grain Standards Act: *Missouri*



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USDA's United States Grain Standards Act: Missouri

Mo. Ann. Stat. §§ 265.010 through 265.080; 265.110

Mo. Ann. Stat. §§ 265.500 through 265.515

Mo. Ann. Stat. § 411.030; 411.070; 411.100; 411.145; 411.160; 411.170;
411.200; 411.321; 411.323

§ 265.010. Definitions.

As used in this chapter, the following words and terms shall have the meaning indicated:

- (1) "Agricultural products" shall include horticultural, viticultural, dairy, bee, and any farm product;
- (2) "Bushel", as applied to apples, when sold by the volume shall be 2150.4 cubic inches, and when sold by weight, means forty-eight pounds;
- (3) "Director" means the director of the department of agriculture of Missouri;
- (4) "Grower", as applied to apples, any person owning or operating an orchard and engaged in the production in Missouri of apples for sale;
- (5) "Packer", as applied to apples, any person who packs apples for shipment or sale;
- (6) "Processing" or "manufacturing", as applied to apples, the commercial drying, dehydrating, canning, pressing, powdering, extracting or use in producing or manufacturing a by-product or manufactured article;
- (7) "Shipment" and "shipped", as applied to apples, shall be deemed to take place when the apples are loaded in the railroad car, motor vehicle, boat, wagon, or other conveyance to be transported. Apples being moved from the orchard where grown to a packing house or warehouse within the immediate area of production shall not be deemed a shipment or to be shipped;
- (8) "Shipper", as applied to apples, any person who moves apples in the channels of trade, whether retail, wholesale or by consignment.

§ 265.020. Director to promulgate standards – rulemaking, procedure.

In order to promote, protect, further, and develop the agricultural interests of this state the director is hereby authorized and empowered after investigation and public hearing



to fix and promulgate rules for grading and classifying any or all agricultural products grown or produced in this state and to fix and promulgate rules for containers of farm products and change any of them from time to time. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

§ 265.030. Director to specify dates when standards become effective.

In promulgating the standards or any alterations or modifications of such standards the director shall specify the date or dates when the same shall become effective and shall give public notice not less than thirty days in advance of such date or dates by such means as he deems proper, and he is hereby authorized and empowered to employ reasonable methods for diffusing information concerning the standard that may be fixed by him for any agricultural product or container.

§ 265.040. Authorized to cooperate with United States or any department.

The director is authorized to fix and promulgate rules for this state for any agricultural product or container the standard for such product or container which may have been promulgated or announced therefor under the authority of the Congress of the United States, and in carrying out the provisions of this chapter the director is authorized to cooperate with the United States or any department thereof in accomplishing the matters and things provided for herein.

§ 265.050. Appointment of agents – bond – action on bond.

The director may appoint employees and agents to assist in carrying out the provisions of this chapter, and may fix their compensation. The director may require any such employee or agent and any inspector licensed under this chapter to execute and file with him a good and sufficient bond, payable to the state, in such sum, not exceeding one thousand dollars and with such sureties, as he may prescribe, conditioned upon the faithful performance of such employee, agent or licensed inspector of his duties as such employee, agent, or licensed inspector. Any person injured by the failure of such employee, agent or licensed inspector faithfully to perform such duties shall be entitled to sue on such bond in his own name in any court of competent jurisdiction for the recovery of such damages as he may have sustained by reason of such failure.

§ 265.060. Appointment of inspectors – fees – suspension or revocation of license.

1. The director, at the request of interested producers, may designate any competent employee or agent of the department of agriculture and may license any other competent person and collect a reasonable fee for such license, to inspect and classify agricultural products in accordance with regulations established for the protection of the consuming public. The director may revoke any license for cause after a hearing or suspend any license temporarily without a hearing.



2. The director may determine the amount needed and collect from the producers sufficient money to defray the shipping point inspection costs, and the general assembly may appropriate funds from general revenue to be used for supervisory costs of the inspection service.

§ 265.070. Appeal of inspector's decision – reasonable fee.

Whenever any quantity of any agricultural product shall have been inspected hereunder and a question arises as to whether the certificate issued therefor shows the true grade, classification, quality or condition of such product, any interested person, subject to such regulations as the director may prescribe, may appeal the question to him and he is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine and issue a finding of the true grade or classification of the product or of the quality or condition thereof. Whenever an appeal shall be taken to the director under this chapter, he shall charge and assess and collect, or cause to be collected, a reasonable fee, to be fixed by him which shall be refunded if the appeal is sustained.

§ 265.080. Certificate to be prima facie evidence.

A certificate when not superseded by a finding on appeal, or a finding on appeal of the grade, classification, quality or condition of any agricultural product, issued under this chapter and all certificates issued under authority of the Congress of the United States relating to the grade, classification, quality or condition of agricultural products shall be accepted in any court of this state as prima facie evidence of the true grade, classification, condition or quality of such agricultural product at the time of its inspection.

§ 265.110. Misrepresentation of grade, classification, quality or condition – penalty.

If any quantity of any agricultural product shall have been inspected and a certificate issued hereunder showing the grade, classification, quality or condition thereof no person shall represent that the grade, classification, quality or condition of such product at the time and place of such inspection was other than as shown by such certificate. Whenever any standard for the grading or classification of any agricultural product becomes effective under this chapter, it shall be unlawful in or in connection with any transaction or transactions involving such product in commerce subject to the jurisdiction of this state or in any publication in this state of a price or prices for or in connection with such transaction or transactions for any person to indicate the grade of any agricultural product which is of or within the grades fixed in said standard for such product by any name, description or designation or any system of names, descriptions or designations not used in said standard. Whenever any standard for a container for an agricultural product becomes effective under this chapter, no person thereafter shall manufacture for commerce within the jurisdiction of this state, or sell, ship, or offer for sale in such commerce any container, either filled or unfilled, to which the standard is applicable which does not comply with such standard subject to such tolerances as may be permitted under this chapter. Any person violating this section shall be guilty of a



misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars or not more than one hundred dollars.

§ 265.500. Grain samples – sample sealed, when – state inspection, when – federal inspection, when – cost, how paid.

1. Whenever the value of grain is established by analysis of a drawn sample, the seller of the grain may request in writing at the time the sample is taken that the sample be divided into two equal parts, one of which shall be sealed in an airtight container.

2. Upon written request, the buyer must keep the sealed sample for a twenty-four hour period, except that weekends or holidays shall not be included in the mandatory twenty-four hour period. During the designated period the seller may cause the sample to be delivered to an official Missouri grain inspection office by the buyer. The seller shall bear all costs of securing the official test and the results of the official test shall be the basis of payment. If either the seller or buyer is* dissatisfied with the results of the test, an official federal test may be requested by either the buyer or seller at the cost of the person requesting the test and such findings shall be binding on all parties thereto.

§ 265.505. Duties and powers of director of the department of agriculture.

The director of the department of agriculture is hereby authorized and may establish all necessary and reasonable regulations and fees for carrying out the provisions of sections 265.500 to 265.515. No regulation, or any amendment or repeal thereof, provided for in sections 265.500 to 265.515 shall be adopted, except after public hearing to be held after no less than twenty days prior legal notice by advertisement of the date, time, and place of hearing. In establishing regulations for carrying out the provisions of sections 265.500 to 265.515 the director shall by regulation provide for containers for samples which will maintain the sample in the same condition as when taken, and provide for seals for the sample containers which will insure against tampering.

§ 265.510. Violation, penalty for.

An intentional violation of the provisions of sections 265.500 to 265.515 by any person or persons sampling grain for the purpose of determining the price thereof shall be deemed a misdemeanor and, upon conviction, shall be fined a sum not to exceed five hundred dollars.

§ 265.515. Rules of director, ratification of.

All rules and regulations promulgated by the director of the department of agriculture under the terms of sections 265.500 to 265.515 shall stand ratified unless rescinded by the general assembly by bill or concurrent resolution.



§ 411.030. Department of agriculture to grade and weigh grains – operate laboratories and stations – supervise warehouses – federally owned grain, duties.

1. The department shall have the exclusive right to officially inspect and grade all grains for which standards have been established under the United States Grain Standards Act and certify the grades thereof at all places where inspection points of the department are established, except that the owner may direct that his grain may not be inspected by writing or stamping upon the bill of lading therefor the words "no inspection desired" or other words of similar meaning or by other timely notice given the department in writing that no inspection is desired and may officially inspect grain in public or private warehouses or industries upon application of the owner or operator thereof and their agreement to guarantee operating costs.
2. The department shall have the exclusive right to officially weigh or supervise the actual weighing of grain in licensed terminal warehouses subject to the provisions of this chapter, unless the owner or his agent indicates that no official weights are desired and may officially weigh or supervise the actual weighing of grain in public or private warehouses or industries upon application of the owners or operators thereof and their agreement to guarantee the operating costs.
3. Nothing in this chapter shall limit or abrogate the right of grain exchanges or boards of trade to weigh or supervise the weighing of grain in private warehouses and public warehouses.
4. The department is authorized in the discretion of the director to establish, maintain and operate chemical laboratories and inspection and weighing stations covering all or any part of its services at important railway terminals and points where organized grain markets are regularly maintained, and at other points where operating costs are guaranteed by special arrangements with the industries served or the managing officers in charge thereof.
5. The department shall also inspect and weigh and otherwise service grain stored, owned or controlled by the United States of America or any of its agencies, upon request therefor by the United States of America or its agencies, located in temporary warehouses within this state, upon request and approval of the owners or operators of such unlicensed warehouses, and further upon receiving agreement to guarantee to the department the operating costs of such additional services. The department shall not infringe where services are performed by grain exchanges or boards of trade.

§ 411.070. Director – powers and duties – rules, procedure.

1. The director shall:

- (1) Supervise the handling, sampling, inspection, weighing and storage of grain in warehouses as required by this chapter;
- (2) Supervise protein or other chemical analysis of grain where laboratories are now or may hereafter be established;



- (3) Keep proper records of all sampling, inspection, weighing, protein or other chemical analysis performed under the provisions of this chapter;
- (4) Employ, fix the salaries and pay all necessary personnel required to administer, execute and perform the duties required by the provisions of this chapter, including warehouse auditors whose duties may include making examinations, audits, inspections and investigations authorized under this chapter;
- (5) Cause the operations of warehousemen licensed under this chapter to be examined. The examinations may include an audit of all grain and all books, documents and records pertaining to the warehousemen's business operations, to determine whether the interests of producers, shippers and receivers of grain and the holders of warehouse receipts are adequately protected and safeguarded;
- (6) Take such action or issue such orders as necessary to prevent any fraud upon or discrimination against depositors of grain in warehouses. If upon examination, a deficiency is found to exist between physical inventory and the warehouseman's obligations, the director may require an examiner to remain at the warehouse and monitor all operations conducted thereat, involving grain stored under the provisions of this chapter, until such deficiency is corrected.

2. The director may:

- (1) Promulgate and adopt such regulations in accordance with the provisions of chapter 536 as may be necessary for the efficient and effective enforcement of this chapter;
- (2) Designate an employee of the department to act as his designated representative;
- (3) Publish such data in connection with the administration of this chapter as may be of public interest;
- (4) Require any forms, records or reports to be filed with the department, by any warehouseman, that he deems necessary to ensure compliance with the provisions of this chapter;
- (5) Examine, or cause to be examined, at reasonable times, any warehouse, including an examination of grain stored therein and all books, documents and records pertaining thereto, in order to determine whether or not such facility should be licensed pursuant to this chapter;
- (6) Prescribe minimum contents for any forms, records, contracts or reports that grain warehousemen use or by the provisions of this chapter and its pursuant regulations, are required to issue, file, maintain or keep;



(7) Issue subpoenas duces tecum for any records relating to a grain warehouseman's business;

(8) Prescribe procedures for hearings to be held in accordance with the provisions of this chapter and regulations promulgated hereunder; provided, however, an appeal from such hearings may be taken in accordance with the provisions of chapter 536;

(9) Conduct, or appoint a designated representative to conduct, administrative hearings pursuant to the provisions of this chapter and chapter 536. Hearings may be conducted for the purpose of determining the liability of sureties which have filed bonds with the department on behalf of warehousemen licensed, or required to be licensed, under this chapter. Hearings may be conducted for the purpose of determining the validity of grain-related claims filed with the department against such warehousemen and sureties, as well as the subsequent disbursement of all available funds, pro rata or otherwise, to satisfy claims determined to be valid. An order issued by the director, or his designated representative, as a result of such hearings shall be final and legally binding on all parties unless appealed in accordance with the provisions of chapter 536;

(10) Serve, or cause to be served, any subpoena, petition, or order required for the administration of this chapter.

3. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

§ 411.100. Inspectors – qualifications.

No person shall be eligible to hold the office of chief inspector or inspector unless he has passed the examinations of the United States Secretary of Agriculture required for the issuing of a license to inspect and grade those grains designated by the director for which standards are provided under the provisions of an act of Congress known as "The United States Grain Standards Act".

§ 411.145. Department may conduct grain inspection business outside state, when.

The Missouri department of agriculture is hereby authorized to conduct official grain inspection business outside the boundaries of the state of Missouri; provided that, such business:

(1) Is conducted in a manner that is consistent with the provisions of this chapter concerning the providing of official grain inspection and weighing services;

(2) Is in compliance with the rules and regulations promulgated by the Federal Grain Inspection Service in regard to providing official inspection and weighing services; and



(3) Any expenditures involved are in compliance with the state of Missouri's budget process and the office of administration's rules, regulations and guidelines.

§ 411.160. Grain inspected and weighed by authorized inspectors – penalty.

1. When official inspection, weighing, or supervising of actual weighing of grain is requested in this state whether into or out of state licensed warehouses or portions of warehouses so licensed for public storage operations, subject to the provisions of this chapter, or in cars, barges, wagons, trucks, or sacks at warehouses where official state grain inspection or weighing is maintained shall be performed by such persons as have been duly appointed by the director and qualified according to law.

2. Any person who shall inspect grain where state grain inspection is established, or any person who shall officially weigh or supervise the weighing of grain in public warehouses where official state grain weighing is established and who has not been duly appointed by the director or directed by a state weighmaster so to do, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by confinement in the county jail, or if in the city of St. Louis in the city jail of the city, for not less than three months nor more than six months, or both such fine and confinement, at the discretion of the court, for every such offense so committed.

§ 411.170. Certificates shall be evidence – right of revocation.

The certificates issued by the department shall be conclusive evidence to all parties interested of the facts stated therein and shall form the basis of settlement between buyers and sellers unless otherwise specified by contract; provided, the department shall have the right upon reinspection or otherwise to cancel and revoke any certificate and issue a new one in its stead, and every certificate of grade shall be subject to appeal as provided by law; and in either case such new certificate or the appeal certificate shall in such event be final and binding between the parties.

§ 411.200. Reinspection.

Operators of public terminal elevators, may, with the consent of the director, call a reinspection and weighing of grain in the elevator, and upon the surrender of outstanding warehouse receipts in the discretion of the director, before or at the completion of said reinspection and weighing, same may be cancelled and new warehouse receipts issued therefor, such reinspection and weighing to be made under regulations prescribed by the director.

§ 411.321. Terminal warehouseman to receive, inspect, weigh and grade grain.

1. It shall be the duty of every terminal warehouseman to receive for storage any grain, dry and suitable for warehousing, that may be tendered to him in the usual manner in which terminal warehouses are accustomed to receive the same, in



the ordinary and usual course of business, to the capacity of his warehouse available for public storage. The grain shall be officially inspected, officially weighed, and officially graded, upon receiving grain into the warehouse, except that the owner or warehouseman may direct that the grain not be officially inspected, officially weighed, or officially graded as provided in section 411.030, but shall be inspected, weighed, and graded by an individual, designated by the warehouseman, competent and qualified in performing these services.

2. All grain delivered from the warehouse shall be officially inspected, officially weighed, and officially graded on its delivery by a duly authorized inspector and weighmaster of the department, except that the owner or warehouseman may direct that the grain not be officially inspected, officially weighed, or officially graded as provided in section 411.030, but shall be inspected and weighed by an individual, designated by the warehouseman, competent and qualified in performing these services.

§ 411.323. Nonterminal warehouseman to receive, inspect, weigh and grade grain – exceptions – may issue receipts for own grain, how.

1. Every public warehouseman, other than a terminal warehouseman, shall receive for storage or shipment, so far as the available capacity for public storage of the warehouse shall permit, all grain in a dry and suitable condition for storage tendered him in the usual course of business, the grain to be inspected, weighed, and graded by an individual, designated by the warehouseman, competent and qualified in performing these services except that:

(1) The owner and the warehouseman may agree upon a sample taken from the lot of grain to be offered for storage as being a true and representative sample. This sample shall be sent to an official licensed inspector of the Missouri state grain warehouse division and the official licensed inspector who receives the sample shall grade it according to the official U.S.D.A. grain standards and issue a certificate of grade which shall state the name of the owner, the warehouse at which it is stored and the official grade of the grain and the official grade shall be stated on the warehouse receipt. The sample submitted to the licensed inspector shall be held by him for a period of at least ten days from its receipt and in case that either party of the transaction is dissatisfied with the grade assigned, he may have the right to reinspection and appeal upon request. The fees for the inspection of the sample shall be paid by the warehouseman and added to the storage charges of the grain;

(2) The owner and the warehouseman may agree to the grade of the grain to be offered for storage and a warehouse receipt issued on the agreed grade;

(3) The owner or warehouseman may have an official weight, official inspection, and an official grade on the grain to be offered for storage if requested of the department, the expense thereof paid by the person requesting the service.



2. Any warehouseman desiring to issue warehouse receipts for his own grain in store may do so by complying with the regulations governing the methods as prescribed by the director.

