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



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Mont. Code Ann. § 80-1-102

Mont. Code Ann. §§ 80-4-701 through 80-4-722

§ 80-1-102. Duties of department.

The department shall:

- (1) encourage and promote the interests of agriculture, including horticulture and apiculture, and all other allied industries;
- (2) collect and publish statistics relating to the production and marketing of crops and other agricultural products so far as the information may be of value to the agricultural and allied interests of the state;
- (3) assist, encourage, and promote the organization of farmers' institutes, horticultural and agricultural societies, the holding of fairs, livestock shows, or other exhibits of the products of agriculture;
- (4) adopt standards for open and closed receptacles for farm products and standards for the grade and other classification of farm products;
- (5) cooperate with producers and consumers in devising and maintaining economical and efficient systems of distribution and aid in the reduction of waste and expense incidental to marketing;
- (6) have the authority to maintain a market news service, including information as to crops, freight rates, commission rates, and other matters as may be of service to producers and consumers, and act as a clearinghouse for information of value to producers and consumers;
- (7) gather and diffuse information concerning the supply, demand, prevailing prices, and commercial movement of farm products;
- (8) investigate the practices and methods of factors, commission merchants, and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grain, vegetables, or other farm products, so that distribution of the commodities is accomplished efficiently, economically, and without hardship, waste, or fraud;
- (9) cooperate with Montana state university-Bozeman, the agricultural experiment station, and the federal government for the betterment of the



agricultural industries of the state, the improvement of rural life, and promotion of equality of opportunity for the farmers of the state;

(10) take and hold in the name of the state of Montana property, real and personal, acquired by gifts, subscriptions, donations, and bequests;

(11) sell and dispose of personal property owned by it in a manner the department may provide, when in the judgment of the department the sale or disposal best promotes the purposes for which the department is established;

(12) contract in respect to any matter within the scope of its authority;

(13) enforce this title and all other laws for the protection and regulation of agriculture.

§ 80-4-701. Official agricultural commodity inspectors, samplers, and weighers – designation of seasonal inspection points – assignment of inspectors.

(1) The department shall provide inspectors, samplers, and weighers to enforce this part. At all inspection points designated by the department, the department shall provide sufficient official agricultural commodity inspectors, samplers, and weighers to inspect and weigh all agricultural commodities subject to state inspection.

(2) The department may, during the grain-marketing season, appoint inspectors to visit the grain-growing districts to investigate the grading, dockage, and weighing of grain and to enforce the rules of the department.

(3) Expenditures for the inspection and weighing at the points designated by the department may not exceed total fee receipts at those points.

§ 80-4-702. Qualifications of official agricultural commodity inspectors, samplers, and weighers.

Official agricultural commodity inspectors, samplers, and weighers must be qualified in accordance with the Grain Standards Act. Official agricultural commodity inspectors, samplers, and weighers may not be directly or indirectly interested in the handling, sorting, shipping, purchasing, or selling of agricultural commodities, grain, or grain commodities.

§ 80-4-703. Penalty for misconduct.

(1) An official agricultural commodity inspector, sampler, or weigher who is guilty of neglect of duty, who knowingly or carelessly inspects, samples, or weighs agricultural commodities improperly, or who directly or indirectly accepts any money or other consideration for neglect of duty or improper performance of duty is guilty of official misconduct and is punishable as provided in 45-7-401.



(2) A person who improperly influences or attempts to improperly influence an official agricultural commodity inspector, sampler, or weigher in the performance of the inspector's, sampler's, or weigher's duties is guilty of bribery and is punishable as provided in 45-7-101.

(3) Upon conviction of an offense described in subsection (1), an official agricultural commodity inspector, sampler, or weigher must be removed by the department pursuant to procedures established by department rule.

§ 80-4-704. Establishment of standard agricultural commodity grades.

(1) The department may by rule establish standard grades to apply to all agricultural commodities for which a United States department of agriculture grade has not been established and that are bought by commodity dealers and stored or handled by warehouses in this state. The department shall adopt as state grade and dockage standards all grades for agricultural commodities established by the United States department of agriculture. For purposes of this chapter, any reference to a grade also includes a reference to a protein analysis or any other factor provided by department rule if the analysis affects the purchase price.

(2) Agricultural commodity standards adopted by the department do not apply to agricultural commodities contracted for before the effective date of the adoption of the standards.

§ 80-4-705. Rules governing dockage – sample inspection.

The department shall adopt rules governing the dockage on inferior grades, which shall apply in all executory contracts entered into after their adoption. If the purchase price depends on terminal weight or grade, the rules control the dockage insofar as dockage affects the purchase price. The department shall also provide for sample inspection of agricultural commodities, adopt rules governing sample inspection, and provide that the sample inspection, when made, is final.

§ 80-4-706. Special inspection of agricultural commodities.

(1) If agricultural commodities are sold based on Montana grade and are to be shipped from places not provided with state inspection, the buyer, seller, or person making the delivery may have the agricultural commodities inspected by notifying an inspector, who shall have them inspected. After inspection, the inspector shall issue, on request of the buyer, seller, or person delivering the agricultural commodity, an inspector's certificate showing the grade of the agricultural commodity. The person calling for the inspection shall pay a reasonable fee fixed by department rule.

(2) An agricultural commodity that is shipped to points in this state where no inspection is maintained may be inspected on request of either the buyer or seller, and a certificate may be issued showing the grade of the agricultural commodity. The charge for the service must at least equal the entire cost of providing it and must be paid by the party calling for the inspection.



§ 80-4-708. Examination of agricultural commodity cars or trucks at destination.

- (1) An official agricultural commodity inspector, sampler, or weigher, before opening the doors or lids of a car or truck containing agricultural commodities upon its arrival at any of the places designated by the department for inspection, shall first ascertain the condition of the car or truck and determine whether any leakages have occurred while the car or truck was in transit, determine whether the doors or lids were properly secured and sealed at the point of shipment, and make a record of those facts in all cases, giving seal numbers.
- (2) After examinations have been made, the official agricultural commodity inspector, sampler, or weigher shall securely close and reseal the opened doors or lids, using the special seal of the department.
- (3) A record must be kept by the official agricultural commodity inspectors, samplers, or weighers of all original seals broken, the number of seals, and the date when broken. An official agricultural commodity inspector, sampler, or weigher shall break the seal, weigh, and superintend the loading of all cars or trucks of agricultural commodities subject to inspection. Any other person who breaks the seal or officially weighs the cars or trucks of agricultural commodities is guilty of a misdemeanor.

§ 80-4-709. Protein testing laboratory.

- (1) The department shall maintain an official protein testing laboratory so designated by the Grain Standards Act.
- (2) No other laboratory may officially certify the grade or protein content of grain unless the laboratory is licensed by the department under rules adopted by the department.
- (3) The department shall by rule determine the standards of analysis controlling all other official protein testing laboratories in this state.
- (4) The department may by rule determine the form of protein certificates issued by it.

§ 80-4-711. Agricultural commodity sampling – appeal procedure.

- (1) At the time of delivery of an agricultural commodity to a warehouse operator or commodity dealer for storage or sale, each warehouse operator or commodity dealer shall take a representative sample from each load of agricultural commodity delivered and preserve the sample in a moistureproof container with the owner's name marked on the container. A written agreement must be given to the depositor authorizing the depositor to state a preference of grading facility. The options provided for grading facilities in the agreement must include but may not be limited to the state grain laboratory. The written agreement must specify the time period to which the agreement applies. If the state grain lab is chosen as the grading facility, a composite sample consisting of a minimum of 1 1/2 quarts or 1,050 grams of the



representative sample must be submitted directly to the state grain laboratory for analysis as to grade, dockage, protein, and other factors that the laboratory is able to analyze that affect the purchase price. The warehouse operator or commodity dealer shall retain a minimum of 1 1/2 quarts or 1,050 grams of the remaining sample for 60 days.

(2) All fees and other charges associated with the grain sample analysis must reflect as nearly as possible the actual cost of the services.

(3) If a request for a state grain laboratory analysis is not made pursuant to subsection (1) and the depositor, warehouse operator, or commodity dealer is dissatisfied with the results of a private analysis, the depositor, warehouse operator, or commodity dealer may appeal to the state grain laboratory. When an appeal is made, the warehouse operator or commodity dealer shall submit 1 1/2 quarts or 1,050 grams of the representative sample to the state grain laboratory for appeal analysis.

(4) If the depositor, warehouse operator, or commodity dealer is dissatisfied with the results of a state grain laboratory analysis, as provided in subsection (1) or (3), the depositor, warehouse operator, or commodity dealer may appeal to the FGIS, United States department of agriculture. A FGIS appeal must be made within 10 working days of the state grain laboratory's analysis. The sample for FGIS appeal must be a portion of that agricultural commodity retained by the state grain laboratory when it conducted its analysis. The results on the state grain laboratory appeal sample are final and binding. In the absence of an appeal to FGIS or in the case of an agricultural commodity for which there are no FGIS standards, the state grain laboratory's analysis is final and binding.

(5) Each warehouse operator or commodity dealer shall post in a conspicuous place a placard, issued by the department, stating the procedures provided for in this section and a partial list of the fees established in 80-4-721. The department shall provide space on the placard on which the warehouse operator or commodity dealer is required to list anticipated shipping and handling fees.

(6) All samples submitted for analysis are the property of the state grain laboratory and subject to its disposition.

(7) An agricultural commodity purchased for resale as seed is exempt from the requirements of this section.

(8) A producer of malting barley may by contract waive the right to submit a sample to the state grain laboratory provided in this section.

§ 80-4-721. Fees for inspection, testing, and weighing agricultural commodities – disposition – investment.

(1) The department shall by rule fix the fees for inspection, testing, and weighing of agricultural commodities.



(2) All fees and other charges fixed by rule, including fees for the inspection, grading, weighing, and protein testing of agricultural commodities, must reflect as nearly as possible the actual cost of the services.

(3) All fees and charges must be paid to the department and deposited with the state treasurer. The state treasurer shall place all money in the state special revenue fund. Fees deposited in the state special revenue fund must be used to pay approved claims for expenses incurred in inspecting, grading, weighing, and protein testing of agricultural commodities.

(4) The department may direct the board of investments to invest funds from the state special revenue fund pursuant to the provisions of the unified investment program for state funds. The income from the investments must be credited to the proper department account in the state special revenue fund.

(5) All fees collected under this part must be expended for the purposes of this part as provided in Article XII, section 1, of the Montana constitution.

§ 80-4-722. Records of inspection.

(1) The official agricultural commodity inspectors, samplers, and weighers have exclusive control at places provided for state inspection of the weighing and grading of agricultural commodities to be inspected. Suitable books and records must be kept in which must be entered an accurate record of every carload or truckload of agricultural commodities inspected or weighed by them. The records must show for each car or truck:

- (a) the number or other designation of the car or truck;
- (b) the net weight of the agricultural commodity;
- (c) the kind of agricultural commodity and its grade and, if graded below standard No. 1 grade, the reason for the grade.

(2) For each carload or truckload of agricultural commodities, the official agricultural commodity inspector shall give a certificate of inspection, showing the kind and grade of the agricultural commodity, the reason for all grades below No. 1, and the amount to be allowed for dockage, if any. For each carload or truckload weighed, the weigher shall give a weight certificate showing the true weight and containing a statement on the condition of the car or truck and evidences of leakage or damage, if any.

(3) The inspection and weight certificates must be made available to the warehouse loading or unloading the agricultural commodity, the shipper or the shipper's agent, and the railroad company or other carrier by which the agricultural commodity was shipped or carried.

(4) Official agricultural commodity inspectors and weighers shall also keep an accurate record of all appeals and decisions and a complete record of every



official act, which books and records must be open to inspection by any party of interest.

