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USDA's United States Grain Standards Act: *North Dakota*



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N.D. Cent. Code Ann. §§ 4.1-58-03; 4.1-58-04; 4.1-58-05; 4.1-58-30; 4.1-58-31

N.D. Cent. Code Ann. §§ 4.1-59-04; 4.1-59-05; 4.1-59-19; 4.1-59-20

§ 4.1-58-03. Federal licensed inspector and employees.

The commissioner may employ a federal licensed inspector and other employees as necessary to carry out this chapter.

§ 4.1-58-04. Grain marketing – Procedure for resolving disputes.

1. If any dispute or disagreement arises between the person receiving and the person delivering grain at any public warehouse as to the proper grade, dockage, vomitoxin level, moisture content, or protein content of any grain, an average sample of at least three pints [1.65 liters] of the grain in dispute may be taken together by both parties interested.

a. The sample must be certified by each party as a true and representative sample of the grain in dispute on the day the grain was delivered.

b. The sample must be forwarded in a suitable container by parcel post or express, prepaid with the name and address of both parties for inspection by a federal licensed inspector, or a mutually agreed-upon third party, who will examine the grain and adjudge what grade, dockage, vomitoxin level, moisture content, or protein content the sample of grain is entitled to under the inspection rules and grades adopted by the secretary of agriculture of the United States.

c. The person requesting the inspection service shall pay for the inspection.

d. If the grain in question is damp, otherwise out of condition, or if moisture content is in dispute, the sample must be placed in an airtight container.

e. Payment for the grain involved in the dispute must be made and accepted on the basis of the determination made by the federal licensed inspector or third party.



f. All other quality factors may also be considered in determining the price of the grain.

g. An appeal of the determination made by a third party other than a federal licensed inspector may be made to a federal licensed inspector.

h. An appeal of the determination made by a federal licensed inspector may be made as provided under the United States Grain Standards Act [Pub. L. 103-354; 108 Stat. 3237; 7 U.S.C. 79(c) and (d)] and under 7 CFR 800.125-800.140.

i. A person not abiding by a final determination is liable for damage resulting from not abiding by the determination.

2. If a dispute or disagreement arises between the person delivering grain and the person receiving grain as to the determination of quality factors of grain purchased or delivered for which inspection rules and grades have not been adopted by the secretary of agriculture of the United States, an average sample of at least three pints [1.65 liters] of the grain in dispute may be taken together by the parties interested.

a. The sample must be certified by each party as a true and representative sample of the grain in dispute on the day the grain was delivered.

b. If the grain is damp or otherwise out of condition, the sample must be placed in an airtight container.

c. The sample must be forwarded in a suitable container by parcel post or express, prepaid with the name and address of both parties, for inspection by a federal licensed inspector, or a mutually agreed-upon third party, who may examine the grain and determine the quality factors in dispute.

d. The person requesting the inspection service shall pay for the inspection.

e. The determination made by the inspector, or the third party, must be used in the settlement of the dispute.

§ 4.1-58-05. Notice of procedures for resolving disputes over grain.

A public warehouse shall post a notice containing the procedures specified in section 4.1-58-04 for resolving disputes. The commissioner shall prescribe the form of the notice and shall provide a copy of the notice to each public warehouse. The public warehouseman shall post the notice in the grain inspection room of the warehouse. The notice must specifically mention the procedure for resolving disputes applies to the grade, dockage, moisture content, and protein content of grain and to the quality factors of grain for which inspection rules and grades have not been adopted by the secretary of agriculture of the United States.



§ 4.1-58-30. Federal grades to control – Grades to be posted.

All public warehousemen shall purchase and store grain except dry edible beans in accordance with the official grades established by the secretary of agriculture of the United States, except as otherwise provided in rules and regulations applicable thereto adopted by federal officials pursuant to law.

1. Public warehousemen shall post in a conspicuous place in the public warehousemen's warehouse the official grades established and also any change that may be made.
2. Warehousemen of dry edible beans shall purchase, store, and deliver beans in accordance with the policy of the warehousemen which must be filed with the commissioner and posted in a conspicuous place in the warehouse of the public warehousemen.
3. Other grading standards may be used if mutually agreed to in writing by the warehouseman and the owner of the grain. However, the owner may demand the use of federal grading standards.
4. The commissioner, after a hearing, may prohibit the use of nonfederal grades.

§ 4.1-58-31. Grading of grain – Penalty.

1. A public warehouseman before testing for grade any grain handled by the warehouseman shall remove and make due allowance for any dockage of the grain made by reason of the presence of straw, weed seeds, dirt, or any other foreign matter.
2. A public warehouseman that violates this section is guilty of a class B misdemeanor.

§ 4.1-59-04. Federal licensed inspector and employees.

The commissioner may employ a federal licensed inspector and other employees as necessary to carry out this chapter.

§ 4.1-59-05. Grain marketing – Procedure for resolving disputes.

1. If a dispute or disagreement arises between the person receiving and the person delivering grain as to the proper grade, dockage, vomitoxin level, moisture content, or protein content of any grain, an average sample of at least three pints [1.65 liters] of the grain in dispute may be taken together by both interested parties.
 - a. The sample must be certified by each party as a true and representative sample of the grain in dispute on the day the grain was transferred.



b. The sample must be forwarded in a suitable container by parcel post or express, prepaid with the name and address of both parties for inspection by a federal licensed inspector, or a mutually agreed-upon third party, that may examine the grain and adjudge what grade, dockage, vomitoxin level, moisture content, or protein content the sample of grain is entitled to under the inspection rules and grades adopted by the secretary of agriculture of the United States.

c. The person requesting the inspection service shall pay for the inspection.

d. If the grain in question is damp, otherwise out of condition, or if moisture content is in dispute, the sample must be placed in an airtight container.

e. Payment for the grain involved in the dispute must be made and accepted on the basis of the determination made by the federal licensed inspector or third party. All quality factors also may be considered in determining the price of the grain.

f. An appeal of the determination made by a third party other than a federal licensed inspector may be made to a federal licensed inspector.

g. An appeal of the determination made by a federal licensed inspector may be made as provided under the United States Grain Standards Act [Pub. L. 103-354; 108 Stat. 3237; 7 U.S.C. 79(c) and (d)] and under 7 CFR 800.125-800.140.

h. A person not abiding by a final determination is liable for damage resulting from not abiding by the determination.

2. If a dispute or disagreement arises between the person delivering grain and the person receiving grain as to the determination of quality factors of grain purchased or delivered in the state for which inspection rules and grades have not been adopted by the secretary of agriculture of the United States, an average sample of at least three pints [1.65 liters] of the grain in dispute may be taken together by the interested parties.

a. The sample must be certified by each party as a true and representative sample of the grain in dispute on the day the grain was transferred.

b. If the grain is damp or otherwise out of condition, the sample must be placed in an airtight container.

c. The sample must be forwarded in a suitable container by parcel post or express, prepaid with the name and address of both parties, for inspection by a federal licensed inspector, or a mutually agreed-upon third party, that may examine the grain and determine the quality factors in dispute.



d. The person requesting the inspection service shall pay for the inspection.

e. The determination made by the inspector, or the third party, must be used in the settlement of the dispute.

§ 4.1-59-19. Federal grades to control – Grades to be posted.

1. A grain buyer shall purchase grain, except dry edible beans, in accordance with the official grades established by the secretary of agriculture of the United States, except as otherwise provided in applicable rules and regulations adopted by federal officials pursuant to law.

2. A grain buyer of dry edible beans shall purchase and deliver beans in accordance with the buyer's policy, which must be filed with the commissioner and, if applicable, posted in a conspicuous place in the buyer's facility.

3. Other grading standards may be used if mutually agreed to in writing by the grain buyer and the owner of the grain. However, the owner may demand the use of federal grading standards.

4. After hearing, the commissioner may prohibit the use of nonfederal grades.

§ 4.1-59-20. Grading of grain – Penalty.

A grain buyer, before testing for grade any grain handled by the grain buyer, shall remove and make due allowance for any dockage of the grain made by reason of the presence of straw, weed seeds, dirt, or any other foreign matter. A grain buyer that violates this provision is guilty of a class B misdemeanor.

