

## 802 Grain Inspection And Certification

### 1.0 General

1.1 Scope. To insure all grain inspected within the State of Delaware is uniformly inspected for quality.

1.1.1 To provide standards and guidelines to all granaries and their employees insuring that grain is inspected uniformly.

1.1.2 To provide training annually, and as needed, to all granaries and their grain inspectors.

1.2 Authority. These regulations are issued under the authority of **3 Del. C.**, Ch. 16 of the Annotated Code of Delaware.

1.3 Effective Date. These regulations were adopted on August 10, 2001, in accordance with **29 Del.C., Ch. 101** of the Annotated Code of Delaware.

### 2.0 Declaration Of Policy

2.1 **3 Del.C.**, §§ 1601-1611, places the enforcement of the Delaware Grain Inspection, Certification, and Grain Contracts Law with the Department of Agriculture and empowers the Department to establish regulations.

2.2 By virtue of the authority vested in me as Secretary of Agriculture by **3 Del. C.**, Ch. 16, I, Michael T. Scuse, Secretary of Agriculture, do hereby promulgate the following rules and regulations governing inspection and certification of grain in Delaware.

### 3.0 Definitions

3.1 The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise. All terms defined by the Delaware Grain Inspection, Certification, and Grain Contracts Law (**3 Del. C.**, Chapter 16) are hereby incorporated by reference in this regulation.

**"Department"** means the State of Delaware Department of Agriculture and includes, but is not limited to: its officers, inspectors, employees, agents, or representatives.

**"Devices"** means any grain moisture testing devices.

**"Grain"** means includes, but is not limited to, corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards have been established in the **United States Grain Standards Act, U.S.D.A. Section 7 et. seq., A-D** are incorporated here by reference.

**"Granary"** means any grain elevator facility that buys and/or sells grain.

**"Standards"** means the **United States Grain Standards Act, U.S.C.A. Section 7 et. seq., A-D**, and the **USDA Grain Handling Procedures, Book I and Book II** as amended and are incorporated here by reference.

**"Grain Inspector"** means anyone, who operates grain moisture testing devices, follows standard grain inspection procedures and uses other grain inspection equipment.

**"Grain Law"** means the Delaware Grain Inspection, Certification and Grain Contracts Law, **3 Del.C.**, Ch. 16.

### 4.0 Certification Of Granaries

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4.1 No business shall act as a grain facility without first having obtained a certification as herein provided.

4.2 Every grain facility proposing to transact business within the State of Delaware shall make annual application. The application shall be on a form furnished by the Department, and shall contain the following information and such other relevant information as the Department shall require:

4.2.1 The name and address of the applicant;

4.2.2 The name and address of all applicable local agent or agents, if any;

4.2.3 The location of the applicant's principle place of business;

4.2.4 The kind of grain the applicant proposes to handle;

4.2.5 The type of grain business the applicant proposes to conduct;

4.2.6 Registration of all grain testing equipment;

4.2.7 Registration of all employees who are proposed to conduct testing

of grain.

4.3 No granary shall be certified, or shall remain certified, unless such granary:

4.3.1 Has applied for certification to the Department;

4.3.2 Employs licensed grain inspectors;

4.3.3 Has registered all grain testing equipment owned and operated by the granary;

4.3.4 Maintained a grain sample preservation protocol as approved by the Department;

4.3.5 Maintained good record keeping procedures, and keeps records for at least one year;

4.3.6 Has disclosed their grain discount schedules and posted them in a conspicuous location at the grain inspection station.

4.4 The Department, after due notice and opportunity for a hearing, may, in its sole and absolute discretion, deny, suspend, or revoke any certification where the Department finds the granary has committed any violation of the grain law or regulation of the Department.

4.5 The Department, after due notice and opportunity for a hearing, may deny an application for granary registration if the applicant has committed any violation under the grain law or regulation. Such decisions shall be final, binding and not subject to appeal.

## **5.0 Licensure Of Employees**

5.1 Granaries shall utilize only licensed grain inspectors for all grain sampling and testing.

5.2 Every granary shall register with the Department all employees that will be inspecting grain.

5.3 It shall be the responsibility of the granary to insure that all applicants have successfully completed an approved training program. All training shall be completed within 30 days of employment.

5.4 To obtain a Grain Inspector's license, applicants are required to file a written application with the Department and pass an examination conducted by the Department. Thereafter, grain inspectors shall renew their grain inspector's license biannually on or before January 1 by filing an application for license with the Department

and shall contain the following information and such other relevant information as the Department shall require:

5.4.1 The name and address of the applicant;

5.4.2 The location of employment;

5.4.3 Types of grain the applicant proposes to inspect;

5.4.4 The types of grain testing equipment in operation and expected to be used;

5.4.5 Satisfactory evidence of good character.

5.5 Written notification of employment termination of a licensed grain inspector shall be made to the Department within 30 days of termination.

5.6 The Department, after due notice and opportunity for a hearing, may deny, suspend, or revoke any grain inspector's license, if the Department finds that he or she has committed any violation of the grain law or regulation of the Department.

5.7 The Department, after due notice and opportunity for a hearing, may deny an application for a grain inspector's license, if the applicant has committed any violation under the grain law or regulation. Such decision shall be final, binding and not subject to appeal.

## **6.0 Fees And Renewal**

### **6.1 Fees**

6.1.1 Granaries shall pay to the State of Delaware a bi-annual license fee of \$10.00 per inspector, which should be sent to the Department. All licenses shall continue in full force and effect until December 31 of the year of expiration, whereupon, they shall become invalid unless renewed.

6.1.2 Federal, State or Local government employees who are licensed under this law are exempt from this fee.

### **6.2 License Renewal**

6.2.1 A license, or renewal application, submitted to the Department shall remain in full force and effect until such time as the Department gives notice to the applicant of renewal or denial.

6.2.2 Grain inspectors shall be required to be re-examined and pass a written test prior to their bi-annual license renewal.

6.2.3 The re-examination requirement may be waived without taking a test, if the applicant provides the Department with evidence that he or she has attended a minimum of three (3) hours of education courses, seminars or programs approved by the Department during the two (2) calendar years preceding license renewal.

### **6.3 Expiration**

6.3.1 The license held by a licensee, where no renewal application is received, shall lapse on the thirtieth day following its expiration. After such lapse the licensee shall be without authority to inspect grain for approval pursuant to this regulation.

6.3.2 The person holding a lapsed license must be examined as described by §6.2.2, in order to receive a new license.

## **7.0 Exemptions**

7.1 The above standards do not apply to farmers, or groups of farmers, for storage or consumption on their farms.

## **8.0 Inspection Standards**

8.1 Grain inspection will be performed under the guidelines of the **United States Grain Standards Act, U.S.C.A. Section 7 et. seq., A-D**, and the **USDA Grain Handling Procedures, Book I and Book II** as amended.

### **9.0 Grading Equipment**

9.1 The equipment, equipment procedures, and sampling procedures used to determine factors pertaining to the value of grain shall be those contained in the **USDA Grain Handling Procedures Book I and Book II**.

9.2 The Department shall have the power to inspect and test as often as deemed necessary in its sole discretion, and to determine the accuracy of all equipment and procedures used to sample and grade grain purchased by the granaries.

9.3 The Department shall approve and mark, or seal for use, equipment found to be in proper and accurate operation and function. Any equipment deemed to be inaccurate or improperly functioning shall be marked and labeled **“condemned for repairs”** or **“not for grain inspection.”**

9.4 Unapproved equipment shall be marked “not for grain inspection”.

### **10.0 Grain Sample Preservation Program**

10.1 The grain inspector who determines grade factors for the purpose of establishing the value of grain shall identify and preserve the sample of each lot used to determine these factors for a period of twenty-four hours (24).

10.2 The sample size shall be a minimum of one and one-half (1.5) quarts and shall be preserved in a moisture-proof container maintained in adequate environmental conditions in order to preserve the integrity of the samples.

10.3 The samples shall be available at the granaries' place of business, and shall be accessible for inspection by the Department or at the Department's Inspection Laboratory.

10.4 To facilitate the use of file samples, each granary shall establish and maintain a uniform file system approved by the Department.

### **11.0 Record Keeping**

11.1 Each granary shall make a written record as provided in Section 11.2 for each lot of grain weighed and graded. Unless otherwise agreed to at the time of transaction, the granary, or his agent, shall deliver a copy of the record to the person whom:

11.1.1 Is delivering the grain to the granary;

11.1.2 Is selling the grain to the granary;

11.1.3 Is buying the grain from the granary.

11.2 The record shall include:

11.2.1 Name and address of the person for whom the grain was weighed or graded;

11.2.2 The date the grain was weighed and graded (if separate dates, each shall be stated);

11.2.3 Type of grain;

11.2.4 Grade factors determined (see **USDA Grain Handling Procedures Book I and II** as amended);

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- 11.2.5 Net weight from weigh ticket;
- 11.2.6 Specification of all discounts and deductions and how applied, and if no discount or deduction is given that fact shall be so stated;
- 11.2.7 The conversion from net weight to pricing unit;
- 11.2.8 Gross price per pricing unit;
- 11.2.9 Net price per pricing unit;
- 11.2.10 Total amount of sale.

11.3 The weigh ticket shall be attached to and made part of the record as provided in Section 11.2. The record shall be kept by the granary for one year, and upon request shall be made available to the Department.

**12.0 Violations**

12.1 The following acts shall be considered to be violations of the 3 **Del. C.** §1601 et. seq., and shall be punishable as provided in Section 1606.

- 12.1.1 Failure to apply for granary certification.
- 12.1.2 Failure to use licensed grain inspectors.
- 12.1.3 Failure to use approved grain testing equipment and procedures.
- 12.1.4 Failure to save, or have in place a sample preservation program.
- 12.1.5 Failure to keep adequate records.
- 12.1.6 Failure to post current discount where they can readily be viewed.
- 12.1.7 Granary has engaged in fraudulent or deceptive practices in the inspection of grain.