



## Ohio Revised Code

### Section 926.31 Representative sample to be drawn for testing by agricultural commodity tester to determine quality of commodity.

Effective: September 13, 2010

Legislation: Senate Bill 181 - 128th General Assembly

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(A) Upon receipt of any shipment of an agricultural commodity from a depositor or a depositor's agent, either for sale or for storage under a bailment agreement, the licensed handler shall cause a representative sample to be drawn for testing by an agricultural commodity tester to determine the quality of the commodity. At the request of the depositor or the depositor's agent, the tester shall immediately test the sample and shall notify the depositor or the depositor's agent of the results of the test and of any price discount, premium, or conditioning charge that is applicable to the value of the commodity. Upon notification of the test and the value adjustment to be applied, the depositor or the depositor's agent shall do one of the following:

- (1) Refuse to sell or store the commodity unless the depositor or agent has unloaded the commodity prior to testing;
- (2) Agree to sell or store the commodity and accept the agricultural commodity tester's results of the testing of the shipment and the applicable value adjustment;
- (3) Agree to sell or store the commodity but reject the agricultural commodity tester's results of the testing of the shipment and order the handler to forward the sample to a federally licensed grain inspector immediately for a final testing of the shipment. The depositor, the depositor's agent, or the handler may specify in writing which testing factor or factors the depositor, depositor's agent, or handler wishes the federal inspector to test.

(B) If, either prior to or during the unloading of the shipment, the licensed handler believes that the original sample drawn is not representative of the shipment, or if the depositor or the depositor's agent requests a second sample to be drawn, the handler shall cause a second sample to be drawn and used for the testing of the shipment.

(C) Any determination of a federally licensed grain inspector under this section shall be binding on



both the licensed handler and the depositor or the depositor's agent as the basis for determining the premium or discount and settlement price, if the shipment was delivered for sale, or the conditioning charge, if the shipment was received for storage under a bailment agreement. The cost of the federal inspection and the actual cost of forwarding the sample for such inspection shall be borne by the handler, if the test increases the value of the agricultural commodity as originally determined by the agricultural commodity tester, or by the depositor, if the test does not change or lowers the value of the commodity.

(D) Any licensed handler and any depositor or the agent of a depositor may enter into an agreement whereby representative samples of each of several shipments of the same agricultural commodity that arrive at the handler's warehouse or facility during any one business day shall be combined to obtain a single result of the testing of the combined shipments of the commodity.

(E) No person shall offer for sale or storage any agricultural commodity that is:

- (1) Treated with any poisonous material or that contains rodent excreta or any other material in such amounts as to render the commodity unfit for animal or human consumption;
- (2) Knowingly or purposely loaded unevenly so as to conceal amounts of the commodity that are inferior.

(F) Nothing in this section shall be construed to relieve any contractual obligations in effect between the licensed handler or the depositor.