

AGRICULTURE: Shipping point inspection--Cooperation with
Department of Agriculture.

August 9, 1937

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Honorable Jewell Mayes
Commissioner
Department of Agriculture
Jefferson City, Missouri

Dear Mr. Mayes:

We have your request of August 5, 1937, for an opinion relative to cooperating with the Federal Government through the United States Department of Agriculture in the matter of shipping point inspection. With reference to the contract between the Federal and State Governments your inquiry for an opinion is as follows:

"It is proposed that the following financial arrangement be incorporated in this contract or agreement:

1. That the State Department of Agriculture collect and deposit all fees in the Agricultural Fees Fund, and pay all salaries and expenses from the appropriations from the Agricultural Fees Fund.
2. Pay the salary and expenses of the Federal Supervisor for such times as he spends in Missouri assisting with this work.
3. Pay an overhead charge per car to the Federal Department to cover certain Federal overhead expense connected with the work; the State Department of Agriculture to pay the United States Department of Agriculture such overhead fee in two parts, as

follows: the first payment to be fifteen cents (15¢) per car inspected, to be paid upon proper billing at the ending of each seasonal deal, the balance of eighty-five cents (85¢) per car to be paid upon proper billing prior to the ending of each biennium, provided that the total of this second payment to the United States Department of Agriculture shall not exceed the balance unexpended from earnings from the said Federal-State inspection service in the State of Missouri.

In your opinion, do the laws of the State of Missouri, in any way, prohibit or restrict the Commissioner of Agriculture from signing a contract providing for the above?"

Section 12636 R. S. Missouri 1929, being a part of Article XIX, Chapter 87, relating to the inspection of agricultural products provides in part as follows:

"The Commissioner may employ employees and agents to assist in carrying out the provisions of this Article, and may fix their compensation."

The "provisions of this article" refer to that portion of Section 12631 which reads as follows:

"***in carrying out the provisions of this article the commissioner is authorized to cooperate with the United States or any department thereof in accomplishing the matters and things provided for herein."

It therefore appears that by statutory enactment it is the duty of the Commissioner to fully cooperate with the United States Government in shipping point inspection of agricultural products. It would appear that this cooperation should partake of a joint undertaking, and it is actually referred to in Section 12635, R.S. Missouri 1929, as "under the joint authority of the said bureau and the U.S. Department of agriculture."

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The next question that arises is whether or not the Legislature has made any funds available for this purpose. Section 52 of House Bill 509 appropriates out of the State Treasury, chargeable to the agricultural fees fund, the sum of \$199,000.00 to pay the salaries, wages and per diem of the officers and employees and other expenses of the Department of Agriculture for the years 1937-1938. This appropriation is broken down into four parts, the first of which provides for the payment of salaries, wages and per diem of various named officers, "and other necessary employees".

It is therefore the opinion of this Department that you are authorized to pay all salaries and expenses of inspectors from the above appropriation out of the Agricultural Fees Fund; that under the provisions of Section 12636 the Federal Supervisor for such time as he spends in Missouri assisting in this work is in fact an agent or employee of the State Department of Agriculture, and as such employee is entitled to be paid compensation and expenses; that you are authorized to enter into an agreement, within but not to exceed the amount of inspection fees collected, with the United States Department of Agriculture wherein certain overhead charges are partly paid for from fees collected.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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